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TESTIMONY BEFORE JOINT HOUSE AND SENATE RESOURCES COMMITTEE 1977/78

SENATOR POLAND, REPRESENTATIVE OSTERBACK AND MEMBERS OF THE JOINT HOUSE AND SENATE RESOURCE COMMITTEES OF THE ALASKA STATE LEGISLATURE.

I WANT TO THANK YOU FOR THIS OPPORTUNITY TO SPEAK TO YOU TODAY ON WHAT I CONSIDER A TOP PRIORITY THIS YEAR - A COMPREHENSIVE REVISION OF THE STATE'S OIL AND GAS TAXING SYSTEM.

FOR SEVERAL MONTHS MEMBERS OF MY STAFF MADE A COMPREHENSIVE REVIEW OF ALASKA'S CURRENT OIL AND GAS TAX STRUCTURE. THAT REVIEW CULMINATED IN A REPORT ENTITLED "ALASKA'S OIL AND GAS TAX STRUCTURE: A STUDY WITH RECOMMENDATIONS FOR IMPROVEMENT." WITH THE PERMISSION OF THE CHAIRMAN, I WOULD LIKE THE DEPARTMENT'S STUDY TO BE MADE A PART OF THESE COMMITTEE'S RECORDS AND PROCEEDINGS.

BEFORE I GET TO THE SPECIFIC RECOMMENDATIONS AND BILLS INTRODUCED TO IMPLEMENT THOSE RECOMMENDATIONS, LET ME BRIEFLY SUMMARIZE THE DEPARTMENT'S REPORT. THE DEPARTMENT FIRST BY WAY OF BACKGROUND AND INFORMATION, SKETCHED OUT AN OVERVIEW

OF OIL AND GAS OPERATIONS IN ALASKA AS WELL AS DESCRIBED THE PRESENT ALASKA TAX SYSTEM. SECONDLY THE DEPARTMENT DISCUSSED PAST REVENUE EXPENDITURE PATTERNS AND MADE EXPENDITURE AND REVENUE PROJECTIONS OVER THE NEXT FEW YEARS. OUR PROJECTIONS OF OIL AND GAS REVENUES WERE BASED UPON THE ASSUMPTION THAT NORTH SLOPE OIL WOULD BE PRICED AS FREE MARKET OIL WITHOUT ENTITLEMENT PENALTIES. WE ALSO POINTED OUT, HOWEVER, THAT OUR REVENUES WOULD BE SUBSTANTIALLY SMALLER IF NORTH SLOPE OIL RECEIVED A DEPRESSED PRICING TREATMENT. AS YOU KNOW THE FEDERAL ENERGY ADMINISTRATION HELD HEARINGS IN WASHINGTON D.C., SAN FRANCISCO AND ANCHORAGE THIS WEEK ON THIS VERY QUESTION. AT THOSE HEARINGS WE HAVE TAKEN THE POSITION THAT NORTH SLOPE OIL SHOULD BE PRICED AS FREE MARKET OIL WITHOUT ENTITLEMENT PENALTY.

IN A THIRD PHASE OF THE REPORT, THE DEPARTMENT DISCUSSED SEVERAL PROBLEMS OR DEFICIENCIES WHICH WERE FOUND IN EACH OF THE STATE'S MAJOR OIL AND GAS TAXES. IN THE FOURTH SECTION OF THE REPORT, THE DEPARTMENT MADE ITS RECOMMENDATIONS TO

CURE THE DEFECTS, AND THEN ESTIMATED THE REVENUE EFFECTS OF THE VARIOUS RECOMMENDATIONS.

WITH THAT SUMMARY OF THE DEPARTMENT'S REPORT LET ME DISCUSS IN TURN EACH OF OUR RECOMMENDATIONS AS EMBODIED IN BILL FORM AND CONTRAST OUR PROPOSALS WITH OTHER BILLS WHICH ARE NOW PENDING BEFORE YOUR RESPECTIVE COMMITTEES.

LET ME START WITH WHAT I CONSIDER AS THE FIRST PRIORITY - A REVISION OF THE STATE'S SEVERANCE TAX. THESE REVISIONS ARE CONTAINED IN HB 321 AND SB 238. ALTHOUGH OUR SEVERANCE TAX PROPOSAL HAS SEVERAL PARTS, IT ESSENTIALLY ACCOMPLISHED TWO MAJOR GOALS. FIRST, IT PROTECTS THE STATE'S SEVERANCE TAX REVENUES IN THE EVENT OF ARTIFICIALLY DEPRESSED FEDERAL PRICING. SECONDLY IT PROVIDES TAX RELIEF TO PRODUCTION AT OR NEAR A PROPERTY'S LIMIT. EACH OF THESE GOALS ARE EXTREMELY IMPORTANT. AS YOU KNOW, THE FEDERAL GOVERNMENT WILL

SOON BE ESTABLISHING THE PRICING TREATMENT TO BE AFFORDED NORTH SLOPE OIL. BOTH THE STATE'S ROYALTY SHARE AND SEVERANCE TAX ARE DEPENDENT UPON THE "WELL HEAD" PRICE OF OIL PRODUCED. IF NORTH SLOPE OIL IS ALLOWED TO FIND ITS PLACE IN THE FREE MARKET OUR ROYALTY AND SEVERANCE TAX REVENUES ARE PROTECTED. IF, HOWEVER, THE PRICE IS SET ARTIFICIALLY BELOW THE FREE MARKET PRICE A PORTION OF THE STATE'S REVENUES WILL BE LOST UNLESS CORRECTIVE ACTION IS TAKEN. THE CORRECTIVE ACTION WHICH WE PROPOSE TO GUARD AGAINST THIS DEPRESSED PRICING IS TO RAISE THE CENTS-PER-BARREL FLOOR IN THE SEVERANCE TAX TO WHAT WE PROJECT TO BE A MID POINT FREE MARKET PRICE OF OIL ON THE NORTH SLOPE ($7.50 PER BARREL) AND TO ESCALATE THAT FLOOR THROUGH TIME WITH A PRICE ESCALATOR. THUS IF AN ARTIFICIAL PRICE IS SET AT $7.00, $6.50 , $6.00 OR EVEN LESS, THE STATE WOULD STILL COLLECT SEVERANCE TAX ON THE BASIS OF THE FREE MARKET VALUE OF THE OIL. ACCORDINGLY WE MUST PROTECT OURSELVES FROM THE POTENTIAL DANGER OF DEPRESSED PRICING BY RAISING THE CENTS-PER-BARREL FLOOR THIS YEAR. IF WE WAIT AND THE PRICING DECISION GOES AGAINST US, WE MAY LOSE SUBSTANTIAL AMOUNTS OF

REVENUES DURING AN INTERIM PERIOD UNTIL CORRECTIVE ACTION CAN BE TAKEN. TO DELAY IN THE FACE OF THIS DANGER MIGHT RESULT IN A LARGE BUDGET DEFICIT FOR THIS NEXT FISCAL YEAR.

THE SAME DANGER TO THE STATE CAN ARISE THROUGH THE ACTIONS OF THE OIL CORPORATIONS THEMSELVES EVEN WITH A FAVORABLE PRICING DECISION BY THE FEDERAL GOVERNMENT. FOR EXAMPLE INTEGRATED OIL CORPORATIONS - OIL CORPORATIONS WHICH NOT ONLY PRODUCE BUT TRANSPORT, REFINE AND MARKET THEIR OWN OIL CAN ESSENTIALLY EFFECT THE WELL HEAD VALUE BY THE TARIFFS WHICH ARE SET FOR TRANSPORTATION OF ITS OIL AND BY THE CHOICE OF THE PLACE WHERE THE OIL IS REFINED. SINCE THE ALASKA WELL HEAD PRICE IS DETERMINED BY TAKING THE REFINERY PRICE AND NETTING BACK ALL THE TRANSPORTATION CHARGES TO THE FIELD, THE WELL HEAD VALUE WILL BE REDUCED AS TRANSPORTATION CHARGES ARE INCREASED. IF THE PIPELINE TARIFF OR TANKER TARIFF ARE INFLATED IT MAY SUBSTANTIALLY REDUCE THE WELL HEAD VALUE. BY INFLATING THE TRANSPORTATION CHARGES, THE INTEGRATED COMPANY CAN SHIFT THE

PROFITS FROM ITS PRODUCTION OPERATION TO OTHER PHASES OF ITS BUSINESS AND REDUCE ITS ROYALTY AND SEVERANCE TAX LIABILITIES. THESE POTENTIAL ACTIONS MUCH AS FEDERAL PRICING WOULD EFFECTIVELY REDUCE THE WELL HEAD PRICE BELOW WHAT WOULD OTHERWISE BE THE MARKET VALUE OF THE OIL. BY RAISING THE CENTS-PER-BARREL TAX FLOOR YOU PROTECT THE STATE AGAINST THESE POSSIBILITIES.

THE SECOND MAJOR GOAL OF OUR SEVERANCE TAX BILL AFTER ASSURING THAT OUR SEVERANCE TAX REVENUES ARE PROTECTED FROM THE VAGARIES OF FEDERAL PRICING ACTIONS AND CORPORATE MANIPULATION, IS TO PROVIDE TAX RELIEF FOR PRODUCTION WHICH IS APPROACHING, OR IS AT, ITS ECONOMIC LIMIT. AS MENTIONED IN OUR REPORT THE SEVERANCE TAX CAN ACT AS A DISINCENTIVE TO CONTINUED PRODUCTION AS PRODUCTION FROM A PROPERTY REACHES ITS ECONOMIC LIMIT. A PARTICULAR PROPERTY'S ECONOMIC LIMIT IS NOT SOLELY A FUNCTION OF THE VOLUME OF PRODUCTION BECAUSE THE COSTS OF PRODUCING OIL MAY VARY SUBSTANTIALLY IN DIFFERENT REGIONS OF THE STATE. FOR EXAMPLE A WELL PRODUCING 1,000 BARRELS A DAY IN COOK INLET

MAY BE NOWHERE NEAR ITS ECONOMIC LIMIT BUT A WELL PRODUCING AT THE SAME RATE ON THE NORTH SLOPE OR IN INTERIOR ALASKA MAY ACTUALLY HAVE REACHED ITS ECONOMIC LIMIT BECAUSE OF THE HIGHER COSTS OF PRODUCTION AND TRANSPORTATION IN THOSE AREAS. ACCORDINGLY A STAIR STEP APPROACH BASED UPON PRODUCTION LEVELS MAY WORK WELL FOR ONE PART OF THE STATE BUT NOT ANOTHER. THEREFORE HB 32L AND SB 238 PROVIDE A MECHANISM WHEREBY THE TAX RATE IS SCALED DOWN OR REDUCED AS A PARTICULAR PROPERTY REACHES ITS TRUE ECONOMIC LIMIT. THIS FEATURE ESSENTIALLY TAILORS THE TAX RATE SCHEDULE TO THE ECONOMICS OF EACH PRODUCING PROPERTY. INSTEAD OF STAIR-STEPS IT PROVIDES A CONTINUOUS SERIES TAX RATES FROM 10 PERCENT TO ZERO AND WHICH DECLINE AS PRODUCTION APPROACHES THE PRODUCTION LEVEL AT THE PROPERTY'S ECONOMIC LIMIT.

THERE WAS SOME SUGGESTION EARLIER IN THE WEEK BY MR. KILGORE, THAT THE ECONOMIC LIMIT FACTOR WAS DEFICIENT IN PRACTIVE SINCE IT SEEMED TO RESULT IN HIGHER EFFECTIVE TAX RATES FOR SOME

PRODUCTION IN COOK INLET. THIS PRESUMED DEFICIENCY IS SIMPLY NOT TRUE. I BELIEVE THAT THE EFFECTS WHICH MR. KILGORE SPOKE TO WERE NOT BECAUSE OF ANY DEFICIENCY IN THE ECONOMIC LIMIT FACTOR BUT RESULTED FROM THE EFFECTIVENESS OF THE CENTS-PER-BARREL FLOOR IN PROTECTING THE STATE AGAINST THE ARTIFICIAL PRICING ACTIONS OF THE FEDERAL GOVERNMENT. IN THIS REGARD IT SHOULD BE NOTED THAT AS PRODUCTION BECOMES INECONOMIC IN COOK INLET THE PRODUCERS MAY APPLY AND RECEIVE PRICING RELIEF FROM THE FEDERAL GOVERNMENT. NO SUCH LUXURY IS GIVEN TO THE ROYALTY OWNER, - THE STATE - AS PRICING RELIEF WILL BE GIVEN ONLY TO THE WORKING INTEREST AND NOT ROYALTY INTEREST. THE FEDERAL RATIONALE FOR THIS POLICY IS THAT THERE WILL BE NO ADDITIONAL PRODUCTION AS A RESULT OF PRICING RELIEF TO THE ROYALTY OWNER. THUS PRICING RELIEF IS GIVEN TO THE WORKING INTEREST. CERTAINLY IF YOU COMPARE THE TAX RATES TO THE ARTIFICIALLY ADMINISTERED PRICE IN COOK INLET YOU WILL GET HIGHER EFFECTIVE TAX RATES. BUT AS STATED BEFORE, THE STATE SHOULD NOT BE CONTENT TO SIMPLY ACCEPT TAXES BASED ON THE

ARTIFICIAL PRICE SET BY THE FEDERAL GOVERNMENT BUT SHOULD INSIST ON A PERCENTAGE OF THE TRUE MARKET VALUE OF THE RESOURCES PRODUCED. IF THE TAX RATES ARE COMPARED TO THE TRUE MARKET VALUE OF OIL IN COOK INLET THESE HIGHER EFFECTIVE TAX RATES DISAPPEAR. THE ECONOMIC LIMIT FACTOR DOES WORK AS PLANNED TO SCALE DOWN THE TAX RATE AS THE PROPERTY REACHES ITS "TRUE ECONOMIC LIMIT". BY THIS I MEAN THE ECONOMIC LIMIT AS GAUGED BY THE MARKET VALUE OF THE OIL NOT THE ARTIFICIALLY SET PRICE. THUS USING THE TRUE MARKET VALUE OF OIL AS THE STANDARD IF THE ECONOMIC LIMIT FOR THE PROPERTY IS 100 BARRELS A DAY AND THE CURRENT PRODUCTION HAS DECLINED TO 200 BARRELS A DAY THE TAX RATE WILL BE SCALED DOWN BY 50 PERCENT. WHEN PRODUCTION REACHES 100 BARRELS A DAY OR WHEN IT IS AT ITS ACTUAL ECONOMIC LIMIT, THE TAX RATE IS ZERO.

LET ME ALSO POINT OUT SOME OF THE OTHER FEATURES OF HB 321 AND SB 238.

THE BILL WOULD PLACE THE TAX ON GAS PRODUCTION ON AN EQUIVALENT BASIS AS OIL AND IT WOULD ESTABLISH A CENTS-PER-MCF FLOOR AT 6.4 CENTS PER MCF. THIS IS BASED UPON THE HIGHEST PRICE PAID FOR GAS IN COOK INLET. THIS FLOOR, AS THE CENTS-PER-BARREL FLOOR, WOULD PROTECT GAS SEVERANCE TAX REVENUES FROM DEPRESSED PRICING BELOW MARKET VALUE.

BOTH THE CENTS-PER-BARREL AND CENTS-PER-MCF FLOORS WOULD BE ADJUSTED BY AN INFLATION FACTOR SET OUT IN THE BILL.

IN ADDITION THE BILL WOULD PROVIDE FOR TAX ON FLARED GAS WHICH IS PRESENTLY UNTAXED. THE TAX RATE FOR THIS FLARED GAS WOULD BE TWICE THE CENTS-PER-MCF RATE. THIS WILL PROVIDE ADDITIONAL INCENTIVE TO THE PRODUCER TO CONSERVE OUR NATURAL RESOURCES.

WITH THAT DISCUSSION OF THE SEVERANCE TAX PROPOSAL, I WOULD LIKE TO CONTRAST OUR SEVERANCE TAX PROPOSAL WITH OTHER SEVERANCE TAX PROPOSALS WHICH HAVE BEEN INTRODUCED. THE OTHER SEVERANCE TAX PROPOSALS ARE SB 103 AND HB 144.

FIRST, SB 105 AND HB 144 IN CONTRAST TO OUR BILLS DO NOT FULLY PROTECT THE STATE AGAINST UNFAVORABLE FEDERAL PRICING DECISIONS. THIS IS BECAUSE THE OTHER BILLS LEAVE THE CENTS-PER-BARREL FLOOR AT ITS PRESENT LEVEL OF $6.10 PER BARREL. THUS THE CENTS-PER-BARREL FLOOR WOULD NOT KICK IN TO PROTECT THE STATE UNTIL THE WELL HEAD PRICE OF OIL WAS REDUCED BELOW $6.10. THIS IS $1.40 BELOW THE PROJECTED FREE MARKET PRICE OF NORTH SLOPE OIL. JUST THIS DIFFERENCE OF $1.40 A BARREL IN THE SEVERANCE TAX FLOOR COULD COST THE STATE FROM $100 TO $200 MILLION DOLLARS A YEAR. TO PROTECT THE STATE AGAINST UNFAVORABLE FEDERAL PRICING AND CORPORATE MANIPULATIONS, IT IS NOT ENOUGH SIMPLY TO RAISE THE PERCENTAGE RATES SINCE ANY PERCENT OF AN ARTIFICIAL PRICE ONLY RETURNS THAT PERCENTAGE AMOUNT OF THAT ARTIFICIAL PRICE. TO PROTECT THE STATE, THE CENTS-PER-BARREL FLOOR HAS TO BE RAISED TO THE FREE MARKET LEVEL.

SECONDLY SB 103 AND HB 144 DO NOT ADEQUATELY PROVIDE TAX RELIEF TO PRODUCTION APPROACHING ITS ECONOMIC LIMIT. THESE BILLS ATTEMPT TO PROVIDE RELIEF FOR MARGINAL WELLS BY EXPANDING THE NUMBER OF STAIR-STEP TAX RATES AND BY APPLYING A ZERO TAX RATE IF PRODUCTION DECLINES TO 100 BARRELS A DAY. AS STATED EARLIER, THE STAIR-STEP APPROACH WILL WORK AT BEST ONLY FOR A PARTICULAR PART OF THE STATE. THUS THE STAIR-STEP SCHEDULE SET OUT IN THESE BILLS WILL PROVIDE RELIEF FOR COOK INLET PRODUCTION BUT WILL NOT PROVIDE RELIEF FOR OTHER AREAS IN THE STATE IN WHICH THE ECONOMIC LIMIT IS WELL ABOVE 100 BARRELS A DAY. FOR PRODUCTION ON THE NORTH SLOPE AND IN INTERIOR ALASKA WHICH HAVE HIGHER COSTS OF PRODUCTION AND TRANSPORTATION, THERE WILL NOT BE TAX RELIEF SINCE THE ECONOMIC LIMIT FOR THIS PRODUCTION MAY IN FACT REACH AS HIGH AS 1,000 BARRELS A DAY. THUS IN CONTRAST TO OUR SEVERANCE TAX PROPOSAL, SB 103 AND HB 144 DO NOT PROVIDE TAX RELIEF FOR MARGINAL PRODUCTION EXCEPT FOR COOK INLET PRODUCTION.

IN ADDITION SB 103 AND HB 144 DO NOT ADDRESS THE SEVERANCE TAX ON GAS PRODUCTION. THESE BILLS SIMPLY LEAVE THE TAX AT THE CURRENT 4 PERCENT OF VALUE WITHOUT PROVIDING A SEVERANCE TAX FLOOR TO PROTECT AGAINST DEPRESSED GAS PRICING. ALSO THE GAS FLARING TAX IN THESE BILLS MAY BE TOTALLY DEFICIENT SINCE IT IS NOT BASED ON A CENTS-PER-MCF BASIS BUT ON A PERCENTAGE OF VALUE BASIS. FOR EXAMPLE IT MIGHT BE ARGUED THAT GAS WHICH IS FLARED HAS ZERO VALUE OR PRICE SO ANY PERCENTAGE OF ZERO WOULD GIVE YOU ZERO REVENUE. ACCORDINGLY THE GAS FLARING TAX SHOULD BE BASED ON A CENTS-PER-MCF BASIS AS IN OUR BILLS TO CLOSE THIS POTENTIAL LOOPHOLE.

THUS WE BELIEVE THAT OUR SEVERANCE TAX PROPOSAL IS SUPERIOR IN THAT IT PROTECTS THE STATE AGAINST DEPRESSED FEDERAL PRICING; PROVIDES TAX RELIEF TO MARGINAL PRODUCTION IN ALL PARTS OF THE STATE; AND ASSURES A FAIR SEVERANCE TAX RETURN ON GAS PRODUCTION.

I WOULD LIKE TO NOW TURN TO OUR INCOME TAX PROPOSAL.

AS EXPLAINED EARLIER IN THE WEEK BY PROFESSORS ZEIFMAN AND AINSWORTH, THERE ARE TWO MAJOR PROBLEM AREAS WITH THE CURRENT CORPORATE INCOME TAX. THE FIRST PROBLEM IS THE ERODED FEDERAL CORPORATE INCOME TAX BASE WHICH ALASKA HAS INCORPORATED AS ITS OWN. OVER THE YEARS, CONGRESS HAS CONTINUALLY ERODED THE FEDERAL TAX BASE BY SPECIAL EXEMPTIONS, DEDUCTIONS, AND CREDITS WHICH DO NOT REFLECT NORMAL FINANCIAL ACCOUNTING. THE EROSION HAS BECOME SO GREAT THAT FEDERAL TAXABLE INCOME IS SUBSTANTIALLY BELOW THE NET INCOME WHICH IS CERTIFIED AND REPORTED TO SHAREHOLDERS. FOR EXAMPLE AS INDICATED ON PAGE 7 OF CHAPTER 5 OF OUR REPORT, A CONGRESSIONAL REPORT SHOWS THAT 5 MULTINATIONAL OIL COMPANIES PAID $107 MILLION DOLLARS IN CORPORATE INCOME TAXES TO THE FEDERAL GOVERNMENT ON PRE TAX PROFITS OF MORE THAN 2.2 BILLION FOR AN EFFECTIVE AVERAGE TAX RATE OF 4.8 PERCENT. THE REPORT ALSO SHOWS THE FINDINGS OF THE CONGRESSIONAL STUDY, IN WHICH THE EFFECTIVE FEDERAL TAX RATE ON THEIR WORLDWIDE INCOME IS

SHOWN FOR SEVERAL OF THE MAJOR OIL CORPORATIONS. NEEDLESS TO SAY THESE EFFECTIVE TAX RATES ARE SUBSTANTIALLY BELOW THE FEDERAL STATUTORY TAX RATE OF 48 PERCENT.

THE SECOND MAJOR PROBLEM FOUND WAS THE MANNER IN WHICH THE CORPORATION'S TOTAL NET INCOME IS APPORTIONED TO ALASKA. CURRENTLY THE TOTAL FEDERAL TAXABLE INCOME OF AN ALASKAN CORPORATION PLUS THE TAXABLE INCOME OF ALL OF ITS UNITARY AFFILIATES AND SUBSIDIARIES ARE COMBINED INTO A TOTAL WORLD-WIDE TAXABLE INCOME FIGURE AND THEN THAT AMOUNT IS MULTIPLIED BY A 3 FACTOR FORMULA OF PROPERTY, PAYROLL AND SALES. THE PRODUCT OF THAT CALCULATION BECOMES ALASKA TAXABLE INCOME FOR THE ALASKAN CORPORATION AND IT IS TAXED AT THE 9.4 PERCENT NOMINAL RAX RATE.

THE PRESENT APPORTIONMENT FORMULA OF PROPERTY, PAYROLL AND SALES IS DESIGNED TO MEASURE THE ACTIVITY OF GENERAL MERCHANTILE BUSINESSES. IT DOES NOT ACCURATELY MEASURE THE ACTIVITIES OF NATURAL RESOURCE COMPANIES AND IT DOES NOT TAKE INTO

ACCOUNT THE UNIUQE CONTRIBUTION MADE BY NATURAL RESOURCES THEMSELVES. THE PRESENT DESTINATION-ORIENTED FORMULA DOES NOT GIVE ANY WEIGHT TO THE SCARCITY VALUE OF THE NON-RENEWABLE RESOURCE WHICH IS REALLY WHAT DETERMINES THE INCOME OR PROFIT FOR A NATURAL RESOURCE COMPANY.

THE TAX WOULD BE LEVIED ON AND WOULD BE MEASURED BY THE TOTAL WORLD-WIDE NET INCOME OF THE CORPORATION AND ALL OF ITS UNITARY AFFILIATES AND SUBSIDIARIES AS REPORTED AND CERTIFIED TO ITS SHAREHOLDERS AND THEN APPORTIONED TO ALASKA BY A 3 FACTOR FORMULA. IN ONE CLEAN SWEEP IT WOULD ELIMINATE ALL OF THE SPECIAL SUBSIDIES AND ACCOUNTING DEVICES WHICH ARE EMBODIED IN THE PROVISIONS OF THE INTERNAL REVENUE CODE. THUS THE INCOME WOULD BE BASED ON NORMAL FINANCIAL NET INCOME UNERODED BY ALL THE SPECIAL FEDERAL EXEMPTIONS, CREDITS AND DEDUCTIONS.

ADMITTEDLY THERE IS SOME FLEXIBILITY UNDER NORMAL ACCOUNTING PRINCIPLES FOR THE DETERMINATION OF NET INCOME THAT IS REPORTED

TO STOCKHOLDERS. WE BELIEVE, HOWEVER, THAT THERE ARE REAL DETERRENTS AGAINST MANIPULATING "BOOK INCOME" FOR STATE TAX PURPOSES. FIRST OF ALL, BOOK INCOME IS SUBJECT TO CERTIFICATION UNDER RULES PROMULGATED BY THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS AND IS SUBJECT TO REVIEW BY THE SECURITIES AND EXCHANGE COMMISSION. IN ORDER TO MANIPULATE "BOOK INCOME" TO LOWER ALASKA TAX LIABILITY, IT WOULD HAVE TO BE DONE AT THE EXPENSE OF THE CORPORATION'S STOCKHOLDERS.

THE EFFECTIVENESS OF ELIMINATING THE FEDERAL EROSIONS THROUGH THE ADOPTION OF BOOK INCOME WAS DEMONSTRATED BY PROFESSORS ZEIFMAN AND AINSWORTH. THEY FOUND IN THE SAMPLE OF LARGE OIL CORPORATIONS DOING BUSINESS IN ALASKA THAT BOOK INCOMES EXCEEDED FEDERAL TAXABLE INCOME BY 1.6 TO 3 BILLION DOLLARS A YEAR OVER THE LAST THREE YEARS.

THE SECOND MAJOR REVISION IS A MODIFICATION OF THE UNIFORM APPORTIONMENT FORMULA OF PROPERTY, PAYROLL AND SALES. THE

BILL SUBSTITUTES AN ORIGIN ORIENTED EXTRACTION FACTOR FOR THE DESTINATION ORIENTED SALES FACTOR. THUS A NEW FACTOR WOULD BE ADDED TO THE APPORTIONMENT FORMULA AND WOULD BE MEASURED BY THE NET PRODUCTION OF OIL AND GAS IN ALASKA VERSUS THE NET PRODUCTION OF OIL AND GAS EVERYWHERE. THIS WILL MEAN THAT FOR THE FIRST TIME, THE AMOUNT OF INCOME ATTRIBUTED TO ALASKA WILL BE BASED UPON, IN PART, THE AMOUNT OF OIL AND GAS PRODUCED IN ALASKA.

ACCORDINGLY THE BILL PROVIDES A METHOD IN WHICH WORLD-WIDE "BOOK INCOME" OF THE TOTAL UNITARY BUSINESS OPERATIONS WILL BE MULTIPLIED BY A FORMULA OF PROPERTY, PAYROLL AND EXTRACTION. IN ADDITION, TO SPECIFICALLY MEASURING PRODUCTION ACTIVITY IN THE STATE, THE SUBSTITUTION OF THE EXTRACTION FACTOR FOR THE SALES FACTOR WILL RETURN A LARGER PORTION OF A CORPORATION'S INCOME TO THE STATE. AND WELL THAT IT SHOULD SINCE THE TAX SHOULD BE MEASURED BY THE SCARCITY VALUE OF OUR NATURAL RESOURCES.

THERE WAS SOME SUGGESTION EARLIER IN THE WEEK THAT THERE MIGHT BE A PROBLEM WITH THE DETERMINATION OF NET EXTRACTION FROM FOREIGN JURISDICTIONS IN WHICH THE CORPORATIONS WOULD BE ACTING AS ESSENTIALLY A CONTRACTOR AND HAVE NO INTEREST IN THE OIL ITSELF. THE REASON FOR THE CONCERN SEEMED TO STEM FROM THE FACT THAT A BREAK DOWN OF PRODUCTION MIGHT NOT BE REPORTED IN PUBLISHED FINANCIAL STATEMENTS. IN OUR EARLY CONSIDERATION OF THE EXTRACTION FACTOR, WE ANTICIPATED THIS POTENTIAL DIFFICULTY BECAUSE OF THE ABSENCE OF CONSISTENT FIGURES ON PUBLISHED FINANCIAL STATEMENTS. FOR THAT REASON WE HAVE HAD OUR MULTI-STATE TAX COMMISSION AUDITORS DETERMINE IF ADEQUATE RECORDS ARE AVAILABLE TO AUDIT WORLD WIDE NET PRODUCTION. IN CONNECTION WITH CURRENT AUDITS WHICH THEY ARE DOING IN OUR BEHALF OF SOME MULTINATIONAL OIL CORPORATIONS, THEY FOUND THAT ADEQUATE RECORDS AND DOCUMENTATION EXIST TO AUDIT THE PRODUCTION FIGURES WHICH WOULD BE REPORTED BY THE CORPORATIONS SUBJECT TO THE TAX. IN ADDITION WE NOW UNDERSTAND THAT INDEPENDENT PRODUCTION STATISTICS ARE REPORTED BY THE UNITED NATIONS AND THE OPEC COUNTRIES THEMSELVES.

ANOTHER EXTREMELY IMPORTANT FEATURE OF THE FRANCHISE TAX IS ITS ABILITY TO INCLUDE IN THE MEASURE OF THE TAX THE ACTIVITIES LOCATED ON THE OUTER CONTINENTAL SHELF. BY THIS FEATURE WE ARE TAKING THE POSITION THAT IF ELEMENTS OF PROPERTY, PAYROLL AND SALES ARE NOT ASSIGNED TO ANY OTHER JURISDICTION, THEN THEY SHOULD BE ASSIGNED TO THE STATE WHICH HAS RECEIVED THE MOST DIRECT IMPACT. IN ADDITION TO COMPENSATING THE STATE FOR THE ECONOMIC IMPACT FELT BY THIS ACTIVITY IT PREVENTS THE CORPORATION FROM ASSIGNING INCOME TO THE STATE OF NO WHERE. ALSO THE PROPERTY AND PAYROLL FACTOR OF MARINE TRANSPORTATION SUBSIDIARIES WOULD BE ASSIGNED ON THE BASIS OF THE NUMBER OF DAYS IN PORT.

LET ME NOW COMPARE BRIEFLY SB 236 AND HB 322 WITH THE OTHER INCOME TAX BILLS WHICH HAVE BEEN INTRODUCED. SB 105 AND HB 145 ADOPT AN APPROACH ENTIRELY DIFFERENT THAN THE APPROACH WHICH WE HAVE TAKEN AND IS CALLED SEPARATE ACCOUNTING.

INSTEAD OF COMBINING THE ENTIRE NET INCOME OF THE UNITARY GROUP OF BUSINESSES AND APPORTIONING THAT TOTAL INCOME TO THE STATE BY AN APPORTIONMENT FORMULA, THE SEPARATE ACCOUNTING

BILL LOOKS ONLY AT THE SEPARATE INCOME AND EXPENSE OF A CORPORATE ENTITY DOING BUSINESS IN THE STATE. SEPARATE ACCOUNTING ESSENTIALLY SEPARATES THE NET INCOME OF THE BUSINESS INTO GEOGRAPHICAL UNITS. IN EFFECT, THE BUSINESS ACTIVITIES IN ONE STATE ARE TREATED AS IF THEY WERE CARRIED ON BY A TOTALLY SEPARATE BUSINESS.

THEORETICALLY, SEPARATE ACCOUNTING MEASURES THE NET INCOME OF THE BUSINESS EARNED WITHIN THE STATE. IN PRACTICE IT DOES NOT. THE REASON IT DOES NOT STEMS FROM THE WAY THAT LARGE MODERN BUSINESSES, ESPECIALLY LARGE INTEGRATED MULTINATIONAL CORPORATIONS, OPERATE.

THE ENTIRE ENTERPRISE IS OPERATED AS A UNIT WITH THE PROFIT BEING EARNED ONLY BY THE ENTIRE OPERATION AS A WHOLE. THUS THE WHOLE ENTERPRISE IS ACTUALLY MORE THAN THE SUM OF THE PARTS SINCE EACH PART IS ESTABLISHED ONLY TO CONTRIBUTE TO THE ENTIRE UNITARY BUSINESS. THE NET PROFIT IS ACTUALLY THE FINAL RESULT OF THE CONTINUOUS SERIES OF INCOME AND EXPENSE TRANSACTIONS AMONG THE VARIOUS COMPONENT PARTS OF THE BUSINESS.

WITH REGARD TO AN INTEGRATED MULTINATIONAL OIL CORPORATION, THE NET INCOME IS NOT EARNED BY ANY PARTICULAR PHASE OF THE OPERATION SUCH AS PRODUCTION, TRANSPORTATION, REFINING OR MARKETING. EACH SEGMENT CONTRIBUTES TO THE WHOLE, AND THE NET INCOME IS ONLY REFLECTED AFTER THE FINAL SALE AND THE CONTRIBUTION OF EACH PART OF THE BUSINESS.

BECAUSE OF THE REALITIES OF MODERN BUSINESS OPERATIONS, A SEPARATE ACCOUNTING METHOD OPENS THE DOORS TO WIDESPREAD TAX AVOIDANCE. WITH A MULTIFACETED BUSINESS ACTING THROUGH DIFFERENT DIVISIONS, AFFILIATES AND SUBSIDIARIES, IT DOESN'T MATTER TO THE OVERALL ENTERPRISE WHETHER A PARTICULAR DIVISION IS SHOWN TO MAKE A PROFIT OR LOSS AS LONG AS IN THE END A PROFIT IS MADE FOR THE COMPANY AS A WHOLE. IN A REAL SENSE THE PROFIT OR LOSS OF A PARTICULAR DIVISION CAN BE MADE TO APPEAR ANY WAY THAT THE ENTERPRISE WANTS IT TO APPEAR.

FOR EXAMPLE, WHEN GOODS ARE TRANSFERRED FROM ONE DIVISION TO ANOTHER, THE AMOUNT CHARGED TO EACH SEGMENT OF THE BUSINESS

CAN BE ANYTHING THAT THE ENTERPRISE FINDS IN ITS BEST INTEREST TO CHARGE. LIKEWISE AS THE PARENT CORPORATION OR ANOTHER DIVISION PROVIDES MANAGEMENT, ACCOUNTING, LEGAL OR OTHER RELATED SERVICES FOR ANOTHER DIVISION OR AFFILIATE, THE SAME FLEXIBILITY EXISTS FOR DETERMINING THE AMOUNT OF FEES TO BE CHARGED. INCOME AND EXPENSE CAN BE EFFECTIVELY SHIFTED FROM ONE PART OF THE BUSINESS TO ANOTHER. THIS SHIFTING OF INCOME AND EXPENSE DOES NOT TAKE PLACE THROUGH A HANDFUL OF EASILY RECOGNIZABLE TRANSACTIONS, BUT THROUGH A SERIES OF THOUSANDS OF TRANSACTIONS A DAY WHICH AMOUNT TO MILLIONS FOR AN ENTIRE YEAR. ALSO, THESE TRANSACTIONS ARE MADE NOT JUST BETWEEN A HANDFUL OF CORPORATE ENTITIES, BUT THROUGH LITERALLY HUNDREDS OF DIVISIONS, AFFILIATES, AND SUBSIDIARIES. WITH SUCH A MYRIAD OF CORPORATE ENTITIES AND TRANSACTIONS, IT IS EXTREMELY DIFFICULT, TO SAY THE LEAST, TO DETERMINE WHAT IS THE "TRUE" NET PROFIT EARNED BY ONE ENTITY OR GEOGRAPHIC PART OF AN ENTITY.

AS APPLIED TO THESE SEPARATE ACCOUNTING BILLS, THE SAME PROBLEM OCCURS. THAT IS, THESE BILLS COULD OPEN THE DOOR TO WIDESPREAD TAX AVOIDANCE BECAUSE OF THE MANIPULATIONS OF INCOME AND EXPENSE WHICH ARE POSSIBLE.

AS WITH THE OTHER SEVERANCE TAX PROPOSALS THE SEPARATE ACCOUNTING BILL WOULD LEAVE OPEN THE POTENTIAL OF EROSION BY FEDERAL PRICING DECISIONS. FOR EXAMPLE UNDER THESE BILLS GROSS REVENUE FOR PRODUCTION OPERATIONS IS DEFINED TO MEAN THE WELL HEAD VALUE. IF FEDERAL PRICING DECISIONS SET A DEPRESSED WELL HEAD PRICE THEN THE GROSS REVENUES UNDER THE BILL WILL BE SUBSTANTIALLY REDUCED. LIKEWISE MANIPULATIONS BY TAXPAYERS OF WELL HEAD OR GROSS REVENUES ARE ALSO POSSIBLE BY THE TRANSPORTATION CHARGES WHICH ARE MADE FROM ONE AFFILIATE TO ANOTHER.

JUST AS THE GROSS REVENUE OR WELL HEAD VALUE CAN BE MANIPULATED UNDER THE SEPARATE ACCOUNTING METHOD, SO CAN THE EXPENSES AND DEDUCTIONS. THAT IS, THE CHARGES FOR SERVICES AND PROPERTY

FROM ONE AFFILIATE TO ANOTHER CAN BE MADE SO AS TO SHIFT PROFIT FROM ONE CORPORATE ENTITY TO ANOTHER. THROUGH SUCH SHIFTING OF INCOME AND EXPENSE BETWEEN THE ALASKA CORPORATION AND OTHER AFFILIATED CORPORATIONS, THE INCOME AND EXPENSE CAN IN A REAL SENSE BE MADE TO BE WHAT THE OVERALL CORPORATE ENTERPRISE WANTS IT TO BE.

THIS DEFICIENCY CANNOT BE CURED SIMPLY BY HIRING AN ARMY OF STATE AUDITORS. TO THE EXTENT OF REDUCED GROSS INCOME BY REASON OF DEPRESSED FEDERAL PRICING, THE STATE IS SIMPLY STUCK UNDER A SEPARATE ACCOUNTING APPROACH. IN ADDITION, TO FERRET OUT THE MULTITUDE OF INTERCOMPANY CHARGES AND OVERTURN THEM AS EITHER FRAUDULENT OR UNREASONABLE IS SIMPLY IMPOSSIBLE. WITH LARGE MULTINATIONAL CORPORATIONS THERE ARE VIRTUALLY HUNDREDS OF TRANSACTIONS A DAY BETWEEN DOZENS OF CORPORATE AFFILIATES. YOU SIMPLY CANNOT UNSCRAMBLE THESE TRANSACTIONS TO DETERMINE THE "TRUE" PROFIT EARNED IN ALASKA.

IN CONTRAST THE FRANCHISE TAX AVOIDS THESE EROSIONS AND MANIPULATIONS BETWEEN DIFFERENT SEGMENTS OF THE OIL INDUSTRY

AND BETWEEN AFFILIATED COMPANIES. IT AVOIDS THESE PROBLEMS BY COMBINING THE INCOME OF THE TOTAL GROUP OF RELATED CORPORATIONS. THUS THE GAME OF SHIFTING PROFIT FROM ONE CORPORATION TO ANOTHER IS AVOIDED SINCE THE ENTIRE NET IS COMPUTATED AND NOT JUST FOR ONE CORPORATION IN ISOLATION. IT ALSO AVOIDS THE UNCERTAINTIES OF PRICE REGULATION OF THE PRODUCTION SEGMENT OF THE INDUSTRY, SINCE ALL SEGMENTS OF AN INTEGRATED COMPANY WOULD BE COMBINED AND THE OVERALL PROFIT OF UNITARY BUSINESS TAXED. THESE OTHER SEGMENTS OF THE INDUSTRY SUCH AS TRANSPORATION, REFINING AND MARKETING MAY NOT HAVE PRICE REGULATIONS AND SO THE PROFIT MAY BE TRANSFERRED TO THESE UNREGULATED SEGMENTS. THE SEPARATE ACCOUNTING APPROACH WOULD NOT MEASURE THIS SHIFTED PROFIT. THE FRANCHISE TAX BILL WOULD.

THE SEPARATE ACCOUNTING BILLS ALSO WOULD NOT INCLUDE IN THE MEASURE OF THE TAX, THE OIL AND GAS ACTIVITIES OCCURRING ON THE OUTER CONTINENTAL SHELF. IT WOULD SIMPLY ATTEMPT TO SEGREGATE THE INCOME GENERATED IN THE STATE. IN CONTRAST THE FRANCHISE TAX WOULD INCLUDE IN THE MEASURE OF THE TAX

PROPERTY, PAYROLL AND EXTRACTION LOCATED ON THE OUTER CONTINENTAL SHELF. I BELIEVE THAT IT IS IMPORTANT THAT THE STATE SEEK COMPENSATION FOR THE IMPACT FROM THIS ACTIVITY. THE FRANCHISE TAX WOULD COMPENSATE THE STATE AS A RESULT OF THESE ACTIVITIES TAKING PLACE OFF OUR SHORES. THE SEPARATE ACCOUNTING BILL WOULD ALSO NOT INCLUDE THE INCOME OF MARINE TRANSPORTATION SUBSIDIARIES TRANSPORTING OIL FROM OUR STATE.

CONTINUING ON, I WOULD NOW LIKE TO MAKE SOME COMMENTS ABOUT OUR PROPERTY TAX PROPOSAL. THIS IS CONTAINED IN SB 237 AND HB 323. OUR PROPERTY TAX PROPOSAL CORRECTS SEVERAL DEFICIENCIES IN OUR 20 MIL AD-VALOREM TAX.

ONE PORTION OF THE BILL WOULD STRENGTHEN THE VALUATION METHOD PRESCRIBED FOR PIPELINES AND ASSURE THAT THE TRANS-ALASKA PIPELINE WILL BE VALUED UNDER A FULL AND TRUE VALUE. UNDER THE PRESENT WORDING OF THE STATUTE, IT IS POSSIBLE THAT THE TRANS-ALASKA PIPELINE WILL BE VALUED ONLY AT ITS ACTUAL COST AND DEPRECIATED ON A STRAIGHT LINE BASIS OVER THE ECONOMIC

LIFE OF THE FIELD. WE FEEL THIS POTENTIAL OUTCOME WOULD BE DISASTROUS SINCE THIS ACTUAL COST-DEPRECIATED METHOD WOULD YIELD A VALUE SUBSTANTIALLY BELOW THE PIPELINE'S FULL AND TRUE MARKET VALUE. THE ARGUMENT FOR THIS DEPRESSED VALUATION HAS ALREADY BEEN MADE BY OTHER PIPELINE COMPANIES IN THE STATE AND THE DETERMINATION OF THE PROPER PIPELINE VALUATION METHOD IS NOW UNDER REVIEW BY THE SUPERIOR COURT.

OUR BILL WOULD ELIMINATE THIS POTENTIAL HAZARD BY AMENDING THE STATUTE TO INSURE A FULL AND TRUE VALUE OF PIPELINES WITH DUE REGARD TO THEIR ECONOMIC VALUE. THUS INSTEAD OF A VALUATION BASED SOLELY ON ACTUAL COST, THE VALUATION WOULD BE BASED UPON MORE REALISTIC VALUATION METHODS SUCH AS REPLACEMENT COST APPROACH AND THE CAPITALIZED NET INCOME APPROACH. IT SHOULD BE NOTED THAT THE COMPANIES WILL BE ALLOWED A RATE OF RETURN ON THE BASIS OF REPLACEMENT COST. IT IS ONLY FAIR THAT OUR TAX SHOULD BE BASED ON THE SAME BASIS.

SECONDLY THE BILL WOULD INCLUDE IN THE COVERAGE OF THE TAX SEVERAL IMPORTANT CATEGORIES OF OIL AND GAS PROPERTIES WHICH

ARE PRESENTLY EXEMPT FROM THE STATE TAX. THESE INCLUDE TANKERS, GAS PROCESSING PLANTS AND REFINERIES. GAS PROCESSING PLANTS AND REFINERIES WOULD BE VALUED AND TAXED AT THEIR REPLACEMENT COST. TANKERS WOULD ALSO BE VALUED AT THEIR REPLACEMENT COST EXCEPT THAT VALUATION WOULD BE APPORTIONED TO THE STATE UNDER A FORMULA OF DAYS IN PORT IN ALASKA VERSUS DAYS IN PORT EVERYWHERE. WE BELIEVE THAT A PORTION OF THE REVENUES FROM THESE IMPORTANT PROPERTIES SHOULD BE SHARED BY ALL ALASKANS. TANKERS, GAS PROCESSING PLANTS AND REFINERIES ARE SIMPLY EXTENSIONS OF THE PRODUCTION AND PIPELINE TRANSPORTATION PROPERTIES.

THE BILL ALSO AMENDS THE PROPERTY TAX STATUTE TO MAKE ABSOLUTELY CLEAR THAT TAXES PAID TO MUNICIPALITIES WHICH EXCEED THE MUNICIPAL LIMITATIONS ARE NOT CREDITABLE AGAINST THE STATE PROPERTY TAX.

I WOULD LIKE TO ADD A FEW COMMENTS ON OUR RESERVES TAX PROPOSAL. BECAUSE OF RECENT TAX CHANGES AND UNFORESEEN EVENTS, WE HAVE

DEVELOPED A SURPLUS IN FISCAL YEAR 1977. THIS SURPLUS IS SOMEWHAT ILLUSORY, HOWEVER, SINCE MOST OF IT REPRESENTS RESERVE TAX PAYMENTS WHICH WILL BE RECOUPED IN SUBSEQUENT YEARS BY OIL AND GAS COMPANIES THROUGH CREDITS AGAINST THEIR SEVERANCE TAXES. THE DEPARTMENT BELIEVES THAT IT MAKES SENSE TO REDUCE THIS YEAR'S TEMPORARY SURPLUS AND FREE UP ADDITIONAL REVENUES IN FUTURE YEARS. THE BILL WOULD DO THIS BY REDUCING THIS YEAR'S RESERVES TAX MILLAGE RATE FROM 20 MILLS TO 12 MILLS. AT THE SAME TIME, HOWEVER, I AM PROPOSING THAT IF THERE IS A DELAY IN THE START-UP OF THE TRANS-ALASKA PIPELINE, THEN AN ADDITIONAL RESERVES TAX PAYMENT WILL BE DUE.

THUS IF ON OCTOBER 1, 1977 THE TRANS-ALASKA PIPELINE IS NOT TRANSPORTING AT LEAST 600,000 BARRELS A DAY THEN AN ADDITIONAL 8 MILLS WOULD BE IMPOSED. ALSO IF ON DECEMBER 25, 2977 THE TRANS-ALASKA PIPELINE IS NOT TRANSPORTING AT LEAST 1.2 MILLIONS BARRELS A DAY THEN A RESERVES TAX WOULD BE IMPOSED FOR 1978 AT A RATE TO BE SET BY THE NEXT LEGISLATURE. WE

THINK THIS BILL IS IMPORTANT TO PRESERVING THE STATE'S FINANCIAL FLEXIBILITY DURING THE NEXT FISCAL YEAR.

IN ADDITION TO TAX CHANGES WHICH I AM PROPOSING FOR THE OIL AND GAS INDUSTRY, I AM ALSO PROPOSING A TAX MEASURE WHICH WILL PROVIDE SOME RELIEF TO INDIVIDUAL TAXPAYERS WHO ARE IMPACTED BY THE INCREASING COST OF ENERGY. AS A PART OF OUR TAX PACKAGE WE ARE PROPOSING A FUEL CREDIT FOR INDIVIDUALS TO TAKE ON THEIR INCOME TAX RETURNS TO ACCOUNT FOR THE HIGH COST OF ENERGY. THE CREDIT WILL BE EQUAL TO TWO PERCENT OF A PERSON'S HOME FUEL EXPENSES OR A MINIMUM CREDIT OF $10.

ALL OF THESE BILLS TOGETHER REPRESENT A COMPREHENSIVE REVISION OF OUR OIL AND GAS TAX STRUCTURE. THEY CLOSE CURRENT LOOP-HOLES AND PROTECT THE STATE FROM THE FUTURE UNCERTAINTIES OF FEDERAL OIL PRICING AND CORPORATE MANIPULATIONS. I URGE THAT YOUR COMMITTEES REPORT FAVORABLY ON THESE BILLS.

IN JUDGING THE TAX MEASURES BEFORE YOU I BELIEVE THAT WE MUST NOT ONLY PROTECT OUR REVENUES IN THE SHORT TERM BUT ALSO INSURE SUFFICIENT RETURN FROM THESE NON-RENEWABLE NATURAL RESOURCES FOR FUTURE ALASKANS AS WELL. WE SHOULD NOT BE SWAYED BY THE ARGUMENTS OF THOSE WHO WOULD HAVE US RECOVER FROM OUR NON-RENEWABLE NATURAL RESOURCES ONLY AMOUNTS SUFFICIENT TO COVER TODAY'S OPERATING EXPENDITURES. WE SHOULD NOT BE THAT SHORTSIGHTED THAT WE FORGET THAT THE REVENUES FROM THESE RESOURCES BELONG TO SUCCESSIVE GENERATIONS OF ALASKANS. ACCORDINGLY, IN DECIDING THE CORRECT LEVEL OF TAXATION LET US NOT FORGET FUTURE ALASKANS WHO WILL INHERIT THE STATE WHEN THE OIL AND GAS RESOURCES ARE DEPLETED. WE SHOULD WORK TO ELIMINATE THE LOOPHOLES AND POTENTIAL EROSIONS FROM OUR TAX SYSTEM AND SET A LEVEL OF TAXATION WHICH WILL RETURN REVENUES TO THE STATE FROM THOSE NATURAL RESOURCES FOR OURSELVES AND FUTURE GENERATIONS.

TESTIMONY BEFORE THE JOINT HEARING
OF THE
SENATE RESOURCES COMMITTEE
AND THE
HOUSE RESOURCES COMMITTEE
OF THE

ALASKA STATE LEGISLATURE

BY

RICHARD M. DONALDSON

VICE PRESIDENT FOR GOVERNMENT AND PUBLIC AFFAIRS

THE STANDARD OIL COMPANY (OHIO)

AT JUNEAU, ALASKA

ON MARCH 24, 1977

CONCERNING PENDING OIL TAX PROPOSALS

Testimony Before The Joint Hearing
Of The
Senate Resources Committee
And The
House Resources Committee
Of The
Alaska State Legislature
By
Richard M. Donaldson
Vice President For Government And Public Affairs
The Standard Oil Company (Ohio)
At Juneau, Alaska
On March 24, 1977
Concerning Pending Oil Tax Proposals

Senator Poland, Representative Osterback and Members of the Resources Committees:

I am Dick Donaldson, Vice President for Government and Public Affairs of Sohio, The Standard Oil Company of Ohio. Most of us are acquainted and I expect that all of you know of Sohio's and BP's interests in Prudhoe Bay and the Trans Alaska Pipeline, so I won't waste any words of introduction summarizing them. I would underscore, however, our continuing and long term interests in the future of Alaska as companies engaged here and as people working for them, many of whom now live here.

With respect to the subject of this hearing and all of the tax proposals you may consider, I hardly know where to begin. I guess that my first response is one of "disappointment". Let me explain, because my disappointment is probably not what you might be assuming.

About a year ago I appeared before a joint hearing of your Committees here in Juneau. Other tax legislation was being considered then. At the end of our discussion that day, I urged

the State to take whatever time was necessary to assess and balance three things: the future revenues of the State, the future expenditures of the State, and the State as a place to do business since a substantial majority of the people of Alaska are engaged in or work for businesses of all kinds. I not only urged the State to consider these three things but also to determine a longer term taxing and leasing policy for the State that would serve all three needs. I stated that my company would be responsive to such policy studies and would participate in them if invited. I felt that such a policy assessment was long needed by all of us, and that since the State no longer had its back to the wall financially, it could and should take some time to do the job right.

I can tell you that I was pretty excited when I read the Governor's statement on March 31, 1976, to your Committees. He said that the State's taxing policy must accomplish the following objectives:

1. It must generate sufficient revenues not only to compensate the State for additional service costs attending such development but also to provide a reasonable additional "dividend" to Alaskans.

2. It must leave profits to investors sufficient to encourage their continued interest in Alaskan resource development, especially where high risks, such as those in the area of oil and gas development, are involved.

3. It must be reasonably responsive to national and world economic trends of the time.

4. It should not discriminate on the basis of ownership.

5. It must reduce uncertainty and encourage stable expectations about future resource tax and management policies.

I felt further encouraged when I read Senate Concurrent Resolution No. 101 which spoke of the "revenue needs of the state", "revenue from oil and gas leases and production from oil and gas", and the "effect of increased taxation *** on future oil and gas development in the state".

The thought that both the Administration and the Legislature were going to take a thoroughgoing look at State revenues, State expenditures and their impact on the private sector in Alaska was good news. On July 1, 1976 I wrote Gregg Erickson, Director of Research Services, Legislative Affairs Agency, identifying some of the subject areas these studies might examine, and sent information copies to Commissioner Gallagher and Commissioner Martin who were heading up the Administration's studies. A copy of that letter is attached to my testimony today as Attachment A, if you are interested in it.

During the summer and fall which followed not much appeared to be happening with these studies, or at least not very much was visable to us. Various consultants were hired and the word

that filtered out seemed to indicate that some of them were looking at additional revenue possibilities, but not much else. In October, I tried to stir up some interest again on the need for a longer term taxing and leasing policy for the State, its people and our industry. I spoke to the Fairbanks Industrial Development Corporation, the Anchorage Chamber of Commerce, the Anchorage Rotary, the Kenai Chamber of Commerce, and to the Bar Association here in Juneau. Again, the responses seemed affirmative.

Since the first of the year there has been a lot of new tax bills introduced for consideration by the Legislature, and I suppose that's to be expected in the first session of every new Legislature. My disappointment, however, was that there still had been no in depth study of the policy implications, of how such revenue measures might impact the longer term economy of the State that will depend a lot on continued, reasonable resource development.

Today, I'd like to summarize and give you copies of some of the work Sohio undertook in anticipation of responding to the State's policy studies. I will tell you about some other work we undertook which is still in progress and which I hope will be finished before too long. All of this bears on both the policy questions to be considered and the bills before your Committees.

First, let's take up the subject of new revenues to the State. Many times over the last few years we have been asked to project what our company and the State might receive from Prudhoe Bay and the Trans Alaska Pipeline. We knew that if we furnished the State projections of our own future earnings expectancies, the rules of the Securities and Exchange Commission would then require us to disclose such projections to the general public and to publicly and perpetually update those projections any time our internal estimates of the future changed. The burden of disclosing such projections on a perpetual basis and the potential liabilities to investors if such projections turned out to be wrong have led substantially all U.S. companies to decline publication of any earnings projections. Our counsel has advised against this too. Instead, and in order to be of some help to the State, we developed a hypothetical projection of tax payments to Alaska which would result from an assumed one-third ownership of Prudhoe Bay and the Trans Alaska Pipeline by each of three typical companies. None of these companies is intended to represent a company actually involved in the development of the field or the pipeline. Rather, the projections are intended to demonstrate the level of tax obligations which would result from the project being owned by companies varying in size and scope of overall operations.

This particular work was included in a paper entitled Sohio Submission One which was submitted informally to the Alaskan Administration and Legislature on October 28, 1976, and which I offer now formally as Attachment B to my testimony today. To summarize, this paper examined the Alaska state income tax under the allocation method of the Multistate Tax Compact and made illustrative projections of the substantial revenue that Alaska would receive as a result of the first ten years of operation of Prudhoe Bay and the Trans Alaska Pipeline. No oil or gas production from any other fields in Alaska, either existing or likely, were included in these projections. The projections of revenue included estimates of the State's royalty income and the tax receipts resulting from Alaska's present severance tax, reserves tax, ad valorem tax and state income tax. The projections showed that under present Alaska laws, and assuming a $13.00 per barrel selling price in California, Alaska would receive from Prudhoe Bay and the Trans Alaska Pipeline average annual revenues on the order of $1 billion without consideration of any factor for future inflation. If the selling price in California were $10.00 per barrel, or $16.00 per barrel, Alaska would receive annual revenues on the order of $800 million or $1.6 billion, respectively.

While that's a lot of money, even without the numbers being escalated for any inflation, we also wanted to know from a "fair

share" standpoint what part of the total revenues attributable to this Alaskan oil the State could expect to receive as compared to all other states in the U.S. which will buy, refine, transport and use it. Let me give you a few interesting statistics based on the Sohio Submission One example. Since the Prudhoe Bay field is located on state lands, Alaska would receive 100 percent of the royalty payments. Similarly, Alaska would receive 100 percent of the severance tax payments and 100 percent of the ad valorem tax payments. The reserves tax payments and the severance tax credits resulting from those payments are also strictly an Alaskan transaction. Since the field and pipeline are located in Alaska, though most of the sales of the oil will probably not be, the State will also receive state income tax payments amounting to 22 percent of the total income tax paid to all states in the U.S. Finally and at all three of the oil price levels assumed in Sohio Submission One which were intended to range over the probably market price, Alaska, as one state, would receive 75 percent of all revenues to be received by all fifty states from oil production at Prudhoe Bay.

Though Sohio Submission One looked at only one field and one pipeline, it does provide a lot of assurance that Alaska's revenue needs will be well covered in the years ahead.

This was confirmed directionally by the Report of the Department of Revenue to the Governor on Alaska's Oil and Gas Tax

Structure, dated February 11, 1977. Chapter IV of this Report states that the Department of Revenue has calculated a combined general fund and permanent fund balance at the end of fiscal year 1985 ranging from $8.5 billion to $8.7 billion, depending on which gas pipeline project is ultimately built to take gas from Prudhoe Bay. In any event, the State is looking forward to very substantial revenue surpluses. That has another implication for the legislation you are considering now. Any additional tax legislation will only add to the surplus.

The second piece of work Sohio undertook in anticipation of State studies on longer term tax and leasing policies was a comparison of the total tax burdens under the present laws in Alaska and other leading oil producing states. This work proved further the testimony I presented to you a year ago and was developed on the same factual base as we used in Sohio Submission One. We called it Sohio Submission Two and submitted it informally to the Administration and Legislature on January 21, 1977. May I offer it formally now as Attachment C to my testimony today.

Sohio Submission Two compares the projected total taxes that Alaska will receive as a result of the first ten years of operation of Prudhoe Bay and the Trans Alaska Pipeline with the total taxes which the State would receive if it had the tax structure of the other three leading oil producing states of Texas, Louisiana or

California. Since this was a comparison of the taxes of these states, Alaska's royalty payments were not considered in Sohio Submission Two. For comparison purposes, only the $13.00 per barrel California selling price was used. This comparison, again under present law, confirmed that Alaska's tax burden on a project like Prudhoe Bay and the Trans Alaska Pipeline already equals or exceeds that of other oil producing states. Specifically, Alaska's present tax burden is 176 percent of the Texas tax burden, 99 percent of the Louisiana tax burden, and 111 percent of the California tax burden. Since state tax burdens represent a cost to companies engaged in oil exploration and production, the overall tax burden in one state compared to another is one of the factors considered by companies in deciding where additional oil exploration should be done.

Other comparisons in depth with the same import have been done by the Alaska Legal Committee of the Alaska Oil and Gas Association, and I think you will find them to be of interest.

There are, of course, other factors which influence decisions on where resource development will be carried on. Among these factors are the basic costs of finding, producing and transporting oil in various states or regions of the U.S. The third subject Sohio has been examining with respect to the State's long term taxing and leasing policy considerations is how the costs of

carrying on oil and gas development in Alaska and other areas of the country compare. We know from our general experience that there is a premium to be paid for working in the arctic and offshore, but we hoped to be able to document this and do so on a comparative basis. Good current data is difficult to come by. We are making progress, but not as fast as I had hoped, so I do not have finished work on that to offer you today.

The work so far confirms the premium cost factor of oil and gas development in the arctic and offshore. Let me give you a few examples. It costs two or three times as much to drill a well in Alaska as it would to drill the same well most places in the Lower 48. It sometimes costs more to ship a piece of casing to northern Alaska than the casing itself costs. Hourly rates for construction labor are substantially higher in the arctic, and the productivity is in many instances less than one-third or one-half of what you expect in other areas of the country due to the extreme weather conditions.

Last August, the Federal Energy Administration published a study that had been made of potential future developments of NPR 4.[1/] While this report was written in terms that were somewhat difficult for us to understand, at least two points seemed clear. The first one was that the costs are so high and risks are so great in the

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1/ "The Exploration, Development and Production of Naval Petroleum Reserve No. 4." published by the Federal Energy Administration August, 1976.

arctic that with present prices of oil in California, it would be uneconomic to develop oil in Naval Petroleum Reserve 4 unless a field or a cluster of closely located fields were found with a total reserve of one-half billion barrels of oil. The significance of this is startling when you consider that a one-half billion barrel field in the Lower 48 would be a real bonanza. The second point in that report that struck us was the indication that at present oil prices, a 3-billion barrel field would earn a private investor an 8 percent rate of return. If the figures of this study are right, it is doubtful that anyone would undertake a venture like that for that level of economic return.

The three areas of our studies which I have summarized tells you about where we were when this session of the Legislature began. Since then, a number of proposals for additional Alaska taxes on future oil and gas operations have been introduced for consideration. We have tried to study all of these proposals, and have made a start on two aspects: their economic impact on our industry here and their legality. Because there are so many bills, I would like to comment on those that have been submitted by members of the Legislature as a group and on those that have been submitted by the Administration as a group. Specifically, the bills that I will be referring to as Legislative bills are those pertaining to severance tax, income tax, and the net proceeds tax. In connection

with those submitted by the Administration, I will be including the franchise tax, the property tax, and the severance tax.

The economic impact analysis produced some startling numbers. You will recall that in our Sohio Submission One and Sohio Submission Two we calculated what the tax income to the State will be from Prudhoe Bay and the Trans Alaska Pipeline under present severance tax, ad valorem tax and income tax during calendar years 1977 through 1986. We then made the same calculations assuming the taxes proposed by the Legislature were enacted, and also made them assuming the taxes proposed by the Administration were enacted. In each case we compared the results with the same leading oil producing states, Texas, Louisiana and California. The results of all this are set forth in Sohio Submission Three which is Attachment D to my testimony today and which I formally offer now as a part of your Committees' record.

You may want to examine Sohio Submission Three in detail, but let me highlight a few things for our discussion today. The hypothetical companies assumed to own all of Prudhoe Bay and the Trans Alaska Pipeline in Sohio Submissions One and Two were projected to pay the State $5.5 billion from 1976 to 1986 under present Alaskan laws. You will recall that the $5.5 billion figure represented revenues from the field and pipeline only, and did not include likely revenues from any other present or

future oil and gas development in Alaska. You will also recall that these figures have no factor in them for any inflation which will probably occur. The results are summarized in the following table, and show that Alaska would collect from the three companies about the same total amount it would if it had the tax structure of Louisiana on Alaska's books, 176% of the amount it would if it had the tax structure of Texas' laws, and 111% of the amount it would if it had the tax structure of California.

		If Alaska had the taxes of:		
	Alaska	Texas	Louisiana	California
Severance Tax	$2,688	$1,649	$4,466	$ 0
Ad Valorem Tax	2,038	1,459	684	4,202
Income Tax	753	0	382	728
Total	$5,479	$3,108	$5,532	$4,930
Alaska as a percent of the other states		176%	99%	111%

In Sohio Submission Three, we first calculated the results if the Administration's tax proposals are enacted and found that the State's tax income just from Prudhoe Bay and the Trans Alaska Pipeline is non-inflated dollars would increase by about $2 billion through 1986 over what it would be under Alaska's present tax laws. This would bring the total payments by the three companies in our analysis to $7.5 billion. Comparing these results with the results under the tax structures of Texas, Louisiana and California

showed that Alaska's tax income would be 240% of the revenues produced by the Texas laws, 135% of the revenues produced by the Louisiana laws, and 151% of the revenues produced by the California laws. As Sohio Submission Three shows, that even the passage of one of the Administration's proposals significantly lengthens Alaska's lead over the other oil producing states.

		If Alaska had the taxes of:		
	Alaska	Texas	Louisiana	California
Severance Tax	$3,283	$1,649	$4,466	$ 0
Ad Valorem Tax	2,582	1,459	684	4,202
Income Tax	1,591	0	382	728
Total	$7,456	$3,108	$5,532	$4,930
Alaska as a percent of the other states		240%	135%	151%

The next thing we did in Sohio Submission Three was to calculate the results if the Legislature's tax proposals are enacted and found that the State's tax income just from Prudhoe Bay and the Trans Alaska Pipeline in non-inflated dollars would increase by $3.6 billion through 1986 over what it would be under Alaska's present tax laws. This would bring the total payments by the three companies in our analysis to $9 billion. Again, comparing these results with the results under the tax structures of Texas, Louisiana and California showed that Alaska's tax income would be 291% of the revenues produced by the Texas laws, 163% of the

revenues produced by the Louisiana laws, and 183% of the revenues produced by the California laws. And again, Sohio Submission Three shows that the passage of just one of the Legislature's proposals will significantly lengthen Alaska's lead over the other oil producing states.

		If Alaska had the taxes of:		
	Alaska	Texas	Louisiana	California
Severance Tax	$4,219	$1,649	$4,466	$ 0
Ad Valorem Tax	2,038	1,459	684	4,202
Income Tax	2,774	0	382	728
Total	$9,031	$3,108	$5,532	$4,930
Alaska as a percent of the other states		291%	163%	183%

In making the calculations in Sohio Submission Three we assumed a price of $13.00 for oil in California, and included no factor for inflation. I realize that our treatment of price and inflation is conservative and that it is different from the way the Department of Revenue has done its work. The surpluses in 1985 for the General Fund and for the Permanent Fund which have been projected by the Department of Revenue and which I referred to above reflect some assumed increases in the price of oil and a factor for inflation. In any event, it seems likely that any increases in tax income which the State will realize if it enacts part or all of

the Legislative package or the Administration package will simply increase the surpluses. I don't know what the total surplus would then be, but it could be several times $8.5 billion now projected by the Department of Revenue under the present laws of Alaska.

Most of you know that I have always been reluctant to argue legalities of proposed legislation. It sometimes produces more misunderstanding than help. It is, however, a subject of concern from time to time on the part of the Legislature itself, the Administration and our industry. As you know, we routinely review significant legislative proposals for legality. With the number of bills before this Legislature and the diversity of their concepts, we have only had time to make a preliminary review. For what it's worth and not to be argumentative, let me give you some first observations. They suggest that further legal analysis may be appropriate for both the State and ourselves.

In addition to the numerical facts of the matter, there are some circumstances in the overall setting which bear on the legality of further tax proposals. For about seven years or perhaps a little longer, the State has made persistent efforts to increase its tax revenues from oil and gas activities in Alaska, and particularly its expected revenues from Prudhoe Bay and the Trans Alaska Pipeline. The focus has been rather narrow and the principal burden has been

directed to a few larger companies who have come to the State to engage in oil and gas exploration, development and transportation. Most all of such taxes impact upon interstate commerce by reason of the fact that over 99 percent of the markets for this Alaskan industry are located outside the State. The results are the tax laws presently on the books here. It is generally recognized that these laws as now constituted will produce revenues far in excess of the State's revenue needs over the next decade and beyond. No revenue need justification has even been attempted for the new tax proposals now before this Legislature. The cumulative effect of all this raises questions whether further substantial taxes become a confiscation of an equity interest or a modification of royalty contracts after the leases have been sold. The cumulative effect raises the question of a demonstrable bias against interstate commerce that would lead a court to conclude that this package of taxes discriminates against and unduly burdens interstate commerce. Again, let me say that I am outlining these questions to point up some legal areas I believe we all should examine, and not to be argumentative.

You may also be interested in some specific comments on the new income tax proposals before your Committees. My comments in this regard relate essentially to two legal concepts: fairness

and uniformity. Fairness to the taxpayer is of course something that should characterize all taxes that a government imposes. It takes on an added dimension, however, in the context of a federal system where, in addition to the exactions of the national government, a company can be obliged to contribute to the fiscal needs of as many as fifty state governments. If such businesses are not to bear a disproportionate share of the total tax burden, it is essential that the taxes imposed by each jurisdiction reflect a high sense of equity, of fairness, in determining the portion of the company's activities to be included in that state's tax base.

This concern for fairness is embodied in the federal constitution in the Commerce Clause and the Due Process Clause, and is at the core of the approach which the Supreme Court has charted in construing those provisions as they relate to state taxing statutes. A similar sentiment emanates from the Equal Protection Clause. Thus, for example, the U.S. Supreme Court has said that a multi-state enterprise should not be made to "bear more than its fair share" of the costs of state government, "that taxes imposed on income from interstate commerce (should) be fairly apportioned" between the States in order to avoid the risk of multiple taxation, and that the tax should be "a constitutionally fair demand by the State for that aspect of the interstate commerce to which the State bears a special relation." It is interesting

and somewhat refreshing that a matter so fundamental to our federal system should be governed in the final analysis by a simple, penetrating, common-sense inquiry: Is it fair?

Although, as one might expect, the precise dimensions of this "fairness" standard have not been fully spelled out, there are a number of decisions which shed some light along the way. For example, we know that it is not fair in terms of the Commerce Clause for a state taxing statute directly or indirectly to prefer local activity at the expense of interstate activity. The cases also tell us that it is unfair for a State to apply an imprecise apportionment formula which inflates the portion of the multi-state enterprise included in its tax base. We know that it is unfair for a State to adopt an apportionment formula so plainly inconsistent with that prevailing in other States that the logical and inevitable consequence will be that interstate income is subjected to multiple taxation.

In the light of these indications, it would seem appropriate for your Committees to give consideration to the provisions of each new proposal to ascertain how fairly each one treats the multi-state companies which are actively engaged in Alaska. With reference first to the proposed Oil and Gas Corporate Franchise Tax, there are several general lines of inquiry which I would recommend and which in turn will likely lead to further, more specific questions.

The proposed substitution of an "extraction factor" for the widely used "sales factor," would apportion the entire enterprise of a multi-state taxpayer according to a factor which measures only the taxpayer's oil and gas extraction activity. The essential problem with the extraction factor is that, unlike the standard three factors which measure activity common to virtually all profit-making endeavors and thus will generally result in a fair estimate of the portion of the taxpayer's entire enterprise related to the taxing state, the extraction factor is very narrowly based and thus seems wholly inappropriate to the task of apportioning the fruits of a multi-faceted interstate enterprise. As a result, this factor, in the case of Sohio, would apportion to Alaska income derived from a wide variety of our activities wholly unrelated either to Alaska or to oil and gas extraction, such as chemical sales, patent licensing, coal and uranium extraction, sales of plastic products and toothbrushes, and fertilizer sales, even though none of these activities will be reflected in either the numerator or the denominator of the fraction. I submit that this overreaches all bounds of fairness.

Moreover, as a result of the patent inconsistency of the extraction factor with the sales factor applied in the overwhelming majority of other states, the extraction factor will inevitably lead to multiple taxation of income derived from the sale or exchange of Alaskan oil out-of-state. Between Alaska and the

state of sale, for example, as much as 133% of this income could be taxed. This would well be the impact on Sohio and I ask you to consider whether this represents fair treatment of interstate commerce.

You may also want to refer to Tables A, B and C of Sohio Submission Three and particularly the line on each of those tables entitled, "Effective Composite State Income Tax Rate on Total Taxable Earnings". The jump in the percentages from those shown on Table A to those shown on Tables B and C are a pretty clear demonstration of the duplicative tax impact that raises the Constitutional questions.

A final point in reference to the franchise tax proposal which I think the Committees ought to consider is whether the effect of the $250 million floor is to exempt local producers while concentrating the impact of the tax on the multi-state producers. I understand the interests which this provision is designed to protect and am sympathetic to them. But the legal question is can the actual effect of this be reconciled with the notion of fairness underlying the Commerce Clause.

In the same vein, both the net proceeds tax proposal and the separate accounting proposal should be subjected to the same careful analysis. In general, I hope the Committees will consider whether it is appropriate and fair to single out the oil industry from all other corporations in Alaska for such extraordinary tax

treatment. In particular, the deductions allowed under these proposals should be analyzed to see whether they discriminate between in-state and out-state expenditures, which I submit may constitute unfair treatment of interstate commerce.

Finally, I would like to refer briefly to the legal concept of uniformity which Alaska has endorsed by its adoption of the Uniform Division of Income for Tax Purposes Act and of the Multi-state Tax Compact. I submit that the proposals I have just been discussing amount to a major retreat from the principle of uniformity, especially in light of the unavoidable duplicative taxation which the extraction factor would generate. Moreover, the separate accounting and net proceeds proposals are difficult to reconcile with the Multi-state Tax Commission's view that the three-factor formula should, in the interests of uniformity, enjoy clear predominance over any alternative approaches. As the Commission has said in its proposed regulations under the Compact, separate accounting "may be invoked only in specific cases where unusual fact situations (which ordinarily will be unique and nonrecurring) produce incongruous results under the apportionment and allocation provisions contained in Article IV." Even under the Compact, departure from the three-factor formula is to happen, if at all, only on a case-by-case basis within the reasonable discretion of the Tax Commissioner. In this light, the Committees should ask

to what extent, if any, Alaska's statutory departure from the Compact in the case of the State's largest industry would be consistent with Alaska's continued membership in the Multi-state Tax Compact.

Well, where are we? I realize that I've given you a lot to think about. I don't mean to overwhelm you, but the subjects you are considering are pretty substantial in and of themselves. Let me try to tie it all together with five principal perspectives.

First, the State's needs for revenues are more than covered for the forseeable future, and the past concerns about running out of money to meet current needs are no longer with you.

Second, the State's present tax laws concerning oil and gas exploration, production and transportation equal or exceed those in the other leading oil producing states. Any further oil and gas taxes will simply add to the State's projected revenue surpluses.

Third, the other costs businesses must pay for carrying on exploration, production and transportation in Alaska reflect the premium that must be paid in pursuing the potential of energy resources in the arctic. It is a penalty that Alaska itself must recognize in considering major new tax legislation, notwithstanding the high potential it has in energy resources. This is particularly true now when construction of the Trans Alaska Pipeline is winding down. Alaska is moving into what Robert R. Richards of the Alaska

Pacific Bank has recently called the "post pipeline plateau".[2/] He forecasts a "modest downturn" but not a "bust". He points out that the construction industry will experience somewhat of a setback in 1977, that retail and wholesale trade will level off in Anchorage and will drop significantly in Fairbanks, and that the State's economy in general will decelerate this year. A bright spot in the State's economy will be the Kenai region which will grow as a petroleum service and supply base for both Cook Inlet production and Gulf of Alaska exploration. He notes that Alaska's future remains bright because of its resource and other potentials.

Underlying this future, however, is the assumption of continued, reasonable resource development, and the positive incentives needed to assure its continuation. This subject was addressed in depth in Washington, D.C. last Monday, in San Francisco on Tuesday, and in Anchorage yesterday in hearings before the Federal Energy Administration on the appropriate pricing of Prudhoe Bay oil. I attended the hearings in Washington and Anchorage and would like to give you a report on the testimony of three witnesses. Their remarks recognized the high costs and risks of oil and gas development in the arctic, the need for positive economic incentives to encourage this work, and the important role Alaska will play in meeting the United States' needs for energy in the future.

2/ "Economic Outlook for the Year 1977", Alaska Business Trends, Alaska Pacific Bank.

Commissioner Sterling Gallagher represented the State in the Washington hearing and made a fine presentation. In at least four places in his testimony he urged the FEA to provide "positive price incentives" at the wellhead in Alaska that would encourage future development. He recognized that this applied to developments now underway like Prudhoe Bay and to all future resource development in Alaska. He expressed real concern that other possible courses of decision by the FEA would "virtually guarantee that no other North Slope resevoir is developed and (would) create a pronounced disincentive for the State of Alaska and the Alaska Native corporations to make any more lands available for oil and gas leasing." He stated that "The North Slope is a frontier area, still largely unexplored and untested despite past and present exploratory work. Likely discoveries and development will be much closer to the threshold of economic visability than is the main pool of Prudhoe Bay." With respect to Prudhoe Bay he noted that at the low wellhead prices possible under one FEA alternative, "the economic justification for developing even the main Prudhoe Bay oil pool would, if discovered today, be an 'iffy' proposition. And I can assure you that the likelihood would be nil for any further North Slope development other than that to which the companies are already deeply committed." I sat there and quietly cheered when the Commissioner concluded his testimony

saying, "Oil production decisions generally entail middle to long-term investments, and stability is more important in the decision than making ephemeral benefits that may be offered by FEA." I'm sure that you recognize that the interests of the State and those of our industry are identical in this, both before the FEA and generally speaking.

Senator Ted Stevens also spoke eloquently for Alaska in the FEA hearing urging the maximum incentives possible under present federal law.

The third witness before the FEA hearings in Washington that I want to report on was David P. Goodman, Managing Director of Morgan Stanley & Co. Incorporated, investment bankers in New York City. Mr. Goodman is also a member of the Energy Financial Advisory Committee to the FEA. His firm arranged over $5.5 billion of the financing for Prudhoe Bay and the Trans Alaska Pipeline, and he personally had the responsibility for over $5 billion of that amount. In the course of his work he has had in depth discussions with more than seventy major institutional investors regarding the financing of these and other large energy projects. His testimony before the FEA last Monday is Attachment E to my testimony here today, and I urge you to read the full account. There are several parts of his testimony to the FEA which bear directly on the business climate here in Alaska and which I would like to highlight for you.

With respect to the central issue on the pricing of Alaskan oil, Mr. Goodman made the following statement which he characterized as a strong one. He said that as a result of all the financing work he had been engaged in and all the discussions with institutional investors he had had,

> "I have concluded that if the Administration establishes price control or entitlements treatment for (Alaska North Slope) crude which does other than allow it to compete in price with world oil in the United States market, this action will have a serious detrimental impact on investor's willingness to provide financing for the development of future energy projects, both for petroleum and other energy sources."

He noted that there were four areas of risk that lenders sought assurance on: that the oil was there, that the pipeline and terminal would work, that there would be a ready market for the oil, and that the overall project evidenced continued financial viability. He said that his firm had been able to answer most of the questions most investors had, but

> "there was one risk which we were unable to eliminate in the minds of certain major, sophisticated investors, and they declined to participate in the financing partly because of it. That risk was that government would not permit (Alaska North Slope) crude oil to compete with world oil in the market place, but would place restriction on its price such as are currently under consideration."

A few moments later he said:

> "That is why my firm feels strongly that unfavorable treatment for (Alaska North Slope) crude will adversely affect the ability of industry to finance future energy projects."

Mr. Goodman then turned to the risk elements of Alaskan North Slope development and the appropriate rate of return for projects like Prudhoe Bay and the Trans Alaska Pipeline. He said:

"These hearings are also investigating the risk elements of North Slope development and the appropriate rate of return for this project. Both of these subjects were obviously matters of great interest to investors. This project is one of the riskiest ever undertaken by industry. The important risks aren't those cited in the Mortada study. The cost of exploration before the Prudhoe Bay discovery well is insignificant compared with the risk undertaken by the industry in going ahead with the project under the Pipeline Right of Way Act. The participants were committed to complete the project no matter what the cost in the face of absolute federal and state controls over construction. Remember that this project had been delayed over four years by court intervention and government redesign. Compliance with these actions had already more than doubled costs. Yet the industry was forced to accept a set of stipulations far more exacting than any ever applied to such construction before, stipulations that many in the industry were concerned about being physically able to comply with, and to proceed with absolute authority vested in one man to halt construction or require design changes that could cause costs to skyrocket with no accountability for cost effectiveness. The industry undertook these absolute obligations, and costs did rise to the point where, if ANS crude is allowed to compete against world oil, the Mortada study and industry figures indicate that the project will earn a discounted return in the area of 14% to 16%.

"Mortada states that a return of 12% should be equitable. There may be some analogy to the returns allowed to regulated industries in Mortada's thinking, although even higher returns are allowed in risky start-up ventures there. But regulated returns involve an exclusive franchise wherein subsequent rate regulation assures such a return. No one is assuring the price of Alaskan or world oil.

"If we had projected a 12% return from the outset, I'm not sure that the project could have been financed. It's our experience that oil companies will not undertake a project involving any significant risk for a projected return of under 15%. The industry will earn returns of approximately 22% in the British North Sea, where they have experienced retroactive majority participation by the British government. The financial institutions who invest in the equity of the leased tankers for the Valdez trade will earn a discounted after tax return in excess of 15% with the benefit of a hell or high water, all events charter from the oil companies. Based on these facts, I cannot accept that a 12% return is equitable for a project of the magnitude and riskiness of the North Slope project.

"The aggregate earnings from the North Slope will be very large. It is one of if not the largest oil field ever found outside of the Middle East. But the costs are high and the rate of return will be modest, particularly bearing in mind the risk. If you want industry to be able to finance the development of major energy discoveries this country so sorely needs, particularly the smaller companies you want to favor in your OCS leasing policies, do not make the wrong decision in pricing ANS crude oil. It is critical with regard to establishing an overall energy policy, of which the issue of pricing Alaskan North Slope crude oil can be looked on as an important first step to retain the willingness of the private sector to provide financing of future energy projects."

From all of the foregoing, you can see that the health of Alaska's economy has some sensitivities which the present pricing determination of the FEA materially impact. Similar impacts can also come from substantial new state taxes on oil and gas exploration, development and transportation. The point is I hope you will

take as much care on your consideration of the various tax proposals as we all want the FEA to take on the pricing of Alaskan oil. This is also important to all the Alaskans whose trade and business depends directly or indirectly on continued, reasonable resource development right here in Alaska.

The fourth of the five perspectives I mentioned concerns the FEA hearings specifically. It is most appropriate for the State to appear in these hearings and urge the maximum price permitted under federal law for Alaskan North Slope crude oil. That position is based on the need for positive economic incentives for present and future resource development here. On the other hand, it seems utterly inconsistent to me for the State to be urging the need for major economic incentives in Washington and at the same time be seriously considering substantial new taxes on oil and gas in Juneau which would wipe out a big part of whatever incentives there are. May I suggest that these tax measures be given a good deal of study, that whatever tax measures may be appropriate for serious consideration be taken up in the next session, and that the State, our industry and other Alaskan businesses concentrate on critical decisions that are now before the FEA. I understand, but don't know, that the FEA is trying to come to judgment by June 1st. There is a good deal of work to be done there and I hope we can all concentrate on that.

The fifth, and the last perspective, comes back to the point of beginning. The State and the industry still need to resolve a longer term policy for oil and gas taxation and leasing. If nothing else, the events of the last year and the present problems confirm this. It's not too late. Can't we begin again and take a look at the whole picture? At least for Sohio, we're still ready to be responsive.

Thank you.

Richard M. Donaldson
The Standard Oil Company (Ohio)
Guildhall Building
Cleveland, Ohio 44115
March 24, 1977

Attachments:

A - Letter to Gregg Erickson from Richard M. Donaldson, July 1, 1976.

B - Sohio Submission One, October 28, 1976

C - Sohio Submission Two, January 21, 1977

D - Sohio Submission Three, March 22, 1977

E - Statement of David P. Goodman, Morgan Stanley & Co. to FEA on Alaskan North Slope Crude Oil Pricing and Entitlements, March 21, 1977.

ATTACHMENT A

SOHIO THE STANDARD OIL COMPANY

MIDLAND BUILDING, CLEVELAND, OHIO 44115

RICHARD M. DONALDSON
VICE PRESIDENT
GOVERNMENT AND PUBLIC AFFAIRS

July 1, 1976

Mr. Gregg Erickson
Director, Research Services
Legislative Affairs Agency
State of Alaska
Pouch "Y", State Capitol
Juneau, Alaska 99811

Dear Gregg:

I have your letters of June 16 and 22, 1976, regarding the study you are preparing to undertake with respect to Alaska's longer term natural resource leasing and taxing policies.

These letters deal specifically with Alaska's income tax. While I recognize that the figures in these letters are hypothetical, the fact that "answers" have been calculated at the beginning of the study is somewhat disturbing. My experience has been that figuring out specific "answers" before the overall problem has been defined can preclude a study, unduly limit it or affect its objectivity. I certainly hope that none of these things happen as the proposed intersession studies hold out some promise of stability for both the State and our industry.

I am writing to give you some thoughts on three segments these studies could logically consider:

- Future revenues of the State
- Future expenditures of the State.
- Alaska as a place to do business from industry's perspective.

Set out below are some ideas that have occurred to me as starting points for things that could be considered in each of these subject areas.

Future Revenues

1. What are the ranges of revenues that the State government can expect to receive from all of its existing taxes--including those that impact on natural resources and their related facilities; and from other sources such as bonuses, royalties, and the Federal government?

2. To what extent will these revenues cover a reasonable estimate of the State government's future money needs?

3. What are the leasing alternatives available to the State with respect to its natural resources, and what would be the ranges of revenues from such alternatives?

4. What are the taxing alternatives available to the State with respect to its natural resources and other sources, and what would be the range of revenues for each such alternative?

5. How do other states compare with Alaska in tax revenues, in tax rates and in the leasing of their natural resources?

Future Expenditures

6. What is a reasonable estimate of the State government's future money needs for various purposes and in total under a range of prospects with respect to its future business and commercial development?

7. What will be the financial impact of the recommendations in the Governor's recent management and efficiency review?

8. Are management and efficiency reviews in other areas of the State government needed and what financial impacts are they likely to have?

Business Perspective

9. What factors does business use in determining what it considers a worthwhile investment? How does it choose the location for its investments where choices are available?

10. How do business conditions in Alaska compare with those in other states, in terms of availability of resources to be developed, financing, employment, construction and operating costs, regulation, taxes, government attitudes and so forth?

11. What can be learned of business' reaction to significant or continuing changes in the factors listed in the preceding question?

I don't mean to imply that these are the only questions that should be considered, but offer them as some indication of the scope that ought to be examined in a meaningful study of Alaska's longer term tax and leasing policies.

In my testimony on March 30, 1976 before the Joint Hearing of the Senate and House Resources Committees, I suggested such a study and indicated that we would be responsive to such a study. In addition to studying the attachments to your letters, we are thinking about ways in which all the questions noted can be studied and discussed in a manner which would be meaningful and understandable.

These questions are not only of interest to the State government and our industry, but concern everyone in Alaska I can think of--the native regional corporations, other business and commercial interests in the State, labor, the financial community, and people generally. I hope that this study will seek advice on that broader base.

I understand that a study similar to the one the Legislative Council will consider is being initiated by the Administration under the direction of Commissioner Gallagher and Commissioner Martin. Presumably these studies will be coordinated to some extent. It seems appropriate to send the Commissioners copies of this letter and I hope you won't mind my doing so.

Sincerely,

Richard M. Donaldson

cc: Sterling Gallagher, Commissioner
Department of Revenue

Guy Martin, Commissioner
Department of Natural Resources

October 28, 1976

SOHIO SUBMISSION ONE

This paper is submitted for consideration by the Alaskan Administration and Legislature in the intersession studies each is now conducting concerning the long term oil taxation and leasing policy for the State.

The first subject of inquiry by the staffs working for the Legislature and the Administration on these studies concerns the nature, revenue potential and appropriateness of Alaska's present tax laws as they will apply to the Prudhoe Bay field and the Trans Alaska Pipeline (TAPS). One point of interest to the staffs in this area of inquiry is Alaska's state income tax and how it will apply.

This submission examines the state income tax of Alaska and makes projections as to what the income tax payments will be utilizing certain assumptions for the future operations of Prudhoe Bay and TAPS. However, since state income tax is only one part of the substantial total revenue Alaska will receive as the result of Prudhoe Bay and TAPS, the non-income tax revenues have also been calculated. These revenues include projections of the State's royalty income and tax receipts resulting from Alaska's severance tax, rese es tax, and ad valorem tax. In addition, this submission points out certain relationships which exist within the present Alaskan tax structure.

Most of the larger companies in the United States are engaged in business activities in a number of states. Each of the states in which these companies do business expect to receive some state income tax

payments from them. Yet, if a company were to pay taxes to each state in which it operates calculated by applying that state's income tax rate to the total earnings of the company wherever earned, multiple taxation, or as the law states it, "duplicative taxation" would result leaving the firm with little, if any, after tax income. As companies became larger and did business in many states, there was a need for some method of equitably determining what each state's fair share of such income taxation should be.

The Multistate Tax Compact was set up by the states to ensure that effective and fair taxation of multistate businesses could be established among the various states. Today, most of the fifty states are members of the Multistate Compact, and Alaska has been a member since 1970 as a result of the Legislature's action.

States which are members of this Compact follow the Uniform Division of Income for Tax Purposes Act. Under this Act, the total taxable income of a company, wherever earned, is allocated to the various states in proportion to the amount of that company's business activity conducted in each state. This allocation is calculated by averaging three basic factors that take into account the extent of a company's business in a particular state: its physical property there, its actual sales there, and the number of its employees located in the state. The first factor is the percentage of the company's total physical property which is located in the state in question compared to all of its property wherever located. The second factor is the company's annual sales which occur within the specific state as a percent of the company's total annual sales. The third factor is the company's payroll costs incurred in the specific state divided by that company's total payroll for all of its operations.

The arithmetic average of these three factors for the state in question is multiplied times the company's total taxable earnings to arrive at the share of taxable earnings to be allocated to the state. This share is then taxed at that state's full tax rate. While any allocation of earnings among the states is probably not perfect, this particular system for doing so has been considered the fairest compromise approach that anyone has devised.

The Legislative Affairs Agency has asked us to provide it with a projection of what Sohio's state income tax payments to Alaska would be under the Multistate Tax Compact allocation method. Unfortunately, we are unable to provide this specific information because doing so would be equivalent to providing projections of Sohio's future earnings and create a number of other problems for us. The rules of the Securities and Exchange Commission would then require us to disclose such projections to the general public and to publicly and perpetually update those projections any time our internal estimates of the future changed. The burden of disclosing such projections on a perpetual basis and the potential liabilities to investors if such projections turned out to be wrong have led substantially all large U.S. companies to decline publication of any earnings projections. Our counsel has advised against this, and in view of the overall problems, we feel we cannot respond to the specific request and so advised the Legislative Affairs Agency.

However, in order to be of some help to the Legislative Affairs Agency and still follow our counsel's advice, we have developed hypothetical projections of tax payments to Alaska which would result from an assumed one-third ownership of Prudhoe Bay and TAPS by three typical companies.

None of these companies is intended to represent a company actually involved in the development of the Prudhoe Bay field or construction of TAPS. Rather, the projections are intended to demonstrate the level of tax obligations which would result from the project being owned by companies varying in size and scope of overall operations. Specifically, the three typical companies in our hypothetical example have the following assumed characteristics:

Company A - A California based marketing and refining company with no crude oil production.

Company B - A large integrated domestic company with significant petroleum production and transportation operations.

Company C - A major international company with substantial foreign operations.

The significant basic assumptions for each of these companies are summarized in the following table:

	Company A	Company B	Company C
Annual Sales (Millions)	$3,700	$8,200	$24,500
Gross Property (Millions)	$1,800	$8,200	$13,800
Total Employees	27,000	32,500	75,000
Taxable Income (Millions)	$ 210	$ 850	$ 1,700

For the purpose of these tax calculations, it was assumed that a ratio of employees in Alaska to total employees would be equivalent to the payroll ratio since detailed data on payroll costs is unavailable. It was also assumed that the only business activities any of these three companies had in Alaska was its one-third ownership of the field and the pipeline.

Since a great deal of uncertainty surrounds both the future price of North Slope oil and future rates of inflation, the tax payments of the three companies were calculated in terms of constant 1976 dollars assuming three different California market prices: $10.00/barrel, $13.00/barrel, and $16.00/barrel. (To put this range of prices in perspective, the price of foreign crude oil similar in quality to Prudhoe Bay oil is approximately $12.30/barrel delivered to California.)

The characteristics of the Prudhoe Bay field and TAPS project determine the nature of the allocation factors used in this analysis. First of all, crude oil production is a very capital intensive operation. This has been accentuated in the case of Prudhoe Bay due to the high cost of Arctic development.

Secondly, Alaska's industrial development has not as yet reached, and may never reach, the stage where significant volumes of Prudhoe Bay crude oil can be consumed within the State. That being the case, the $7.7 billion Trans Alaska Pipeline and Valdez terminal had to be constructed so that the crude oil could be shipped to other states where there is a demand for that oil. Without the demand in other states and the TAPS line, Prudhoe Bay oil would be of little value. These transportation facilities have contributed to the high capital costs of the project.

Finally, in most oil production and pipeline activities, the number of employees required for routine operations after the original construction has been completed is relatively small. This holds true for Prudhoe Bay and TAPS.

When these characteristics are translated into allocation factors, similar trends develop for each company. The Alaskan property factors of

all three companies are large relative to the overall scope of the basic companies' operations. The property factor for Company A, for example, is in the range of 65 to 70 percent and even for Company C, the major international, it is between 20 and 25 percent. On the other hand, the Alaskan payroll factor in all cases was assumed to be less than 2 percent of the companies' total employment. Finally, since Prudhoe Bay oil must be transported to other states for sale, an Alaskan sales factor of zero percent results.

The results of our analysis are summarized on the attached six tables. There are two tables, labeled A and B, for each of the assumed West Coast market prices, $10.00/barrel, $13.00/barrel, and $16.00/barrel.

Referring to Table 2-A which summarizes the results of the $13.00 per barrel market price caluclation as an example, the annual state income tax payable to Alaska by each of the hypothetical companies for each year from 1977 through 1986 is listed along the top of the Table. These tax payments in total range from $27.4 million in 1977 to almost $90 million in 1985.

It is very important to bear in mind that all these figures are expressed in 1976 dollars and that no adjustment has been made for any inflation in any year which would increase the dollar figures received by the State. These charts can be adapted, however, to whatever inflation factors one thinks appropriate to get a more accurate projection of actual revenue expectancies.

The other revenues that Alaska would receive in addition to income tax have also been calculated for each year for these companies and displayed in the second segment of the A Tables in order to provide an overall picture

of the revenues produced by the present Alaskan tax structure. The figures in this segment are totals for the three companies rather than individual amounts for each company, since each company's share would simply be one-third of the total figures shown. Included in this segment are royalty payments, severance tax payments, reserves tax payments, and ad valorem tax payments. Also shown are credits against severance tax for the reserves tax payable in 1976 and 1977 to the extent of 50 percent of the severance tax as provided by Alaskan law.

The sum of the Alaskan income tax payments by the three owner companies and the other revenues represents a projection of the total revenues Alaska would receive as a result of the field and pipeline project in our hypothetical case. These annual totals are also listed on the A Tables. Using Table 2-A as an example again, Alaska's total revenue as a consequence of the field and pipeline would range from over $600 million in 1977 to more than $1.1 billion annually from 1981 through 1985 if the market price of crude oil were to remain constant at $13.00/barrel. The comparable annual total revenues for a $10.00 market price and a $16.00 market price are displayed on Table 1-A and Table 3-A, respectively. The hypothetical case does not include any similar types of revenues from Cook Inlet development or future development in other parts of the State.

For comparison purposes, the total state income tax payments that the three companies would make to all the states in which they do business have also been calculated and displayed on the A Tables. These figures are based upon the total taxable earnings of the three companies, and they include the state income tax paid to Alaska listed along the top of the A Tables. As indicated on these Tables, the effective composite state

income tax rate on the total taxable earnings of the three companies, that is, all income taxes paid to all states, is around 6 percent. This is what one would expect, since income not allocated to Alaska is taxed by other states and the average state income tax rate of all the states in the United States is significantly below Alaska's 9.4 percent rate.

It is interesting to note that since the field and pipeline project is located in Alaska, Alaska's state income tax payments from the three companies will exceed 20 percent of the total income tax payments made to all states even though extensive activities are carried on by the three companies in other states. It is also interesting to note that this high percentage received by Alaska holds true for all three market prices of $10.00/barrel, $13.00/barrel, and $16.00/barrel. This percentage is shown at the bottom of each of the A Tables.

Tables 1-B, 2-B and 3-B show the total revenue that Alaska will receive from each of the companies over the 1977-1986 ten year period.

These B Tables also point out what percent of the total revenue paid to all states resulting either wholly or in part from the field and pipeline will go to Alaska. Since the Prudhoe Bay field is located on state lands, Alaska would receive 100 percent of the royalty payments. Similarly, Alaska would receive 100 percent of the severance tax payments and 100 percent of the ad valorem tax payments. The reserves tax payments and the severance tax credits resulting from those payments are also strictly an Alaskan transaction.

In addition, since the field and pipeline are located in Alaska, the State will also receive state income tax payments as indicated above. Alaska's state income tax payments are a result of that portion of the total

taxable income from all operations of the companies which would be allocated to the state under the Multistate Tax Compact. As such, it reflects the income distribution to Alaska based upon property, sales and payroll factors, regardless of how or where the taxable income originated.

Using Table 2-B as an example, at a $13.00/barrel California market price, Alaska will receive a total of $756 million in income tax revenues. This would be almost 22 percent of the total state income tax paid on all the operations of the three companies.

When those income tax receipts are added to the other revenues listed on Table 2-B, it can be seen that Alaska will receive almost $10.2 billion in revenues from 1977 through 1986. Those revenues will represent almost 75 percent of all the revenues going to all states, either wholly or partially as a result of the field and pipeline project. Again, as indicated by Tables 1-B, 2-B, and 3-B, this high 75 percent share holds true over the entire range of market prices from $10.00 to $16.00 per barrel.

In summary, the significant points that this three company hypothetical case confirms seem to be the following:

1. Under the existing Alaskan tax structure and royalty obligations, the State would receive substantial annual revenues from the three companies which in total are directionally representative of the actual ownership of the Prudhoe Bay field and the Trans Alaska Pipeline. In constant 1976 dollars, such revenues would average almost $800 million per year as a consequence of this project alone if the California market price for oil were $10.00 per barrel, and would exceed $1.3 billion if that price were $16.00 per barrel.

2. Such tax and royalty revenues to Alaska will represent approximately 75 percent of the total revenue paid to all states, including Alaska, resulting either wholly or in part from the Prudhoe Bay field and the Trans Alaska Pipeline.

3. Of the total revenues to be paid to Alaska attributable to this field and pipeline, the principal part of such revenues are due to State ad valorem taxes, State severance taxes, and State royalties which are 100 percent allocable to Alaska and to State income taxes, over 20 percent of which is allocable to Alaska under the Multistate Tax Compact.

4. With respect to the Alaskan State income tax, the State would receive payments at the full 9.4 percent rate of Alaskan income taxation on that portion of the three companies' total taxable income which is allocated to the State under the Multistate Tax Compact. This allocation would be based upon the extent of the business activity in Alaska measured by physical property in the State, actual sales within the State, and the number of employees located in the State.

The composite state tax rate on the total taxable earnings of the three companies will be approximately 6 percent. This is the portion of total taxable earnings the companies would pay as income tax to all the states in which they do business. This composite rate is lower than Alaska's income tax rate because the average state income tax in the United States is substantially below Alaska's 9.4 percent.

Alaska, however, would receive over 20 percent of the income tax payments which the three companies in our example would make to all states. That is a high percentage in light of the extensive business activities carried on by these companies in states other than Alaska.

The Standard Oil Company (Ohio)
Midland Building
Cleveland, Ohio 44115

October 28, 1976

TABLE 1-A

HYPOTHETICAL THREE COMPANY OWNERSHIP OF PRUDHOE BAY FIELD AND TAPS
REVENUE TO ALASKA AND OTHER STATES IF OIL SELLS FOR $10.00/BBL. IN CALIFORNIA
(All Amounts in Millions of 1976 Dollars)

	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
Alaskan State Income Tax Paid By:										
A-California Marketing and Refining Company	$ 2.4	$ 15.3	$ 21.0	$ 21.6	$ 21.3	$ 21.7	$ 22.8	$ 23.7	$ 24.4	$ 23.3
B-Large Integrated Domestic Company	7.9	14.9	17.9	18.4	18.5	18.9	19.8	20.7	21.2	20.6
C-Major International Company	11.4	16.7	18.9	19.4	19.7	20.1	20.9	21.8	22.4	21.9
Alaskan State Income Tax Revenue	$ 21.7	$ 46.9	$ 57.8	$ 59.4	$ 59.5	$ 60.7	$ 63.5	$ 66.2	$ 68.0	$ 65.8
Alaskan State Revenue Other Than Income Tax*										
Royalty to State of Alaska	$ 66.7	$237.1	$344.2	$351.1	$357.9	$364.8	$349.0	$338.1	$342.9	$308.5
Alaskan State Severance Tax	82.5	219.9	274.8	274.8	274.8	274.8	274.8	274.8	274.8	256.5
Alaskan State Reserves Tax--										
Paid	235.0	---	---	---	---	---	---	---	---	---
Severance Tax Credit	(41.2)	(109.9)	(137.4)	(137.4)	(31.5)	---	---	---	---	---
Alaskan State Ad Valorem Tax	190.0	208.2	219.5	215.6	211.4	206.8	203.6	202.9	196.1	184.0
Non-Income Tax Subtotal	$533.0	$555.3	$701.1	$704.1	$812.6	$846.4	$827.4	$815.8	$813.8	$749.0
Total Alaskan State Revenue	$554.7	$602.2	$758.9	$763.5	$872.1	$907.1	$890.9	$882.0	$881.8	$814.8
Income Tax Paid to All States By:										
A-California Marketing and Refining Company	$ 9.7	$ 60.7	$ 82.4	$ 84.0	$ 82.4	$ 83.1	$ 86.6	$ 89.2	$ 91.1	$ 87.1
B-Large Integrated Domestic Company	50.3	88.9	105.6	106.8	105.7	106.3	109.1	111.2	112.8	109.6
C-Major International Company	58.2	80.6	90.4	91.2	90.8	91.3	93.1	94.5	95.5	93.6
Total Income Tax Paid to All States	$118.2	$230.2	$278.4	$282.0	$278.9	$280.7	$288.8	$294.9	$299.4	$290.3
Effective Composite State Income Tax Rate on Total Taxable Earnings	4.8%	5.5%	5.7%	5.7%	5.7%	5.7%	5.7%	5.8%	5.8%	5.8%
Alaskan Income Tax Payments as Percent of Income Tax Payments to All States	18.4%	20.4%	20.8%	21.1%	21.3%	21.6%	22.0%	22.4%	22.7%	22.7%

* Each owner company would pay one-third of the figures shown in this section.

HYPOTHETICAL THREE COMPANY OWNERSHIP OF PRUDHOE BAY FIELD AND TAPS
STATE REVENUE DISTRIBUTION FROM 1977 THROUGH 1986 IF OIL SELLS FOR $10.00/BBL. IN CALIFORNIA
(All Amounts in Millions of 1976 Dollars)

	Company A California Refiner		Company B Large Domestic		Company C Major International		Three Company Total	
Type of Revenue	Alaskan Revenue	As Percent To All States	Alaskan Revenue	As Percent To All States	Alaskan Revenue	As Percent To All States	Alaskan Revenue	As Percent To All States
Prudhoe Bay Royalty	$1,020.1	100.0%	$1,020.1	100.0%	$1,020.1	100.0%	$3,060.3	100.0%
Prudhoe Bay Severance Tax	827.5	100.0%	827.5	100.0%	827.5	100.0%	2,482.5	100.0%
Prudhoe Bay Reserves Tax--								
Paid	78.3	100.0%	78.3	100.0%	78.4	100.0%	235.0	100.0%
Severance Tax Credit	(152.4)	100.0%	(152.4)	100.0%	(152.5)	100.0%	(457.3)*	100.0%
Prudhoe Bay and TAPS Ad Valorem Tax	679.4	100.0%	679.4	100.0%	679.4	100.0%	2,038.2	100.0%
State Income Tax on All of Company's Operations	197.5	26.1%	178.8	17.8%	193.2	22.0%	569.5	21.6%
Total Revenue to State of Alaska	$2,650.4	77.8%	$2,631.7	72.3%	$2,646.1	75.1%	$7,928.2	75.0%

* Includes credit for the $222.3 million reserves tax paid during 1976.

HYPOTHETICAL THREE COMPANY OWNERSHIP OF PRUDHOE BAY FIELD AND TAPS

TABLE 2-A

REVENUE TO ALASKA AND OTHER STATES IF OIL SELLS FOR $13.00/BBL. IN CALIFORNIA

(All Amounts in Millions of 1976 Dollars)

	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
Alaskan State Income Tax Paid By:										
A-California Marketing and Refining Company	$ 5.5	$ 24.1	$ 31.9	$ 32.5	$ 32.0	$ 32.6	$ 33.9	$ 35.0	$ 35.7	$ 33.9
B-Large Integrated Domestic Company	9.5	19.2	23.4	24.0	23.9	24.6	25.6	26.6	27.2	26.3
C-Major International Company	12.4	19.6	22.6	23.2	23.4	24.0	24.9	26.0	26.6	25.9
Alaskan State Income Tax Revenue	$ 27.4	$ 62.9	$ 77.9	$ 79.7	$ 79.3	$ 81.2	$ 84.4	$ 87.6	$ 89.5	$ 86.1
Alaskan State Revenue Other Than Income Tax[A]										
Royalty to State of Alaska	$128.3	$401.6	$549.6	$556.4	$563.2	$570.1	$554.3	$543.4	$548.2	$500.1
Alaskan State Severance Tax	82.5	220.7	298.9	302.6	306.3	310.1	301.1	295.6	298.2	272.0
Alaskan State Reserves Tax--										
Paid	235.0	---	---	---	---	---	---	---	---	---
Severance Tax Credit	(41.2)	(110.3)	(149.4)	(151.3)	(4.9)	---	---	---	---	---
Alaskan State Ad Valorem Tax	190.0	208.2	219.5	215.6	211.4	206.8	203.6	202.9	196.1	184.0
Non-Income Tax Subtotal	$594.6	$720.2	$918.6	$923.3	$1076.0	$1087.0	$1059.0	$1041.9	$1042.5	$956.1
Total Alaskan State Revenue	$622.0	$783.1	$996.5	$1003.0	$1155.3	$1168.2	$1143.4	$1129.5	$1132.0	$1042.2
Income Tax Paid to All States By:										
A-California Marketing and Refining Company	$ 22.8	$ 95.1	$124.7	$126.2	$123.3	$124.7	$128.4	$131.2	$133.0	$126.5
B-Large Integrated Domestic Company	60.1	114.8	137.7	138.9	136.8	138.0	141.0	143.3	144.9	139.7
C-Major International Company	63.5	95.4	109.0	109.9	109.0	109.8	111.7	113.3	114.3	111.2
Total Income Tax Paid to All States	$146.4	$305.3	$371.4	$375.0	$369.1	$372.5	$381.1	$387.8	$392.2	$377.4
Effective Composite State Income Tax Rate on Total Taxable Earnings	5.1%	5.8%	5.9%	5.9%	5.9%	5.9%	5.9%	5.9%	5.9%	5.9%
Alaskan Income Tax Payments as Percent of Income Tax Payments to All States	16.7%	20.6%	21.0%	21.3%	21.5%	21.8%	22.1%	22.6%	22.8%	22.8%

[A] Each owner company would pay one-third of the figures shown in this section.

HYPOTHETICAL THREE COMPANY OWNERSHIP OF PRUDHOE BAY FIELD AND TAPS
STATE REVENUE DISTRIBUTION FROM 1977 THROUGH 1986 IF OIL SELLS FOR $13.00/BBL. IN CALIFORNIA
(All Amounts in Millions of 1976 Dollars)

	Company A California Refiner		Company B Large Domestic		Company C Major International		Three Company Total	
Type of Revenue	Alaskan Revenue	As Percent To All States	Alaskan Revenue	As Percent To All States	Alaskan Revenue	As Percent To All States	Alaskan Revenue	As Percent To All States
Prudhoe Bay Royalty	$1,638.4	100.0%	$1,638.4	100.0%	$1,638.4	100.0%	$4,915.2	100.0%
Prudhoe Bay Severance Tax	896.0	100.0%	896.0	100.0%	896.0	100.0%	2,688.0	100.0%
Prudhoe Bay Reserves Tax--								
Paid	78.3	100.0%	78.3	100.0%	78.4	100.0%	235.0	100.0%
Severance Tax Credit	(152.4)	100.0%	(152.4)	100.0%	(152.5)	100.0%	(457.3)*	100.0%
Prudhoe Bay and TAPS Ad Valorem Tax	679.4	100.0%	679.4	100.0%	679.4	100.0%	2,038.2	100.0%
State Income Tax on All of Company's Operations	297.1	26.2%	230.3	17.8%	228.6	21.8%	756.0	21.7%
Total Revenue to State of Alaska	$3,436.8	75.2%	$3,370.0	72.2%	$3,368.3	76.3%	$10,175.1	74.5%

* Includes credit for the $222.3 million reserves tax paid during 1976.

TABLE 3-A

HYPOTHETICAL THREE COMPANY OWNERSHIP OF PRUDHOE BAY FIELD AND TAPS
REVENUE TO ALASKA AND OTHER STATES IF OIL SELLS FOR $16.00/BBL. IN CALIFORNIA
(All Amounts in Millions of 1976 Dollars)

	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
Alaskan State Income Tax Paid By:										
A-California Marketing and Refining Company	$ 8.6	$ 32.4	$ 42.4	$ 41.9	$ 42.2	$ 42.9	$ 44.3	$ 45.5	$ 46.3	$ 43.7
B-Large Integrated Domestic Company	10.9	23.4	28.7	28.7	29.2	29.9	31.0	32.2	32.9	31.5
C-Major International Company	13.4	22.5	26.3	26.5	27.0	27.7	28.7	29.9	30.5	29.6
Alaskan State Income Tax Revenue	$ 32.9	$ 78.3	$ 97.4	$ 97.1	$ 98.4	$100.5	$104.0	$107.6	$109.6	$104.8
Alaskan State Revenue Other Than Income Tax*										
Royalty to State of Alaska	$189.9	$565.6	$754.9	$761.7	$768.6	$775.4	$759.7	$748.7	$753.5	$691.8
Alaskan State Severance Tax	103.3	307.6	410.6	414.3	418.0	421.7	413.2	407.2	409.8	376.2
Alaskan State Reserves Tax--										
Paid	235.0	---	---	---	---	---	---	---	---	---
Severance Tax Credit	(51.7)	(153.8)	(205.3)	(46.6)	---	---	---	---	---	---
Alaskan State Ad Valorem Tax	190.0	208.2	219.5	215.6	211.4	206.8	203.6	202.9	196.1	184.0
Non-Income Tax Subtotal	$666.5	$927.6	$1179.7	$1345.0	$1398.0	$1403.9	$1376.5	$1358.8	$1359.4	$1252.0
Total Alaskan State Revenue	$699.4	$1005.9	$1277.1	$1442.1	$1496.4	$1504.4	$1480.5	$1466.4	$1469.0	$1356.8
Income Tax Paid to All States By:										
A-California Marketing and Refining Company	$ 35.5	$128.0	$165.5	$162.2	$162.3	$163.8	$167.5	$170.3	$172.2	$163.2
B-Large Integrated Domestic Company	69.5	139.7	168.9	166.5	166.7	168.0	171.0	173.4	174.9	167.8
C-Major International Company	68.9	109.9	127.3	126.2	126.5	127.5	129.4	131.1	132.2	127.8
Total Income Tax Paid to All States	$173.9	$377.6	$461.7	$454.9	$455.5	$459.3	$467.9	$474.8	$479.3	$458.7
Effective Composite State Income Tax Rate on Total Taxable Earnings	5.3%	5.9%	6.0%	6.0%	6.0%	6.0%	6.0%	6.0%	6.1%	6.0%
Alaskan Income Tax Payments as Percent of Income Tax Payments to All States	18.9%	20.7%	21.1%	21.3%	21.6%	21.9%	22.2%	22.7%	22.9%	22.8%

* Each owner company would pay one-third of the figures shown in this section.

HYPOTHETICAL THREE COMPANY OWNERSHIP OF PRUDHOE BAY FIELD AND TAPS
STATE REVENUE DISTRIBUTION FROM 1977 THROUGH 1986 IF OIL SELLS FOR $16.00/BBL. IN CALIFORNIA
(All Amounts in Millions of 1976 Dollars)

	Company A California Refiner		Company B Large Domestic		Company C Major International		Three Company Total	
Type of Revenue	Alaskan Revenue	As Percent To All States	Alaskan Revenue	As Percent To All States	Alaskan Revenue	As Percent To All States	Alaskan Revenue	As Percent To All States
Prudhoe Bay Royalty	$2,256.6	100.0%	$2,256.6	100.0%	$2,256.6	100.0%	$6,769.8	100.0%
Prudhoe Bay Severance Tax	1,227.3	100.0%	1,227.3	100.0%	1,227.3	100.0%	3,681.9	100.0%
Prudhoe Bay Reserves Tax--								
Paid	78.3	100.0%	78.3	100.0%	78.4	100.0%	235.0	100.0%
Severance Tax Credit	(152.4)	100.0%	(152.4)	100.0%	(152.5)	100.0%	(457.3)*	100.0%
Prudhoe Bay and TAPS Ad Valorem Tax	679.4	100.0%	679.4	100.0%	679.4	100.0%	2,038.2	100.0%
State Income Tax on All of Company's Operations	390.2	26.2%	278.4	17.8%	262.1	21.7%	930.7	21.8%
Total Revenue to State of Alaska	$4,479.4	75.0%	$4,367.6	73.6%	$4,351.3	78.3%	$13,198.3	75.6%

* Includes credit for the $222.3 million reserves tax paid during 1976.

January 21, 1977

SOHIO SUBMISSION TWO

This is the second paper submitted by Sohio for consideration by the Alaskan Administration and the Alaskan Legislature in the studies each has been conducting concerning the long term oil taxation and leasing policy for the State. The first paper, entitled Sohio Submission One, was provided to the Alaskan Administration and Legislature on October 28, 1976.

By way of background, that paper examined the state income tax of Alaska under the allocation method of the Multistate Tax Compact and made illustrative projections of the substantial revenue that Alaska would receive as a result of the first ten years of operation of the Prudhoe Bay Field and the Trans Alaska Pipeline System (TAPS). Those projections of revenue included estimates of the State's royalty income and tax receipts resulting from Alaska's severance tax, reserves tax, ad valorem tax and state income tax.

In order to develop those hypothetical projections for the future operations of Prudhoe Bay and TAPS, it was assumed that equal one-third shares of that field and pipeline would be owned by three typical companies, none of which were intended to represent any company actually involved in that project. The assumed characteristics of the three typical companies which were used in Sohio Submission One were as follows:

Company A - A California based marketing and refining company with no crude oil production.

Company B - A large, integrated domestic company with significant petroleum production and transportation operations.

Company C - A major international company with substantial foreign operations.

Due to the degree of uncertainty surrounding both the future price of North Slope oil and future rates of inflation, the projections of Alaskan revenue contained in Sohio Submission One were calculated in terms of constant 1976 dollars, assuming three different California market prices: $10.00/barrel, $13.00/barrel, and $16.00/barrel.

Among the significant findings of Sohio Submission One was that at the $10.00 per barrel price, Alaska would receive average revenues of almost $800 million per year from Prudhoe Bay and TAPS during the next ten years. At the $13.00 per barrel and $16.00 per barrel prices, Alaska's average annual revenues from this project would exceed $1.0 billion and $1.3 billion, respectively. These tax and royalty revenues to Alaska would represent approximately 75 percent of such revenue paid to all states, including Alaska, resulting either wholly or in part from the Prudhoe Bay Field and the Trans Alaska Pipeline. If some factor for inflation were applied to these projections rather than using constant 1976 dollars, the average annual revenues would increase accordingly, but Alaska's 75 percent share of such revenue to all states resulting from this project would not change.

The purpose of Sohio Submission Two is not to further examine either the "fair share" aspects of Alaska's taxation policy or the revenues the

State might expect as a result of Prudhoe Bay and TAPS. Sohio Submission Two takes the next step and compares the tax burden of such Alaskan tax laws currently on the books with the tax burden of the comparable tax laws of the other three largest oil producing states--Texas, Louisiana, and California. In the development of this comparison of tax burdens, exactly the same basic economic assumptions regarding the Prudhoe Bay Field and TAPS are used that were the basis for Sohio Submission One. Additionally, it is assumed again for this hypothetical case that one-third of this field and pipeline is owned by each of the three typical companies previously mentioned. In other words, the tax payments for each other producing state have been calculated by simply assuming that Alaska adopted the tax laws of that other state in lieu of the existing Alaskan tax laws. For comparison purposes, only the constant $13.00 per barrel selling price in California is used. This is the midpoint of the assumed price levels which were used in Sohio Submission One. As in the previous paper, no attempt has been made to forecast future rates of inflation, and again, all the calculations and results are expressed in constant 1976 dollars.

Since this paper analyzes only the taxes of these oil producing states, the $4.9 billion in royalty payments that Alaska would receive if oil sells for $13.00 per barrel in California has been eliminated from the comparison. To simplify the comparison, Alaska's 1976-1977 reserves tax and future credit against severance tax payments have been deleted from this analysis. Since the reserves tax was enacted to alleviate Alaska's short term financial difficulties prior to initial production from Prudhoe Bay and since the reserves tax payments will be completely offset by future credits against severance tax obligations, it is not a

part of Alaska's permanent ongoing taxes, and it is the comparison of these states' ongoing tax laws that is the most informative.

The results of this analysis are displayed on the attached Tables 1, 2, and 3. Each of these Tables lists the principal Alaskan taxes which currently apply to petroleum activities in the state. These include the state income tax, the severance tax, and the petroleum property ad valorem tax. The payments which would be made to the State of Alaska over the 1977 through 1986 ten year period have been calculated and listed on each Table, along with the basis of calculation for each tax. The tax payments resulting from the comparable taxes of Texas, Louisiana, and California and their bases are listed on Tables 1, 2, and 3, respectively. Finally, each Table compares the total payment to Alaska for each tax as a percent of the total payment which would result under the comparable tax of the other leading oil production state.

Table 1, for example, is a comparison of the tax burden under the Alaskan tax laws with the tax burden under such tax laws of Texas, currently the largest oil production state in the U.S. As indicated on Table 1, the Alaskan state income tax payments of the three hypothetical companies owning Prudhoe Bay and TAPS would total more than $750 million over the 1977-1985 ten year period. Texas, on the other hand, does not have a state income tax so, if the three companies were subject to Texas tax laws instead of the Alaska tax laws, the state income tax payments by the three companies would be zero.

The second section of Table 1 compares the payments which would be made from 1977 through 1986 by the three companies under the Alaskan

severance tax and ad valorem tax to those payments which they would have to make if they were subject to similar taxes in Texas. Since it is assumed that one-third of Prudhoe Bay and TAPS would be owned by each of the three typical companies, each company's tax payments would simply be one-third of the figures shown in this section. Alaska's severance tax would average 7.8 percent of the net wellhead value of the oil, i.e., the wellhead value after royalty payments are deducted. This results in total Alaska severance tax payments of almost $2.7 billion over the ten year period. Since the Texas severance tax rate is only 4.6 percent of the net wellhead value, the total severance tax payments would be slightly more than $1.6 billion over the same period. Therefore, the severance tax payments resulting under Alaska's current severance tax would be 163 percent of those resulting under Texas's current severance tax.

The present ad valorem tax rate of Alaska is equal to 20 mills and is applied to the valuation of all petroleum hardware. This would result in Alaskan ad valorem tax payments by the three companies of more than $2.0 billion from 1977 through 1986. The ad valorem tax on production properties in Texas is equivalent to 2.5 percent of the net wellhead value of the oil produced. For pipeline facilities, the Texas ad valorem tax averages slightly less than 8 mills times the hardware valuation. Therefore, the total ad valorem tax payments which the three companies would have to pay if they were subject to these Texas tax laws would total $1.46 billion from 1977 through 1986. As indicated on Table I, the Alaskan

ad valorem tax payments over this ten year period would be 140 percent of those in Texas.

The sum of all these Alaskan tax payments made by the three companies from 1977 through 1986 would be almost $5.5 billion. The comparable figures under the Texas tax laws would be only slightly more than $3.1 billion. In summary, the Alaska tax burden would be 176 percent of that for Texas.

Table 2 compares in the same way Alaska's taxes with those of Louisiana, currently the second largest oil production state. Several significant factors concerning Louisiana's taxes are demonstrated by this Table. First of all, while the Louisiana state income tax rate is 4.0 percent, Louisiana has an oil depletion allowance equal to the lesser of 38 percent of the net wellhead value, or 50 percent of oil production taxable income. Furthermore, the state allows the deduction of Federal income tax payments prior to the determination of the state income tax liability. Therefore, income tax payments to Louisiana by the three companies would amount to $382 million over the 1977 to 1986 period. The income tax payments under Alaska's state income tax over this same period would be 197 percent of this amount.

Another significant item highlighted by Table 2 is the total payments by the three companies of almost $4.5 billion resulting from Louisiana's 12.5 percent severance tax rate, which is the highest oil severance tax in the U.S. As indicated on Table 2, the corresponding payments under Alaska's severance tax are 60 percent of those under Louisiana's severance tax. However, this difference in tax receipts

is almost completely offset by the fact that Alaska's ad valorem taxes are substantially higher than those in Louisiana, that is, 298 percent of such Louisiana taxes. When the total of these tax payments by the three companies is considered, the payments to Alaska of almost $5.5 billion over the ten year period are 99 percent of the tax payments which would be made to Louisiana.

Table 3 compares the tax laws of Alaska to those of California, the third largest oil producing state. California's income tax rate of 9.0 percent is almost as high as that of Alaska, and the total tax payments by the three companies under either state's income tax law would be within $25 million of each other for the ten year period.

As indicated on Table 3, the ad valorem tax payments under California's tax law would be about twice those paid to the State of Alaska. On the other hand, California levies no severance tax on oil production. When the total payments by the three companies resulting from these two taxes are compared for each state, the payments to Alaska would be 112 percent of those under California's method of taxation. Including the projected state income tax payments in these totals, the $5.5 billion total ten year tax burden in Alaska would be 111 percent of the $4.9 billion total which would result under California's tax laws.

Sohio Submission Two confirms the testimony by Sohio before the joint hearing of the Alaskan Senate and House Resources Committees that the burden of these tax laws already on the books in Alaska equals or exceeds the corresponding tax burdens of the other leading

oil production states. Using the hypothetical three company ownership of the Prudhoe Bay Field and the Trans Alaska Pipeline to illustrate the point, Sohio Submission Two affirms in a more precise manner that Alaska's current tax laws are 176 percent of those of Texas; 99 percent of Louisiana's; and 111 percent of California's.

It is respectfully suggested that Alaska's comparative tax position is one factor deserving careful attention if the State considers further changes in its tax laws, since such changes will affect the revenues flowing to the State government and the health of the State's economy, both of which will principally depend on reasonable resource development.

The Standard Oil Company (Ohio)
1780 Guildhall
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January 21, 1977

TABLE I

HYPOTHETICAL THREE COMPANY OWNERSHIP OF PRUDHOE BAY FIELD AND TAPS
COMPARISON OF THE TAX BURDEN UNDER THE LAWS OF ALASKA AND THE LAWS OF TEXAS - 1977 THROUGH 1986
(This hypothetical case assumes oil sells for a constant $13.00/BBL. price in California. All figures in millions of constant 1976 dollars.)

	ALASKA TAXES		TEXAS TAXES		Payments Under Alaskan Tax Structure As A Percent of That Under Texas Tax Structure
	Basis	$Millions	Basis	$Millions	
State Income Tax Paid By:					
Company A - California Marketing and Refining Company	9.4% of Income Taxable by the State	$ 295.2	0% of Income Taxable by the State	$ 0.0	∞
Company B - Large Integrated Domestic Company	9.4% of Income Taxable by the State	229.4	0% of Income Taxable by the State	0.0	∞
Company C - Major International Company	9.4% of Income Taxable by the State	220.2	0% of Income Taxable by the State	0.0	∞
State Income Tax Subtotal		$ 752.8		$ 0.0	∞
Other Taxes:[a]					
Severance Tax	7.8% of Wellhead Value after Royalty Payments	$2,688.0	4.6% of Wellhead Value after Royalty Payments	$1,648.9	163%
Ad Valorem Tax	Field and Pipeline - 2.0% of Hardware Valuation	2,038.2	Field - 2.5% of Wellhead Value after Royalty Payments Pipeline - 0.78% of Hardware Valuation	1,459.0	140%
Severance and Ad Valorem Tax Subtotal		$4,726.2		$3,107.9	152%
Total Tax Payments		$5,479.0		$3,107.9	176%

[a] Company A, Company B, and Company C would each pay one-third of the figures shown in this section.

TABLE 2

HYPOTHETICAL THREE COMPANY OWNERSHIP OF PRUDHOE BAY FIELD AND TAPS
COMPARISON OF THE TAX BURDEN UNDER THE LAWS OF ALASKA AND THE LAWS OF LOUISIANA - 1977 THROUGH 1986
(This hypothetical case assumes oil sells for a constant $13.00/BBL. price in California. All figures in millions of constant 1976 Dollars.)

	ALASKA TAXES		LOUISIANA TAXES		Payments Under Alaskan Tax Structure As A Percent of That Under Louisiana Tax Structure
	Basis	$Millions	Basis[a]	$Millions	
State Income Tax Paid By:					
Company A - California Marketing and Refining Company	9.4% of Income Taxable by the State	$ 295.2	4.0% of Income Taxable by the State	$ 127.4	232%
Company B - Large Integrated Domestic Company	9.4% of Income Taxable by the State	229.4	4.0% of Income Taxable by the State	127.4	180%
Company C - Major International Company	9.4% of Income Taxable by the State	228.2	4.0% of Income Taxable by the State	127.4	179%
State Income Tax Subtotal		$ 752.8		$ 382.2	197%
Other Taxes:[b]					
Severance Tax	7.8% of Wellhead Value after Royalty Payments	$2,688.0	12.5% of Wellhead Value after Royalty Payments	$4,465.6	60%
Ad Valorem Tax	Field and Pipeline - 2.0% of Hardware Value	2,038.2	Field - .0.4% of Wellhead Value after Royalty Payments Pipeline - 0.75% of Hardware Valuation	684.0	298%
Severance and Ad Valorem Tax Subtotal		$4,726.2		$5,149.6	92%
Total Tax Payments		$5,479.0		$5,531.8	99%

[a] Even though Louisiana's corporate income tax rate is 4.0%, the State has a 50% depletion allowance and allows deduction of Federal income tax payments prior to the determination of state income tax payments.

[b] Company A, Company B, and Company C would each pay one-third of the figures shown in this section.

TABLE 3

HYPOTHETICAL THREE COMPANY OWNERSHIP OF PRUDHOE BAY FIELD AND TAPS
COMPARISON OF THE TAX BURDEN UNDER THE LAWS OF ALASKA AND THE LAWS OF CALIFORNIA - 1977 THROUGH 1985
(This hypothetical case assumes oil sells for a constant $13.00/BBL. price in California. All figures in millions of constant 1976 dollars.)

	ALASKA TAXES		CALIFORNIA TAXES		Payments Under Alaskan Tax Structure As A Percent of That Under California Tax Structure
	Basis	$Millions	Basis	$Millions	
State Income Tax Paid By:					
Company A - California Marketing and Refining Company	9.4% of Income Taxable by the State	$ 295.2	9.0% of Income Taxable by the State	$ 286.6	103%
Company B - Large Integrated Domestic Company	9.4% of Income Taxable by the State	229.4	9.0% of Income Taxable by the State	221.6	104%
Company C - Major International Company	9.4% of Income Taxable by the State	228.2	9.0% of Income Taxable by the State	219.7	104%
State Income Tax Subtotal		$ 752.8		$ 727.9	103%
Other Taxes:[a]					
Severance Tax	7.8% of Wellhead Value after Royalty Payments	$2,688.0	None	$ 0.0	∞
Ad Valorem Tax	Field and Pipeline - 2.0% of Hardware Valuation	2,038.2	Field - 7.7% of Wellhead Value after Royalty Payments Pipeline - 2.2% of Hardware Valuation	4,201.6	49%
Severance and Ad Valorem Tax Subtotal		$4,726.2		$4,201.6	112%
Total Tax Payments		$5,479.0		$4,929.5	111%

[a] Company A, Company B, and Company C would each pay one-third of the figures shown in this section.

March 22, 1977

SOHIO SUBMISSION THREE

In recent months Sohio has provided the Alaskan Administration and Legislature with two writings entitled "Sohio Submission One" and "Sohio Submission Two". Sohio Submission One sets out the revenues the State of Alaska might receive under its existing tax laws during the next decade. These figures were based on taxes that might be paid by three hypothetical companies, which were described in Submission One, under the assumption that in addition to its present operations each company would own a one-third interest in the Prudhoe Bay field and a one-third interest in the Trans-Alaskan Pipeline.

Sohio Submission Two compared the revenues Alaska might receive under its existing laws, as set out in the first writing, with the revenues Alaska would receive if it had the tax structure of either of three other leading oil producing states, namely, Texas, Louisiana, and California.

The purpose of Sohio Submission Three is to set out the taxes these three hypothetical companies would pay under two sets of assumptions; first, that the Administration's tax proposals became law, and second, that the Legislature's tax proposals became law.

This Sohio Submission Three consists of two parts. The first part describes our understanding of the existing laws and of the provisions of the proposed laws as we have used them in our work. The second part, commencing on page 8, provides comments on the results of our calculations as

HYPOTHETICAL THREE COMPANY OWNERSHIP OF PRUDHOE BAY FIELD AND TAPS
COMPARISON OF THE TAX BURDEN UNDER THE LAWS OF ALASKA AND THE LAWS OF CALIFORNIA - 1977 THROUGH 1986
(This hypothetical case assumes oil sells for a constant $13.00/BBL. price in California. All figures in millions of constant 1976 dollars.)

	ALASKA TAXES		CALIFORNIA TAXES		Payments Under Alaskan Tax Structure As A Percent of That Under California Tax Structure
	Basis	$Millions	Basis	$Millions	
State Income Tax Paid By:					
Company A - California Marketing and Refining Company	9.4% of Income Taxable by the State	$ 295.2	9.0% of Income Taxable by the State	$ 286.6	103%
Company B - Large Integrated Domestic Company	9.4% of Income Taxable by the State	229.4	9.0% of Income Taxable by the State	221.6	104%
Company C - Major International Company	9.4% of Income Taxable by the State	228.2	9.0% of Income Taxable by the State	219.7	104%
State Income Tax Subtotal		$ 752.8		$ 727.9	103%
Other Taxes:[a]					
Severance Tax	7.8% of Wellhead Value after Royalty Payments	$2,688.0	None	$ 0.0	∞
Ad Valorem Tax	Field and Pipeline - 2.0% of Hardware Valuation	2,038.2	Field - 7.7% of Wellhead Value after Royalty Payments Pipeline - 2.2% of Hardware Valuation	4,201.6	49%
Severance and Ad Valorem Tax Subtotal		$4,726.2		$4,201.6	112%
Total Tax Payments		$5,479.0		$4,929.5	111%

[a] Company A, Company B, and Company C would each pay one-third of the figures shown in this section.

Attachment D

March 22, 1977

SOHIO SUBMISSION THREE

In recent months Sohio has provided the Alaskan Administration and Legislature with two writings entitled "Sohio Submission One" and "Sohio Submission Two". Sohio Submission One sets out the revenues the State of Alaska might receive under its existing tax laws during the next decade. These figures were based on taxes that might be paid by three hypothetical companies, which were described in Submission One, under the assumption that in addition to its present operations each company would own a one-third interest in the Prudhoe Bay field and a one-third interest in the Trans-Alaskan Pipeline.

Sohio Submission Two compared the revenues Alaska might receive under its existing laws, as set out in the first writing, with the revenues Alaska would receive if it had the tax structure of either of three other leading oil producing states, namely, Texas, Louisiana, and California.

The purpose of Sohio Submission Three is to set out the taxes these three hypothetical companies would pay under two sets of assumptions; first, that the Administration's tax proposals became law, and second, that the Legislature's tax proposals became law.

This Sohio Submission Three consists of two parts. The first part describes our understanding of the existing laws and of the provisions of the proposed laws as we have used them in our work. The second part, commencing on page 8, provides comments on the results of our calculations as

they appear in the attached tables.

Part 1 - Comments on Existing Laws and Proposed Bills

The bills we considered in the case of the Administration proposals pertain to the franchise tax and property taxes and production taxes. In the case of the Legislature's proposals, we considered the bills relating to severance tax and income tax and a bill pertaining to net proceeds tax.

The salient provisions of the bills compared to the existing laws are as follows:

SEVERANCE TAX

Existing Law

The present law provides for payment of the higher of a percent of value or a cents per barrel in the case of oil. In the case of gas the tax is a straight 4 percent of value. The tax on oil is on a graduated scale as follows: For the first 300 barrels per day produced by a well during a month, the rate of 5 percent of value or 16.875¢ per barrel; for the next 700 barrels, the tax is 6 percent of value or 20.25¢ per barrel; and for all production over 1,000 barrels the tax is 8 percent of value or 27¢ per barrel. If a well produces 10,000 barrels per day the tax would be 7.77 percent of value or 26.22¢ per barrel, at the rate provided in the law. The cents per barrel figures escalate based on the wholesale price index for crude oil.

Administration's Proposal

The tax would be the greater of 10 percent of value or 75¢ per barrel, with the cents per barrel figure adjusted for changes in the Gross National Product deflator from and after the first quarter of 1977. The greater tax

rate is further adjusted by multiplying it by an "economic limit factor" for the purpose of reducing taxes on wells on properties which are approaching their economic limit. This economic limit factor is defined as one less the monthly rate of production at the economic limit of the property, divided by the current production from the property. The factor will be presumed to be one minus 100 barrels per day divided by total production per day, unless the owner can prove that this factor is not representative of the true economic limit. The economic limit factor will be changed if the operator can prove that his operating cost divided by the wellhead price would result in a lesser factor. A wellhead price for this purpose is determined by taking the landed price of imported oil on the West Coast and subtracting reasonable transportation costs from the field to the West Coast. The operating costs to be considered are set out in the proposed law.

With respect to gas, the tax would be the higher of 10 percent of value or 6.4¢ per MCF, providing that the cents per MCF will be adjusted by the GNP deflator from and after the first quarter 1977. These rates are subject to an economic limit factor, calculated in a manner similar to that described above for oil.

Legislature's Proposal

The legislative proposal provides for payment of the higher of a percent of value or cents per barrel of oil. In the case of gas the tax is a straight 4 percent of value. The tax on oil is on a graduated scale as follows: For the first 300 barrels per day produced by a well in a month, no tax; for the next 200 barrels, 4 percent of value or 13.5¢ per barrel;

the next 700, 6 percent or 20.25¢; the next 500, 9 percent or 30.38¢; the next 2,000, 11 percent or 37.13¢; over 3,500, 14 percent or 47.25¢. The cents per barrel figures escalate based on changes in the wholesale price index for crude oil from and after December 1973. If a well produces 10,000 barrels per day in a month, the composite rate would be 12.25 percent and the cents per barrel would be 41.346¢.

PROPERTY TAX

Existing Law

The present law provides for a 20-mill tax based on an assessed value equal to full and true value of the property. With respect to production facilities, the fair and true value is defined as actual cost during construction and thereafter as replacement cost less depreciation based on the economic life of proven reserves.

Full and true value of the pipeline is defined as cost during construction and then shall be determined with due regard to the economic value based on the estimated life of the proven reserves deliverable to the pipeline. However, if such reserves indicate an economic life materially shorter than the physical life of the pipeline, the full and true value is the actual cost reduced by straight-line depreciation over the life of the reserves. Under the law, the terms "actual cost" and "replacement cost" do not include capitalized interest or intangible drilling costs.

Administration's Proposal

The Administration proposes no basic change in the law with respect to production facilities. With respect to pipelines, the provision cited in the second to the last sentence above has been deleted. The law would

simply now say that the assessed value shall be "determined with due regard to the economic life of the property based on the estimated life of the reserves deliverable to the pipeline."

The property tax would apply to refineries and gas plants not now subject to tax. The basis would be replacement cost less depreciation based on the useful life of the property. It would also apply the tax to the tankers coming in to pick up oil at Valdez. This would be based on replacement cost less depreciation based on the useful life of the property. And based on the number of days the tankers spent in Alaskan ports compared to the total number of days the tankers spent in ports everywhere.

Legislature's Proposal

To our knowledge the Legislature has made no proposal with respect to property tax.

INCOME TAX

Existing Law

Practically speaking, under the existing law of Alaska, the income tax rate is applied to a portion of federal taxable income allocated to the State of Alaska under a three-part formula involving sales, payroll, and property.

Administration's Proposal

The Administration's proposal would apply to any company whose gross receipts exceed $250 million, 50 percent or more of which comes from one or more aspects of the oil and gas business. The taxable income of a company, part of which would be allocated to Alaska, would be the greater of taxable income as now computed or financial income before deduction of

any taxes based on income. The portion attributable to Alaska would be again determined by a three-part formula involving factors for property, payroll and extraction with extraction replacing the sales factor which is now used. The extraction factor would be the ratio, in terms of BTU's, of the oil and gas production of a company within the State of Alaska to such production everywhere.

Legislature's Proposal

The Legislature proposes separate accounting with respect to income tax. With respect to most oil companies operating in Alaska, their total taxable income in Alaska would consist of a combination of taxable income from oil and gas production, from oil and gas pipelining operations, and from other operations. The taxable income from oil and gas production would consist of the wellhead value of such production reduced by royalty, severance tax, property tax, operating costs, depreciation, interest, and exploration expenses.

Under this formula, depreciation would include a write-off of capitalized interest, less acquisition payments and property taxes which were incurred prior to the commencement of production. The interest would be interest not capitalized, allocated to the property based on the following formula: total interest times a fraction, the numerator of which is the book value of the field's fixed assets, defined by the book value of the fixed assets in the entire company.

The taxable income from oil pipeline operations would be calculated at 8 percent of the ICC valuation. In the case of gas pipelines the taxable income would be determined in accordance with FPC procedures as far as

interstate pipelines are concerned, and in accordance with the Alaska Public Utility Commission as far as intrastate lines are concerned.

The taxable income from all other activities would be the corporation's consolidated taxable income, minus the taxable income for oil and gas production and for oil and gas pipelines as outlined above, allocated to Alaska on the three-part formula.

NET PROCEEDS TAX

Existing Law

No such tax.

Administration's Proposal

None proposed.

Legislature's Proposal

There has been proposed an ad valorem tax based on income at income tax rates. The basis for the tax would be gross value minus certain deductions specified in the law. The gross value would be computed either at the wellhead or at some other point chosen by the Department of Revenue. There would be deducted from gross value royalties, transportation costs (if the valuation point is beyond the wellhead), operating costs incurred in the State, operating costs incurred outside the State or in lieu thereof 5 percent of expenses incurred in the State, taxes, depreciation, and geological and geophysical costs in areas outside the area of production. This latter item could be carried forward for ten years and may be included as an expense at no more than 20 percent per year. Income from operations other than production would continue to be taxed under the existing income tax law.

Part 2 - Results of Calculations

The results of our calculations are shown on attached Tables A through E. Tables A, B, and C show the amounts of each type of tax that will be paid each year from 1977 through 1986, under existing laws, the Administration's proposals and the Legislature's proposals, respectively. All of the figures are based on an oil price of $13 00/barrel in California and are in constant dollars. We have not shown the reserves tax to be collected in 1977 nor the impact of the future credits against severance taxes, because our purpose here was to show the impact of on-going taxes. As a consequence of this, it will be noted that the figures for the existing laws shown in Table A are slightly different from those on Table 2-A of Sohio Submission One, which covered basically the same tax situation.

Tables D, E, and F compare the total of taxes estimated to be received by Alaska during 1977 through 1986 with those that would be received if Alaska had the tax structure of Texas, Louisiana, or California, respectively. They are, therefore, somewhat similar to the tables appended to Sohio Submission Three but in addition include comparisons of the total taxes under existing laws, the Administration's proposals and the Legislature's proposals.

Of particular note on Tables A, B, and C is the second line of numbers from the bottom entitled "Effective Composite State Income Tax Rate on Total Taxable Earnings." This is the composite income tax rate paid to all states by the three companies. It ranges from 6 percent under existing laws to 12 percent under the Administration's proposal and 15 percent under the Legislature's proposals. We found that calculating this composite rate was a difficult and imprecise task. But in any event, the 6 percent,

12 percent, and 15 percent were all calculated using similar procedures with respect to all states with the exception of Alaska. Therefore, the increase in these rates highlights the impact of the Administration's and the Legislature's proposals. If Alaska should move away from the three-factor formula now provided for in its law and in the laws of most states the duplication of taxes becomes obvious.

Tables D, E, and F indicate that, as a consequence of the Prudhoe Bay field and TAPS, Alaska will collect $5.5 billion from 1977 - 1986 under its present tax laws from the three hypothetical companies. This is 176 percent of what it would collect under the tax structure of Texas; about the same as it would collect under the structure of Louisiana; and a little more (111 percent) of what it would receive under the tax structure of California. Figures in millions of dollars are:

		If Alaska had the taxes of: (Millions)		
	Alaska	Texas	Louisiana	California
Severance Tax	$2,688	$1,649	$4,466	$ 0
Ad Valorem Tax	2,038	1,459	684	4,202
Income Tax	753	0	382	728
Total	$5,479	$3,108	$5,532	$4,930
Alaska as a percent of the other states		176%	99%	111%

If we assume the Administration's tax proposals are enacted, we note from the following table that the tax income of Alaska will increase about $2 billion over what it would be under the existing tax structure for a

total of $7.5 billion. We note further Alaska's tax income would be from 1-1/3 to almost 2-1/2 of what it would be under the laws of the other three states.

		If Alaska had the taxes of: (Millions)		
	Alaska	Texas	Louisiana	California
Severance Tax	$3,283	$1,649	$4,466	$ 0
Ad Valorem Tax	2,582	1,459	684	4,202
Income Tax	1,591	0	382	728
Total	$7,456	$3,108	$5,532	$4,930
Alaska as a percent of the other states		240%	135%	151%

If the Legislature's proposed tax bills are enacted, we note that the tax income will go to $9 billion for 1977 to 1986. This would be three times as much as Alaska would collect under Texas law, over 1-1/2 times as much as under Louisiana law, or almost twice as much as under California law. Furthermore, we note that if the Net Proceeds bill were passed, the State would collect another $90 million during this time.

		If Alaska had the taxes of: (Millions)		
	Alaska	Texas	Louisiana	California
Severance Tax	$4,219	$1,649	$4,466	$ 0
Ad Valorem Tax	2,038	1,459	684	4,202
Income Tax	2,774	0	382	728
Total	$9,031	$3,108	$5,532	$4,930
Alaska as a percent of the other states		291%	163%	183%

It should be noted again that all of these figures assume a constant price of $13.00 for oil. We believe that in making some of its estimates of income, outgo, and fund balances the State of Alaska assumed some increase in the price of oil over the years. Comparisons of numbers should be made with this point in mind.

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March 22, 1977

HYPOTHETICAL THREE COMPANY OWNERSHIP OF PRUDHOE BAY FIELD AND TAPS

REVENUE TO ALASKA AND OTHER STATES IF OIL SELLS FOR $13.00/BBL., IN CALIFORNIA UNDER EXISTING TAX LAWS

(All Amounts in Millions of Constant 1976 Dollars)

TABLE A

	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
Alaskan State Income Tax Paid By:										
A-California Marketing and Refining Company	$ 6.9	$ 23.2	$ 30.8	$ 31.4	$ 32.0	$ 32.6	$ 33.9	$ 35.0	$ 35.7	$ 33.9
B-Large Integrated Domestic Company	10.1	18.8	22.8	23.4	23.9	24.6	25.6	26.6	27.2	26.3
C-Major International Company	12.9	19.4	22.2	22.8	23.4	24.0	24.9	26.0	26.6	25.9
Alaskan State Income Tax Revenue	$ 29.9	$ 61.4	$ 75.8	$ 77.6	$ 79.3	$ 81.2	$ 84.4	$ 87.6	$ 89.5	$ 86.1
Alaskan State Revenue Other Than Income Tax*										
Royalty to State of Alaska	$ 128.3	$ 401.6	$ 549.6	$ 556.4	$ 563.2	$ 570.1	$ 554.3	$ 543.4	$ 548.2	$ 500.1
Alaskan State Severance Tax	82.5	220.7	298.9	302.6	306.3	310.1	301.1	295.6	298.2	272.0
Alaskan State Ad Valorem Tax	190.0	208.2	219.5	215.6	211.4	206.8	203.6	202.9	196.1	184.0
Non-Income Tax Subtotal	$ 400.8	$ 830.5	$1,068.0	$1,074.6	$1,080.9	$1,087.0	$1,059.0	$1,041.9	$1,042.5	$ 956.1
Total Alaskan State Revenue	$ 430.7	$ 891.9	$1,143.8	$1,152.2	$1,160.2	$1,168.2	$1,143.4	$1,129.5	$1,132.0	$1,042.2
Income Tax Paid to All States By:										
A-California Marketing and Refining Company	$ 28.7	$ 91.8	$ 120.2	$ 121.6	$ 123.1	$ 124.7	$ 128.4	$ 131.2	$ 133.0	$ 126.5
B-Large Integrated Domestic Company	64.4	112.3	134.3	135.5	136.8	138.0	141.0	143.3	144.9	139.7
C-Major International Company	65.9	94.1	107.1	108.0	109.0	109.8	111.7	113.3	114.3	111.2
Total Income Tax Paid to All States	$ 159.0	$ 298.2	$ 361.6	$ 365.1	$ 368.9	$ 372.5	$ 381.1	$ 387.8	$ 392.2	$ 377.4
Effective Composite State Income Tax Rate on Total Taxable Earnings	5.2%	5.7%	5.9%	5.9%	5.9%	5.9%	5.9%	5.9%	5.9%	5.9%
Alaskan Income Tax Payments as Percent of Income Tax Payments to All States	18.8%	20.6%	21.0%	21.3%	21.5%	21.8%	22.1%	22.6%	22.8%	22.8%

*Company A, Company B and Company C would each pay one-third of the figures shown in this section.

HYPOTHETICAL THREE COMPANY OWNERSHIP OF PRUDHOE BAY FIELD AND TAPS — TABLE B

REVENUE TO ALASKA AND OTHER STATES IF OIL SELLS FOR $13.00/BBL. IN CALIFORNIA UNDER THE ADMINISTRATION'S TAX PROPOSALS

(All Amounts in Millions of Constant 1976 Dollars)

	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
Alaskan State Income Tax Paid By:										
A-California Marketing and Refining Company	$ 31.3	$ 67.6	$ 84.5	$ 84.6	$ 84.2	$ 83.9	$ 84.3	$ 83.6	$ 82.1	$ 76.0
B-Large Integrated Domestic Company	10.3	38.6	48.6	48.9	49.1	49.3	49.8	50.1	49.6	46.1
C-Major International Company	19.3	33.9	40.9	41.4	41.6	42.0	42.6	43.2	43.1	40.7
Alaskan State Income Tax Revenue	$ 60.9	$ 140.1	$ 174.0	$ 174.9	$ 174.9	$ 175.2	$ 176.7	$ 176.9	$ 174.8	$ 162.8
Alaskan State Revenue Other Than Income Tax*										
Royalty to State of Alaska	$ 123.4	$ 395.3	$ 542.7	$ 549.6	$ 556.4	$ 563.2	$ 547.5	$ 536.6	$ 541.3	$ 493.1
Alaskan State Severance Tax	99.0	275.1	365.1	370.1	374.7	378.9	369.5	362.1	361.9	326.9
Alaskan State Ad Valorem Tax	254.4	255.5	273.2	269.3	265.1	260.5	257.6	257.1	250.6	239.0
Non-Income Tax Subtotal	$ 476.8	$ 925.9	$1,181.0	$1,189.0	$1,196.2	$1,202.6	$1,174.6	$1,155.8	$1,153.8	$1,059.0
Total Alaskan State Revenue	$ 537.7	$1,066.0	$1,355.0	$1,363.9	$1,371.1	$1,377.8	$1,351.3	$1,332.7	$1,328.6	$1,221.8
Income Tax Paid to All States By:										
A-California Marketing and Refining Company	$ 51.8	$ 134.0	$ 171.4	$ 172.4	$ 172.8	$ 173.4	$ 176.3	$ 177.3	$ 177.1	$ 166.4
B-Large Integrated Domestic Company	63.6	130.3	158.0	158.8	159.7	160.6	163.1	164.7	165.2	157.6
C-Major International Company	71.8	107.7	124.6	125.4	125.9	126.6	128.2	129.4	129.8	125.0
Total Income Tax Paid to All States	$ 187.2	$ 372.0	$ 454.0	$ 456.6	$ 458.4	$ 460.6	$ 467.6	$ 471.4	$ 472.1	$ 449.0
Effective Composite State Income Tax Rate on Total Taxable Earnings	6.6%	10.5%	11.8%	11.8%	11.8%	11.8%	11.8%	11.8%	11.8%	11.4%
Alaskan Income Tax Payments as Percent of Income Tax Payments to All States	32.5%	37.7%	38.3%	38.3%	38.2%	38.0%	37.8%	37.5%	37.0%	36.3%

*Company A, Company B and Company C would each pay one-third of the figures shown in this section.

HYPOTHETICAL THREE COMPANY OWNERSHIP OF PRUDHOE BAY FIELD AND TAPS

TABLE C

REVENUE TO ALASKA AND OTHER STATES IF OIL SELLS FOR $13.00/BBL. IN CALIFORNIA UNDER THE LEGISLATURE'S TAX PROPOSALS

(All Amounts in Millions of Constant 1976 Dollars)

	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986
Alaskan State Income Tax Paid By:										
A-California Marketing and Refining Company	$ 22.3	$ 76.5	$ 104.3	$ 104.5	$ 104.9	$ 105.4	$ 102.9	$ 100.5	$ 101.2	$ 93.7
B-Large Integrated Domestic Company	22.9	78.0	105.8	105.9	106.3	106.7	104.1	101.7	102.2	94.5
C-Major International Company	22.8	78.3	106.1	106.2	106.5	106.9	104.2	101.7	102.3	94.5
Alaskan State Income Tax Revenue	$ 68.0	$ 232.8	$ 316.2	$ 316.6	$ 317.7	$ 319.0	$ 311.2	$ 303.9	$ 305.7	$ 282.7
Alaskan State Revenue Other Than Income Tax*										
Royalty to State of Alaska	$ 128.3	$ 401.6	$ 549.6	$ 556.4	$ 563.2	$ 570.1	$ 554.3	$ 543.4	$ 548.2	$ 500.1
Alaskan State Severance Tax	113.9	344.4	471.2	477.1	483.0	488.8	475.4	465.0	470.1	428.9
Alaskan State Ad Valorem Tax	190.0	208.2	219.5	215.6	211.4	206.9	203.6	202.9	196.1	184.0
Non-Income Tax Subtotal	$ 432.2	$ 954.2	$1,240.3	$1,249.1	$1,257.6	$1,265.7	$1,233.3	$1,211.3	$1,214.4	$1,113.0
Total Alaskan State Revenue	$ 500.2	$1,187.0	$1,556.5	$1,565.7	$1,575.3	$1,584.7	$1,544.5	$1,515.2	$1,520.1	$1,395.7
Income Tax Paid to All States By:										
A-California Marketing and Refining Company	$ 43.3	$ 142.3	$ 189.9	$ 190.9	$ 192.2	$ 193.5	$ 193.6	$ 193.0	$ 194.8	$ 183.0
B-Large Integrated Domestic Company	76.5	169.2	214.1	214.7	215.8	216.8	216.3	215.3	216.7	205.1
C-Major International Company	75.5	151.8	189.3	189.6	190.2	190.9	189.2	187.3	188.4	178.3
Total Income Tax Paid to All States	$ 195.3	$ 463.3	$ 593.3	$ 595.2	$ 598.2	$ 601.2	$ 599.1	$ 595.6	$ 599.9	$ 566.4
Effective Composite State Income Tax Rate on Total Taxable Earnings	6.8%	13.1%	15.5%	15.5%	15.5%	15.5%	15.3%	15.0%	15.1%	14.5%
Alaskan Income Tax Payments as Percent of Income Tax Payments to All States	34.8%	50.2%	53.3%	53.2%	53.1%	53.1%	51.9%	51.0%	51.0%	49.9%

*Company A, Company B and Company C would each pay one-third of the figures shown in this section.

TABLE D

HYPOTHETICAL THREE COMPANY OWNERSHIP OF PRUDHOE BAY FIELD AND TAPS
TAX BURDEN UNDER EXISTING AND PROPOSED LAWS OF ALASKA AND THE LAWS OF TEXAS - 1977 THROUGH 1986
(This hypothetical case assumes oil sells for a constant $13.00 BBL. price in California. All figures in millions of constant 1976 dollars.)

	ALASKA TAXES			TEXAS TAXES	ALASKA TAXES AS PERCENT OF TEXAS TAXES		
	Existing Laws	Administration's Proposals	Legislature's Proposals		Existing Laws	Administration's Proposals	Legislature's Proposals
State Income Tax Paid By:							
Company A - California Marketing and Refining Company	$ 295.2	$ 762.1	$ 916.2	0.0	∞	∞	∞
Company B - Large Integrated Domestic Company	229.4	440.4	928.1	0.0	∞	∞	∞
Company C - Major International Company	220.2	388.7	929.5	0.0	∞	∞	∞
State Income Tax Subtotal	752.8	1,591.2	2,773.8[b]	0.0	∞	∞	∞
Other Taxes:[a]							
Severance Tax	$2,688.0	$3,203.3	$4,218.8	$1,648.9	163%	199%	256%
Ad Valorem Tax	2,038.2	2,582.3	2,038.2	1,459.0	140%	177%	140%
Severance and Ad Valorem Tax Subtotal	4,726.2	5,865.6	6,257.0	3,107.9	152%	189%	201%
Total Tax Payments	$5,479.0	$7,456.8	$9,030.8	$3,107.9	176%	240%	291%

[a] Company A, Company B, and Company C would each pay one-third of the figures shown in this section.

[b] If the Net Proceeds Tax Bill were passed this amount would increase by $90 million.

TABLE E

HYPOTHETICAL THREE COMPANY OWNERSHIP OF PRUDHOE BAY FIELD AND TAPS
TAX BURDEN UNDER EXISTING AND PROPOSED LAWS OF ALASKA AND THE LAWS OF LOUISIANA - 1977 THROUGH 1986
(This hypothetical case assumes oil sells for a constant $13.00/BBL. price in California. All figures in millions of constant 1976 dollars.)

	ALASKA TAXES			LOUISIANA TAXES	ALASKA TAXES AS A PERCENT OF LOUISIANA TAXES		
	Existing Laws	Administration's Proposals	Legislature's Proposals		Existing Laws	Administration's Proposals	Legislature's Proposals
State Income Tax Paid By:							
Company A - California Marketing and Refining Company	$ 295.2	$ 762.1	$ 916.2	$ 127.4[a]	232%	598%	719%
Company B - Large Integrated Domestic Company	229.4	440.4	928.1	127.4[a]	180%	346%	728%
Company C - Major International Company	228.2	388.7	929.5	127.4[a]	179%	305%	730%
State Income Tax Subtotal	$ 752.8	$1,591.2	$2,773.8[a]	$ 382.2[a]	197%	416%	726%
Other Taxes:[b]							
Severance Tax	$2,680.0	$3,203.3	$4,218.8	$4,465.6	60%	74%	94%
Ad Valorem Tax	2,038.2	2,582.3	2,038.2	684.0	298%	378%	298%
Severance and Ad Valorem Tax Subtotal	$4,726.2	$5,865.6	$6,257.0	$5,149.6	92%	114%	122%
Total Tax Payments	$5,479.0	$7,456.8	$9,030.8	$5,531.8	99%	135%	163%

[a] Even though Louisiana's corporate income tax rate is 4.0%, the State has a 30% depletion allowance and allows deduction of Federal income tax payments prior to the determination of state income tax payments.

[b] Company A, Company B, and Company C would each pay one-third of the figures shown in this section.

[a] If the Net Proceeds Tax Bill were passed this amount would increase by $90 million.

TABLE F

HYPOTHETICAL THREE COMPANY OWNERSHIP OF PRUDHOE BAY FIELD AND TAPS
TAX BURDEN UNDER EXISTING AND PROPOSED LAWS OF ALASKA AND THE LAWS OF CALIFORNIA - 1977 THROUGH 1986
(This hypothetical case assumes oil sells for a constant $13.00/BBL. price in California. All figures in millions of constant 1976 dollars.)

	ALASKA TAXES			CALIFORNIA TAXES	ALASKA TAXES AS A PERCENT OF CALIFORNIA TAXES		
	Existing Laws	Administration's Proposals	Legislature's Proposals		Existing Laws	Administration's Proposals	Legislature's Proposals
State Income Tax Paid By:							
Company A - California Marketing and Refining Company	$ 295.2	$ 762.1	$ 916.2	$ 286.6	103%	266%	320%
Company B - Large Integrated Domestic Company	229.4	440.4	928.1	221.6	104%	199%	419%
Company C - Major International Company	228.2	388.7	929.5	219.7	104%	177%	423%
State Income Tax Subtotal	$ 752.8	$1,591.2	$2,773.8[b]	$ 727.9	103%	219%	381%
Other Taxes:[a]							
Severance Tax	$2,688.0	$3,283.3	$4,218.8	$ 0.0	∞	∞	∞
Ad Valorem Tax	2,038.2	2,582.3	2,038.2	4,201.6	49%	61%	49%
Severance and Ad Valorem Tax Subtotal	$4,726.2	$5,865.6	$6,257.0	$4,201.6	112%	140%	149%
Total Tax Payments	$5,479.0	$7,456.8	$9,030.8	$4,929.5	111%	151%	183%

[a] Company A, Company B, and Company C would each pay one-third of the figures shown in this section.

[b] If the Net Proceeds Tax Bill were passed this amount would increase by $90 million.

HEARINGS ON ALASKAN NORTH SLOPE PRICING AND ENTITLEMENT ISSUES

BEFORE THE FEDERAL ENERGY ADMINISTRATION

Monday, March 21, 1977

Statement of David P. Goodman, Managing Director of
Morgan Stanley & Co. Incorporated

My name is David P. Goodman. I am a Managing Director of Morgan Stanley & Co. Incorporated, investment bankers in New York City. I am a member of the Energy Financial Advisory Committee to the Federal Energy Administration.

In Morgan Stanley's capacity as investment bankers to the Standard Oil Company (Ohio), Exxon Corporation, Mobil Oil Corporation and the British Petroleum Company, Limited, our Firm has arranged during the last two and one-half years over $5.5 billion of financing for the development of the Prudhoe Bay Field and the Trans Alaska Pipeline System. I have had personal responsibility for over $5 billion of this financing in a series of ten public offerings and two private placements of $1,750 million and $500 million. In the course of these financings, particularly the two private placements which were to finance a portion of Sohio and BP's interests in TAPS (the Trans Alaska Pipeline), I have had in-depth discussions with many major institutional investors regarding the financing of major energy projects.

As a result of these discussions, I have concluded that if the Administration establishes price control or entitlements treatment for Alaskan North Slope crude which does other than allow it to compete in

price with world oil in the United States market, this action will have a serious detrimental impact on investors' willingness to provide financing for the development of future major energy projects, both for petroleum and other energy sources.

I realize that this is a strong statement, but I would like to review with you some of the problems we faced and overcame in financing the North Slope project.

The companies which own the Prudhoe Bay reserves will likely spend $14 to $15 billion to develop the 9.6 billion barrels of oil reserves and transportation facilities needed to bring the oil to market. Expenditures of similar magnitude will be required to bring Prudhoe Bay gas reserves to market. Probably in excess of $9 billion of financing for the oil project has been arranged since the Pipeline Right of Way Act was passed in January 1974, almost $7 billion through the sale of securities, principally debt, and the balance through bank loans. Although all of the major Prudhoe reserve holders have done extensive financing, I will focus my remarks on Sohio and BP.

Sohio has about 53% of the Prudhoe oil reserves, and Sohio and BP will spend almost $7.5 billion on the project, of which Sohio's share is $6 billion. Since Sohio's non-North Slope assets are only about one-third of this amount, the bulk of these funds have been raised externally.

The most important financing steps for Sohio and BP were two

private placements for their TAPS affiliates, one of $1,750 million arranged in the spring and summer of 1975 and one of $500 million arranged in the summer of 1976. Seventy-seven institutional investors, including almost all of the major life insurance companies and public pension funds, savings banks and many private pension funds administered by trust banks, participated in these transactions. The loans represent the largest single investment for many of these investors.

In selling a private placement of this type, Morgan Stanley, as agent, prepares an extensive offering memorandum and sits down with the institutional investors to explain the project in great detail and answers any questions they have. It was through these discussions that we became aware of the concerns of investors which led to my previous conclusion. There were a number of risks that lenders sought assurance on: that the oil was there, that the pipeline and terminal would work, that there would be a ready market for the oil. The lenders obviously required a detailed economic analysis of the project, particularly since costs continued to escalate at an alarming rate during the construction period. We were able to demonstrate the continued financial viability of the project because during the same period world oil prices also increased dramatically. But Prudhoe oil is expensive oil, with development costs on the order of magnitude of $12,500 per barrel per day.

Obviously, we were able to answer most questions these investors had since the Sohio/BP financings were by far the largest ever accomplished.

But there was one risk which we were unable to eliminate in the minds of certain major, sophisticated investors, and they declined to participate in the financing partly because of it. That risk was that the government would not permit Alaskan North Slope crude oil to compete with world oil in the market place, but would place restrictions on its price such as are currently under consideration. We cited the language of, and the legislative history behind, Section 8(g) of the EPAA which clearly contemplated that the President should consider special treatment for Alaskan North Slope crude to assure that its well-head price was high enough to provide incentive for future North Slope development. We pointed out the words of the law directing the President to exclude Alaskan North Slope crude from the composite price if the inclusion of high-priced Alaskan North Slope crude would lower the price for other upper-tier crude in the United States. Clearly the entitlements program was, in the words of the FEA, "designed to approximately equalize the cost of crude oil purchases" among refiners, and was never conceived of as a price control mechanism for crude oil. Yet the uncertainty of the prospect of these very proceedings here today was enough to cause important lenders not to participate in the most important energy project this country has ever seen. That is why my Firm feels strongly that unfavorable treatment for Alaskan North Slope crude will adversely affect the ability of industry to finance future energy projects. The prospect of a political decision in these hearings caused major investors to

eschew TAPS. Alaskan North Slope crude is new oil -- treat it as no worse than upper-tier oil at the well-head. Alaskan North Slope crude is very high-cost oil. Allow it to compete with world oil in the market place on the same basis as stripper oil, without detriment from the entitlements program.

These hearings are also investigating the risk elements of North Slope development and the appropriate rate of return for this project. Both of these subjects were obviously matters of great interest to investors. This project is one of the riskiest ever undertaken by industry. The important risks aren't those cited in the Mortada study. The cost of exploration before the Prudhoe Bay discovery well is insignificant compared with the risk undertaken by the industry in going ahead with the project under the Pipeline Right of Way Act. The participants were committed to complete the project no matter what the cost in the face of absolute federal and state controls over construction. Remember that this project had been delayed over four years by court intervention and government redesign. Compliance with these actions had already more than doubled costs. Yet the industry was forced to accept a set of stipulations far more exacting than any ever applied to such construction before, stipulations that many in the industry were concerned about being physically able to comply with, and to proceed with absolute authority vested in one man to halt construction or require design changes that could cause costs to sky-rocket with no accountability for cost effectiveness. The industry undertook these absolute obligations, and cost did

rise to the point where, if Alaskan North Slope crude is allowed to compete against world oil, the Mortada study and industry figures indicate that the project will earn a discounted return in the area of 14% to 16%.

Mortada states that a return of 12% should be equitable. There may be some analogy to the returns allowed to regulated industries in Mortada's thinking, although even higher returns are allowed in risky start-up ventures there. But regulated returns involve an exclusive franchise wherein subsequent rate regulation assures such a return. No one is assuring the price of Alaskan or world oil.

If we had projected a 12% return from the outset, I'm not sure that the project could have been financed. It is our experience that oil companies will not undertake a project involving any significant risk for a projected return of under 15%. The industry will earn returns of approximately 22% in the British North Sea, where they have experienced retroactive majority participation by British government. Financial institutions which invest in the equity of the leased tankers for the Valdez trade will earn a discounted after-tax return in excess of 15%, even though these financings are backed by "hell-or-high water," all-events charters from the oil companies. Based on these facts, I cannot accept that a 12% return is equitable for a project of the magnitude and riskiness of the North Slope project.

Gentlemen. The aggregate earnings from the North Slope will be

very large. It is one of, if not the largest oil field ever found outside of the Middle East. But the costs are high and the rate of return will be modest, particularly bearing in mind the risk. If you want industry to be able to finance the development of major energy discoveries this country so sorely needs, particularly the smaller companies you want to favor in your OCS leasing policies, do not make the wrong decision in pricing Alaskan North Slope crude oil. It is critical with regard to establishing an over-all energy policy, of which the issue of pricing Alaskan North Slope crude oil can be looked on as an important first step, to retaining the willingness of the private sector to provide financing of future energy project.

Thank you.

QUESTIONS AND ANSWERS
RICHARD DONALDSON - SOHIO
March 24, 1977

SENATOR COLLETTA - Dick, referring to Page 30, your statement on utterly inconsistent factor of the State urging major economic incentives before FEA in these taxing proposals before us gets subjective opinion to how damaging those would be in decision by FEA?

RICHARD DONALDSON - There are several parts, I guess, in answer to that Senator Colletta. We have been working the FEA question in Washington for about two months, calling on various members of the staff, talking with Mr. O'Leary himself, _____we've talked with James Schlessinger on several occasions. We have called on members of Congress, chairmen of committees and their staff, generally trying to lay the foundation on kinds of things you think they ought to be talking about, focusing on this maximum incentive. The first part of the answer, I guess, is you begin to get a feel of where the balance is, and what additional help can mean in striking a balance so that the answer hopefully comes out of the maximum price possible under law for Alaskan crude. In the course of this work, we have encouraged others, not just in our industry, but who rely on energy in various ways to study it, reach their own conclusions and express their opinions to the government on this. They are doing so. I was just delighted to see Alaska as a State government

beginning to participate in this. You don't know how important it is to have not just another oil company coming in in a soverign state, representing people. It puts a different element into the balance for which there is no substitute, and quality of advocacy that Alaska has been bringing to this, I felt it very good. My testimony reflected that. We have not yet gotten into the conference where the political questions of consumerism, a something for nothing kind of price will be raised. A pretty good record has been made so far in hearings in Washington, San Francisco, and in Anchorage, and I'm very concerned that we lose the essence of Alaskan advocacy that is an important thing in this bounds. It could be lost if, for example, the State appeared disinterested. It could be substantially reduced if somebody in Washington said "hay, you guys are down here arguing for the best price, but you're taking away at home". If you want to put it bluntly, why should the rest of the consumers in the lower '48 simply raise prices so you can raise taxes. The inconsistency of the position undermines the position as an advocate _____ State brings to this right now. I'm probably remiss in not reporting to you the fact that, and I don't mean this in a critical way, that there is a feeling in Washington that Alaska always wants some special treatment, and anything that doesn't stimulate that reaction that can temper judgement the wrong way ought to be avoided. So when you boil it all down, Senator Colletta, I think we need as an industry, and the State needs

in its own interests, as many positive advocates down there right now as we can. The FEA is going to make its decision, the President may make his recommendations toward the end of May or the early part of June that seems to be where they're pointing, so the next couple of months are pretty critical. I can't guarantee that I'm right. We're in the trenches on this and following it very very closely, and we need all the help we can. In this one, our interests simply are not enough. My suggestions in this testimony is intended as a friendly one. The State of Alaska gives up nothing in its soverignty by deferring judgement on major tax questions now. I think some of them deserve more study, but I don't think you lose anything by saying, we will come back to it next year and we will be cross-examining you, and we expect you to be responsive SOHIO, but I think it's a bad choice of tactics to ignore what is the big issues now for all of us, FEA pricing, and run down this, what is an important trail, but a side trail a long way from the main issue. That's a long response and I guess I'm only communicating feeling. For whatever it's worth I believe that's where we are.

SENATOR COLLETTA - During the gas hearings, Judge Litts decision came to the floor by a gentleman who gave extensive comprehensive testimony on interpretation of what that man was saying, and the _____ of what he was saying in this one

interpretation was that the credibility of Alaska is so laced with greed that whatever we do is just suspect, and what I want you to tell me is that I can gather from what you're saying on Page 30 here, if you perceive this attitude as far as oil is concerned why these people are going to make a decision is Alaska projecting an image of total greed?

RICHARD DONALDSON - I don't think dealing with issues like this at the National level, the State should feel apologetic. Obviously, someone who is a synic can give it a translation of greed, but you could present the same position in a much more acceptable way which I think is much more honest in the responsibility of State government, and I'm not trying to pretend I'm the State Governor, but let me express it this way. The State of Alaska is made up of people who live here, who are doing many things. Some of them work for the Governor. Most of them, maybe 75% of them work in the private sector so called of businesses or maybe they're just employed there. Almost all of those in the private sector one way or another directly or indirectly have the success of their business in part, maybe a large part, and the success of their remaining employed dependent on the resource development here, because it is your biggest industry and we're proud to be a part of it. Now what you're saying in Washington to me doesn't come across as greed. What you're saying is "look, in terms of the interests of the people in our State, we want to keep

our businesses relatively profitable. We want to do it over many years, and we recognize that a key thing in that is having a continued resource development, not tearing up the State, but in a planned way that goes forward on a continuing basis that keeps things humming, so men here of the FEA, we've come to Washington to tell you that we're concerned about people in Alaska who need to be employed, and we know that to do that, you have to have some incentive on oil and gas prices in the _____that will permit this activity to move forward. The second thing you can say without any apologies, if you look at the resource potential in Alaska, and what it contribates potentially is the whole country's needs in terms of energy, but we have a very responsible part to play, and that can't be done unless you have a fairly high incentive in the terms of the price decision which you have to make. So yes, there's an element of self interest, but it's all of our self-interests for people in the lower '48, people in the private sector who incidentally over the long haul bringing revenues into a state government provide the services that people need. I don't think you have to make any apologies for that. That is kind of how I would do it if I were representing the State, and that's the essence of what the Governor, the Commissioner of Revenue, Senator Stevens has been saying. I think that they would be a little more persuasive even though they have been good, if they talked a little more

about the private sector, and the concern for that here in Alaska. Most of you have lived or worked in the private sector before you put on your legislative hats. This is so, and I think arguing that and urging that, and saying it's important leaves you nothing to apologize for.

REPRESENTATIVE ELIASON - Dick, somewhere earlier in your presentation, you were tying in the surplusses and the needs of revenue relationship to extraction taxes. Now, I can relate the need for on-going programs to cover the services of the people in a relationship to income taxes and property taxes, but would you elaborate how surplusses or the need of income relates to a one time non-renewable resource and extraction tax?

RICHARD DONALDSON - Right now, I'm working on a committee that is a part of the National Petroleum Council in Washington. It's an interesting committee to work on because it's made up of members of our industry, members of organized labor, environmentalists, consumers, professors from academia, people in government. To try to get all those people around one table and agree on something like a national energy policy is what the committee is supposed to be doing, and we've made some interesting progress, and one of the things that we had been wrestling with at first, and it's responsive to your question,

is how do you treat something that seems finite. In other words shouldn't you take more because it is finite. That's really your question _____, and to pull two things out of all those weeks of discussion might be of interest to you and will help. The first is our ability to underestimate our energy reserves of all kinds has always been infinate, and what has happened is we have looked harder, brought better technology, new horizens on-shore, off-shore. We have kept pushing out the finite of what we know exists in energy supplies. I have a 1916 article from a magazine in my files, kind of a collectors piece that absolutely predicted that in 1925 we were going to run out of oil and gas, and no question about it, it had the figures, it had dates, it had a projection. You know, you can read that same article today, and all you've got to do is change the dates, and numbers and a couple names. Now, in a sense, fossil fuels have a finite quality, but I have to tell you that what we know may be very limited, our horizens are in close. The history of our industry is keeping and pushing those horizens out, so part of the answer to your question is let's don't assume today to know everything that's there because the history of our whole industry _____. The second thing that's important to it, there is a duel responsibility of government, if you don't mind putting it that way. On the one hand, you have to raise sufficient revenues from businesses and citizens where you are responsible to pay for the services they need, and you can bank some ahead,

and you are fortunate today if you can do it, but you have another responsibility and it's not to be so over-reaching, if you will, in the running of a government that you put a total chill, or a substantial chill, on the private sector because most people out there are in it for a living, and paying the taxes too, and so what you have is a very tough problem in government, and I don't envy you for a minute, of trying to hit some kind of a balance between government, taxes, and stimulation of the private sector so that it runs on its own, and that's exactly what we've got here. What I was trying to reach here, and probably didn't do it too well was saying you've done a good job in covering your future revenue needs. You're bills are paid for a couple of decades, there's no question about it, and I think there's time here needed to say what about the other side? What about the private sector? Where is the bounds? And, it's suggesting that you think about this policy and how it effects the private sector. I'm saying it kind of meshes in with the two problems that we have here in Alaska today that are the big ones. The FEA pricing decision is one, and this policy balance is the other. My whole testimony, when you boil it down simply says one thing, let s all work on the pricing problem with FEA this year, if you will until that's solved, and meanwhile so we don't prejudice that, let's take this policy question head on and try to answer that. Then you see how the two blend and you can go forward on both simultaneously

without prejudicing either one.

REPRESENTATIVE ELIASON - I guess what you're really saying then is that we're morally right in charging an increased tax upon a non-renewable resource, and extraction tax compared to an ordinary property tax or income tax approach?

RICHARD DONALDSON - All I'm suggesting is, and I don't know what the right numbers are, the laws help somewhat, the economics help sort it out somewhat, but the real point of focus, if you're going to do a good job, is to remember you've got a public sector and a private sector in the State, and overhanging the whole thing right now is this Federal Energy Administration question.

I have come today to be as frank as I can because we're trying to work on both, and I can't do anything less than tell you where we are and what we're worried about.

REPRESENTATIVE ELIASON - Of course, we really don't know what our future incomes are going to be either, and you're saying we have our bills paid for a number of years down the road, but we really don't know that particular point until the FEA makes that determination.

RICHARD DONALDSON - I don't either, and yet every study that I have seen shows very substantial surplusses in your treasury in the mid '80's, and the only question is how big they are, not whether they will be there. So directionally what you're saying is we've got a great piece of life insurance out there ahead of us. Maybe we should take a few months, or most of the year and sort out these other questions so we don't lose anything by taking the time.

SENATOR RADER - Madam Chairman, following along the same line as Representative Eliason, and in fact, I think it's exactly the same point, the Gove in his State of the State message to the legislature, and I think also in his budget message, spoke of a general policy which would involve the argument that the State has in trust these non-renewable resources such as oil, and that all of the revenue, at least 25% which is our permanent fund referendum, but he urges that 100% of the revenue which comes from royalty be saved and set aside and not used for the ongoing purposes of government, and that we impose taxes to handle which you consider to be our normal ongoing needs. You're a lawyer, I'm a lawyer, so lawyers would say we have the trust and he's arguing that the corpus of the trust, the body of the trust to be preserved, and that for the State to carry on its day to day activities, it must have the tax proposals that he has suggested in order to balance his budget. Now, if you adopt the Governor's argument

I suspect that the tax proposals that he's suggested may be correct that you'd have to have those to balance the budget. I don't know that that's the case, but at least he's said that that's the case. Do you, and I think this is exactly the same question as Mr. Eliason is addressing himself to, to what extent do we have an obligation to not invade the the corpus, so to speak? To what extent do you think we should raise taxes if we are going to completely keep the corpus in trust? How do you meet that argument?

RICHARD DONALDSON - Let me give you an example. Let me take myself and the way the finances of my family run. Some of the income on our family comes from my salary, some of it comes from investments, not too many that I have made, dividends, maybe a little appreciation on it, some comes from interest on my savings account, but it comes in at an overall flow, so to speak, in the family treasury. Now, I haven't made any decisions that I can stand with very long for the whole future of the rest of my life, I'm only going to bank my interest in dividends and not spend it if there's some other need. Sometimes, I have to dip into that where there's situations in the family. Sometimes I can put a little of the salary away too, and I stay flexible on that. Now, let's translate that into the State if it is translatable. The State has income strains from several sources. Many sources actually, but we will say basically to the tax and royalty. In a sense it's nice to put some by for problems that you can't foresee

now that the State will have. The idea of having a kind of permanent fund, particularly if it's used as a development type fund for sources and capital that wouldn't otherwise be available. It's a very good thing. Let me digress just a moment as an example. Suppose there had been a big copper strike somewhere up in the center part of the State, and it's a commercial load, and there's no transportation there and there's no town, but industry said, we'd like to come in and develop that, but put stipulations and requirements on. It would be a nice thing to have a fund that would say, well, industry normally puts in the mines, the processing facilities, and if they can get at the tide water they'd have to come up with the ships and take it from there, but maybe a fund that could establish a town and transportation systems and maybe even port facilities, the kind of thing that this permanent fund, just like you have some reserved in your own savings account can take up. On the other hand, if I draw too much out of my business and destroy the business or make it less profitable, I'm hurting my family too, aren't I? So the State has a balancing job at the other side. If it tries to draw too much into the savings account and destroys the general flow of income from oil and gas, maybe it hasn't made the best decision in managing those funds. So in a sense, the state's no different from my family. You've got to check the flow coming in and the flow going out, and be able to

adjust somewhat from time to time if you're going to run it intelligently. In answer to your question specifically, the idea of some kind of a permanent fund is a development resource for the State, not to help us necessarily, but other Alaskan's participating in that. I have no idea personally what the right size is, except that I would want to stay flexible if I were running it for my own family. On the other side, I don't want to prejudice the income. You see, that's the other question. If you set it all aside to the permanent fund, you may be very comfortable about those fat balances, but if there's no future out there, in ten years or fifteen because it's been discouraged, has it been the right decision? This is why I think, John, that we need to take a look at it.

SENATOR RADER - Alright, then that brings us to the next question. Should we, I note that Mr. Tanzer for example, compares our situation with tax loads that have been imposed by other governments, places where the oil industry has been nationalized in some places and so on and so forth. Your comparisons are primarily to other states. You did mention the North Sea situation, I think, a little bit, but in thinking of our own terms in terms of the future of an oil industry in Alaska, to what extent should we consider the international method of taxation or exappropriation or whatever might be the situation?

RICHARD DONALDSON - Well, I guess there are three questions that you have rolled into one. First we have considered Alaska versus other states because all states are subject to the same federal body of tax law that simply simplifies the presentation. There's no intention to mis-lead. Secondly, when you compare other country's situations what you are really doing is comparing the total tax burden in other countries, and sometimes they have only one government, not several levels, and you add up whatever they have, and if you compare that, and compare it with what we have which is the sum of federal, State and local, in doing that kind of comparison, we've done some work on that and Ken Schowlater can get it for the committee if you'd like to have it, what you find is that the total tax burden in the United States of Federal tax law, Alaskan tax law, and local tax law is very comparable to the burdens that you find in these other countries that Dr. Tanzer likes to refer to. The third thing, you can look at any kind of tax mechanism to raise revenue, and the ingenuity on that, you know it's really only limited by the time that somebody has thought of that you can research, but the key question is less the mechanics than the total burden, and if the burden becomes such that you tone down the economic activity that you also want, obviously, it's the burden that's the key to watch, not the mechanics. There's an interesting article as an editorial in the Anchorage paper last night talking about Indonesia. They over-reached, the industry shutdown. They tried to come back, and I guess those negotiations have fallen

off again. There isn't anything magic in saying well this is what they're doing someplace else in the world. What you really have to look at is the economics of the situation, and does it stimulate the activity you want? I don't know what's right or wrong, but I know the economics is worth it where it's all sorted out. You might say we'd have one tax in Alaska, not fifteen or three or four, and one tax generates the revenue and provides the economic activity, fine. What is the problem though in most state activity is that there is the need in other states, a terrible need for revenue. They don't have enough to run schools and things. You're fortunate here, so they keep looking for different kinds of taxes, and playing the game because it's a different tax, maybe nobody will mind, but here when you're doing planning of an economic nature for the state's longrun, I think it's encumbent upon you to look at the whole scene, all the taxes and the burden, and do the kind of comparative stuff that we try to do for you. If you do your own, you won't come out with any different numbers, though maybe you'll accept it.

SENATOR RADER - Just one more question if I might, Madam Chairman. One of the goals of the Governor's package was to capture some of the impact and activity from the Outer-continental Shelf development, the franchise tax is, I think, what he called it. Address yourself to that problem. I suppose you wouldn't care if you had a franchise tax that didn't change the total burden, and also include the Outer-continental Shelf.

As again, you're saying it's not the mechanics, it's the burden that you're worried about.

RICHARD DONALDSON - It's kind of a hard question to answer. You get into kind of a speculative area that you're just not sure where you are. Let me try this Senator. When you go into an area for resource development, as a company what you're looking at is the potential there for development, the costs and investments you have to throw at it, and you look at tax burdens and whatever it's called charges, franchise tax, or whatever, you do look at that. You also look at how many winners and losers you might expect in drilling holes here and there. You make some judgment, probably imperfect because there's much you still don't know whether it's worth the risk against other places. In this area of OCS development of what burdens should be assumed for impact for example on the coastal lands you tend to support this. You get some very tough questions, at least three that come to mind that you ought to sort out. Whatever it is, I suspect any industry that goes in there, they expect to pay a share of that impact cost. Maybe a little more than a fair share, that also seems to be the pattern, but they also have the option of not to go, and how that gets traded out many times is a matter of negotiation. I think there is a problem however of asking somebody to come in. You say, we want you to pay on day 1 what we will guess the total impact cost to be over the whole

life of your project. In the first place, that's not discounted for the time in the future when the impact will occur. There's no _____ economically in that advance payment. The second point is, suppose you're calculation of the advance is wrong. You don't find anything. You don't have any large development. You have a large string of dry holes. You've put a premium or a penalty if you will going in that would discourage a lot of people, and I think the answer, and this is only personal, not our company view, what you need is a system to say you've got a fair business cost, just like you pay your fuel bill or hire a guy to run a cat for this type of impact. I'd say it would be difficult for a company to say well, that's not right, that's fair, that is a business cost. But then you come to the second phase that says what's fair, and you say well, we had so many people coming in, we need so much land, we will pay these taxes, and then you have other service industries come in to support that. They too have a share of that impact cost, so you need a system that kind of allocates that over the whole thing. We've got a lot to learn in this area, and I suspect all of us will spend a good deal of time, but again you run the risk of making a mistake of trying to do something well and guessing wrong, and deterring other things that you really want to happen. I hope that's helpful.

SENATOR COLLETTA - On page 2, you were excited about the Governor's policy objectives on any new tax, Dick, and you enumerated the

five points that he made. Would it be fair to ask in the proposals that are before us, how many of these points do they fall short of?

RICHARD DONALDSON - You don't have any easier questions, you'd rather I'd answer do you? Alright lets take a flier at it. I think it's a fair question. Item one, sufficient revenues to compensate the State for additional service costs pending such development. Let me pause right here, I'll come to the dividend part in just a moment. If any of the forecasts of future revenues from lets say Prudhoe Bay or the pipeline are valid, over the next three years we will be paying from 75% to 120% of the State's total budget. It seems to me that that first standard is well covered just by one project. I'm not saying that you don't want more, but at least in terms of covering your costs, we're probably more on payment, and I'm not saying that to be argumentative. In terms of dividends, I don't know what the.Governor had in mind, what he's saying is we'd like to bank a little bit for the future. What you do say is if you have that surplus, maybe it's eight and a half million dollars in the mid 80's I don't know. There's at least a suggestion that the dividend is being paid. Maybe it's not enough, but this is one of the areas that you would have to discuss. I can't say it's short, but there's at least a good down payment on it and maybe some area for discussion. That's really the hardest part of the answer. Point two - I'm not sure that any consideration has been given to the

profits to investors to keep them _____, and back later on in the paper where I was quoting the stuff from Morgan Stanley and the cost of business here, there is at least a first offering on the subject, not enough consideration has been given to that. Perhaps we ought to have some discussion and we are all interested in having that go forward. Point three - We must be resonably responsive to the National and world economic trends of the time. Things that come to mind when you read that is the cost of energy on a BTU basis that is going up all over the world, and the need to generate supplies of energy of all kinds, particularly domestically here in the United States to try to meet more of those here at home so that we're not at the mercy of the foreign cartel. I think Alaska at least at the moment is responsive to this because it is just about to contribute to the United States energy supply, the oil flow from Prudhoe Bay, and nobody can say that that's small. On the other hand, as far as future participation, there hasn't really been much movement in the State in the last three years to significantly encourage future contributions, and you know the lead time is long. We hope for a Beaufort Sea lease, we hope for a Gulf of Alaska, and I think that needs to be dusted off and you would probably comply with that, if compliance is the question, by moving ahead on those things. The FEA question, you see, your participation in that, I think is being responsive to National need because if you get a higher price and stimulate this development, you see, you've got a part of that and

that's another place that I've tried to encourage you to do it. Nondiscrimination on the basis of ownership - well here I guess our industry feels like that wonderful line from Fiddler on the Roof. Remember when Tevia the father was standing out on the road, he looked up at the heavens and said "Lord, it's nice to be the chosen people, but do you have to do this every time"? I'm sorry about that, sometimes a joke is better than _____ _____. I must reduce uncertainty and encourage stable expectations about future resource tax and management policies. One of the problems, here and many places in the country, not just here has been the instability of governments relations with industry in energy, and as this testimony started and finished, it was really almost begging you again, say let's sit down and look at this policy to find some stability. We've done pretty well on some of these, Senator Colletta. Others I think, needs more work.

GEORGE SILIDES - Mr. Donaldson, I've been invited to ask you a couple of questions as counsel to the committee, and I notice, and I almost hesitate to ask you this question, but I do think that there is a table missing which would have made a rather fine report, or perhaps even better, but I notice that in the report in your comparison between taxes paid among the states, that is the percentages, your comparisons, of course, are in

actual dollars paid, and I don't see a table which includes the factor of doing business. Now, you indicated, of course, you made a very excellent point about how much more it costs your company to do business in Alaska. The corollary, of course is that it costs the State of Alaska to do business here also including the municipalities and everyone else. Have you a table which takes that into consideration? If I might give an example of what I'm speaking of, we'll use the State of Louisiana because it makes the numbers come out even, if for example, it costs 50% more to do business in the State of Alaska than it did in a third of Louisiana, then it could be argued that our taxes are not 99% of Louisiana's but only 66% of Louisiana's. Have you made that type of table in comparison?

RICHARD DONALDSON - This is the area that I have said that we hadn't completed, and what we're trying to do is to get comparative data, which is very hard to get, that would compare cost of findings and producing and transporting oil to different regions of the country. You remember about a year ago, we gave you a couple of maps and showed you some things. We've been trying to develop this comparative cost data in public figures. You can get pieces of it, but we haven't been able to get something that you could put all together. The pieces that we have, and this is sort of a preliminary report, if you will accept it that way, tend to show that there is a premium, a higher cost for doing business in the Arctic and off-shore

than in other states, and when you are looking at a company making your business decisions, what you do is tend to add two basic factors. You say, okay, there is a potential here that we would like to explore that we would guess going in would have two billion barrels of oil, just to take a number off the ceiling, and we know that the cost of that if we carry it through would be X and X is probably twice what it is in some other place. We also know what the tax burden would be. Let's say that's Y, now we add up X and Y versus the return. We say now that's a good risk investment, or no, we just don't want to touch it, even if the oil is there. The cost is not there, so we approach it from this standpoint, why this comparative data, we think would be helpful if we could get together. I'm not sure we can yet, we've worked on it for about six months, so we have some of the pieces but not all. You could say alright, let's consider how Alaska stands up with an oil well in west Texas or some off-shore work in California or something off the East Coast. Let's just see how we compare as a risk potential, risk reward type from other places in the country, and what I think this will show is that Alaska has a high development potential, but that it has to have better potential in resources than other places in the country because the costs are higher, and what that comes down to is this, you begin to see the margin of profitability shrink as you go farther off-shore or further into the arctic today. What that means to me for purposes

of bills that you have here, is that everytime you push that thing closer together by additional taxes.

We were told a few weeks ago that, how does it feel to work for an industry that has no risk, and I said how did you derive that? The man said, well, if you loo[illegible]nings they are very stable. I couldn't wait to get back to Cleveland and talk to Charlie Plumb who is our Vice-President for Accounting who has worked very hard to spread out these peaks and valleys of income and whatever so that you have some of these finance reportings that are consistent. Charlie, I said, you did a swell job on accounting, but you've made me real proud _____, and this is one of the little _____ that I just couldn't get over. On the pipeline itself, you find the oil and you know the market is there, and you think you have the technology to connect to, so in a sense you say a lot of the risk is taken away, and in a sense that's so because that's what project financing is all about, but when you get into the building and the design, the financing, the calculations of how to engineer something like this, it's sort of like going past the first grade and thinking you know how to add and subtract and suddenly you realize that out there is something called analytical geometry and calculas, and there's a whole string more of things you don't know. What we've had to do is to work through all of that the first time out in a project like this in the Arctic where there's no precedence for it in the whole world. Now, we've had a lot of experience building pipelines, and we've brought that to the table, but there's

a lot that we didn't know, and what is really happening, if you will recall is that through delay, the inflation involved in it, stipulations laid on by government for things that will be done in this line, increasing labor costs which you can anticipate _____ the actual cost of this pipeline, the things that are almost beyond our control has gone up 400% during the time of this project. Fortunately the cost of the oil in the world market has gone up 400% approximately too. What has happened in this is that probably more of my grace than anything else, the increase in price for oil has covered the increase in cost of the project. This is proved out, and I think we reported this to you in testimony a year ago that are going in anticipated return on a DCF basis in 1970 was about a 14 to 16% range. In 1974, we ran it again. A whole lot of things have changed and all these prices have gone up, but they are still all in about a 14 to 16% range. When we calculated for you a year ago, it was still in that range, not by anything more than chance frankly, so while we've had to invest four more dollars for each one we anticipated, the return in the market will be about four, but the profitability dollar per dollar hasn't changed, and you know who's been the real recipient for this windfall in products? Happily, it's the State of Alaska because you don't have any investment money in it. Your tax rates are still there on the books and you get a same percentage from a larger income plus. I think it's great that you do. I don't begrudge it, it's just a factor.

GEORGE SILIDES - Madam Chairman, if I might just one more time. Dick, that's a very complex subject, and I know that everytime we talk about it, we can go on for hours and I'll let it go for now, but there's something coming up that we're going to have to face in taxation, here, now, we've all heard a lot about the surplus of Alaskan crude on the west coast, and what to do with it whether it should go to Japan, or go to the gulf coast, and so on. Now, we anticipate of course when the pipeline was first built that we probably _____ to Cherry Point, or Long Beach and let it go at that. Now you're anticipating building a pipeline to the east coast from California. Are we going to have to share in that pipeline construction cost?

RICHARD DONALDSON - To some extent yes, but probably not as much as you're worried about. The reason is this. There will be a lot of new exploration and development in oil in Alaska and on the west coast. As we get some stability, I hope in national energy possibly. People with refineries begin to build new refineries to replace old ones or perhaps expand existing ones that will handle _____ in sour crude of the Alaskan type, so you may see more oil finding a home on the west coast than you could now guess today, but they will also find more offshore on the west coast, and maybe on shore, and the crying need for all of this is on the eastern part of the country. Now the reason I say worry a little bit less is that the country needs west and east

transportation. Pipeline transportation has historically been the best one to move oil in bulk at the lowest cost, and the project we have, we think tends to follow that precedent, but it doesn't mean that the only oil going through that pipeline will be Alaskan oil. There may be some. There may be some offshore California oil. There may be _____ oil, a lot of different oil, but you should recognize that the existence of that pipeline is a real plus to the State of Alaska and to us because it provides an escape valve to a market. Oil can move on to the next most economic spot, and this means it's worth more, maybe not quite as much as it would on the west coast, but a lot more than if it didn't have those facilities, and one thing that sometimes I think we tend to forget is the driving economics on us is to sell the oil at the best price that we can, and if you chose to take royalty on some of it, that's fine, but if you say that's a lot of risk, we have to do it for you under the leases, and our driving force is to get the same best price and you've got kind of a double piece of insurance here.

REPRESENTATIVE ELIASON - Even with the unknown costs, double costs, what was the return anticipated originally then on the investment?

RICHARD DONALDSON - I'm pulling these numbers out of my memory. In the files of your committee from last year, you will find testimony that I gave, and I think it was on March 29,

1976. In that testimony are the actual numbers. I'm just suggesting that's in your file. The rate of return really held almost constant through that six year period even though all this change was going on. That just happened, it wasn't planned. The original cost in the field and pipeline was much much less than it is now, and what you had going in was on those costs and on the value of oil in the world at that time. Now, you're talking about three and four dollar oil not thirteen dollar oil. A rate of return for each dollar invested was on a 14-16 base. What happened was that both sides of the equasion kept going up, and the three times we studied it '70, or '72, '74, and '76 there was a little change in the numbers, but it was still within that range. Now that was a range of 14-16%. You have to understand we have a driving force to go ahead with that project because we can forsee a shortage of oil in the United States in the near term, and SOHIO was an oil deficient _____, so what we were looking at was the return at the low end of what would be a normally acceptable range, but we were willing to do it because it was the source of supply and you can't run this business without supply. Less than that, you're getting down into the utility area, and what you have is a guaranteed market and a guaranteed source, it's sort of like you've got the coal pile there burned, and you don't have all this uncertainty that you have in oil exploration. When we look ahead to the kind of thing that David Goodman

addresses, what kind of return do you really look at as a company? If you're going ahead, and you look at the risk elements, some are more or less in different places. You may see a range that bottoms out at about 15% and you may have something as high as 25% or maybe even a little more to be an acceptable risk in this area of our business. Now, when you put up a gasoline station, you know marketing and all the things that Ken has in his experience, the risk factor is there, but not nearly as much, so you might say you'd accept something in the 15% range, but going into the new frontier area or offshore, you at least like to have the expectency of going in or something toward the upper end of that range, so _____ is just what Mr. Goodman's testimony is characterized to be, it's a utility rate of return, and he does distinguish it there.

REPRESENTATIVE ELIASON - I guess what bothers me is that when you analyze the project, your stay is relatively the same, but when he testified, if they had known there's was going to be so low, they might not have been able to finance to start with.

RICHARD DONALDSON - What he's saying is that _____ was right. _____ was wrong. If we had said it was 10 or 12% going in, you probably wouldn't have done it. Our number said it was 14 - 16% and that's enough of a difference to say okay, we'll take the risk and go. Does that answer it?

REPRESENTATIVE ELIASON - Not really?

RICHARD DONALDSON - I guess I don't understand. At the back of our testimony, Attachment E on Page 5, at the bottom of the page, you have the paragraph that begins Mortata states. This is from Mr. Goodman's testimony, and what he is saying is Mortata states that 12% is equitable. Mr. Goodman goes on to say, no it isn't, they couldn't have financed it on that basis, and what I've added to that which then caused the confusion was our estimate going in was higher than Mortata and we decided to go ahead. So I think if you look at this section here, it probably would answer the question.

SENATOR RADER - What kind of objective evidence, what would be the thing that would show up where the state is at or above a reasonable taxation rate considering the cost, the risk and also the expectations of perhaps a bonanza occasionally. I can see how if we get too high the activity just doesn't occur. There is no oil industry here. If we're too low, there's going to be a lot of oil industry here. How would you objectively measure, for instance, you know if you were running a department store, why, you could say our sales have dropped off, but if you were at General Motors or somewhere else there would be some objectives tests that we could use here as to whether or not we're approaching a reasonable tax level when you consider profitability, risk, the possibility

of a bonanza, the stability even of the government with which you're dealing which is the State government, which I'm sure has to be cranked into part of your concern here. What kind of evidence would you have - no more exploration, no more interest in drilling, no more lease bidding, or what?

RICHARD DONALDSON - It's easy to see, if everything stopped. You could say, well, that's too much. It's a little harder to sort it out when it's something other than that.

SENATOR RADER - Or even if everything stops, I guess it might mean there wasn't enough oil here to make it worthwhile for anybody to.....

RICHARD DONALDSON - Okay, I think the first thing you have to recognize is that most all of the studies have indicated that a high probability of the new resources are in Alaska. Some of the numbers that I have looked at have said that maybe in the $13 or $14 price for world oil, if Alaskan oil was allowed to compete with that, you would expect over the next thirty years that perhaps as much as 33% of all the oil found in the United States could be found in the north of Alaska or south of Alaska offshore. It's a tremendous potential, so I think you first have to start with the assumption that most people believe that it's here. It's other places too, but there's a lot here, so that's not quite

the equasion. The second thing is that you don't have either a go or no go. We've had to adopt the Tanzer proposal last year. Some people testified before your committee that we shut the State down. You might have had that case. What is more likely is how do you sense the business activity. There are a couple ready barometers. One is called Caparik, and the other is called Lisbern and that's marginal economics today. Obviously if you raise tax, it keeps it off the _____ list in some people's judgment. On the other hand, if world oil prices moved up a dollar or so, and Alaskan oil is allowed to be in the market place in that level, and delivered, then these two fields or strata may well come in and develop a pipeline. There's another thing that you can measure it, drilling activity is one, on the other hand if you're not leasing any lands, that tempers it, but let's assume there's reasonable lease land available. I think dealing with various _____ corporations, and the willingness of companies to enter into exploration arrangements there is another barometer, and what you look at is many things. You get a sort of feel from the pulse, but the key thing is, given the cost of doing business and giving the cost of the tax burden, the economics in total is so diminished as to reduce the attractiveness of it, and the only way I know you can solve it is to have some discussions with people about some cases, and there is some propriatary data, but you can begin to get a feel. I have a feeling you're close to or possibly over the line, but that's my own personal feeling.

SENATOR RADER - Let's take the Caparik and the Lisbern formations. As I understand some of them are underlying the _____ formation. So in other words, you actually have leases right now on those sands. Do you have any production wells on them at all? How much exploration have you done on them?

RICHARD DONALDSON - Some.

SENATOR RADER - I would assume that the reason you don't have any production is because at the present posture of pricing and tarrif and market, that it's not worthwhile.

RICHARD DONALDSON - and text and quality of oil, it's not economic or marginally economical.

SENATOR RADER - You can sight then, I suppose to this committee then as a concrete fact that at least a sand of that marginal quality is not readily producable under the present circumstances.

RICHARD DONALDSON - Probably so, it's something we keep looking at because there's a lot of oil there.

SENATOR RADER - Because again, we don't know what the federal government is going to do here in three months or six months, nor do you know what the State government's going to do.

RICHARD DONALDSON - But we have told them that they take some of these actions out of their pricing decisions that take all essentially lower the value of Alaskan oil delivered may have wiped out Caparik an Lisbern. In the same sense, I have tried to point out to you that tax passed here in the State have exactly the same economic effect directly.

SENATOR RADER - Are you continuing to explore these other sands or not?

RICHARD DONALDSON - The exploration thing is not my area, Senator. I suspect we can give you some information on that, but I'm really not qualified to speak on that particular point. Yes, we are doing some exploration up there, but the details, I'm just not familiar with.

SENATOR RADER - You sighted the willingness of the corporations to go into joint venutres with the native corporations or to explore for a percentage. As I understand it, some of those contracts provide for a 50% return to the native corporation of the net profitability as well as an over-ride of a normal _____. Am I in error on that or not?

RICHARD DONALDSON - I'm not familiar with all of the terms of the leases. Some of the companies that are engaged in that could respond to you. All of those however are the product of negotiation. What we have in these other cases

are leases that were entered into some years ago, and all this stuff has come on and now going in on new negotiations. Maybe one corporation can negotiate a better contract than another. You'd have to look at the individual transaction, the prospects in the area, and really ask someone whose involved in that to give you comment if they would.

SENATOR RADER - Can you think of any other objective evidence of when we were hitting the top or near the top or below it?

RICHARD DONALDSON - I can't at this point. I'm just getting loggy, but it's a fair question, and maybe one we ought to give some attention to and see if we can do it. The kind of thing that you get into in your own studies if you're trying to devise a longer term policy that you say okay that's the rule of the game, I understand and I will either go or not on these judgments that you have to make.

SENATOR RADER - I appreciate the fact that no matter what we did on a tax policy probably Prudhoe Bay would be produced mainly because even if you're losing money, you would have to minimize your losses. If you've got ten billion dollars up there, and you were only going to end up with the final return of 9 billion, you'd still have to do it because you only lose 1 billion that way instead of by damning the whole works of ten. So it isn't a question then really of the producability of Prudhoe Bay, that's going to happen no matter

what we do.

RICHARD DONALDSON - But, how that's treated is a big signal to the rest of us of what else do you want to do? I don't mean that in a threatening way, you just listen very carefully.

SENATOR RADER - I make that statement only because people say well you know they're not going to pull out, and I can say of course they're not going to pull out, but neither are they going to pull in.

RICHARD DONALDSON - Tom Williams, in his testimony addressed this to some extent, and if he's scheduled to testify here, you may want to ask him that question. I'm not trying to load it on Tom, but he's given some attention to this, and I think it would be of help to you.

SENATOR HUBER - Dick, considering Alaska taxes, you say we may already have gone over the motor line, and the fact that the State is going to have a surplus revenue according to your figures which I may not agree with, when do you plan on applying for an Alaska State subsidy to help you out?

RICHARD DONALDSON - No comment.

SENATOR HUBER - There are a few other points that I would like to touch on, although Senator Rader touched on most of

the points. If fact most of them that I had intended to, Madam Chairman. Speaking of the taxes that are now proposed, if we can get back to that for a minute, considering that your good presentation that you've made on the stands that Alaska takes in every way with FEA. Picture the proposals before us, would in your opinion try to take more than 9.4% net income tax that's been on the books since before you started doing business here. Would you care to single them out for us? I didn't know that there was any that had intended to do that?

RICHARD DONALDSON - Well, it's always 9.4% applied as to what?

SENATOR HUBER - To net profitability.

RICHARD DONALDSON - All of the income tax proposals by their structure have the duplicate tax effect with the result that all the taxes that our company would pay in income tax to all states in which we do business, would probably mean that we were paying tax on 133% of our income of course in another way about a third of our income becomes the extraction factor on the other approaches are taxed twice. What we had in these numbers here is proof in numbers though it's a hypothetical case. We get into our own company numbers if necessary and prove numerically that there's a double tax. Now, interestingly enough in the law, the Supreme Court said is that the principal is that there shouldn't be any duplicate tax or not a lot, so

if you can prove it, then you've got a pretty good case, and all I was trying to suggest to you rather than argue these was that the principal is against duplicative tax and the numbers that we have drawn on our hypothetical case on the statutes that you have proposed tend to confirm that it is clearly different. That is all that I want to call to your attention. I suggest that if there is some repair work to be done in the income tax statutes, that you may not want to increase the burden, but prepare the tax within the burden and avoid the duplicative effect. This type of tax reform it seems to me might be appropriate for the State at this point in its history so that it does go forward on kind of a stable basis that people can understand and make your judgments on as businesses.

SENATOR HUBER - I'd like to continue Madam Chairman. Does SOHIO, Dick, object to paying 9.4% on a true net income the same as they would have to if they were strictly an Alaska corporation?

RICHARD DONALDSON - Yes, you asked where these are. I fortunately had this open to where the subject is. In Attachment C, if you will look at Tables IA, IB, and IC. I'm sorry, I have the wrong table. Senator, I can't lay my hands on it right this minute.

SENATOR HUBER - Rather than hold it up, I'd consider if you'd let us know that later. As I understand your testimony, probably at least 9.4% or more can probably be taken by most of these tax proposals that we're talking about.

RICHARD DONALDSON - The numbers that I was trying to find for you went like this. As a single taxpayer, as a company, paying taxes to all the states in which we do business, we were paying an effective income tax rate on all of our income, in all states at about 6%. Now that would include in this example the Alaskan tax of 9.4%, the California tax at 9%. Texas has none, but the average tax burden and income tax under present law now and under the _____ tax compact is about 6%. The only thing we change when we ran our second case and our third case on the Administration franchise tax proposal and the legislative proposals for income tax, all the legislative proposal income tax came out about the same. Was it the 6% in the case of the Administration's proposal jumped to someplace between 11 and 12%, and in the case of the legislative proposal jumped to someplace in the nature of 14 to 15%.

SENATOR HUBER - That doesn't apply of course to the net proceeds tax. That's engineered not to do that, is that correct?

RICHARD DONALDSON - I think it didn't make too much difference in the total burden. Now ken has found it here. This is in

Table A, B, and C which are attached to Attachment B, and table A, in effect gives you this three company comparison under present law. At the bottom of the page you will see two lines of percentage figures, and the second line up from the bottom which reads effective composite State income tax rate on total taxable earnings shows you that 5 - 6% burden under present law. On the next page under Table B, the same line which is the Administration's tax proposal, shows the change of having their income tax replaced. You see it jumps to about 11.8%. On the next page where you look at the legislative factors, it jumps to 15 or 15.3%. On the next page where you look at the legislative package, it jumps to 15 or 15.3%. Those are the figures which tend to confirm in numbers the duplicative tax effect, but what we're really looking at here is the total burden, Senator.

SENATOR HUBER - Madam Chairman, Mr. Donaldson, when you started your Prudhoe Bay operation and you went into the pipeline operation, hasn't it in all your financing and everything been figured that you had a 9.4% net income tax liability in Alaska on your profits?

RICHARD DONALDSON - On some cases we ran, we did do that, yes.

SENATOR HUBER - Didn't this allow you for the last two years to borrow over 1 million dollars a month, SOHIO alone based

upon that as part of the package?

RICHARD DONALDSON - Yes, but you have to realize other things have changed in the equasion. Your severance taxes have changed, ad-valorum taxes have changed, income taxes have changed, and the reserve tax, and what you have to do on the continuing basis is look at all of the pieces not just one tax and say that your whole case was based on that assumption, _____. what was based on all of it.

SENATOR HUBER - Now, you're not planning on us continuing our reserves tax are you?

RICHARD DONALDSON - No. In fact there is a bill before your committee that I think came down in the Administration's package or was proposed by it. I did not comment on it although I should. Let me take just a moment and I will do that. This is the proposal that would reduce the millage on the reserve tax this fiscal year from 20 mills to 12, and what that does is reflects the Administration's judgment as I understand it, that 12 mills is needed to cover any deficit this year, not 20, and the philosophy of it is that you should borrow no more of your future than you need. I would support that bill partly because it means we'd pay less in reserves tax, but also because I think it follows the philosophy of the reserves tax covering your needs in this interim period

until the pipeline starts, and I would hope that of all the bills that you've got on your table, you might push that one out of your committee and through the legislature, and it does make good sense. If there are no further questions, I thank you for your patience.

SENATOR HUBER - I've got one last one, Madam Chairman. Dick, considering both the physical and the political conditions, where in the world is it more profitable to explore for oil now than in Alaska?

RICHARD DONALDSON - The North Sea.

SENATOR HUBER - I'm sure the Britishers would like to hear that.

RICHARD DONALDSON - They're doing it. There's a lot of play there. In fact, about a year ago, I was priviledged to fly over to one of those developments and tour some of them, they're exciting. I flew over a place called Cruzen Bay where the British are building _____field and the pipeline comes to shore. The pilot banked around and said that's where the pipeline comes ashore. I said I can't see it, he said that was the point.

SENATOR HUBER - Madam Chairman, it's interesting to note that last year's total tax package as it was adjusted, this was the terrible one that had the excess value tax added to it.

When it was finally adjusted, and it provided as much money as we're talking about on the Administration proposal this year, it's noted that it was adjusted down to do no more than the British government does in the North Sea area.

RICHARD DONALDSON - The return on investment there is about 22%. Ken Schowalter reminds me that about 40% of the North Sea areas prospects have been leased and are being developed, and the question is why? Obviously the incentives are there. That's another major _____ that's kind of an interesting thing.

SENATOR HUBER - I wonder if it has anything to do, Madam Chairman, with the British Petroleum Oil Company being partly British crown financed and the terrible crunch that they have on the petroleum industry.

RICHARD DONALDSON - I can't answer that question. There are many companies developing the North Sea, some separately, and some in conjunction with each other. BP is active in it, but it is only one of several. As far as its relationships with the government here, it's an arm's length, and I have talked to some of the men who have been in those negotiations, and it's been very difficult and has taken a lot of patience, and they have worked out something that probably has led to this development. We haven't been able to quite accomplish that here, and that's what I'm hoping to work on in the next year. Thank you.

QUESTIONS AND ANSWERS IN TESTIMONY OF COMMISSIONER GALLAGHER, DEPARTMENT OF REVENUE FOR THE JOINT SENATE-HOUSE RESOURCES COMMITTEE MEETING ON OIL AND GAS TAXATION (24 MARCH 1977)

Senator Radar - Madame Chairman, Commissioner, your testimony on the pricing problems, state's position, governor's position, that we do need a maximum well-head or a maximum price to encourage further exploration and development. Aren't your bills which are calculated to persist for barrel and so and so forth as you say to protect the state against federal pricing manipulation or corporate manipulation, let's say take the federal pricing manipulation. Aren't you saying then that under one set of circumstances if the pricing goes bad which means that the companies have no incentive to develop further that we are going to add further burden to that disincentive by a cents per barrel floor so to speak so as to protect the state's revenues?

Commissioner Gallagher - If the federal government is so foolish as to lower the well-head value down to $4.30, I don't think the state should be any part, have any part of that policy.

Senator Radar - Well but then our policy makes it even more burdersome from the point of view of the further exploration or development of petroleum in the state because we revert to a cents per barrel floor so that the, the very policy that you are adopting here to protect our budget, and I understand why you are doing it, it is because you want to protect our budget, but it, if the course is completely inconsistent with

any state policy which would be to encourage for the petroleum development. If that happened.

Commissioner Gallagher - I don't agree with that Senator. One of the things that we've done to encourage petroleum development and one of the things we talked about in our testimony was about the marginal fields. Prudhoe Bay will be produced at $4.30.

Senator Radar - Well it would be produced at $2.00 maybe because it would minimize their losses, but if your talking about the excuse me, go ahead.

Commissioner Gallagher - But Kuparik and Lisburne will not be produced unless they receive substantial return because its an incremental decision. One of the things that we tried to address in our tax policy where these marginal fields they are one and two billion barrel marginal fields. The tax rate under our tax proposals, we would actually lower the taxes on those fields, in fact encourage further production in the state.

Senator Radar - Do you disagree with the a analysis that was presented by a, Mr. Ronaldson SOHIO here as to where are our tax, our total tax burden relates as against Louisiania, California, and Texas?

Commissioner Gallagher - Yes I do, in looking at some of those numbers, I and we haven't run all the numbers ourselves but it seems to me that they've mixed a few apples and oranges and got fruit salad and I can see alot of the numbers they say they are in constant dollars but the only way I can get to some of those

numbers is using current dollar basis.

Senator Radar - Well you agree though that such an analysis is rather important to us don't you?

Commissioner Gallagher - I would, I would, I agree that that analysis is important. We attempted to do that in this tax study but due to only getting two man years into the study, we didn't have time and it takes substantial amount of time to do that sort of study.

Senator Radar - But if that is an important decision, then the fact that we haven't completed that study, if you do take the issue with the a SOHIO approach and perhaps you are correct, I am not saying that you are not but, but you agree that that is important information in this decision making process. A and we disagree with it but we don't have one of our own. Wouldn't that argue that fact alone would argue in waiting until we have that information before we made that decision, wouldn't it?

Commissioner Gallagher - We could provide you with that information so next year, I think it is a real danger to sit around and wait while, let the federal government do things to us.

Senator Radar - Alright then, let me ask you this then. For purposes of balancing our budget this year, we could do that with your ad valorem tax, could we not?

Commissioner Gallagher - I believe, well lets put it this way.

Senator Radar - Go ahead, I was going to say we balanced it the last several years that way, and we could do it this year too, couldn't we?

Commissioner Gallagher - You mean the reserves tax?

Senator Radar - Reserves tax yes.

Commissioner Gallagher - I assume we could, I don't favor extending the reserves tax off into the future though. To me it's a bad policy, its a poor tax and I would like to see it die a natural death.

Senator Radar - But from the point of view of balancing your budget this year you could do it that way, as we have in the last couple of years.

Commissioner Gallagher - Well you could also by raising the cents per barrel to a free market value and also do the same thing.

Senator Radar - Yes, but here's our problem. Neither the state nor the industry knows what incentives or disincentives may occur because of the federal pricing, and yet you are suggesting that we make tax decisions in which we all agree that that federal pricing is very very important if we are at all concerned about the future attractiveness of Alaska as a investment for petroleum industry.

Commissioner Gallagher - Well, one of the things that we have tried to address in our, is our testimony has been directed in all these

hearings toward getting the maximum production out of Alaska. Our tax policy is also directed in that and it addresses these marginal fields.

Senator Radar - Well but, but if the federal government were so foolish as to pursue this policy that you said that we should not have participated in then your floors make it even more difficult as far as the petroleum industry is concerned or as far as the producing marginal wells in Alaska is concerned, isn't it?

Commissioner Gallagher - Well, if they were that foolish, I don't see why we should be a part of that foolish action.

Senator Radar - It seems to me like we are adding on to it and not detracting from their fool hardiness, if they are foolish.

Commissioner Gallagher - If you know, if they did do this there wouldn't be an incentive to developing another Prudhoe Bay, so you know.

Senator Radar - Well but we are adding to whatever, we are adding to the difficulties in the production of whatever fuel might be found by adopting the floors that you are talking about here. Are we not?

Commissioner Gallagher - Not necessarily you may find one down in the Cook Inlet with the free market value should be substantially

above that.

Senator Radar - No.

Commissioner Gallagher - Also the economic limit factor comes into play on these large fields.

Senator Radar - Let me ask you if we're talking about an industry who doesn't know the value that they are going to get from their product and isn't going to know until next year, then how do we develop a stable tax policy at this time, that is dependent upon that? It seems to me as though, and I don't have any answer except that you can balance your budget with the other method. And I also recognize the difficulties of the credits in the future, on that. But at least when we come back here a year from now, when we start talking about the profitability or the non-profitability or the incentives or disincentives, won't we be talking about something that we can relate to the real world at that time, that we can't relate to the real world now?

Commissioner Gallagher - I think our policies to the real world, that's what we are trying to address in fact, if the real world says you should price the energy supply at the alternative market, the alternative market may be $20.00 a barrel, the alternate energy supplies. The OPEC countries are actually being very nice to teh United States and not taken up the alternate energy supply cost. If you want to go to the real world we should maybe put our policies up at $20.00 a barrel.

Senator Radar - But we can't do that as a state.

Commissioner Gallagher - You could set a cents per barrel that was based on $20.00 which is the alternate energy cost. That's the real world.

Senator Radar - Well but that option isn't available to us, to tax at that rate, is it?

Commissioner Gallagher - Under a cents per barrel floor, of course it is. Also, Senator, the FEA may open the pricing decision every ninety days after 1/1/78 or there after. I really doubt that they are going to make a decision on April 15th. I think you will not see a decision until somewhere around June 1. I really expect them to wait and see what the tariffs are, the initial tariffs are before they make some sort of decision.

Senator Radar - That's all. Thank you Madame Chairman.

Senator Colletta - Commissioner do you have one of these in front of you?

Commissioner Gallagher - Yes, I do.

Senator Colletta - O.K., On page 2 and you know just for the purposes of conversation and let's assume that you develop your tax package with the governors' standards, as to what they should include, now I think my question could be simply answered in two steps. First if you do agree that the industry says that they have between fourteen

and 16% worth of return on this project.

Commissioner Gallagher - I don't agree with that, but other than that.

Senator Colletta - O.K. with the assumption then the new tax proposals increase the tax by what percent?

Commissioner Gallagher - About 18% over all five bills.

Senator Colletta - What will their profitability be now that's different between that 14 and 16 percent?

Commissioner Gallagher - I reject number one the 14 to 16 percent that has the risk, under the Mortaida Study they multiplied all the assets by 4 to get the risk factor that may be appropriate to do an exploration work but it may not be important in doing other sort of work, you know the development work. If you want to use the Tanziers 33% or 35%, I don't think that is going to make 1 or 2 percent difference.

Senator Colletta - Commissioner I think I am going to try it another way. But anyway, the governor said it must generate sufficient revenues not only to compensate the state for additional service costs, attending such development but also to provide a reasonable additional dividend to Alaska. Now I would suspect you have computed that dividend in there. Can you tell me what the dividend is?

Commissioner Gallagher - The dividend to Alaskans? Well let me take you through the Prudhoe Bay numbers and maybe, you know I can work it right off the top of my head. We can talk about the dividends to various people. If you had a million two barrels a day there is four hundred and thirty eight million barrels of oil produced each year, three hundred and sixty five times one two, have you got your slide rule with me, times four hundred and thirty eight million times seven dollars and fifty cents per barrel is right on about three billion two. Is that correct, somewhere in there, less one eighth which is our royalty share. So that brings it down to four hundred million, three point two gets down to two billion eight, and let's subtract off the operating costs for the field, about three hundred and fifty million, four hundred million, let's say four hundred million we'll up it fifty million over the estimates, and that makes it down to two four. And let's say the State of Alaska through it's severence taxes takes another four hundred million, that brings it down to two billion and lets say our income taxes in effect takes us down a hundred and eighty, another hundred and eighty million, that leaves a billion eight left to share between the federal government and the oil industry. And so you have, before tax, you have a billion eight on a three billion dollar investment. Lets say they have three billion dollars investment. That's a nice return for oil industry too. One point eight billion dollars pre-tax on three billion dollars is a nice rate of return. Now they might claim that they pay forty eight percent taxes, I, you can look at SOHIO'S last report that was shown in their annual report and they showed they had effective tax rate of under ten percent. One of the things that they

happen to have is about three billion dollars of carry forwards of investment credits that will cancel off, pretty well wipe out at least fifty percent of their tax liability for the next five years. And they all have substantial investment credits so they should have developed substantial investment credits to be carried forward for the next several years, so whatever the effective federal tax rate is, you know, let's say they do pay three hundred million dollars income tax they still get in a billion and a half return on a three billion dollar investment, that's a fifty percent return per year. That's, I would take that, any day.

Senator Colletta - O.K. now, you know, we lost the Chinese and now your gettin to me, I'm understanding the last part of what you said and that's the part that a you know, I still want to come back to, a all of these companies collectively it seems and most of these reports we read, range within a two to teen percent, at least all I've seen, with the exception of one that happened last year, that say that this thing will return to those investers somewhere between this fourteen and sixteen and are you working under the assumption that they have thirty-five to fifty?

Commissioner Gallagher - Well I just, I don't want to go in and talk Chinese because there's a large difference between a, between income you report to your shareholders and discounted in cash flow, because one of the cash flows is, you know discounted

at some high rate of return to lower the number and it isn't fair. But I just demonstrated for accounting purposes it would show a fifty percent at least a fifty percent return. Now a discount in cash flow would be substantially below that because those values are, are reduced through time, for the investment. The major difference between Mortiada's investment and the investment Tanzier, like I pointed out was that one uses a risk multiplier factor that multiplies the assests by four times instead of three billion dollars investemnt they had, they used a regular return on twelve billion dollars investment and that's how you got a sixteen percent rate on a twelve billion dollar investment and you know, my numbers there kind of match out.

Senator Colletta - O.K. Commissioner I've got one other area that I need clarified and that's item five the governor's policy statement that it must reduce uncertainity and encourage stable expectations about future resource tax and management policies. If infact these taxes did pass, would these be the last ones, would we be creating a stable future resource?

(GAP)

Commissioner Gallagher - a premarket price. Let's say Cook Inlet was priced at a premarket price. This tax would hit McCarthur River a a higher rate then it would Prudhoe Bay because it's actually more profitable. Now the East Trading Bay Unit which is decidely less profitable, it would tend to treat that fairly. What's comin into a play here is the cents per barrel floor. Yes, our written tax rate on East Trading Bay Unit is probably one third of what the cents per barrel floor should be. Now, that oil if we wanted to go after Cook Inlet it should be maybe priced at fifteen dollars

which is the price for Swede a 348 gravity on the west coast, we are only going to 7 1/2 because of Prudhoe Bay, so we are not being inconsistent, we are giving them a break.

Senator Colletta - Thank you Madame Chairman.

Senator Huber - Well, Senator Radar brought it up, I think that it's only fair to ask a ask of Sterling because we do need to get down to the nitty gritty of it. Sterling do you think that the Walter Leavy Associates have the best possible advice for the State of Alaska's interests, or do you think other economic consultants may have something to offer too?

Commissioner Gallagher - I've always appreciated the, I, of Dr. Mead, but you know there are consultants and there are consultants. They give you a good point of view Mead gives you a good point of view. I think there could be a whole series of people in that could give you worth while information.

Senator Huber - In other words you don't think we should base it all on one consultant.

Commissioner Gallagher - That's correct. I think you, you know, we have economists in the Department of Revenue, we should listen to those economists too.

Senator Huber - Obvious on the Walter Leavy Companys advice which we have been receiving quite heavily lately about removing the cents per barrel, do you disagree strongly on that?

Commissioner Gallagher - Absolutely.

Senator Huber - And do you, do the other consultants that you have hired agree with you on this?

Commissioner Gallagher - Of course they are hired by me.

Senator Huber - No some of them weren't hired by you. How about the other ones? How about the other ones on the cents per barrel?

Commissioner Gallagher - I don't know what Mead says. You know, he isn't here before you. I wish Tom Fink was here today, Madame Chairman.

George Silides - Commissioner a, I have a couple of easy ones and then a couple of little more difficult ones, I'll give you the hard ones first if I may. You've touched on them, but I will have to ask them again because I wasn't entirely sure on them and it's a matter of mechanics on the bills. It's been pointed out that the foreign income taxes constitute a large part of the pre-tax book income for international oil companies, and that these taxes are likely to decline sharply in the future as providing the producing governments take over and the companies become contractors and purchasers of crude from governments rather than from concessionares, and income tax payers. Now, the questions on that is, as you recall this was mentioned a couple of days ago, you touched on it again tonight. Now wouldn't this work to erode Alaska's tax base under the proposed legislation

that is your franchise tax? And wouldn't it work to erode the tax base more if companies would measure foreign operations, let me say that again, and wouldn't it work to erode to tax base more for companies with major foreign operations than for those with only small scale foreign operations?

Commissioner Gallagher - Well Let me say, talk a minute about where the shifting centers are in the world. It's true that I think, I believe, Saudia Arabia gives the companies nine cents for every barrel they raise after they pay for expenses. I think that's what Saudia Arabia gives. And those wells are fifteen thousand or twenty thousand barrel well days with nine cents goes up in a hurry. But alot of profit centers are shifted to other areas of the business. If you will look at the transportation business for integrated companies you might find the profit center is shifted there. Federal government has, may have a oil head put on price ceilings on the well head. They also have it on some refined products but not the whole barrel. Infact the lower end of the barrel is pretty well decontrolled and they receive whatever price they want. You know, all sorts of ends of the business you can transfer your profits to.

George Silides - I'll just take it for what you said Commissioner. Well let me ask you someting - -

Commissioner Gallagher - Infact you know, it's quite obvious to me that the federal government is trying to encourage the shifting of profit centers away from production into refining and sales.

George Silides - But don't think that the fact that the companies are taking their payment as in-kind as it were, does it make any difference in the, to your bill?

Mr. Messenger - I believe I remember the comment that Mr. Kilgore made earlier this week and to the extent that the difference between some of the differece between book income and federal tax would book income before taxes and federal taxable income to the extent that some of that difference represents a foreign taxes. If those foreign taxes reproduce that would reduce that difference between book incomeand federal taxable income I believe that there would still be a substantial difference between, still, between federal taxable income and it would be still, in our interest to adopt book income because there is still alot of other erosions from book income in the Internal Revenue Code Book.

George Silides - Well, I understand what you are saying Mr. Messenger but your answer is basically yes, that it does erode some if that happens.

Mr. Messenger - Yes, but it is still better in the federal tax reform.

George Silides - I see, Madame Chairman if I may ask the second question then, another question. Do you have any idea how much income your proposed legislation would apportion to Alaska as against what might be measured by separate accounting as proposed in the Senate Bill 105 for example, once Prudhoe Bay is in operation

that is if we, if incometax law really and truly represented the 9.4 percent tape.

Commissioner Gallagher - I think it should be essentially the same. We pick up some additional features though like the days in port like 50% of the income from the transportation subsiduaries assigned to Alaska and things like that. So I'm it's hard to compare it. Also ours would pick up the OCS.

George Silides - I see. Well in that regard Madame Chairman that brings up another question then. I notice that you mentioned the days in port and of course you were talking about, and you were mentioning also that brings to mind your ad valorem tax or your hardware tax. If you put a tax on the tankers aren't you increasing the cost of transportation, and if you are increasing the cost of transportation doesn't that lower the well-head price?

Commissioner Gallagher - Yea but, you only give up twenty cents on a dollar.

George Silides - What you are telling me is that the differential is what counts? Since we are on the hardware tax, there are some refineries a couple of refineries in at North Kenai and there is one going on up now, being built now in the North Pole, hardly can be termed world scale refineries, especially the one at the North Pole. If you tax these refineries who will be paying that tax in the long run? If we are trying to encourage a refinery say in the North Pole area to, so that the people in the interior can get the same price for oil, fuel oil as they do in Anchorage, aren't you giving with one hand and taking away with another?

Commissioner Gallagher - That's possible. Also they may be export refineries too.

George Silides - The North Pole an export refinery?

Commissioner Gallagher - Not the North Pole ones, obviously not.

George Silides - But the SOCAL one?

Commissioner Gallagher - I know some piloteers for it.

George Silides - The SOCAL one?

Commissioner Gallagher - Yea.

George Silides - Are they export?

George Silides - I'm just curious. And another question on hardware then, I'm presuming that the same answer you gave on the tankers (inaudible) tankers goes for the increase tax on the pipeline.

Commissioner Gallagher - The increase tax, there is no increase tax on the pipeline.

George Silides - Well, under your system there would be a greater take because - -

Commissioner Gallagher - No we're just trying to cure our court case.

George Silides - I see.

Commissioner Gallagher - We already think we have it.

George Silides - One final technical thing again Madame Chairman. Are you aware Commissioner that in addition to the Walter J. Leavy Associates finding a flaw in only part of your severence tax bill, did you know that the Research Division of Legislative Affairs Agency has also found essentially the same flaw?

Commissioner Gallagher - I don't, that is not a flaw. That is the cents per barrel for coming in and playing a part there. It works exactly like it is intended. Those fields that are, where the formula works out to be 50 percent of what the phenomenal rate should be, is in fact 50 percent.

George Silides - Well Commissioner, I'm just calling it to your attention so that you maybe can talk to Mr. Erickson because he feels like the Walter J. Leavy Associates does that the bill is not fulfilling the function that you designed it for and I'm only bringing it to your attention. I'm not in the position, I don't know enough about it to argue about it.

TESTIMONY OF MR. RICHARD KILGORE
OF WALTER J. LEVY CONSULTANTS CORP.
FOR THE JOINT SENATE AND HOUSE
RESOURCES COMMITTEE MEETING ON
OIL AND GAS TAXATION - MARCH 21, 1977

CHAIRMAN POLAND - We will bring the meeting of the Senate and House Resources Committee meetings to order. We have with us as our first witness this morning, our consultant from the firm of Walter J. Levy, Mr. Richard Kilgore. We have asked Mr. Kilgore to address us this morning on the net income tax bills and those closely associated thereto. We will break at 10:00 AM, and will resume again this afternoon at 1:30 PM.

For those who are sitting behind me, if you'll raise your hand so that Mr. Farleigh can notify me if you have a question, you will be recognized, and with that I'd like to welcome Mr. Kilgore back to Alaska and let him take over.

RICHARD KILGORE - Thank you Senator Poland. I think it is appropriate since I am the leadoff witness, that I present here this morning what I call an overview of tax legislation.

CHAIRMAN POLAND - Mr. Kilgore, for the record, would you identify yourself.

RICHARD KILGORE - Yes. I'm Richard Kilgore. I'm Director of Research for W. J. Levy, Consultants. I've been with the firm for about fourteen years.

What I'm going to attempt to do here this morning is to provide what we would call an overview. I'm not really going to go into very much detail about the individual pieces of legislation, at least the specific provisions of them, and concentrate more on the approaches, the alternatives, and so on. Most of my remarks will have to do with income taxation, but I also have some remarks on severance taxation if we have enough time; and I'd like to say a little bit in the end about a total tax package - total tax regime in Alaska because the whole thing is obviously more than a sum of these parts if it has to do with the impact of the total program.

I'd like to look at the major areas of taxation and really consider the alternatives presented to you because they are quite diverse, and give you our appreciation, really, of the major pros and cons this time of the major pieces of legislation, of the major approaches and the kinds of pros and cons, advantages and disadvantages which we think you legislators should be looking at and asking questions of witnesses as you go along. We will be available as I say, for specifics later.

As many of you may recall, our firm has been urging upon the legislature, for many years, that it review its corporate income tax, and especially to do this before Prudhoe Bay Production really comes on and you have major questions of taxation there. We have pointed out in the past, and I think it's fairly well known now the problems of apportionment under the present regulation, and I don't really think we have to get into that in detail. We ourselves did our own analysis of how the present system might work for Prudhoe Bay. Taking data submitted by SOHIO, in submission 1 at the request of the legislature, and very roughly what it turned up was that if one applies the present system, that is the three factor apportionment system with sales and property, and payroll, what you turn up in the way of income apportion to Alaska is roughly one quarter of what the producing income and the pipeline income would be. Saying that another way - if the present system were applied to Prudhoe, using as I say, data supplied by SOHIO, what you would get is an effective rate of taxation instead of something like 9.4% an effective rate of taxation, roughly a quarter of that, two to two and a half percent, so there are obviously problems with the present system, and as I say, I won't burden you with too much of that as I think by this time it's fairly well known by everyone.

Now, you at the present time have before you three different bills, basically two different approaches, but three different bills designed basically to deal with this problem of the inappropriateness of the present formula. The first is the bill submitted by the Governor, and this comes out of the work of Professors Zeifman and Ainsworth, and a report done by the Department of Revenue. This is SB 236, and HB 322. We basically feel that this is quite an imaginative and new approach, and involves basically two features: A change in the tax base, and a modification of the apportionment formula. I'll come back to that. Second, we have a bill on separate accounting introduced by the subcommittee on leasing and taxation, and third we have the net proceeds bill introduced again this year which reads to similar, and I guess even identical, to the net proceeds tax of last year. So we have three bills basically, I'm going to say, on two approaches, and lets look at some of the pros and cons of these. I should say at the outset that like many things in the field of taxation, no one approaches his ideal here, there's no magic answer to this that's going to come out, and one approach is not just going to stand out that is uniquely better than any other one. It's just not the case. So there's clearly room for debate, and for your careful look at these approaches. So first lets look at this Governor's bill coming out of the Zeifman and Ainsworth work.

Basically, as you see, there are two features to this legislation. One is a change in the tax base, and the second is a change, as I say, in the apportionment factors themselves. The present system as you probably know, uses federal taxable income. That's its base, and takes a portion of that federal taxable income. This new proposal involves a switch to book net income before income taxes as reported by oil companies to their stockholders. Now, there are certain clearcut advantages or pros for the State in this switch in tax base from taxable income to book net profits. First of all, figures are readily available from annual reports. This concept of income is reported by most companies or at least most of the major companies that will be operating as oil producers in Alaska. Second, as you will hear, I'm sure, from Professor Zeifman and from the Revenue Department, there are fewer so called erosions than in federal taxable income, that is under federal taxable income rules there are various kinds of generous accounting rules allowed to companies which works to reduce the amount of income on which they pay taxes, and you're fairly familiar with this too, I'm sure. Such things as intangible drilling expenses are under federal tax law, can be treated as expense items, not as capital items, and this involves large write-offs. The federal government allows accelerated depreciation and so on, and companies in their book accounting

rarely, if ever, expense intangibles or use accelerated. They use normal kinds of depreciation under normal accounting rules. So very clearly switching in this direction results in a higher tax base than federal taxable income, and this obviously throws up more income to the State of Alaska. But switching from taxable income to debt book income does have problems.. It is not without problems. I'll just enumerate a few of these. Later we can talk about these in more detail. Even within acceptable accounting principals there's a certain flexability, obviously, to companies in respect to how they report income, the kind of deduction and so on. Inventory gains and losses are often treated differently by companies, and they have some choice in this. Currency changes, how they are affected by currency changes, gains and losses, they are often treated differently by companies. Incidentally, some of these factors which resulted in different kinds of accounting don't always even show up in company annual reports. If they're not material, they may not even be stated within a company annual report. One would probably have to go beyond that, if one wanted to see the effect of these factors. There is also a certain amount of flexibility in accounting for write-offs. When does one realize a loss, if one has some sort of venture that is going bad, at what point do you write the thing off as a total loss? There is a certain amount of flexibility in this. Companies at times will use what is sometimes

called the "blood bath" approach to accounting. When things really go wrong, and you have a lot of losses, there is a tendency to just write it all off in one year, and take all the bad at one time. Of course, the company doing this, it would effect the tax base that Alaska would be looking to in this approach. But, I don't think any of these while they present problems in switching to book income are probably disabling. Revisions could also be a problem. Companies at times change accounting procedures, and will then revise their book income and various parts of this back through time, and this would cause problems also if one does this, if there's a later revision, do you then change your tax base, and so on. So this presents problems. I think perhaps, a more serious problem in going to pre-tax book income has to do with how one arrives at that. Now, normally pre-tax income, if you went to a company annual report, what you would do was take net income after taxes and add back all income tax payments, and that's apparently what is proposed here in this piece of legislation. That would include all income taxes including income taxes paid to foreign governments. This looks to us like it could really present problems, and it raises questions about what sort of a tax base you are really reaching when you look at pre-tax book net income. If you'll take the annual report of a company like EXXON which is going to be an operator in Prudhoe Bay, is going to be a producer there, also a company that has very large foreign operations and pays very large

foreign income taxes, it is very interesting to see what has happened in the past to those foreign income taxes, and then I would like to talk about what may happen in the future to foreign income taxes and how this might effect the tax base that you'd be using if you should go to net book income under your appropriate income tax.

If you look at the annual report of EXXON or any other oil company operating in the foreign field, what you will find is that over the past few years, and particularly the years '73 and '74, there was a very sharp buildup in foreign income tax payments. That is tax payments to foreign producing governments such as the Saudi-Aribs in Iran, and so on, and the result of this huge increase in foreign income tax payments this bid build up, as you all know, had to do with the increase in OPEC prices. OPEC dictated very substantially higher prices. These higher prices were obviously not intended to benefit the companies, but to benefit the producing governments themselves, and so what the producing governments did was take a large part of this income generated by the very much higher prices and tax it away from the oil companies in the term of income taxes. Some of it they called royalty, some of it they called income tax, but there was a very large income tax component to this, and this resulted in very large increases in foreign income tax payments

by oil companies. And, if Alaska had been on this system which involves using book income, what would have happened over these years is that Alaska would have benefited from a huge increase in pre-tax income from a company such as EXXON, and this would have resulted in large part. not after tax profits EXXON earned, but because of its income tax payments to foreign government. So Alaska, over this period, would have benefited from a very short run up in pre-tax income because of income tax payments by oil companies to foreign governments. It would have worked to the benefit of Alaska, had Alaska been on this system. But now, if we look ahead, we find the concession terms are changing in the middle east and elsewhere, and almost all foreign areas. Foreign governments have increasingly taken control of producing operations themselves. When the companies remain, they remain as producers and operators, but they serve in increasingly different roles. They serve as contractors, not as concessionaires, and under this new type of system, payments to the producing governments tend not to be in the form of income tax, they tend to be in terms of purchase of oil, purchase at market prices with the companies being compensated in terms of service fees for their continuing operations in these countries. So what is beginning to happen is these huge payments to foreign producing governments are increasingly not called income tax payments, they are called purchases,

purchases of oil from the Saudi Arabian State Oil Company for example, and already if you look at the annual report of a company like EXXON, you will see that we have a decline already in 1975, and I guess when the 1976 annual report of EXXON is out, you will find another decline in foreign income tax payments, so what had happened in foreign oil markets would have worked to the benefit of Alaska over the past few years, but now would be working in the ocher direction. That is EXXON may have a relatively constant after tax profit on its foreign producing operations in countries such as Saudi Arabia, but its pre-tax will be going down. Why? Because it won't be making income tax payments to the Saudi's or other foreign governments. It will be purchasing oil and this would effect the pre-tax profit. So you could have a declining base from this kind of thing.

Now, I dwelled at some length on this because it's interesting. What it demonstrates is that when you use this approach, you do have some problems, and you have things happening outside Alaska which effects the tax base that you are going to reach an apportion part of, but it's very much affected by the things that have nothing to do with profitability in Alaska. And this, I think, the foreign income tax things, are a good illustration, and they are an important one,

and that's why I spent some time with this. So under this kind of system you would have things effecting net book income that really have very little to do with Alaska, and this is something of a problem, and one doesn't know for the future how these various kinds of changes would effect it, and what I'm talking in foreign income taxes probably will work to the disadvantage of Alaska. Other things that we may know nothing about could work the other way. So moving to book income as a concept had truly some advantages. You'll have obviously a higher income that you are trying to take a part of, but it's not without problems. We can discuss those more at some later point. The second part of this approach has to do with a change in the apportionment formula. What has been suggested here in the legislation is changing from sales to extraction, and there are some very clear advantages to Alaska in this obviously. The extraction isn't oriented measured and is production measured in Alaska, and is obviously more appropriate than a measure such as sales where a large part of sales of crude oil in Alaska are not made within Alaska, but they are made without Alaska. So this kind of a move will clearly apportion more income to Alaska, and is certainly a step in the direction of higher appropriate income tax receipts for the State of Alaska. Now here again, although this step obviously works in the direction of favoring Alaska and higher income tax payments to the State,

there are technical problems as well that you should be aware of, and especially in foreign areas. Net production of companies is not always so easy to define, and net production as set out in the annual reports of the oil companies may not quite match Alaska's definition. The legislation before you does define net income in certain specified ways. The production figures that you get from the companies may not always match, and there may be problems of meeting your definitions, especially in foreign areas such as Indonesia, for example, where companies work under contracts. The concept of net production is not the same as the simple system where one has the simple royalty that one takes off, and it may be difficult to define what really is net production. What is production of a company? What is purchased oil? So that moving in this direction has some benefits for the State, but it obviously is not without problems.

In general, we feel that this approach, this one and rather novel new approach for the State has certain advantages. I sum these up by saying it will clearly increase Alaskan tax revenues. It works better in a sense, and why it does is quite obvious. Book income is higher than taxable income. Extraction is a better measure than sales, so you throw up more income to Alaska. If you throw up more income it

obviously means you are moving closer, hopefully, to getting something like 9.4% of what will be the producing income in Alaska. And although the administration end of it is not quite so simple as it looks, initially, and for some of the reasons that I've set out here, it obviously has some administrative advantages over other approaches. It is somewhat simpler, and this is certainly an advantage in this approach. Now the real basic disadvantage that we feel to this whole approach is that while it would get higher income apportioned in Alaska, one doesn't really know out of this system, how close one would get to true profitability. That is, how much income in Alaska and how close that is to what seems to be extensively profitability in Alaska. This is very difficult to know, very difficult to know how close it is. In total and company by company, it's difficult to know how the thing will actually work.

We ourselves tried a very simple approach to try to see how close it would come, and what we did, and anyone can do this, if one takes the annual reports to say, the three major companies that will be producing on Prudhoe Bay, ARCO, EXXON, and SOHIO, takes the latest data available for them, and that's the 1975 annual reports of these companies, (the 1976 one is not out), and then simply adds to that data for Prudhoe Bay, profitability, production, and so forth for Prudhoe Bay, and rather than make our own estimates

for that, again we turn to the data submitted by SOHIO, in SOHIO submission 1, so what we attempted to do was simply combine the data for Prudhoe Bay/Alyeska as contained in SOHIO submission 1, with the company's latest annual report data, and then attempted to see how this new approach would work that is using as our tax base pre-tax book income and then using a property factor, payroll factor and an extraction factor, and this is a very rough approximation obviously, but what happens when one does that, you find out that this apportionment formula does not apportion all the income that is assumed for Prudhoe Bay and Alyeska. It does not apportion it all, and more interesting than that, what you get is if you look at the three companies, just to see how three companies of this type would fare under this system, you get quite different results for the different companies. That is, some companies, at least one of the companies, you would get a fairly high porportion of the income earned in Alaska by this approach. From another company, you would get quite low percentage of it, so that one could, at least this little illustration suggests, that one could have companies with exactly similar operations in Alaska such as for example ARCO and EXXON, and get very different tax liabilities for the two companies, and we think this looks to be a potential disadvantage. You say this is only an illustration and one doesn't know what would be thrown out of this approach, but it does suggest

that what you may be getting in the way of apportion income and income tax payments may be off the mark of what profitability really is. So, we receive that as kind of the key draw back to this. You go in the right direction, but you don't know where you really are. Some people could be underpaying income taxes, other people could be overpaying, and how it would balance out to the State as a whole, it's difficult to say.

We would make this suggestion. If the legislature decides that this new approach in the bill submitted by the Governor is the approach it wants, and it might well because of ease of administration or whatever reasons that one chose this, we would suggest that perhaps the legislature might want to consider at the same time that it did this, that it ask or require of the Department of Revenue that it provide every year, estimates of profitability on oil and gas production within Alaska, perhaps with input from company, I don't know, but estimates by Revenue, the best estimates they can make and how much is made on oil production, pipelining or whatever in Alaska, so that the legislature can take this information, set it against the income tax receipts it's actually getting, and try to get some measure of how this thing is really working, that is how well is it achieving its goal of identifying income in Alaska.

Perhaps such reports could even have data by company not identified or something of this sort so that one could also, so that the legislature could evaluate over time how well it was working company by company. So that if you take this approach, we suggest that you might want to consider also getting some sort of information estimates out of the Department so that you would be in a position to evaluate in subsequent years how well it seems to be working.

Moving from this approach to a second and quite different approach to income taxation, take a look at direct accounting. Now, in principal of course, direct accounting is getting around some of these problems of apportionment. It's going directly at a measure of how much income there is from oil and gas operations in Alaska, so that in principal at least, if it can be done in a reasonable way, it does not suffer from the defects of this other approach. It is trying to measure directly what you really want to tax, in total in company by company, and we've always felt if it was legally possible to do this, and it were administratively possible to do this, this would seem to be the logical approach to taxation. Now, the problem as will be pointed out by many other people who will be testifying in here is that there are

problems of administration. There clearly are, and they are real. There are various problems of how one allocates expenses to Alaska, how does one look at and evaluate inter-affiliate sales, and things of this sort, corporate overhead and how much is allocated to Alaska, and so on. So that there are very real administrative problems to this approach, even though it is a more straight forward approach. It requires, on the part of tax administrator's rules, regulations, rather extensive ones, and obviously involves audit capabilities. One has to audit. There is a lot more auditing under this approach, and so on. And a lot, I think, has been said in the reports by the Department of Revenue and by Professors Zeifman and Ainsworth about these administrative problems. What we would urge the legislature to do though is really to try to weigh these very carefully. This is the major drawback, the administrative problems in this more direct more logical approach, weigh very carefully just what are the magnitude of these problems? How difficult are they to handle? How many people will be involved? How much money would have to be spent and so forth. How difficult is it really? And what seems to me the attempt you have to get some judgement as is to weigh whether the difficulties in administrating this thing are really worth the effort. It is a difficult thing, really, to assess, and I think that in assessing these kinds of things, one can't necessarily

look for parallels elsewhere or general problems of separate accounting or direct accounting in other states. I don't think you can put too much weight simply on the fact that companies sometimes favor separate accounting. I think when you're looking at the difficulties here, you've really got to look at the circumstances of the oil producing operations in Alaska and try to get some handle on this by looking at that, not by looking at parallels elsewhere. Try to assess _____ ask questions on how to assess, how difficult it would be for the oil producing industry in Alaska. That's what we're talking about.

I won't really spend much time on the net proceeds. It was an attempt last year, really, an indirect attempt at direct accounting by a separate oil and gas production tax. It based, although differing in some respects from separate accounting and from the separate accounting bill, it's basically the same approach as direct accounting. So I think if one is going the route of attempting directly to estimate or tax income in Alaska, one would worry about the differences between the net proceeds and the separate accounting tax, but more important, I think, are the two basic approaches to income taxation in Alaska, and what you're going to have to do is weigh very carefully the pros, cons, advantages and disadvantages of these two basic approaches to a problem inherent in the present corporate income tax

regime in Alaska as it applies to oil and gas production.

Chairman Poland, I had planned at this time to go on with some comments on severance tax. I don't know whether you would want to break for questions on corporate income taxation or go on.

CHAIRMAN POLAND - Do any members of the committee have any questions that they would like to ask Mr. Kilgore at this time?

SENATOR HUBER - Madam Chairman, I thought that Dick might want to make some comments on the data base which you gather by a net proceeds tax approach that you may not find available in the other ones. That's been a major consideration by Levy Company and Associates, helping to develop that particular item.

RICHARD KILGORE - Okay, this is one of the obvious. Looking at this and direct accounting, this is one of the aspects to it. And the net proceeds things, you are doing it on kind of a property by property basis. You are not aggregating everything as you might under certain separate accounting approaches, and having access to that kind of information

would be of use to the State, because it does give the State some feel for profitability of individual properties, ranges of profitabilities, what are cost value relationships in various fields, and so on. And that is of value obviously in designing or further modifying the tax regime in Alaska.

CHAIRMAN POLAND - Any questions? Very well, Mr. Kilgore. We will go on to the severance tax at this time then.

RICHARD KILGORE - I believe our firm is on record as saying that this really is an appropriate time to review your severance tax. We have major new production coming on in Prudhoe Bay, and this production which is obvious y quite different in character from that you have now in Cook Inlet. The second reason is that our office has been concerned for some time about the way the present tax works for Cook Inlet production receiving old oil prices. We've been concerned about this, and we think that the legislature should appropriately review this at this time. And I'll come back to that.

Now you have two bills - two severance taxation bills before you, but before I turn to the bills themselves, I would like to review with you certain principals we feel you should keep in mind in revieving severance

tax legislation. First of all, we've said this before, but I will say it again, severance tax is something that one, a tax which the State cannot really expect to continue to raise endlessly without running into serious problems because of the nature of the tax itself. The tax is a tax on gross value or it's affixed per barrel tax of some sort for unit tax. It does not directly take into account the cost of production, nor net profitability of production. Cost relationships between prices or values and cost can vary considerably amongst producing fields and areas, and where costs are very high, severance taxes, being gross taxes can seriously impinge on profitability and at the extreme they can even result in shutting down production. So, there really are limits on how far the State should think in terms of pushing up severance taxes because of the nature of the tax. We have always felt that as a rule of thought that Alaska severance tax should probably not go above the highest rate in other major producing states, and the highest rate in other producing states per comperable kinds of production, and I think this is probably still a reasonable rule, to keep a severance tax within bounds. Second, given the potential problems with a gross tax such as a severance tax, we have always urged some protection for lower productivity on higher cost wells. This kind of advice goes back to our first written report for the legislature back in January of 1970

where we urged a step schedule which the State later adopted, and your current law does have a step schedule, and does provide some protection for lower productivity wells. So that the two principals basically are not pushing severance tax, try to provide some protection for lower productivity, higher cost wells. Now, you have two bills before you at this time that in principal seems to follow these guidelines. One submitted by the Governor, and the other by the subcommittee on leasing and taxes. While each raises overall severance taxes, neither bill goes above an effective rate higher than Louisiana's 12 1/2 percent on oil. Basically, they are in line with our first guideline, and both of the bills attempt to deal with the problem of higher cost wells, but we feel with different degrees of effectiveness.

The tax subcommittee's bill is basically an extension of the current law. It adds higher well productivity brackets than you presently have, and for the higher well productivity brackets, puts in higher rates of taxation, and at the same time, that bill lowers the rate at the lower end of the brackets. That is lower productivity wells would pay lower taxes under this subcommittee's bill, and this is in line with our second principal.

Now the Governor's bill developed out of the recommendations of the Department of Revenue, introduces a new and rather novel approach. An economic limit factor which attempts to deal with the economic impact of severance tax on high cost wells, and what it does instead of having a step schedule, in a sense it has a continuous schedule, so that the nearer a well is to very low levels or to its economic limit, the less tax it pays. The further it is from that limit the higher it pays. And in principal, this is a very sound thing. But we have reservations about how this particular bill would work in practice. And it appears to us, that despite the intent of the bill, it could work in the direction, and probably would work in the direction of considerably higher taxes, for example, on various Cook Inlet wells in the low well productivity ranges. So despite its adherence to what we feel is a good principal, the way the bill was drafted, and the way it appears to work on our own calculation, it does not seem to achieve its aim. And I think this is something we can take up in more detail when we come to that, and we certainly would illustrate how this appears to work to us. So despite a good principal, it would appear to not meet that principal, and I would feel that is a problem with that particular bill. Despite a good attempt, it doesn't seem to work.

Now, the other thing of concern to us is that both of these severance tax bills which we have before us retain an escalating sense - _____ feature in them. That is, t of wellhead value is lower than a certain cents per barrel, it's the cents per barrel tax which has effect, whichever is higher a percentage of value or a cents per barrel. Now, this tends to work in a direction of putting a very high effective severance tax rate on Cook Inlet wells that are getting the old oil price. That is that price which is being held at low levels by the federal government. They pay a cents per barrel tax because that is higher than the percentage of value, and that cents per barrel tax works out to a very high percentage of the value of production, so this present tax and both of the taxes being proposed as alternatives have this feature. High effective rates of taxation on Cook Inlet wells have old oil prices. Not only that, but since they have escalation features in them, the present legislation and the two bills being proposed have escalating features, this gets worse over time. That is the cents per barrel tax goes up, and this feature of high effective rates of taxation for these wells continues. Incidentally, if you make your calculations, you will find out that the Cook Inlet wells producing and getting old oil prices and low productivity wells will pay a higher effective rate of taxation than will Prudhoe Bay wells, than very productive Prudhoe Bay wells under cents per barrel. And this feature would

get worse with escalation. We think the legislature should seriously consider, if not eliminating this feature, that is if not eliminating the cents per barrel, and you may not because this would result in some loss of tax revenues for the State. If you don't feel you can do that, you might want to consider at least putting a hault to further escalation in the cents per barrel tax, that this feature of the taxation, I don't think is really what was intended in the beginning just doesn't continue to get worse over time.

Now, I would like to conclude by saying a little bit about the total tax package in Alaska because I think you will be hearing a lot about this from many people, and while you obviously are going to be evaluating the merits of different approaches to corporate income taxes, the different approaches to severance taxes, you will also have to be concerned with the impact of the total package of oil and gas taxation in Alaska. Severance tax, corporate income tax, property taxes, and so on, the whole range.

Industry witnesses, I'm sure, are going to talk at some length about this, and it is obviously of special importance: The total tax package and how it effects the oil and gas industry is important along with sensible approaches to each part. You obviously do not want to

destroy the oil and gas industry in your state. Here it seems to us, there ought to be two basic considerations when you're looking at the sum of all taxes in the state. Obviously you don't want the sum of all taxes in the State on oil and gas to be really an extreme burden on profitability or the prospects for profitability on successful ventures here. You don't want to do violence to the economics of ongoing oil and gas producing operations. But this is a difficult thing to measure. What may be a larger tax burden in Alaska, while in one state versus another, really can't be considered simply in the absolute. That is how much cents per barrel in total is being paid, and what really matters, obviously, is how the total sum of all the taxes paid by the industry relate to their profitability. What may be greater total taxes in one state, in a more profitable environment may be less of a burden than lower seller taxes in other states. So it has to be considered against the background of what appears to be profitability, and the second principal, another obvious one, I guess, is that you obviously don't want a total tax system which put together really discourages ongoing exploration in your State and the development of your resources.

Now those are two very, very broad principals, and there really are no easy answers as to exactly how the sum total of the package of taxes in the State can be set against

these two, which we think are very important criteria. It is a difficult assessment really to make, and reasonable men can obviously differ in their assessments as to the effect of a total tax package.

In our role as consultants to the legislature, we will do our best to assist and advise you in what is, we think, a difficult task of assessing oil and gas tax legislation.

CHAIRMAN POLAND - Thank you Mr. Kilgore. I don't really think that we have time for questions right now. We will be going into session right away. The Senate has a very light calendar this morning, and what I had hoped to do was for us to come back at 11:00 AM and continue with any questions that we might have or discussions with Mr. Kilgore. This afternoon we will hear from Professor Zeifman and Professor Ainsworth at 1:30 PM. Senator Huber.

SENATOR HUBER - Yes. I'd like to ask that Mr. Kilgore look into a couple items before he comes back. I think most of us here have heard Dick or Milton at least 10 or 15 times criticize the cents per barrel floor that we have in our severance tax, and of course, what I'm looking for is something to replace it, so that we can listen to this, we know that _____ cause in certain cases some unfairness,

but we need something to replace it in case the percentage of wellhead value is eroded by either federal action or other economic factors to where we have the old "bugaboo" negative wellhead value or something that is approaching that, so we would need something to replace that as a floor if we're going to work on that particular area. I wanted, maybe, Dick to look into that and give us some recommendations in that area because it must appear to him like we completely ignore him when he talks on that subject.

RICHARD KILGORE - We have given some thought to this. What we are talking about is a floor which protects you in case the general price level goes down, but also one which does not impose this particular problem on old oil production in Cook Inlet. We have given some thought to this.

(Chairman Poland adjourned the meeting at 9:55 AM)

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TESTIMONY OF MR. RICHARD KILGORE
OF WALTER J. LEVY CONSULTANTS CORP.
FOR THE JOINT SENATE AND HOUSE
RESOURCES COMMITTEE MEETING ON
OIL AND GAS TAXATION - MARCH 22, 1977 (AM)

RICHARD KILGORE - I appreciate the opportunity of coming back so fast, and what I'd like to do is fire my remarks, really, to the corporate income tax issue and amplify on the very brief remarks I made yesterday morning, and also comment on what appeared to be some differences with other testimony yesterday. What I propose to do is review again in more detail, really, the pros and cons of the two basic approaches to income tax which are before you. I want to make it clear at the outset, though, that it is not our role here to advocate one approach or another. Basically, we see our role as giving you an appreciation of how we see the pros and cons, and advantages and disadvantages of these two approaches, what they seek to accomplish, how well they seem to accomplish the goals that they are intended for, and leaving it to you to make the final judgement. So I don't want my remarks to be construed as advocacy of either separate accounting or apportionment to modified apportionment approaches, and so on. I think, and I'd also really like to get down to basics on some of this, and I think maybe we lost some of the basics in some of the testimonies yesterday. I think it is important to appreciate at the outset that our concern here, my concern, your concern, is not really with how apportionment or separate accounting work in general in other

states for other industries and so on, what we are concerned with here is not with these approaches as general approaches to income taxation, but what we're talking about is their applicability to the oil and gas industry in Alaska. This is what we're talking about, and I think we have to keep this in mind. Not how well it works for other states, but why other people use it, and so on. If you will remember our original concern with the approach that you now have, the three factor approach that you now have with your income tax system didn't have anything to do with general worth, its general ability, and its general applicability. It had to do with how this thing specifically worked toward the oil and gas industry in Alaska, and this is how this whole question of reviewing your income tax came up, and it appeared to us, and we have testified many times, that the approach didn't seem to work very well for oil and gas operations in Alaska, that is in a portion, a very much smaller amount of income to Alaska than would appear to be earned by the oil and gas industry on producing operations and pipeline operations in Alaska. Now, if the oil and gas industry in Alaska were small scale, and I guess this really wouldn't matter, you probably wouldn't be very much concerned with it, and you probably also could view it as if it doesn't work for the oil industry, it probably works well for other industries, maybe for other industries it apportions more than you might expect, and so on if they wash out. But, as

you all know, the oil and gas industry will be by far the biggest income producing industry in Alaska as far as we all can see, so it obviously is of very considerable importance to you. It is important to you, I think, that you have a tax structure which gets you something like your 9.4% of what appears to be the profits generated by oil and gas operations in the State of Alaska, so we have to keep in mind, we're really talking about these two approaches very specifically in the context of oil and gas in Alaska, not as general approaches. Now, I noted the other day that Professor Zeifman argued against separate accounting at one point, and one of his arguments, I think repeated a number of times, was that a good reason for not adopting separate accounting was that no state has adopted it as a general approach to income taxation. This was an argument against separate accounting. Now, basically, I don't find that a very persuasive argument. First of all, we're not talking about other states, we're talking about Alaska, and we're not talking about general applicability to all industries, we're talking here about oil and gas, and I don't think anybody has suggested that the State of Alaska should adopt separate accounting as a general approach to income taxation in the State, and certainly the two bills before you, Senate Bill 105 on separate accounting, and Senate Bill 202 on net proceeds, both of these are clearly

intended to apply only to the oil and gas industry in Alaska, so I don't find this a very persuasive argument against separate accounting, and I think we have to keep this in mind. Conversely, just because a number of states use this three factor apportionment formula, I don't think it's a particularly persuasive reason for applying it in Alaska if it isn't appropriate to your oil and gas producing industry.

Now, I'd really like to get down to basics here. Starting off by considering what do we really mean by income in oil and gas operations in Alaska. Is it really so scrambled up by other activities of multi-national, multi-state enterprises that it just can't be unscrambled? Are we really talking about some kind of affliction which can never be put together and that we really just shouldn't bother with it? What is this income in Alaska that we're attempting to identify? Well, let's look first at what the industry does in Alaska. It comes to Alaska, it explores Alaska, hopefully finds oil or gas. It developes those resources, transports them to a point of export in the State, be it Valdez, Cook Inlet, or whatever - at least a bulk of the oil or gas does that, and then it moves into consumption in other states. Now it is true that a lot of this kind of activity and what goes on in this whole process does take place within the integrated scheme of operations of major oil companies. In fact, in many cases the final sale of the oil produced in your state

may not be a sale between third parties until it actually gets to the gasoline pump in California, for example, that may be the first point at which the sale is made, and the rest is within integrated operations. But what does this imply about income earned in Alaska? Is there a concept of income earned in Alaska, if this is the process by which a lot of your oil really moves. Well, I would put it to you that your oil when it leaves the State of Alaska does have a value. It will have a value, and it will have a value that's highly visable. We don't know what the FEA is going to do on the pricing of Prudhoe Bay oil, for example. But it may very well be that they will establish a value at Valdez for example. It may be that they will set a wellhead value. If they set a wellhead value, we can add on a pipeline charge, and we can have a value of oil as it leaves Alaska. So, basically, it's this value of oil leaving Alaska that is identifiable which is really the final revenues from producing oil and gas in this State. These are the revenues which you can identify as being earned by oil and gas producing operations in Alaska. Obviously when you are talking about a net income, you're talking about deducting various kinds of costs. Exploration development costs, pipeline costs, operating costs, amortization of capital costs and the like. The large number of these costs are incurred in the State and can be identified as incurred in the State.

Some of them are obviously some of the costs incurred to produce your oil. To get out of the State are the costs which are incurred elsewhere. Corporate overheads, obviously, a certain amount of corporate overhead time has to do with planning for the oil producing operations in Alaska. Some of the services which are provided to the operations in Alaska come from outside the State, and these are just some of the areas where accounting problems arise, but still these are within reason, identifiable also. So the income we're really talking about identifying in taxing is the value of the oil leaving the State of Alaska and an appropriate allowance for the various costs involved. Now the question for you, with your consideration of income tax, is which of these approaches really identifies income as we seem to see it and say that it is earned by the oil and gas industry by virtue of their operations up here. Which one is going to identify a portion of income which you apply your 9.4% tax. You'll get an appropriate tax on that income. Now, as I discussed yesterday, there are basically two approaches, and those are the approaches which are before you. One is apportionment, and this is where the approach is to look at the total income available, total income earned by a company, and try to work some fraction which gets applied to that total income, gets you income in Alaska. The other

approach is basically separate accounting which goes back to those revenues and cost categories that I discussed just a little while ago, and attempts directly to identify them and come up with income in Alaska, and the question is which of these seems to identify and work best that has come closest to identifying what would appear to be the true income on operations in Alaska, but not only that, taking into account also cost difficulties of tax administration, and that cannot be ignored. An approach which gives you the perfect answer and which is extremely costly or impossible to do in practice, obviously is not the kind of tax that you want.

Now, I'll start with apportionment. You have an apportionment formula in place in your tax laws today. You have Senate Bill 236, which is a modified version of an apportionment formula, but still an apportionment formula nonetheless, and the approach is to start, as I said, with total income of the company before taxes, under your present law, taxable income. This proposal suggests shifting it to book income, but nonetheless starting with the total income earned by an enterprise. The next step in apportionment, whether it be the one you have now or a new one, is to develop a fraction to apply to this total income in a corporation which hopefully when applied, brings back to Alaska an

appropriate amount of income. Now, you do that by taking factors that appear to be indicative of income generating activities, such things as properties, payrolls, sales and the like. These are things which indicate income producing activities are taking place, and what you do is you take ratios of these in the State to the total. Now, the question is does this really work? Does it correctly assign income to Alaska, or maybe _____ when does it work? When would this give you the kind of answer that you would hope to throw up? Well, it would work if roughly the same income is generated per unit of these income identifying factors in Alaska, as in Alaska and outside Alaska. These are the circumstances under which it appears to work. That is, just let's take one factor for a moment. Let's take property, if income is proportional to property in Alaska as it is elsewhere. That says in effect, if rates are returned the same in Alaska as they are elsewhere. If that's the case, and then you take the ratio of property in Alaska to the total, then you will allocate, and apply that to the total income of corporation, you will correctly bring into Alaska the amount of income that's earned there. That's if the ratio of income, in this case the property is the same inside Alaska as it is outside Alaska. And the same would go for the other factors. If you're looking at payrolls, if income to payrolls are the same in Alaska and outside, then this would be the correct factor for

allocating income in Alaska. Now, it's obvious, I guess, to anybody looking at any of these factors, it's unlikely that they will be identical in Alaska and outside Alaska. Rates of return aren't the same. You need fewer people and payrolls under some circumstances to generate income in Alaska and elsewhere, and so on. So that the apportion approach basically says factors are not perfectly going to be the same in Alaska and outside, and therefore work perfectly, so what do we do? We take a number of these factors. Three in this case and we average them, and hope that that will give us an overall fraction which will appropriately apportion income into Alaska when applied against the total income of a corporation operating here. It averages somewhat obviously better than any single one of these factors taken by itself. Now, the question is how well it really works even when you average these factors, and how much better will it work if you move from the factors that you have now, to an extraction factor. Professor Zeifman was asked in testimony yesterday, how well his approach would work in Prudhoe Bay and Alyeska. Now, his answer was that his approach would be more effective because it takes into account the whole picture. All the profitability of the corporation was the answer. In a more general vein he also said that in reviewing the disadvantages of separate accounting, in my review of the

disadvantages of separate accounting, I didn't mention the most important disadvantage of separate accounting, that is again that it didn't look at the whole pie, it didn't look at the total income of the corporation. So he was saying first of all that his approach would seem to work better for Prudhoe Bay and Alyeska because it looks at the total income of the corporation. And he also said this is one of the disadvantages to separate accounting. Now, it seems to us that looking at the whole pie, that is the whole income of the corporation, all of the income it generates everywhere, it in itself has no value, unless the apportionment you come up with that you apply to this whole pie, the fraction that you apply to it, really works to get the appropriate amount of income in Alaska. What we're saying is that simply looking at the whole pie, looking at the total _____ of the corporation in and of itself is no virtue. Its only virtue only works if the apportionment formula of the fraction you apply to it is appropriate and brings it in, and I think that's very important to appreciate, simply looking to the whole income of the corporation doesn't say that this is an appropriate appraoch of getting a lot of income as it were.

Now, you remember our analysis all along, with the present system you have looked at these factors and tried to come up with how appropriate they really were. We pointed out

that if you looked at the payroll factor, it was relatively _____. You have relatively few people on payrolls in the kind of functions that you will have in Alaska in the oil and gas industry. Very few payrolls for production for pipeline and so forth relative to the income generating, so we were critical of this particular fact. In sales, it's been pointed out are often zero in Alaska. Sales are made outside Alaska. Property, that to us appeared to be a better factor. That is, you have very heavy investment here in Alaska to generate the kind of income that you are going to generate, but our analysis said that property being a better factor couldn't make up for these other ones. Now, Senate Bill 236, this new approach, substitutes extraction for sale, and this is clearly an improvement. Oil production is a good measure of generation of income, and therefore it is a better factor. But the question remains, does even this modified apportionment formula do the job? Not just get more revenues, which it clearly will, and the other part of the approach is moving to book net income also will get more revenue, and it's not simply a question of does it get more revenue, does it really get the income apportioned to Alaska that is appropriate? This still remains the question. And this is what I said yesterday, the biggest drawback to the whole apportionment approach and even a modified apportionment approach as proposed

here, is that it is unclear how close you will come to true profitability through this approach. It's a very elusive and very uncertain thing, and it appears to us there's by no means a guarantee that this will happen, and this we see as the most serious drawback to this approach, and there are really two aspects to the question of whether appropriate income is apportioned to Alaska under this approach. One has to do with how much in total is apportioned to the State of Alaska. If you take each of the individual companies, apply this approach, apportion income to Alaska, sum it up, how close does that come to the overall profitability of the industry operating in Alaska, the profitability as I laid it out before. And the second question is, how does it work for individual companies. That is, we apportion use this approach for each individual company operating here. How close does the apportionment formula come to apportioning appropriate income to Alaska for individual companies. Does it work well for some companies, not well for other companies, and so on? If this is the case, that works unevenly amongst the companies, then you have a question of equity of taxation. So these are the two aspects that are important, and this is an uncertain thing and difficult to really try to come to grips with. How well would this thing do the job? Now, I stated yesterday that our office had done some illustrative analysis to try to get some handle on this question. We had been somewhat reluctant to put this

formally on the recrod and discuss with you a little bit about the results, what I saw as the major results that came out of this thing yesterday, but we were somewhat reluctant to lay out because there are a lot of caveats involved in what we did, and when you put this thing into the public record, it's often used without regard to the caveats which are very important, and we hate to see those get lost. I have been asked if we would put this formally into the record, and I'm going to do so now, and I would then like to discuss it with you including all the caveats and get those on the records. I would like to distribute this to you at this time and discuss it. I would like to spend some time on this. I hate to burden you too much, as I say, I want to make it clear in your own minds exactly what we have here and what we don't have. Now what we have done, we have labeled very carefully a hypothetical illustration. Because it is a hypothetical illustration, I would underscore that. It is a hypothetical illustration of this modified apportionment formula applied to book income which is the feature of this new legislation, and we've done it for three major Prudhoe Bay producers. Now, I would call your attention to the note first of all because this is important. The note says the calculations shown on the table above are not intended to represent projections of income that actually would be of portion to Alaska in 1978 for the three companies

if this new approach were taken. It is not that. Rather their calculations are meant to provide a rough illustration of how this approach might work for three Prudhoe Bay producers that vary in size and scope of overall operations, and even though these are identified as SOHIO, ARCO, and EXXON, and we use some of their data, it really is not meant so much that it is these companies, it is companies of these characteristics, and these are quite diverse companies as you know. EXXON is a huge international company. SOHIO has been basically limited to domestic activities with very little production so far, and ARCO being somewhere in between, so they are not meant to be really the companies. We have used their data just to illustrate what will happen with companies of different size. Now, what we've done in this illustration is on the first line to take from the 1975 annual reports of these companies, these are the latest available to us, the pre-tax net book income of these companies outside Alaska. We've just taken a pre-tax net book income, and since basically in these companies virtually everything is outside Alaska in those years anyway, we take this as the income outside Alaska, and this is data for 1975, and all we've then attempted to do is to graph on to this sort of a Prudhoe Bay operation. Now, we cast around for data to use for Prudhoe Bay, we considered making our own estimates, but we finally settled for some data that had been submitted by SOHIO to the legislature at the request of the legislature, and we reluctantly

used this. It was readily available, reluctant because when SOHIO put this information into the record, they did it with a lot of reservations, and we have the same reservations about it, and anybody looking at these numbers, I think, certainly should take it in the context of all the reservations that SOHIO had about their own data, and we apologize to SOHIO in a way for using it without a complete list of all their reservations.

SENATOR CROFT - Could I ask just one question in that regard? That was the information that was furnished by SOHIO, at the request of the committee was furnished to you?

RICHARD KILGORE - This is SOHIO submission 1.

SENATOR CROFT - To Greg Erickson, analyzing the corporate tax? So it was for that purpose.

RICHARD KILGORE - Yes. It was for that purpose, and they labeled it as hypothetical and so on, which it is, and I want you to understand that that's all that it is, and we appreciate their reservations about it, but we had to have something to give us an idea, something that we could graph upon to present data, and we simply and arbitrarily gave 50% of that to SOHIO and 25% each to the other two companies,

simply because that seems to be roughly their equities in this thing, and if we add that, we end up with a figure for total pre-tax income. This is obviously hypothetical, it has '75 data, it has what someone hypothetically says might go on in Prudhoe Bay in '75 _____purposes. Then, we attempted to apply the approach of Professor Zeifman to this. Looking at property factors where the numerator were the property factors used in the SOHIO thing. The denominator was property as we found it in the annual reports of the companies. Payroll, we just took an arbitrary 2%. It's arbitrary that makes relatively little difference to the analysis. The extraction factor, we took net production as assumed i SOHIO hypothetical illustration. We took as a denomina et production as it appeared in the annual reports o. the companies without worrying about whether net production was quite what was meant in this bill, and we averaged the factors for the companies. We then applied it to pre-tax book income which included other activities of companies and this hypothetical illustration for Prudhoe Bay. Divide the average of the three, which is the way this approach would work, and that gave us the income that would be apportioned to Alaska under these circumstances, and that's the second to the last line down there, and then what we did on the final line was

to take this income apportion to Alaska out of the theoretical model, but applying this new approach to this hypothetical model, and looked at what percent that was of the income assumed to have been earned on Prudhoe Bay and Alyeska operations above.

I think that the most striking thing that came out of this was the difference in the way the approach worked for the three companies. Again, three companies of these different characters. In the case of the EXXON type company, the approach came very close to apportioning what is assumed in the beginning was the income there. 650 up on the top. 625 apportion. So it worked very effectively for the EXXON type company in this particular situation. It worked much less effectively in the case of an ARCO type company with these sort of data. It added up to less than half, the income apportion to Alaska, than it was assumed to be earned there in the first place. And of course, in this simple model, EXXON and ARCO are earning the same money in Alaska, but the amount of income apportioned to Alaska under this mechanism are quite strikingly different. In fact in the ARCO type case it's about half. The SOHIO type company comes somewhere in between, and in total the approach allocates about two thirds of the total income from three companies in Alaska. I certainly wouldn't put too much stock in the two thirds, but I think the more striking thing is the differences that

get thrown up amongst the three companies here. Now, these are very _____ calculations, and things could very well change. I might point one thing out to you. What is striking in the case of the EXXON type corporation is that, as I say, it appears to be very effective in this case. And the question is, why? If you go to an addendum on the third page, it basically explains why this works in this particular instance for this type of a company. If you will recall, I said a while ago that if ratios of income to the various kinds of factors you use are the same within and without Alaska, then the approach works in general quite well. To take that a step further, the ratios of income to the various factors such as property or extraction are higher outside Alaska than they are inside Alaska, then the apportionment formula tends to favor Alaska. That is, it brings in more income than it should. If the ratio is higher in Alaska than outside, then these kinds of ratios work to the disadvantage of Alaska. Let me put it this way, if we look at a property factor for example, and within the State of Alaska, one earns whatever 20% on property (on assets) that's the rate of return. If it's 10% on operations outside Alaska, a lower rate of return, and you simply take the total income of the corporation then use the ratios of property to allocate to Alaska, you will not get the income to the State of Alaska that you should.

If the rates of return are higher in Alaska than they are elsewhere, then if you simply had a one factor apportionment formula, simply property, and that says that, say, 15% of the property is in Alaska, and you apply that to the total income, but the problem is that that 15%, what is it going to bring in? It's going to bring in average profitability to Alaska. An average of everything, and if Alaska is higher you're not going to bring in as much income as you should in effect. That is because what you're bringing in is average profitability if you do that. If you simply go with the ratios of property bringing in average profitability into Alaska, when in fact it's higher. And the other way around. If profitability is higher outside Alaska, higher say relative to property, and again you only have a one factor formula, and then you use the proportion of property, you bring in average profitability into Alaska, and in fact it's higher outside, so that you apportion more than you properly should. Now what this is getting to is why does this particular formula for these set of circumstances seem to work for an EXXON type corporation? Well, the answer is basically shown on the addendum. These, what we've done, if you'll look at the top panel, we've got the ratio of income pre-tax net book income to property in this model outside Alaska inside Alaska. Now, if you'll look at EXXON, it has a very much higher ratio of income to property outside Alaska than inside Alaska, Pre-tax income.

And, therefore, application of this formula for the EXXON type corporation is beneficial in the State of Alaska. It pulls in more income than it otherwise would. This very high ratio of 42.4 here, has the effect of favoring Alaska, and that's basically why you get the results that you have here. That's why it works better for the EXXON type than it does for other models that we have. Now, I want to tie back to something that I said the other day. If you look at the question of why does pre-tax net book income to property look so high for EXXON. Is it because it has really such profitable operations outside the United States? This would suggest then that on a pre-tax basis they make 42% return on their property. The answer is that this number, this ratio, is inflated by all those foreign income tax payments that I talked about the other day. EXXON works big international operations. In the year 1975 it payed tremendous amounts of income tax to foreign governments, and that inflated its pre-tax net book income. After tax it would look quite different, but we're talking pre-tax here. This is the way this thing works. So, that has inflated this figure, you get a very high figure. It happens to work to the advantage of the State of Alaska under this model. Now, as I said the other day, this is a particular aspect of this thing, pre-tax net book income including foreign income taxes that may not be the case in the future. These may very well dwindle. Income tax payments

probably will be replaced by purchases of oil, so that this high factor that's built in here with our particular model that happens to throw up a reasonable amount of income for income corporations, may not in the future, may not be this way in the future, but the fact that this EXXON type corporation, international corporation in this particular illustration ends up with an apportionment formula working correctly may not hold in the future. It's uncertain for a lot of reasons, including this particular income tax feature. If we went through this illustration five years from now, the results might be quite different here. In total, and I think amongst companies, I think really there is no way of knowing. Now, again, this is merely illustrative, nothing more. We've taken these three companies because they're quite different companies, they're quite different companies of the type that will be operating in Alaska. Their own income will be quite different obviously, but if you just grafted on the Prudhoe Bay Alyeska thing to this on some rough assumptions as profitability and investments and so on, this is the way it would appear to work, and all I submit is that it does raise questions about this approach and about its ability really to identify income. Clearly, the apportionment by picking another factor that takes up a higher amount of income, but that in the process of merely increasing the income, it creates some inequity, and if what you want to do is simply

increase the take, you ought to increase the rate, instead of tinkering with one of the factors to simply produce additional income.

RICHARD KILGORE - Of course, if you increase the rate, you have to increase the rate for other corporations.

SENATOR CROFT - Sure, then what you're saying is that Alaska operations themselves are not paying enough once you've isolated it. Then your solution to that problem is to increase the rate if you think you have to have more, rather than trying to increase one of the factors that go into determining what portion of the income is allocated to the State.

RICHARD KILGORE - Well, this might be one approach. If you're not willing to change the factors, you would be left with changing the tax base which has also been suggested, or you would be left with changing the rate.

SENATOR HUBER - I wish that Dick would discuss the pre-tax net book income on extraction because I want to ask him a question about the sales factor that it replaces. It looks to me like the sales factor that it replaces would be on the same side of the book as how he explained the income

from property up above to where Alaska would get more than its share, because we have less than a reasonable share of the world-wide sales.

RICHARD KILGORE - Well, accept that to the extent that sales are really zero. This may drop out of your thing all together.

SENATOR HUBER - You mean that doesn't work out because we have a multiplying factor, or a dividing factor of zero? I don't like these mathematics that don't work both ways.

REPRESENTATIVE MEEKINS - I'm just trying to figure out how this works. Is it, I might have it backwards, is it the ratio of whatever the factor is to income to the factor if it's higher than outside then.....

RICHARD KILGORE - Then it's to your disadvantage because you're bringing it in at the average.

SENATOR CROFT - In that regard, our best guess as far as Prudhoe Bay is concerned is that with regard to about 75% of the operations at Prudhoe Bay is going to work to our disadvantage. We're talking about 50% SOHIO, and 25% ARCO.

RICHARD KILGORE - Or in total, but as I said, I would not put any precision on these at all. In this particular model, what happens in total, you throw up about two thirds when

the companies combine.

If you'll just look at the illustration itself, you will see that total income apportioned to Alaska, the sum of the three companies is seventeen sixty. When in fact by definition they are earning 2.6, it's about two thirds, but I would not take that as indicative of how much this approach will really do. I think that the more important thing here is how it seems to work for the different companies, and also in a sense says, at least suggests, that for this particular model it also doesn't throw up all of the income as well in total.

REPRESENTATIVE MEEKINS - But you could get a rough estimation of how that's going to work by seeking out different companies and going with their finding what their ratios are in terms of the profitability of their Alaskan activity versus their average, and you could see whether or not you are losing or gaining the respect of that individual company, couldn't you in that respect if you knew clearly that the profits rates in Alaska were much greater than for those factors than their average world-wide, then you wouldn't know exactly how much, but you would know that we're not getting what's appropriate, and we're taking the average instead of the higher rate.

RICHARD KILGORE - It is possible to gather enough information to look around and see how it would work with various companies, but that's not really what I suggest that you do. This is, as I said, intended purely as an illustrative to demonstrate how it works under these particular set of circumstances assumed here, and again I would look very carefully at the notes to this and also to the note which sets out some caveats about this.

Now, this illustrates, I think, some of the potential problems and I think, at least I hope, focuses on the workings of this thing, so you can think about the workings of this approach. This was described, I think, in testimony yesterday, as fictional and I guess it is illustrative based on some real data, but it certainly is not intended to be a projection of what will happen or anything of that sort. It was described as fictional as opposed to some actual data that were used, tax return data that were used to develop this approach, and I would like to make at least a couple comments on some of the inferences that were drawn from those tax return data. For one thing, they were used to illustrate net book income if you'll remember exceeded taxable income for the companies and it certainly demonstrated that, and no one was surprised at that result. Now, the second thing though, is that what turned up in those tax return data is that for

companies for which you had both apportioned income and separate accounting if you'll remember, the former, that is the apportionment is always higher, it was positive, described as always positive, and the latter, separate accounting always zero or negative, and this was taken as evidence that separate accounting doesn't work. Now, I'd like to address myself to that problem. The question is why did you get this result. Why did apportionment give you positive, and in this case which is oil companies operating in the State, 14 of them I believe back in '73, '74, and '75 that you got this kind of result. It was said that Mr. Lipton was wrong when he guessed that perhaps the reason was that you had zero sales and therefore when you went to separate accounting you had zero sales and you started subtracting and so on, but it wasn't indicated what it is that really gives you this kind of result, and I think that it would be of considerable interest to you to find out why you got this kind of result. The explanation really was not given, and when I say it was said that zero sales were not the reason, zero sales in the sense that producers that were producing and selling would declare their sales at zero. That was a hypothesis that we had, apparently that's not it. I can only speculate, I would guess that in the years covered what happened was that there were companies operating in Alaska and spending

money on payrolls, they have some office space, property, exploration, money, geophysical work maybe, bonuses, I think that bonuses were paid and the like, and there must have been such companies that had little or no revenue that were not gaining revenue out of production in Prudhoe Bay, and for these companies they would in fact be running losses. That is they would have no income. Not a question of your producing, but selling outside the State, simply that they don't have any income. Now, if they don't have any income, no revenues incurring these various expenses, they would run losses and separate accounting would certainly show them with losses, but I don't think if this is the explanation, and if it's not I think we'd like to know. If this is the explanation, I think one doesn't go from that to assume that separate accounting always ends up with no income or negative income, clearly if you apply accounting to the producers on Prudhoe Bay, they will not throw up no income. I would also point out the results which said separate accounting negative apportionment positive, why does that happen? Well that happens probably because these companies had payrolls in Alaska. People were here, and they were getting interested in the search here, and so forth, so you threw up some positive income by apportionment. You had some payroll, you had some property and so on. And you throw up positive income, but I think you have to ask the question of whether

this is really what you intend to do if we have companies operating in Alaska at losses because they haven't found any oil, haven't generated any income, do you really want to apportion income to them in Alaska and tax them on it? Should they pay income taxes when in fact they have no income in Alaska?

CHAIRMAN POLAND - Mr. Kilgore, I'm afraid we're going to have to break now. Our schedule this afternoon is 1:30 PM at the Supreme Court Room again, and we only have one individual scheduled to speak this afternoon, and that's the gentleman from British Petroleum, so possibly when he's through, we can resume the rest of this discussion with you. Thank you very much.

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TESTIMONY OF RICHARD KILGORE
DIRECTOR OF RESEARCH FOR
W.J. LEVY CONSULTANTS

RICHARD KILGORE - I am trying hard not to take it as a reflection of my testimony that every time I testify fewer people seem to show up, but this is a Saturday morning and its not quite like the middle of the week. My opening remarks, if you recall, were, try to present some overview of the various types of taxation on the issues and principals of oil and gas taxation. My second testimony before Senate Resources, and in the afternoon before the two committees, tried to elaborate and sharpen the pros and cons in approaches to income taxation, that is the apportionment verses seperate and direct accounting. Now today, I would like to provide you with our comments on the specifics on the bills before you, and also take the opportunity to address some of the issues raised by other testimony you have heard. And I would like to start again with the income tax. Before I get to the specifics there, I would like to discuss very briefly, some of the broad questions raised by industry spokesmen, in which they say that any deviation from the present three factor proportionate formula raises the potential for double or multiple taxation. I think this point was reaised by every one of the oil campany spokesmen. I want to make it clear that if all states used the three factor proportionate formula only, then the total income of the companies is apportioned to all the states and the sum of the tax basis in the individual states will add up to the corporations total income, and the deviations,

either by different factors such as the (Eathen, Ainsworth approach?) as substituding abstraction or going to book income or going to some sort cf seperate accounting approach does tend to work in the direction of raising the tax basis of states that do that and has the tendency of each of the states in their own approach to taxation identifying a tax base which when added up on total would be somewhat more than the total income of the corporation. I think there can be no denying this, taking either of these two approaches, does raise the potential for double taxation. This is clear, but against this Alaska has to be concerned with how the apportionment works for the State itself, and how, not simply how the system works in broad for the companies and equidy for the companies, but how it works for the State of Alaska and what sort of income is thrown up for the State of Alaska, it can't ignore this either. The State, looking at its own situation, I think in many respects does have a unique situation to look at, in many respects Alaska is unique and the taxation of oil and gas in Alaska in itself is unique. As I don't really have to tell you, oil and gas is far in the way, the largest industry and will be the largest income producing industry in Alaska. Alaska also does not have other industry, much in the way of other industry other than oil and gas it does not have major, it does not have agriculture on any kind of major scale as do other states, so many other states with a broader economic base can afford to have apportionment formulas

which they work well for some industries, not so well though for others and so forth, they tend to more average out than certainly they would for the State of Alaska. Another unique feature of Alaska's situation is its oil and gas industry is largely extractive and transportation ends of the business, Alaska does not have major refineries as do other states such as California, Louisiana, and Texas. It does not have major mardeting because it has limited markets on it because of its limited population, so it does not have major investments in mardeting and alike as other states do. So without refining, without marketing, head offices are not located here and so on, it does not have many of these factors which in other states have helped the apportionment formula work for the states. That is where you have all of these other activities, one tends to have larger payrolls, there are larger numbers employed in these other functions tends to apportion income to those states. It does not have major sales within the state and so on. So this also makes Alaska's situation unique and as we have said many times, it tends ti make the three factor a-portionment formula not particulary effective for Alaska. So on the one hand, the industry's argument is certainly a legitimate one and they have every right to be concerned about totential for double taxation and I think, beyond that, the potential that if you adopt this sort of a system that other states may somehow follow you and if this happens to them they more and more run the risk that the sum of the tax basis in all the states exceed their own income and this is a very legitimate concern of theirs. On the other hand, you do have these unique features of the oil and gas industry in Alaska that I have just memtioned. This means that Alaska really has to weigh its own unique

circumstances against the violence done to the principal of uniformity and the potential for double taxation, if you alter your income tax, you must appreciate what you are doing and what you are doing to the companies, you have got to attempt to assess, at least broadly what it really does mean to the company it violates the principal clearly, but what does it mean in terms or dolars and cents of the potential for double taxation in those terms and I think in that respect, some of the questioning of Senator Croft yesterday was along those lines and I think you probably also should pursue this somewhat more. You have to admit what you are doing, it would work in this direction but you have to get some appreciation of exactly what that does to oil companies. And I think in that respect if you are looking at that, I think, it is relevent that the oil industry is not taxed in all states, there are some states that do not have a corporate income tax and I think it is also relevent that the tax rate in other states is often lower than it is in Alaska. So if you are looking at the double taxation issue, I think this is relevent because it bears on how much are they really hurt by this kind of double taxation fort of thing which other approaches imply. And I think you have also been concerned, to some extent, that what you do would set a precedent for other states and, this is a legitimate concern of the industry, I don't know any other situation, at least I can't think of any other situations which what you are doing would immediately trigger something by some other state, but still the potential for that happening is there. So I think its very important for you to appreciate that what is being said is correct, you have your own interest, and if you are going to go this approach, that you appreciate what you are doing and try to get some feel for what it really means to the

companies. Now I would like to move on to some specifics on the bills before you, the income tax bills, and I would like to start with Senate Bill 236, and House Bill 322. This is the so-called corporate franchise tax and it is a modified apportionment formula. Now, here we really don't have comments on the bill itself and the way its drafted, it is, as far as we can see, a well drafted bill, does what it is intended to do, and I think in the respect of this bill the questions we have on the bill really have to do with the effectiveness of the approach and not really the specifics in the bill. It seems to do what it intends to do and the question in mind is, how effective is the approach this bill is attempting to use, so I really won't have any line-by-line comments on that, but I will on H.B. 105, excuse me, S.B. 105, H.B. 145, somehow I seem to have misplaced that one. Yes, Senate Bill 105. I would first like to call attention to, on page 1, line 18, to the intent of this bill, the intent of the bill seems to be, have to do with the determination for tax liability on production and pipeline activities, it addresses itself to these activities and in fact, uses the work "activities", it is not a tax on an entity, its tax on activities, now this approach would presumably differ from a net proceeds approach which taxes income form well or field or this kind of thing. This is presumably looking at these particular activities, that is oil and gas production activities and oil and gas transportation activities. And this is what the intent states, but when I am going to come to later sections and discuss those, I think it looks to us as when you go into the sections of the bill, which involve the calculation of the tax it doesn't really seem to be consistent with the intent to tax activities which is stated in the beginning, and I will ella-

borate on that when I come to it. I would also point out on page 1, line 28, that when it comes to taxing oil and gas transportation, like pipeline, this bill refers only to crude oil or natural gas by pipeline, the wording of the bill very specifically excludes products pipelines in the state and you have a products pipeline coming on soon I believe, I don't know whether this was the intent of the bill, I just want to point it out to you but this particular piece of legislation specifically excludes products pipelines and I question whether this was deliberate or not, I think you ought to consider that. Moving on to page 2, line 24, these are the costs that could be deducted under this bill. It has costs, including the cost of gathering, gathering is used there. Now, the point I want to make on the use of the words "cost of Gathering" is that these costs of gathering may very well be beyond the well head. This is a bill which takes well head value as the income and starts deducting cost, gathering cost may be beyond the well head in which they don't, in this case if they are beyond the well head they do not go to build up the well head value, but in fact, rather serve to reduce the well head value, so in effect if you take this treatment of using gathering costs as a deduction and these gathering costs are beyond the well head, in fact what you are doing seems to be allowing a double deduction, double deduction.

QUESTION- Thinking that the tax is placed at well head, and these are beyond the well head so its a bouble deduction.

KILGORE - It is a double deduction, right, it could be a double deduction, in fact I don't know how it is going to work on Prudhoe Bay, but the gathering could in many areas trump lines that also are the gatherers, it could be in this case that Alyeska pipeline would be the gatherer and you would be taxing them under this bill then you would also be allowing against oil and gas production a gathering

charge or a gathering cost so I think you ought to, this is something that needs to be cleared up, if it is gathering, maybe it should very specifically say, "gathering before the well head" or something of this sort. Your wording should establish some kind of consillience between the value in the producing function and the value of the activities in the transportation function beyond that. My next comments are on page 3, line 1, again we are talking about expences that can be deducted when it talks about lease acquisitions payments on the well head, lease acquisition payments, property taxes paid before the production on the lease holds, so what we are talking about are lease acpuisition payment on the lease holds, now we are going to underscore on the lease hold. Now its not clear to us with this kind of wording whether this is ment to be restrictive so that the deduction for these kinds of costs are restricted to producing lease holds, or is this generally an applicable feature of the law, that is when we use a word on the lease hold does that mean we are confining deduction ofthose costs specifically to income from that lease hold or is it more generally deductable. This sort of problem I think runs all the way through here and this particular section looks to us as if it might be intended to be restricted, that is restrict the income against which these acquisition costs could be written. Especially if you look at this in the content of section 7, a little further below it appears to us that this may be the intent. And that same problem comes up on the same page 3, on line 9, where we have associated with a lease hold, another case we have "field" in this particular wording here and, I t ink in another section there's the use of the word "property". Now, if these different words are used in here, I think that it ought to be made clear that there

is a intended destinction amongst these various things, I am going to come later, to a more general approach to this, where one really wouldn't really need these kinds of words and this seems to imply to us that there is some destinction between these and therefore, there is some restriction against, restriction on what income various kins of catagories acrossed here can be written off. In general, the wording of this whole section here on deductions really seems to be closer to us to a net proceeds tax than it is what we would call a seperate accounting apprcach. The wording here would seem to imply that to us if it doesn't mean that I thank the wording ought to be changed, it ought to be very clear against which income you can deduct, your various expences. For example, it is not clear to us in the wording of this bill how a producer who has income, say in Prudhoe Bay, has made another oil discovery and he is in the process of developing that discovery, putting in producing wells and the like, it is not clear under this bill, to us, how he could handle those development costs, would be able to, if he had to capitalize it, could he start writing them off immediately against his Prudhoe Bay income or his other income, or would he have to capitalize those and wait to deduct some sort of, that capitalized cost until he had production from this other new field that he has, so its not clear to us what is really intended in this bill, is it really a seperate accounting approach or is it something closer to a net proceeds. This raises the question of what should be your basic approach. Now if what is intended here is really seperate accounting, under an income tax and not a seperate kind of tax as a net proceeds was, we would think a more appropriate way would be really, to consolidate all the exploration, development and production

revenues and costs anywhere in the State. That is one would take revenues where ever they were from oil production or production of oil and gas in the State, and then be allowed to deduct all expences having to do with the activity of exploring, development, producing oil and gas, and this ould mean allowing the expencing of dry wholes here agains income there or development costs, amortization of development costs as against your income elsewhere, and we think if this is really an income tax approach, this makes more since really than an attempt to narrowly link expenditures with producing income from specific fields, even if you then allow some sort of write-off for losses and so on. We think it makes more since to go a more consolidated approach and it does not appear to us that the working nearly does that. Moving on to page 3, down on line 24, this is where we get into the determination of pipeling transportation income, the first section of this has to do with pipelines that, operating solely in interstate commerce and in this case subject to ICC regulations. Now what the bill sets as taxible income under those situations is 8% comes from, ICC said that one can set tariffs no higher than that level which would result in a 8% return on valuation of the pipeline, thats where this comes from, and seems to be an attempt to get that income. Well, first of all there would appear to be a technical flaw if this is the intention of the bill, to tax from the basis of ICC income. If you may recall, the ICC 8% allowable return on pipeline valuation is 8% after tax, <u>that is after income taxes</u>, after the deduction of all income taxes,. including federal income tax, therefore, if this tax were operative and you were taxing at 8% of the valuation of the pipeline, you would be taxing 8% of <u>after tax</u> income, not before tax, and I don't

think that was the intent of this bill. All your other sorts of taxes are always on before tax income, your present tax law starts with taxable income, federal taxable income, well, this is before the deduction of federal income taxes and this is after the deduction of federal income taxes, a very much smaller tax base, and I don't think your intent ever was to tax after the federal income tax was already deducted. So I think this was probably just a technical problem here I don't believe it was really an intent to tax after tax income rather than before tax, and if the intent is to really do this, that is tax assentually on a ICC basis this is what you would obviously have to do I think.is to take 8% after tax, add back the federal income tax, gross it up to a pretax concept. Again I think this is just a technical matter, I don't think this was the intent.

SEN. HUBER - I think, I wish Chancy were here, I think it was their intent to tax it after, if that was their intent, would you have any comments that would apply to it?

KILGORE - Well, I don't really know what the prupose of it would be, your general principal of taxation in most cases for corporations taxes in states is to tax on a taxable income basis before deduction of federal income taxes. And it seems to me, you are kind of restricting yourself to roughly half what kind of tax base you normally would try to reach.

SEN. HUBER - If the intent was to tax after, would this have the effact of not allowing it to be put into the base in such a manner that it would decrease the value of the oil? In other words, the value of Alaska's oil would decreace by the transportation charges and the profits on the transportation. They may have been aiming at that particular item.

KILGORE - Sentor Huber, I don't see how it would work that way because no matter, what ever state taxes you impose on the pipeline I don't care whether they are on a before tax, after tax, or property or whatever basis, they are going to be a liable deducation under ICC rule making. Going to a lower base and taxing less will not, it will still be a deduction obviously, it will be a lower deduction, but if thats purely your aim, you can not tax them at all if you want to get the well haired by that, if thats what you really have in mind. I think this is, you can talk to the people who wrote this but I think this is an oversite. This is a technical matter, I want to point it out because I suspect it was not the intent, but we also feel that this method of taxation has problems anyway it is clearly tax on deemed income, it does not look at the actual revenue of the pipeline, it does not look at the individual costs incured by the pipeline, its deed, and it may very well not accord with the income actually earned by the pipeline. That is even if the pipeline, a Alyeska pipeline is setting tariffs in line with ICC rule making trying to get the maximum 8% there is no assurance in any one year that they will in fact earn 8% on valuation obviously, you don't know exactly what your costs are you don't know what the values are going to be and so forth, so what you do is set a tariff which would appear on a projected basis we will try to get your 8% valuation, there is no assurance from year to year that you may in fact earn income greater than 8% of valuation or less than 8% on valuation, there is just no knowg exactly what sort of results you will get, and so certainly the ICC itself does not intend that exactly 8% is earned every quarter every year and so on, its just an impossible thing, it just can't happen, infact if youlook at the ICC records,

you will see thats clearly the case, not every pipeline is earning exactly 8% from year to year. So we think the real problem with taxing on a deed basis an aproach which looks at the actual revenue and expenditures of the pipeline, one of the other whitnesses yeasterday asked if this was in fact legal to do it on a deen basis,we don't know the answer to that but it may very well be legal questions with this, there are also questions with equity, taxing in a dean basis rather than an actual basis.

Sen. Huber- it it possible then that they just intended to use the lower base so it would be effectivly about 4% insteat of 8%, is that possible

Kilgore- thats possible, that would be . .

Sen. Huber - cause I can see what they are trying to get to, if you have to tax these oil pipelines in accordance with persentage of interest, mobile oil pipelines all over the country areall worked into the company and you get that scrambled egg that you can't un-scrambly, and I bhink they were problaly willing to take a smaller persentage right off of the interstate Alaska line at a point where tthey would get it ratherthan unscrambling that egg., I think thats the attempt.

KILGOR_- Senator Huber, it is my understanding that out of some underlegislatalon you passed in past session that the companies will be providing you withan accounting of Aleyeska pipeline, unscrambled from the rest of their pipeline oppcations. That is my recolection, and the pipeline regulatory bill, this is one of the provision and one that was not taken out laterthat the companies will infact provide you withrevenues, costs for Aseyeska pipeline

HUBER- again, this wasn't something that I helped draft, but I believe you to know information is to be provided the mechanisms

in our income tax law for unscrambling it and getting to the income of the pipeline just from Alaska are considered to be unyielding or don't exist. I think that's where the egg scramble is. I think that's what we've got here. It just may help in you telling us how to do it. I wish Chancy was here again, as I say. Is he coming back Madam Chairman?

CHAIRMAN POLAND - No.

SENATOR HUBER - He won't be back this morning. I had counted on him being here, he said he was going to..

CHAIRMAN POLAND - He's at a finance meeting.

SENATOR HUBER - The reason is because the bills that he's talking about now by the subcommittee, Chancy and Greg are the people that can really help us on them, and they should be here.

CHAIRMAN POLAND - Well, don't tell me Senator Huber, tell him.

SENATOR HUBER - Well, I can't tell another Senator what to do, but I'd really counted on him being here. It's too late now. We could have Greg and we'd be getting more information.

CHAIRMAN POLAND - I don't know why Greg isn't here. Let's go on anyway.

RICHARD KILGORE - Well, some of the intent of this section, I think, becomes clearer when you get to later sections about the Alaska Pipeline. I would like to point out though, that this taxing on this basis of inter-state pipeline at the 8% also really doesn't give them much of any incentive, no incentive really to lower their tarrifs if they're really interested in doing it. What is being taxed at that full 8% and you go to a lower tarrif, you don't even get any income tax benefit for doing that, so I'd like to point that out.

SENATOR HUBER - And even if you taxed it at half of that, it would be the same kind of incentive situation.

RICHARD KILGORE - Yeah, there just is no incentive to do that. You're going to pay on that regardless of what you do, unless you go to the other section of the bill that follows a little further on, which appears to be an attempt to strengthen the Alaska Pipeline Commission. That's a section just a little bit further on. Now, we basically wonder whether this is really necessary that one would try to force people through your income tax legislation to accept rules and regulations, and so on, of the Alaska Pipeline Commission through an income tax approach. I think we should also point out that under this

bill if a company, pipeline company, wishes to set tarrifs, say, lower than what would give him 8% on valuation, in fact, he may very well want to set tarrifs along the line established by the Alaska Pipeline Commission, but he may not want to go as far as the section here that says that he has to abide by all the rules and regulations of the Alaska Pipeline Commission. He may not want to go that far, but he may be willing to set tarrifs along the lines that the Alaska Pipeline Commission feels are appropriate, and he'll still be taxed at the 8%. He has to go all the way in order to have his income calculated in another way along the lines of the Alaska Pipeline Commission, and we really question whether this is the proper vehicle for trying to strengthen the Commission. We think there's a question also on the bottom of Page 3, where there's no ICC valuation where companies engage at least partially in intra-state commerce, and then it talks about he can have his taxes assessed on the basis of the Alaska Pipeline Commission assessment of income, and it's not clear to us from the wording here whether, what this means. Does this mean the rules of the Alaska Pipeline Commission as applied to the total operations of this pipeline which is both an inter-state and intra-state commerce, or does it only mean that part of the business of the pipeline which is purely intra-state. I suspect the intent means all. The Alaska Pipeline Commission rules and assessments of income as applied to the total business of the pipeline, but it's not entirely clear to us that this section says that.

As I said before, when you come to Page 4, Line 14 where the election, there is an election, it may very well be that companies are willing to set tarrifs more in line with what Alaskan's deem are appropriate, but still be reluctant to subject themselves to all regulations and so forth, provisions of the Commission. A minor technical problem on Page 4, Line 21, where we're talking about taxation of gas pipelines, this has to do with income along procedures established by the Federal Power Commission. I think it would work out very well to say Federal Power Commission or Assessor because as you may know there are, President Carter has proposed a reorganization of our energy, various energy agencies in the United States, including a Department of Energy which would include in it the Federal Power Commission, so it may very well be subsumed under something else, so I think it should say that. Now, our feeling is that if you're going to go the separate accounting route, I think you ought to consider carefully, rather than these sort of provisions that appear here, a more straightforward kind of separate accounting approach for oil pipelines. As I said before, it is our understanding that all the revenues and costs of the Alyeska Pipeline will be made available to the State, that is they will not be hidden in all the other pipeline operations of the companies in the lower '48, which would have been the case without your own provisions for them, but you will, it is our understanding, get the information, and it would seem to us a more straight-

forward approach to take these data and assess what the income is of the pipeline. One may want to take the information given and change depreciation rates or something of this sort. You may not want to use the same ones that the ICC does, as would be given to you by the companies, but you would have information to make a straight-forward accounting of the pipeline, if you desire to go the separate accounting route, and if you do, we would urge that you look carefully at that rather than these sorts of provisions here.

On Page 5 we have a section for the determination of income from other activities, that is from activities other than the oil and gas production and transportation, which you dealt with on the separate accounting basis, and what it amounts to is an apportionment formula for the rest of the income. Now, we think that the language here is really not clear either. There is talk about adjustment of factors to take out of the factors, say the payroll, etc., that are involved in the production and transportation section before which are separately accounted. One would take those out it says, but it doesn't really tell you whether they should be taken out of the numerator, or whether they would also be taken out of the denominator of the fractions used in the apportion system. We don't think it's clear. I think you could also raise a question as to what's intended here also, what you're going to do is exclude income that you tax otherwise in this bill before this on production and transportation,

but when you come to apportioning for other activities in Alaska, you appear to leave in the total income that gets apportioned, the total income of the company, you appear to leave in all their other production and transportation activities, so in attempting to get at, say, what refining income is here in the State, you're going to go through an apportionment formula which is also going to produce not only their refining activities elsewhere, but their production and transportation, and so on, and it's not entirely clear to us what exactly you really want to do under these circumstances. Presumably, if a company had no other activities in Alaska, that all their payrolls, properties, etc., were associated purely with the transportation and production functions, these fractions would be zero, and there would be no problem, but as long as there are other people involved in Alaska you would be apportioning, and I think you ought to conisder carefully what it is that you want to, how you want to try to do that.

We have down in Section 15, some provisions that have to do with the Department of Revenue providing estimates of tax costs of various kinds of deductions, and I think our only question there is the way the wording is, it's a very raw statement about the tax costs of various deductions. It would seem to mean you would have to come up with a tax cost of all kinds of categories of costs. I think what is meant is the tax costs of various special kinds of tax accounting. I don't think it really means that they want the tax cost

of such things as just plain operating costs, wages and so forth. I don't think that's the intent of this that one would want the tax cost of deducting payrolls, I mean because noone questions the deduction of payrolls.

CHAIRMAN POLAND - I'm sorry, but we've had a slight emergency, and we're going to take a ten minute break.

(MEETING RESUMED)

RICHARD KILGORE - I've been asked if I wouldn't state again what our problems were with the wording on the bottom of Page 5. This section calls for the Department of Revenue to rpovide a report, and in that report it asks for a report on itemized deductions by category, and the tax cost of these deductions. Now, I suspect what is not meant is all itemized deductions, that is, one would have the tax cost of allowing royalties as an expense, the tax cost of allowing payrolls as an expense. I don't think this is what they have in mind. Normally when you're talking about the tax costs of something, you're talking about what is the cost of treating various items in one way versus another way. That is in the case of intangible drilling costs, allowing them as a straight expense, or do you capitalize and advertise them over time, or if it's percentage depletion, what's the cost of this particular way of accounting, and normally one calculates tax cost for those things, not for

normal kinds of operating costs and so on that one has. I think that this should be defined a little bit more here, and the purpose of doing it too, also, I think should be defined, but I think what is meant is some special accounting procedures and so forth on tax cost of these, not all itemized deductions as is stated here.

Now, turning to Page 6, Line 3, talks about in this report for the Department of Revenue, a summary of each corporate tax return filed which shows income from the production of oil or natural gas, showing the total amount of oil and gas produced by or for each tax payer, the taxable income of the corporation from production as reported in accordance with and so on, and also the pipeline transportation. Now, we feel that this kind of a public report of income tax information could be especially threatening for the companies. We think it raises a lot of questions about laying out in the public record various kinds of information that would normally be considered confidential, and laying this out on the record, we think could have some impact on competitive situation of the industry. What it would do, it probably disclose the specifics of Prudhoe profitability. Everybody has an idea of what Prudhoe Bay profitability is, but this would probably lay it out on the line.

SENATOR HUBER - Is that bad, to have the profitability laid out on the line for instance, so that we all know what we're

talking about?

RICHARD KILGORE - Well, I think from the standpoint of the companies, it is bad, and I think they have a ligitimate complaint about this because once this information is out, it's not only available for you people to assess, but it also would effect competitive relationships. That is it would throw up information which say companies in the position of negotiating for the purchase of Prudhoe Bay Oil would know alot about what their competitors' costs and so forth were, and this is the kind of information which is normally not available in those kinds of buying and selling relationships, and I think for those who are in the selling position, this is.....

SENATOR HUBER - Did you say for oil or for lease _____ so that I can relate it.

RICHARD KILGORE - This calls for the whole corporation as such. This would presumably show for any individual company its total profitability on oil and gas production in Alaska, but it's basically EXXON's and Prudhoe Bay's position obviously.

SENATOR HUBER - Richard, I'm trying to be constructive, but I'm having trouble, I can see where more data base being out, if the companies we're talking about between themselves

selling their leases for their property, maybe somebody wants to sell somebody a pig in a poke or something, so the data being out would be detrimental, but I think you said that in selling oil, rather than oil properties, and I wonder about that being it's a completely controlled market, how there would be any legitimate interest there.

RICHARD KILGORE - Well, it may not very well be a completely controlled market, we don't know how FEA, what they're going to do on Prudhoe Bay pricing and so on, but what the FEA does is always set ceiling prices, and there's a question of whether one can realize the ceiling prices. There may very well be a situation where major refineries in California who are not Prudhoe Bay producers will be bargaining for North Slope Crude, and trying to strike a bargain with a North Slope producer, and this price is not fixed, there will be a bargain on some of these prices, and you do something when you introduce information in the public record that the buyer has access to. He knows then more about the economics of the seller.

SENATOR HUBER - The future danger it might cause than, rather than the present because they're so tightly sewed up now.

RICHARD KILGORE - In fact there's a general proposition putting this kind of thing on the record does put out confidential information which is normally not made available in public,

which is internal to companies, and I think it changes the bargaining kind of situation to some extent, it just has to.

SENATOR HUBER - I'm happy to hear, Madam Chairman, that somebody thinks that something may go more than the free market place, because from listening to the radio this morning, I was afraid that everything about energy was going to get further from the free market place until the President comes right into my house and tells me what I can do inside of my home.

RICHARD KILGORE - Anyway, we see problems with making this kind of information available by company. I think, if you want information it might very well be possible for the Department of Revenue to combine information in such a way that wouldn't disclose individual company positions. I don't know, aggregating data by producing areas or something of this sort. I don't know, but giving you information that would be helpful without raising these kinds of disclosure problems. That really concludes my specific comments on this piece of legislation. In sum, I guess, what we're really saying is if you feel you want to go the separate accounting route, that you might very well consider some alternative to this, or some alternative provisions, and in the oil and gas producing area really thinking seriously about consolidation, the consolidated kind of thing where you would consolidate all the revenues

and deduct all costs in the State of Alaska rather than the provisions here, which seem to be closer to a net proceeds, and on the pipeline that you consider again a more simple straight forward direct taxation on the basis of the information that will be coming to the State on the Alyeska Pipeline.

SENATOR HUBER - Madam Chairman, while Dick is still in this 015, this is the area where I questioned industry yesterday, if you remember. Dick on the secrecy of these reports, do you think that Line 28, Page 5, under the 015, one of the things I read into this is I thought that was all inclusive, and maybe it isn't.

RICHARD KILGORE - Would you repeat that again, Senator.

SENATOR HUBER - Page 5, Line 28, under 015. We're talking about public reporting, which you were just talking about a moment ago. I took it to mean itemized deduction by category, and that these returns by category must run all the way through this, so that you aren't disclosing actual returns, but only by category.

RICHARD KILGORE - Well, I did not read it that way Senator Huber. I read this particular part of the report has to do with itemized deductions by category and tax cost, and then

I read on the next page, Line 2 of the next page, also included in the report shall be the summary of each corporate tax return. I didn't read by categories as part of that. These seem to be two separate parts of this report to me.

SENATOR HUBER - Greg was that meant to be in there so that that is by category rather than divolging the summary of an actual individual tax report?

GREG ERICKSON - Mr. Haggert drafted that particular portion of it, and it is my understanding that, subject to correction by him, is that each individual tax report and the summary by category.

SENATOR HUBER - In other words, the way I'm reading category is what you determine it to be? But the category goes over to the next pate too.

UNIDENTIFIED SPEAKER - No. There are two requirements. The intent when it was drafted, was that there be a general summary for all taxpayers under this piece of legislation by category. Then, in part B there would be for each taxpayer a summary of that taxpayer's tax due and paid, and so on, so that it would not be by category it would be by taxpayer in two parts of it.

RICHARD KILGORE - Okay, I would then like to turn to the severance tax. As I said in my general remarks, if you're interested in raising the severance tax, both of these bills that we're going to consider seem to in general follow our guidelines, and has to do with more the specifics of how each one of them works. We'll start with HB 144, SB 103. This bill does several things. One is it moves to lease averaging rather than wells in the calculation, and we think that makes an awful lot of sense from the administrative standpoint, and probably should be done even if you don't raise the severance tax, probably even amending your present severance tax would do that, and would make sense. Page 1, Line 11 of the bill moves the point of tax from the wellhead to a new point of production which is later defined.

SENATOR HUBER - How is this defined?

RICHARD KILGORE - It's defined back on Page 4, line 9, gross value at the point of production means for oil, the value of the oil at the point where it is metered or measured in a condition of pipeline quality on the premises of the lease or property from which it is recovered. So in come cases it would change the point of taxation from the wellhead to somewhere beyond up to a point where it was meter measured and made put in pipeline conditions, so it clearly, and this is pointed out by someone else, moves the point of taxation

and in a sense in certain situations it would tend to tax the transportation and upgrading of the crude oil. That's clearly the case.

SENATOR HUBER - I think it had another reason for being in there. I think it was on account of that Kenai deal to where if they transferred our royalty share portion that went into resale that they were subject to the APUC, and doing it this way, while they pushed their royalty share through our line, they were not subject to our APUC. There was quite a problem on that in Kenai, it happens to be in gas, but we're talking jointly here and I think this was done for the company's benefit.

RICHARD KILGORE - Well, I think also in Cook Inlet, as I understand it, there have been continuing disputes about questions of wellhead and where one taxes, and I think this is all intended to straighten this matter out by legislation. This is where it is, and we don't have to argue about backing out transportation or whatever, this is what they're talking about. This makes administration of it easier, clearly, I think that some of the testimony yesterday it was complained that there would be a cost to the companies in a sense that they wouldn't be taxed on transporting and upgrading. I think that if it's administratively easier and there is a cost, perhaps what you should do here is get a better idea of what you're really talking about in terms of cost and dollars and

cents. What is really the extra costs that companies would bear by doing this, or some idea. I think that's how you would have to assess that. Now lets look at the tax rates in this bill. I think you are all familiar with the fact that it adds higher well brackets and puts in these higher brackets at higher tax rates than exist in the present legislation, and it also lowers the tax rates, both the cents per barrel tax and the percentage tax for lower productivity wells. Now, just to give you a rough idea of what this does, and I'd like to just give you some numbers on how it would seem to us to effect, say, Prudhoe Bay, and then look at the Cook Inlet situation under this bill. All the numbers I'm going to use are ease of comperability for 27 gravity crude oil. Now, in Prudhoe Bay, and I'm assuming for purposes of this calculation that the wellhead value on Prudhoe Bay is say $7.50 per barrel just as illustriative. Under the present tax for a 5,000 barrel a day well in Prudhoe Bay, and these figures are cents per barrel of gross production not of taxable production, but you still get an idea of the relative increase in the tax. The present tax for 5,000 barrel a day well at $7.50 is 49 and 1/2 cents per barrel of gross production. This tax for the same well, a 5,000 barrel a day well would raise the tax to 68.9 cents. That's about a 37% increase in taxation of a 5,000 barrel a day well in Prudhoe Bay. If you went to a 10,000 barrel a day well, the percentage increase and the tax is greater. As against

about 51 cents at the present time, this tax would raise it to about 80 cents, so on a very productive 10,000 barrel a day well at Prudhoe Bay, the increase there would be about 58%, increased through this tax over what you have today. The effective rate on gross barrels produced would go from about 7.8% on a 10,000 barrel a day well to about 12.2% under the new tax, so this is what it does to Prudhoe Bay, very significant increases. And the percentage as I gave you were really the effective rate on taxable barrels going from 7.8 to 12.2. So you are ending up on the very productive well, you end up with an average effective rate on taxable barrels of just under 12 and 1/2 percent in Louisiana. I think that's what was intended. So that's the impact it has on Cook Inlet, I mean on Prudhoe Bay. Now, lets look a Cook Inlet, and particularly the old oil because we've always been worried about effective taxation of old oil. Now, this bill does retain the cents per barrel feature that exists in the present bill, and it retains the cents per barrel feature with basically the same floor price as you have today. It works out for 27 gravity crude to about $6.10 today. So it retains that, but what it does at the same time is that it does lower the rates of taxation both percentage and the cents per barrel taxes in the lower well brackets, so despite the cents per barrel feature still being in there, it does lower taxes on low productivity wells below what they are today. I'll again give you some examples, and they'll

again be on the same basis as before. 27 gravity crude, and these are figures on a gross barrel basis. At the present time a 100 barrel a day well in Cook Inlet would be on the cents per barrel tax and it would pay 26.6 cents per barrel. This bill on a 100 barrel a day well would eliminate the tax. It would go to zero, and a very substantial gain for a 100 barrel per day well. For a 300 barrel a day well, would also pay under the present tax, 26.6 cents. Under this bill, under our calculations, it would drop that 26.6 to 14.2 cents per barrel. So you have about a 12 and 1/2 cent reduction for a 300 barrel a day well, and if you move up to a 500 barrel a day well, you still get a reduction. Under the present tax it would be 28.7 cents. Under SB 103 it would be 21.2. ' So even for a 500 barrel per day well, you're going down by about 7 and 1/2 cents per barrel, and in fact this new tax as compared with the present lowers the tax up to somewhere wells in the range of 1,000 to 2,000 barrels a day. Somewhere in that range, the new tax gets higher than the old tax, so it does provide very significant relief for low productivity wells.

SENATOR HUBER - Madam Chairman - the figures which we have in the committee they are open to him now, I think, I just wonder when he finishes there. If you have any dispute with those, I think that they confirmed his testimony.

RICHARD KILGORE - Yes Senator, we did do our own homework on this obviously, and we have had a chance to look at what legislative affairs has, and they coincide with what I'm testifying here.

SENATOR HUBER - I was wondering. It would help us a lot to know that they do or don't or if there are differences.

RICHARD KILGORE - No they don't they calculate the same way we do.

Now, so this bill does, I think, meet our objections really to the present taxation of old oil at Cook Inlet which has the high effective rates because of the cents per barrel feature. At least its present operation would reduce the tax substantially for low productivity wells, and we think that's a good feature of this bill. I should point out though, this bill does retain cents per barrel and it does retain escalation of that cents per barrel, so it is possible that under this bill we would again be back in the same problem that we have today. If the escalation manages to raise the cents per barrel tax high enough, we could be back in this problem again of taxing old oil in Cook Inlet at high prices, it's possible. The potential is still in this bill.

SENATOR HUBER - This evades it from present time, and we might have to look at it again in future years if we don't do something with cents per barrel.

RICHARD KILGORE - Yes, it may be back again.

SENATOR HUBER - Well, I'd sure look at it again, Madam Chairman, than I would to have Tom Fink for Governor.

RICHARD KILGORE - I think I was on record the first time I testified as saying that if you do retain a cents per barrel that perhaps what you do is at least consider no further escalation in cents per barrel, and perhaps that could be in this bill too. I don't know. I want to only point out that it could happen again. So that's basically what this tax does. It raises fairly significantly, the tax in Prudhoe Bay, but it does lower the tax considerably on low productivity old oil priced wells in Cook Inlet. It also has a severance tax for gas that is flaired, and a very substantial one, five times the rate. I think before you do this kind of thing and add such a tax, you ought to look very carefully at where gas is being flaired and why. There has been testimony yesterday about safety flairs and so on. I think you ought to look very carefully at what it is that you would be taxing and why the flairing is going on at the present time. Now, if what you're really trying to do is tell companies to find a use for this flaired

gas and find markets for it, I think that at the very least if there is gas being flaired now which you think you could find markets for, therefore you're going to try to compel people through this tax, somebody used the word incentive the other day, but you're compelling them through this tax that at least you ought to provide somebody with a grace period before they would pay this tax. That is, you wouldn't start right away. You would make it clear to them that they had certain time within which to find markets for this. You wouldn't penalize them in the meantime, but if you don't find gas for which it's logical to find markets, that you would say at some point in the future you're going to start paying a tax on this, so you had better get busy and look for markets. I don't think I.....

SENATOR HUBER - I think, Madam Chairman, that we should make sure in there. I think we should find out the required safety flair of no more than a certain amount except during an emergency blowout or something like that. The idea was, as long as it's economically unfeasible to take small amounts of gas and reinject them, the State loses its royalty share on it, and the nation loses the energy strictly because at a given space in time, using if you will excuse me, a cash discounting flow and everything else, that we determine its value and we say it's nothing, and what's nothing is moving down the pike another twenty or thirty years may be all we have, and Prudhoe Bay, in spite of an absolute no

flair restriction has been allowed to flair and everybody knows it. Somehow or other, it does have to be stopped, and if you make it so it isn't economically feasible to flair, then it becomes economically feasible to build a small compressor system for saving.

GEORGE SILIDES - Madam Chairman, I know that the flairing _____ as Huber pointed out, _____ that the flairing of course, and the word allowed is important, they get permission from the State, and we have to do something about the bill, that we don't have competition between the taxing department and the Department of Oil and Gas Conservation. They are the ones that give the permission, and you have to apply and you have to point out that it's being done with safety and so on. I don't think that the bill intended to penalize somebody for entering into a safety feature, and so am I correct Mr. Kilgore?

RICHARD KILGORE - I would assume that that's the intent. You'r not really interested in taxing gas.....

SENATOR HUBER - But that board still has the power and makes the exemptions and has been constantly making the exemptions, and it's a matter of record, both at Prudhoe Bay and elsewhere, they make the exemptions, they're legally made, but the product is gone, the resource is gone, it is flaired, and so at least putting in a fairly stiff recovery there, does at

least give us something off of our severance tax that went up in flair too.

GEORGE SILIDES - Madam Chairman, I might make another comment. I think that in view of the comments being made, we're going to have to look into the legality of being able to tax a safety feature.

SENATOR HUBER - No, we don't tax the safety feature. Let's not get crossways on that. We should put an exemption in here for the safety flair only, and somewhere we need to come up with a figure of what is the amount that may be flaired to date per well or per safety flair. We definitely shouldn't tax them on what is a safety requirement. But there isn't a provision. The gas that's being burned in significant, is not being burned in so called legal actual safety flairs. It's being flaired otherwise by legal permits by the board.

CHAIRMAN POLAND - I think we have to check with the Board as to why they are giving the tax.

SENATOR HUBER - That's why the Governor's bills has it in it. That's why committee's bills has had this for two years, and we should certainly, like Dick says, make sure that we don't tax the necessary safety flairs. I asked yesterday what

was, and they said a million cubic feet. That's a thousand MCF's a day. I'm not sure that that isn't considerably over what's needed to burn there in case, I need a good definition of a safety flair.

RICHARD KILGORE - I think also you might consider if you really feel the gas is being flaired that you don't want to be flaired other than as safety purposes or whatever, that's something you might consider as an alternative just tightening up your regulatory bill and your regulations rather than do it through a taxing approach.

SENATOR HUBER - We've done everything but tar and feather the board.

REPRESENTATIVE OSTERBACK - Madam Chairman, could anybody tell us how much gas they will be flairing at Prudhoe Bay? Anything that burns is energy. We're talking about we're running short of energy. Somebody talked about the railroad. If they took it in there, they could take out about a hundred tanks of gas a day, and they didn't think it would be enough to pack that out with flairing, and that would be an awful lot of energy, but most of us don't really know what this gas is with the flairing, but I know anything that burns is energy, and we're talking we're running out of energy. So I think there should be something done about it. Anything

that you can save as energy, you can sell. There's no problem in that.

RICHARD KILGORE - Well, I agree with you, if what we're really talking about is waste, then I think we should eliminate that. It is energy, and you're absolutely right, and I think you should look very carefully at what's going to happen at Prudhoe Bay, and how your regulatory people will handle it.

SENATOR HUBER - Might we, Madam Chairman, Al brought it up and it's very important. I think that it's understood that they have stopped flairing or are to stop flairing. It was only for that refinery that they flaired at Prudhoe Bay, and they didn't pump it back down the gas well even though they were drawing gas out to run the refinery because it would have cost more money than the gas was worth, so naturally the gas was worth nothing, so it wouldn't cost money to pump it back down into the ground. If it had a value of 20 cents an MCF, it would have been a lot cheaper to pump it back down into the ground, but just so that the record is straight, we aren't really looking for flairing at Prudhoe Bay, but if you will take a look at the Valdez terminal, you will find that we don't flair no more, but we've got three huge oxidizers there, and there's going to be a tremendous amount of energy unless the LPG's that are in that gas and the vapors that are in the gas at Valdez,

unless there's a plant built to recover those and use them which is not in the plan, it is going to effectively flair trillions of BTU's before Valdez is over with. That's because the plant and the tanks will not stand the pressure in the storage.

GEORGE SILIDES - Madam Chairman, I think the point is well made that something's got to be done about defining what is meant by safety gas, what is being wasted, and I think also that the bill had intended to address the bottom of the possible wasting of carbon dioxide. There was a considerable amount in this particular natural gas, and I suppose what we're getting to is that we have to do something about those things, either by definition or by amending the bill. I think this is a point that we're going to have to look into. I don't think we're going to get it solved right here.

SENATOR HUBER - I think they're willing, George, not to flair the carbon dioxide, but I'm not sure if they will get rid of it.

GEORGE SILIDES - It doesn't burn anyway, Senator.

CHAIRMAN POLAND - We'll be checking on this flairing part.

SENATOR HUBER - Well, it's important on both ends. I think that the bill needs to not penalize them, but by all means

should be retained in the bill, and we may of course have to put it in in some other places. I don't think this is going to effect it when it comes to the flairs in Valdez.

RICHARD KILGORE - I'd like to move on the the second severance tax bill, and that's HB 321, SB 238. Now, basically this tax changes the tax rate to 10%, but it also has a cents per barrel feature of 75 cents per barrel, so it has an effective floor price of $7.50, and it also has what _____ for an economic limit factor built into it, and I think Mr. Wilson yesterday did quite a good job explaining how the mechanics of this worked, and he also provided an example for you that I think was probably quite useful. Basically what the bill does is give you the first hundred barrels a day as an allowance for operating costs is what it amounts to, and wells producing more than 100 barrels a day, they pay then an increasing fraction of the 10% for the 75 cent tax is the way it works, and it's a continually increasing thing as well productivity moves above average well productivity moves above loo barrels a day. Very roughly, a 100 barrel a day well would pay no tax under this bill. A 200 barrel a day well would pay about 43% of the tax. It isn't 50% because as you might think by taking 100 to 200 because it's taxable barrels only that count. That is the 200 barrel a day doesn't produce 200 barrels that are entirely income to the company. Twelve and a half percent of those go to the State.

GEORGE SILIDES - Mr. Kilgore, it's 43%.

RICHARD KILGORE - It's 43%, 200 is 43% of either 10% of value or 75 cents a barrel depending on which it is.

GEORGE SILIDES - That's what I wanted you to say.

RICHARD KILGORE - For a 300 barrel a day well it would be 62% of these basic rates and on a 4,000 barrel a day well, it would be up to 89% of this. This is the way it works, and it amounts to a continuous function as against the step schedule that you have in your present legislation. As I said, it amounts to a continuous function and in principal we find it as kind of an appealing concept as against the step schedule. Now the other feature of it is that one can't apply for an economic limit factor greater than 100 barrels per day well average if you can prove it, and what you basically have to prove is that your operating costs that you require, out of pocket operating costs are greater than what you would get with 100 barrels of production per well. You would need more than this to recover your operating costs. Now, there appear to us to be a couple problems with how this actually works. First of all on Page 3 Line.....

SENATOR HUBER - Madam Chairman, I would note that we've got John Messenger here, too. This is the same problem that came

up yesterday in talking with the industries. We might want John to answer some of these.

RICHARD KILGORE - It has to do first of all with how costs are defined, and that starts on Page 3, Line 16, subsection C here, and as was pointed out in testimony yesterday, it is not clear that the cost category specifically allowed here really provide for all the kind of out of pocket expenses that a producer might have, and basically that's the concept that you're trying to get at, whatever is out of pocket expenses, and it's not clear to us that that is the case and some questions were raised yesterday and I think you ought to consider those too, but what I think is more important is that after calculating the costs here, you then have to determine how many barrels are necessary to recover, that is if more than the hundred that you are allowed anyway. Now the problem with it is that the way that the bill was written, you don't take your costs and divide through by the price of oil that you as a producer receive. That is your actual price, if you're an old oil producer and getting $5.00 per barrel, you don't divide through by $5.00 to see how many barrels you need to recover your costs, but you use another deemed price to do this, and the deemed price is acquisition, this is Page 3, Line 29, its acquisition costs CIF at westcoast refineries for imported oil of like quality and then you net this back to Alaska, so you're not doing it on the price you actually

receive, you're doing it on a deemed price that you may not be receiving, and it seems to us this causes problems.

SENATOR HUBER - Could we at this point if it's convenient, I wonder, Sterling isn't here, but John is and this was the question yesterday, I understood from the testimony by the State that as of starting in December or sometime like that that these wells that were in economic trouble shall we say, that these figures that you have put in here talking about _____ price are actually what's happened. They are now being allowed, these higher prices on the producer's share, but not upon the State's royalty share. The argument yesterday, and I think we're right into it again today, is whether we're just talking about a possible deemed price working it back from San Francisco or whether we're truly talking about what they're going to get, and the industry said no this was unfair that wasn't what they were going to get, so we're right at the nitty gritty, and. I think you can help us John.

RICHARD KILGORE - Perhaps, Senator, I'm going to give an example, maybe I ought to do this and then we can talk about it.

SENATOR HUBER - Okay, just so that John, he wasn't here yesterday, so he's alerted. My stand was or what I saw was that you fellows put this in here because that's actually

what the oil companies are getting, and so you were getting right to the nitty gritty, and they said no this is what they might give them, but I understood Sterling to say that this had actually started in December, and I don't think this was in testimony, I believe this was talking in the afterwards that it actually had started in December and the State had been denied that increase, but the producer's share had been allowed, so if that predicates it and as he goes on if you can straighten this out, it will help me a lot.

RICHARD KILGORE - I'd like to just give a little example of what we're talking about here. If we had an operating cost for a well or wells whatever the unit or something, and say $2,800 a day, and these were direct operating expenses defined properly however, and if you didn't get these revenue enough to do this, you would shut down. Now, if one looked at the foreign price and then netted back to Alaska, let's say you came up with $14 just to make the arithmetic easy, you came up with $14. Now in calculating your economic limit factor here, you would divide through by that, and that would give you $2,800 divided by $14 is 200 barrels a day. You're economic limit you could then justify is 200, rather than the 100 which you had presumed. That means you're getting more, but let's say that the producer only gets $5 a barrel for oil because he's receiving the old oil price in Cook Inlet. He doesn't bet $14, he gets $5. Well for him to actually recover the

$2,800 his total expenses at $5 he's actually receiving for his oil, his real economic limit factor is $2,800 divided by $5 or 560 barrels, so that in fact, his limit factor, that is the number of barrels he needs before he's got to shut down, because he doesn't make it out of pocket cost of 560 under this bill it appears to me, he would only get 200. I don't think it really gives you the results that you intend. The result that you intend is to provide relief for marginal wells. It doesn't appear to really serve the intended purpose.

SENATOR HUBER - That's at $5.61?

RICHARD KILGORE - That's at $5.00 even.

SENATOR HUBER - But doesn't this other deal work to raise that?

RICHARD KILGORE - Well, the other thing we're talking about is price relief under FEA regulations. I think that's really something different here. I'm addressing.....

SENATOR HUBER - That's not five dollar oil. You know, if we're talking about his economical limit on the well then we assume it to be $5.00 oil, but he is actually receiving $10.95 for it because it's below a certain economic limit

already established, then we're dealing with something that doesn't exist, and that's what I'm trying to get into this, and I thought that that was why the State had drafted it.

RICHARD KILGORE - Because it assumes that the Federal government will always bail out people, is what you're saying, other than royalty owners.

SENATOR HUBER - My information was, it didn't only assume, it was based on what was happening. Can you clarify that John?

JOHN MESSENGER - Let me just make a couple comments. I guess it's true that one position that we've taken on this bill that our taxes should not be based on the artificial price set by the Federal government, and the Federal government set a price of $5.00. Our position is that we shouldn't be content with the tax based on that artificial price, and that's why, one, we've set the cents per barrel floor, likewise when you're figuring the economic limit factor, again, we say the true economic limit is not how many barrel are produced at the artificial price, but the amount of barrels they would produce using the true value of that oil, pre-market oil. We should insure ourselves that so many cents to so many percent of that pre-market oil because that is our resource and we should get at least that percent out of it. Secondly, is that producers are

reaching their break even point which they will stop producing. There is a procedure by which they can make application to the FEA and get price relief and with that higher price they can produce longer, but the FEA has said that they will give price relief only to the producers, and not to royalty owners, so if a company is reaching its economic limit in Cook Inlet, and they go in for price relief, they are given that price relief. They will raise their price, but they will not raise that price in the terms of the amount of royalties which _____. So, it's two things, one is the tax rate and the economic limit factor should be based upon the true value of the oil, and secondly that producers are protected through FEA regulations, but the State is not.

SENATOR HUBER - Then I guess what he's saying is that if someone's going to shut down the production there, by it being below economic limit on $5.00 oil, the State is advocating that we put the monkey on the fed's back and say you did it, you set an artificial price, we're going to set our tax based on free market price, and if you want to save that resource, save that company, you can turn around and do likewise what's reasonable. I'd say it's what I call putting the monkey on the Fed's back. They caused the problem. I happen to be strongly in agreement with the State's stand on that, and compliment them for it because why should we throw away our royalty share and our

taxing ability because somebody forced an artificial price down our throut, and is forcing that same artificial price down the throat of the oil companies.

RICHARD KILGORE - Look, I'm going to address myself to the question of the artificial price, that's part of what I'm doing here, and I think the Commissioner took issue with earlier testimony I made when I said I thought this was a flaw in the thing, and it certainly was, I thought, a flaw in terms of its purpose of providing relief, and now I do understand why they do this which is another objective, than what appeared to be the intent of the bill, and I'm going to come back to the whole question of the artificial price. It's very clear they did this by design. I'd like to again, as you asked, talk about just very roughly what it does to Prudhoe Bay and then to Cook Inlet, and then discuss the consequences of that. Again, for Prudhoe Bay, looking at 5,000 and 10,000 barrel a day wells at Prudhoe Bay, this bill also raises taxes significantly on those wells as does the other bill, as does HB 321 that we looked at before, excuse me HB 144, that we looked at before, but it does not raise them as sharply as the other tax. If we take a 5,000 barrel a day well, I said that, and I'm not going to run through all the numbers here, I think, but that the other tax for a 5,000 barrel a day well raised the tax about 39% on a 5,000 barrel a day well. This tax would raise it about 29% it appears to us using the presumed hundred

barrel figure. The discrepancy between the two gets larger at very productive wells because of the steep rates near the end of the schedule in the other bill, and for a 10,000 barrel a day well, HB [illegible] 58% this would raise it about 27% on the very [illegible]s, so if it both increased taxes on Prudhoe Bay, clearly the one, HB 144 would increase them significantly.

SENATOR HUBER - That would be effective of what of 5 and 10.

RICHARD KILGORE - Okay, the effective rate would be very close to, on taxable barrels it would be very close to 10%. On 5,000, it would be 9.8% and 9.9% on the 10,000. It approaches 10%.

SENATOR HUBER - Just slightly under ten percent for a total maximum. Or fully 2 and 1/2 percent, a little over 2 and 1/2 percent below Louisiana. Using the Administration's bill.

RICHARD KILGORE - That's correct.

SENATOR HUBER - And it would be right at Louisiana with the other bill.

RICHARD KILGORE - Close to it. That's correct.

Now, let's look at what happens to the Cook Inlet old oil price here. This bill as the other one for a 100 barrel a day well eliminates the tax altogether. It does exactly the same thing, but what we find troublesome is that is you go to 300 barrel a day wells, these are the wells that we're concerned with because of their productivity and the old oil price they have to bare, they get the tax there doesn't go down, but it increases. It goes up from 26.6 cents on gross barrels to 40.6 cents. It goes up by 14 cents a barrel. This tax raises it that much. On a 500 barrel a day well, it raises it by about 13 and 1/2 cents, and on a 1,000 barrel a day well. I'm sorry 14 cents increase on a 300 barrel a day well, 22 cents on a five hundred barrel a day well, and 28 cents on a 1,000 barrel a day well. What I think are particularly disturbing are the increases on the lower productivity wells. A well as low as 300 barrels a day which we already have some concern for because of the effective rate on the old oil thing has actua ly a fairly substantial increase in its tax burden. As Commissioner Gallagher stated correctly, you get this result because of raising the floor price essentially. You are raising the floor price from $6.10 to $7.50 and you have higher tax rates at the same time, and it's deliberately designed to do this. Now, we really feel that this kind of goes against what we feel are good principals of severance taxation. What you're saying is the producer in Cook Inlet he received a relatively low old oil price established by

the Federal government. This in turn restricts his own profitability, but then the State adds to his burden by taxing him as if he received $7.50, and it seems to us that rather than help his producing situation, this only makes the situation worse. One of the reasons given for doing this is that the Federal government is following an unwise, or I think it was described as a foolish price policy. Now, this may or may not be the case. I'm not willing to pass a judgement on that, but they're, you should know that the Federal government does have reasons for doing this. It's not capricious, they do have reasons. They have concern over the effect. What they're concerned with is this, we've had a fantastic increase in the oil prices outside the United States by the OPEC nations and if one frees the oil, the old oil price, it will go up very, very sharply. It will, perhaps in some cases, close to triple in price, and the people are concerned about the consequences of this. Rightly or wrongly, they are concerned about the inflationary impact on consumers. They're concerned about when _____ producers, because these are on old oil wells, wells production which is established at old costs and so on and therefore you have to question whether you want to give them huge increases in the price and windfalls. There is concern over that. So there are reasons, and you can argue one way or another, but there are reasons for this.

SENATOR HUBER - Would it be fair to say that those reasons are exactly on a par with the same reasons for having controlled gas prices as would be in inter-state commerce as well as setting a free-market price. It's the same principal in both cases.

RICHARD KILGORE - As deregulation of natural gas prices. Yes.

SENATOR HUBER - Deregulation of natural gas. Deregulation of petroleum would do the same thing, it would increase the price at the burner or the price at the gas tank as it comes in out of the nozel, but all of the other factors of pro and con are the same.

RICHARD KILGORE - Yes, that's right, and the concern is that if you let it go up to, and I really object to the word free-market price because we're not talking about free-market price, what we're talking about is it goes to a price administered by OPEC. That's what we're talking about going from price administered by the Federal government to a price administered by OPEC. This is by no means a free-market price. It's a market price, but one set by OPEC, and set by political reasons as much as for economic reasons.

SENATOR HUBER - Some of us are referring to free-market price though as to this free-market price that exists that we talk

about what the price would be if OPEC were not controling it. Some of us are talking about a true free-market price

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RICHARD KILGORE - Senator, I don't know what the price would be if OPEC were not controling it.

SENATOR HUBER - We don't know. We have projections just like we do on what Prudhoe Bay is going to cost.

RICHARD KILGORE - One the one hand, if OPEC did not exist one would certainly expect over time that the price would rise at some point in time to the level of alternative energy sources which are quite high in the $20 - $25 range. On the other hand, in the short run, you do have an overhang of surplus productive capacity in the world, and if there were no OPEC, and it were perfectly free market, there's no reason why the price couldn't drop to less than $1.00 per barrel, because that's what costs are in their surplus capacity. If there were truly competitive free market, one would have $1.00 a barrel oil or less because that's what the costs are in the middle east, less than that so but as time went on, and this surplus which overhangs the market now, and which would push it down, gets eaten up and it will, one would then have prices moving off in the other direction. I don't know what the price would be. But anyway, we're talking about not letting the price, the U.S.

government as a matter of policy, not letting it go to a price set outside its own borders by an orgnaization of petroleum exporting companies, and that's what we're talking about. It's the intent apparently of the Congress not to do this because basically the idea is concerned with price impacts, concerned with windfalls, and alsc that there's no way of assuring that the price that would be set by OPEC is an appropriate price for our internal markets for our own costs and so forth. There's no way of knowing whether they will set a price appropriate to our cost circumstances in the United States or a price that may be very much higher than people think it is now or maybe even a price lower. Not good enough for development of our domestic resources. So this is a matter of national policy and people can quarrel.

SENATOR HUBER - Feable minded or otherwise.....

RICHARD KILGORE - Well, I don't want to characterize it. I'm trying to give you a few of the reasons for doing this, and this is a matter of federal policy. Now, but even if it is a foolish policy, or at least if Alaska views it as one, o the people who did this legislation think it is, I think that you have to ask, if that is the case, still, why do you want to then punish producers for this price policy basically. They already suffer enough from it in terms of the revenues they receive, why do you want to go an

added step and raise their taxes because of this. I don't think it's reasonable to assume that if you do this you will force national policy to change by what you do in the way of taxation here in Alaska. That seems to be reasonable.

GEORGE SILIDES - Madam Chairman, may I ask a question?

In addition to your comment of being unable to force national policy, would you think that this kind of tax is counter-productive?

RICHARD KILGORE - I suppose it's possible, I don't really know the answer to that, but I suppose there are reasons that might want to lead one to that result, and if the FEA has procedures for relief of these kinds of situations , then it sees the State of Alaska in fact imposing higher and higher taxes on such low productivity wells. I don't know. It's not inconceivable that it would enter into their thinking in this matter. Rather than providing relief, it seems that the State of Alaska goes in the other direction in this situation.

SENATOR HUBER - George brought something up here. Isn't this the fact that it effects these 300 barrel wells just because of the total tax maximum that we pay and then how we apply the mechanics of the formula. They could for instance, modify, and the mathematics of it I would have

to find out from somebody else how, so that that point would hit, maybe, more on a five or six hundred barrel a day well and maybe give as much as 10.3% or 10.4% out of Prudhoe Bay instead of an even 10%, and the formula diddled with enough to change that point to where it would be correct. Couldn't that be done?

RICHARD KILGORE - Yes it could be. If you like the basic approach of the continuous formula .....

SENATOR HUBER - Apparently you do, and I do too, and we might consider, and George's question pointed up that we might consider something from being John Messender is here, that they might give us an alternative is that reasonable Madam Chairman?

CHAIRMAN POLAND - Well yes, except today we have Mr. Kilgore with us. He's leaving on a plane and we want to take advantage of this. We can bring this up.

SENATOR HUBER - I have considered this, Madam Chairman, to be a work session with him, and it's more valuable to me, the way we've been conducting it here today, than anything that we've had.

CHAIRMAN POLAND - Well fine. Let's give him a chance to get with it.

RICHARD KILGORE - Okay, we really are concerned with how this aspect works. There are two parts where Alaska is attempting to impose its own view of what the proper price policy should be, that is if they want the OPEC price. It comes on the floor, and it also comes as I said before in this calculation of the economic limit factor again. It enters in two places, and we have serious questions about this and what you really want to do. If the basic intent of the legislation is to provide relief that you don't go off in the other direction simply because you're unhappy with the prices because this throws all the burden on the producer, and then you're going exactly against what you really want to do, and you could have economic consequences to this.

I understand your concern with the prices that you get for your oil, and you'd rather get higher prices than lower prices, and that's fine, but the question is if the price is not set at a level that you think is appropriate then what do you do about it, and I guess, it's just bothersome to us that what you do about it is throw a burden back on a producer here. That's what you're doing about it, and that then goes against what we feel is an appropriate kind of severance tax because then you run into all the kind of economic problems with this gross tax and that's our concern, and we appreciate why you think in terms of floors and why you want to get an adequate value for your oil, and so forth,

and we understand why you do it, it's the consequences.

This tax also raises the tax on natural gas. If you'll recall our testimony before, we were always pointing out to you that if you did this you would have an impact on Alaskan consumers, that would flow through to Alaskan consumers. I noticed that there is another bill which is HB 329, SB 239 which is a residential fuel credit, and I presume that the intent of this is to mitigate to some extent the impact that raising the gas tax would have on Alaska. Consumers - we're not really in a position to know how adequately it does this because this has to do with what fuel bills really are in Anchorage and so on. We really don't have the information to calculate how adequately that does that, but obviously, you are concerned with that aspect to it, and the balance of the increase of course would be assessed against exports. I think that the other thing I should point out is that here you have in this not only an increase in the tax rate from 4% to 10%, but also introduce a floor price here, that is a minimum 6.4% per MCF, which is an effective floor price of 64 cents per MCF, and I think we have the same reservations here about this as you do on the oil side. If you have oil flowing, producers getting less than 64 cents, someone mentioned 42 cents the other day, but less than 64 cents, then you start to raise the effective rate of it, and I think we have the same problems with it here as we would anywhere else, and this

also has a gas flaired feature taxation, but it's only double, not five times, and all my comments on that go for this too.

SENATOR HUBER - That is in the equalization deal?

RICHARD KILGORE - No, it's in the severance tax, itself. There's a provision.

In the end, I'd like to talk a little bit about this whole question of the overall tax burden and how you assess it, the kind of questions that Senator Rader has been talking about, but I would first just like to make a few comments on the property tax bill, unless there are some other questions here on the severance tax.

CHAIRMAN POLAND - No. I was going to suggest that when you are finished on the bill, and before you kind of wrap up, that we take a five minute break.

RICHARD KILGORE - Okay, shall I just say a few things about the property tax. I have relatively limited comments here. HB 323, SB 237, now, this extends the property tax to some other areas as you know to refineries, gas plants, and also to marine transportation, and L & G liquifaction facilities, and so forth. So it extends the kinds of things that you would tax with your property tax. Now, the only real comments

that we have here are that for each of these areas that you're thinking of proposing a property tax on, you think carefully about where that tax will actually be borne. You're talking about taxing properties for crude oil production that largely obviously is borne by producers. They realize prices in the lower '48 that are set for them, and the tax you impose is a tax which they have to bare in terms of their own profitability, but that's not necessarily the case with each of these other areas that you are extending, and what I think you ought to think about what you are doing, because if you're looking at property taxes on refining in Alaska, we would expect that most of the refining capacity in Alaska for some time to come would be basically capacity oriented to supplying low markets so that the tax that you impose on those refineries presumably would over the long run be borne by Alaskan consumers. You're assessing a tax which goes to the treasury, but eventually that tax would have to be borne by consumers if the refineries are to operate properly. So you have to worry about the incidence of the tax. If you're looking at L & G facilities you have to worry again about the consequences of this and what will happen, and who will actually bare this. Will it be a cost that will simply be passed along because the facilities under an FPC jurisdiction will be passed along as probably may be the case. It's not clear that if it's L & G or export to foreign countries whether this would be the case. Who would bare it, it's not entirely clear.

GEORGE GILIDES - Would it not also have an effect on a decision as to whether to locate in Alaska.

RICHARD KILGORE - Yes, it could under certain circumstances. If it's a cost which basically the person thinking of putting in the facility has to bare himself because he hasn't got an automatic pass along or he can't pass along to Alaskan consumers, or he can't through his regulatory process, pass it along, then surely, it would be one of those tax entering into his decision as to whether to locate in Alaska. Noone can say whether this is the thing that would swing it in the balance, but obviously, it's part of the package of doing business, if it's a higher cost, it could have some effect, yes.

The last one is marine transportation, and there, well there's a question of legality, I guess, but we can't address ourselves to those, but it seems to me you might have some concern about this one too, because you already face a problem where you are concerned with the fact that your oil may have to move to quite distant markets, for example the U. S. gulf and the eastcoast, and you're very much rightly concerned about that long haul and those high transportation costs and what it may do to your wellhead value, and if you go this route of taxing marine transportation, you obviously add to the cost of transportation, I don't know how much would be thrown up by this tax, but you are in principal anyway

adding to the cost of transporting your oil which certainly works in the direction of lowering the value of your oil, so I think that you ought to consider this as well, as I say, in each case consider the consequences, but here you're putting an added cost on transportation and it may be small, but it certainly works in the direction of lowering your wellhead value. Basically that concludes my remarks on the specifics of the bill.

I would like to conclude with a few remarks about this old question of the total tax burden in Alaska. What fair share is, and at what point do you destroy incentives, undermine profitability and the like, and of course Senator Rader has been pressing a number of people for answers to this, but as he himself in asking the question admits, there obviously is no easy answer to this question. If there were, somebody would have given it, and I can't give you an easy answer. A number of things have been suggested, all of which make a certain amount of sense. What kind of activity is there in the State has been suggested. A number of people have suggested looking at the total tax burden in Alaska, relative to other states. I have a few comments on that aspect too. It clearly is important what the total tax burden is on the oil and gas industry, there's just no doubt about that and how it compares with other states. It certainly is not just the absolute amount of dollars being paid or dollars per

barrel of production being paid to the State. What really matters for the economics of the industry for their incentives to go in and so forth really are these aggrigate dollars or dollars per barrel things put into context of the profitability of the operation in the various states. This is what really counts in the end, not just the amount that one pays. If one is paying a high tax, but in a situation where profitability is very large it's one thing, if they're paying perhaps even a lower level of taxation in a situation where profitability is low can be another thing. So, you really have to put it in the context of profitability. This doesn't make it any easier to answer obviously because profitability is elusive and difficult to measure, but certainly one has to put it in this context, not just in the dollars themselves. And the second thought about it is, I think that although some people have said this, that the mix in which you get your taxes out of this total burden to your state and other states is really not irrelevant. Someone suggested that a dollar is a dollar, but this isn't really quite so it seems to me if you're looking at the burden of those dollars on people. If you have taxes that are realtively based or geared closely to income, that is income taxes in kind of a true income tax in a sense that it is directly trying to measure income, it's one thing if you collect it that way as against certain just gross taxes or property taxes and the like, because if you have taxes based on income, they have a different economic impact than gross taxes.

If you have a severance tax, it's not a matter of indifference how it comes. If you're collecting high severance taxes in Alaska because you have wells that are extremely productive and that's the way your tax is structured that's one thing, if you're just doing it flat out on everything that's another. So, that it's not just the total dollars, these dollars have different effects, and that high taxes in one circumstance where they're thrown up out of a total tax package that's more closely geared to income and costs and so forth may be less of a burden than in another case where you have somewhat lower taxes, but their generated by things that have nothing to do with profitability, and you have a low profitability situation, so that I think it isn't strictly the total, it is the mix and the types of taxes that you have also, that also matters, and to the extent that the closer these are geared to income, the better you really are. The second thought I have on this whole question is the State, I'm thinking in terms of the burden of its taxation also has to remember that it has a role not only as a taxing authortiy, but you also in this State, and this is different from other states, most other states anyway, you have also a role as a land owner, you have lots of land and you will have leased that land and you will be leasing more, and you have to realize that the higher and higher you put your own taxes, this will have some effect on the kinds of terms that you're going to be able to get for your land. No matter how you lease it.

If you lease it on a bonus basis, the higher your taxes, the lower your bonus. If you go on a royalty bidding basis, the higher your taxes, you'll get lower royalty bids out of all that, or if you have a net carried interest or a net profit interest kind of leasing arrangement which you may turn to. Your profit people are willing to give you also _____ part of the taxes.

GEORGE SILIDES - This matter came up before in a different form, and the comment was made by the speaker was that not to be so terribly concerned because the competition in leasing would take care of that matter.

RICHARD KILDGOR - Well what I'm saying is that I think the competition in the leasing is going to reflect your taxation. That is, if you have higher taxes, I would expect in general you will get out of the competitive process when people are bidding for leases on whatever variable they're bidding, whether it be royalty or bonus or whatever, the amount of the tax that they will perceive you will take in the future will effect their bids, and they'll bid competitively and it will be reflected on how much money they're willing to offer you initially, or how much percentage of the thing they're willing to give you and so forth, so that your tax will effect the terms you're able to get on your own land.

REPRESENTATIVE OSTERBACK - I would like to ask a question. We listened to all this testimony, but we never came down yet with how much are we getting for our oil. And another question on leasing, it doesn't seem to make any difference, the bids I say that came out from the State or from outside the three mile limit seem to be about the same value they are bidding into the millions for off-shore leasing. What kind of a deal could you answer that on off-shore leasing? And the taxes, what kind of taxes are they paying? Are we going to get a benefit out of the off-shore leasing taxes?

RICHARD KILGORE - Well, on off-shore leases, where they're on Federal waters, you basically will not get the state severance tax from those barrels or MCF's of gas being produced out _____ there, and basically the tax that that oil in Federal waters will be subjected to is basically just the Federal income taxation, and you will not get severance or other kinds of tax revenues unless one's able to go through some franchise tax kind of thing. I just don't know whether that's legally possible for you to do that, but unless you can think of something ingenious of that sort, basically it will be just federal taxation on that, and the bids that would be received if you had comperable prospects on shore Alaska, lets say off shore but in Alaska waters similar prospects to something over the line in Federal waters, and you put these up for bonus bidding,

presumably what you would get since you have no severance tax on the offshore, you would presumably get higher bonus bids to the federal government, than you in Alaska would get for your exactly comperable prospects. I don't know if that answers the question or not.

REPRESENTATIVE OSTERBACK - One other thing, somebody brought up the other day that since we get 10%, or we pay 10% of the federal tax, I don't know, I know you know more about, would we be getting a share of the federal tax in the amount of 10%?

RICHARD KILGORE - Yes, to the extent you share in federal revenues and so on, yes you do get some share that way. That is correct, but the other thing is that as you know, there is some move afoot in the Congress to provide some sort of sharing of royalties and other income from offshore productions with the coastal states, and I would think that the State of Alaska should push very hard for this kind of thing, and I would also think that in the past this was probably not the kind of thing that the Congress would pass because there were relatively few states which would benefit from that basically Texas, Louisiana and California that would benefit from that kind of thing, that is sharing the revenues, some portion of the royalties and bonuses in the federal waters off their shores, but the situation seems

to be quite different today because we now are talking about exploration along basically the whole eastcoast of the United States, so there are an awful lot more states which potentially could benefit from this and presumably would support such a measure in Congress. There seems to be a lot more support for that kind of thing than before, and perhaps you will get something like this. I think there's a lot of merit in doing this from a national standpoint too, because as you know on the eastcoast there are all kinds of environmental opposition to this drilling and everything and bringing this oil ashore and everybody is up in arms about the environmental problems, well, I would think that if the states including my own where I live, New Jersey, really thought they had the prospect of getting some direct share of the income from oil and gas in federal waters offshore New Jersey, I think they would view the environmental matters somewhat differently, or at least be willing to look much more realistically at them and have greater support for this activity, so I think that this is something that Alaska should be looking for, and maybe it's another way you would be able to benefit, and if you were able to get some benefit, in that way some share of royalties, bonus income and so on from federal waters offshore Alaska, I think the amounts of money, I don't know what the share would be, I think the amounts of money that you would be getting would be very very much larger than any kind of fooling with apportionment factors

in that franchise bill to try to pick up something. We're talking about much larger potential amounts of money I would think.

REPRESENTATIVE OSTERBACK - Talking about the environmental con ion and everything, you're going to get a lot of static from fishermen, _____ coming out that the oil won't take Kachemak Bay for example. Now, Kachemak Bay, only produces about 6 million pounds of shrimp, but you come up towards the chain around Kodiak, what we do, that's just a drop in the bucket, and we're buying that back, so there's going to be a lot of static, say in the Bering Sea, is one of the richest crab, herring, shrimp, and out along the chain, so if there is no revenue for the then we're going to kill off our fisheries and there ng to be a lot of static coming from that on the offshore drilling, because you can see what happened in Kachemak Bay, which is just a small little thing, and we're going to pay I don't know how many million dollars to buy that back to save that fishery. And what I'm trying to get across, if we're not going to get no sharing off the offshore, there's going to be a big fight to try to stop it.

RICHARD KILGORE - Absolutely, because then you say what do you need it for, to get nothing whatsoever out of it. I don't want anything I say to be construed that I'm against environmental concerns, they obviously are very real, but

I think what you're saying is correct and this goes for other parts of the country too, if what you're talking about is development of Federal waters, and off your shore with the potential environmental problems from which you will suffer, and you get absolutely no benefit, then what do you need it for. In those circumstances one would take a very extreme, I think, position on viewing the environmental damages. That is, one would say, I don't care if the chances are one in a million, I don't want it because I don't get anything out of it anyway. If there's any chance whatsoever, let's just don't do it, because I don't gain anything anyway, but if you have something to gain from it, I think perhaps people may very well take a more realistic view of what the potential hazards are, what might happen, and with the odds have been happening and so forth, but if people are in the position where they have absolutely nothing to gain, and any possibility of something happening to their environment, that's really going to be against them.

REPRESENTATIVE OSTERBACK - One more, if I may. Take say a barrel of oil is worth what $12.00, $11.00, what? A barrel of fish is worth about $200.00. So what do we want?

RICHARD KILGORE - Sure, if you're going to destroy a valuable industry.....

GEORGE SILIDES - One of the things the administration has put forth through the federal government in my recollection is that, it is just that, and this is why they were hoping to hold off some of the offshore production was to submit a proposition to the Federal government on revenue sharing. I think you are familiar with that, and I think you touched on it. My recollection, and I ask this only for informational purposes as you know, it seems to me that we also suggested a two tier affair. I know you hate everything with two tiers in it, but in that all of the states were able to get a portion of the offshore revenues, so that you gain a broader base of support.

RICHARD KILGORE - Yes, and I think that's a sensible approach to this whole thing too. One can gain broader support where you have some approach as you're saying. Where you have everybody benefits to some extent, but those who are directly effected or so on, get some larger share.

I am saying that you do have this interrelation when you think about how high you put your taxes. There is this interrelation between what your taxing policy will be and how much you are raising taxes, and what you're going to get in terms of economic benefits when you lease lands, and that's very very clear, so to some extent you're taking one area through higher taxes and you give up in another through lower, whatever it is, bonuses and so on. So to some

extent they are offsetting, but of course at the same time you have to appreciate that while this is true on new leases for people under existing lease terms, obviously they can't change their contracts with you if you raise taxes, so if you raise taxes they are hurt. You also through your tax policy, obviously effect the value of lands or the value that one can get out of other landowners in the State, and of course the native corporations are obviously the ones who will be effected to the extent that you raise taxes and they make new arrangements on their lands, they will be effected, and they will get less in the way of.....

SENATOR HUBER - I wanted to just for a moment on that same subject to lead Dick back across the cannon ball range and the mud flats, and back to dry land for a minute on these leasing policies, and you were talking about bonus leasing when we got into this, and isn't it true that the price paid for a bonus lease whether it's offshore or onshore, mud flats or whatever, it is based upon what they're willing to pay for the price to gamble on what may be down there in a huge gamble and if we wanted to minimize what our tax would do on that, the minimum would be no tax, and other than that to have a tax that would have a minimum effect, would be a tax that was a percentage of a net profit, and if you had a percentage of net profit tax, that would be the kind of tax that would provide the minimum for losing money in your bonus, because they would all figure when they were bidding

that there would be no tax on anything that we don't get anything on and it will only be a maximum of this amount of exposure on the net when we do make, and if we don't make, we don't pay.

RICHARD KILGORE - That's correct, but that's assuming of course that the income tax that you have really is taxing what is real kind of income in Alaska. If you are on, as the gentleman from EXXON testified the other day, if you're on an apportionment formula, you may pay income tax anyway.

SENATOR HUBER - I didn't mean to lead you back into the net proceeds tax which you happened to design, but I'm thinking about any fair income tax that would.....

RICHARD KILGORE - The income tax works differently, that's right, in the sense when he factors it in and if it's true income tax, he only pays if he wins, so it does effect what he's willing to pay.

SENATOR HUBER - I just wanted to get it to where we actually, what kind of tax we've heard so much, so many times about how you discourage your front end money in bonus bidding, and in some cases, it's absolute milarkey, you don't do it at all, and there you hardly do any discouragement when you do it on a net profit basis. If you get a portion of that in there in a gross manner, you've got a problem.

RICHARD KILGORE - My only point here was to leave you with the idea that we do have an interrelation between the taxes and what you will get on your lands when you lease them, but you also will effect, of course, the value that other people get from their lands and _____ the native corporations.

Well in the end, this whole question of the relative tax burdens and the effects, and when do you have to_____ incentives, when do you discourage, obviously there are no easy answers as I said at the outset. There are many things you would obviously have to look at, and many of these have been suggested. One would obviously be an economic study of the industry, some of which have been done. Levels of activity would be another indicator of your total tax package, lease bids and so on, comparisons with other states and all these things are things that one would look to and try to assess how far you have gone in your taxation policy.

I think one of the really best safe courses, so one would really know where one is in this whole thing, even after you look at all these sort of measures, one of the best safeguards is probably to try to design taxes in your state that relate reasonably well to profitability. I think you run less of a risk if you do this. If you are able reasonably, or in some fashion to relate them to profitability, then you're not going to impose a very big tax burden if the industry isn't

very profitable, and if it is very profitable, you tend to throw up higher taxes and you run less of a risk really that you end up imposing on reasonable taxes on people, and this probably in the end is one of your best safeguards to kind of keep those principals in mind which means taxes related either directly related to income or taxes sort of semi-related to income as the step schedule that you have or the continuous schedule as is proposed where you really impose high taxes only in circumstances that weem to indicate high profitability, that is high well productivity which tends to be associated with high profitability, so I think the more that you keep to these kind of principals, the less of a problem you're likely to have in terms of really going too far in your tax burden on the industry.

GEORGE SILIDES - I have questions on two matters which concern most of us. One of them I know particularly concerns Senator Huber also, and if I may I would like to ask them now. One is do you have any comment on wipping out all the industrial incentive taxes in the State.

RICHARD KILGORE - We really don't have a comment on that.

GEORGE SILIDES - And the other one then is something which was discussed back in 1973 when we had a bill before us to own part of the TAAPS line. Now we have some bills in front of us which concern the possibility of again acquiring

an equity interest in gas lines or other lines, and I wonder if you could comment on that, whether your position has changed or what it might be now.

SENATOR HUBER - George, would you _____ bills particularly is for an industrial incentive, or for a state sponsor corporation which would operate on its own under the so called industrial incentive type bonding 100% if you could expand your question .....

GEORGE SILIDES - Senator, yes, I was going to make it into two parts, one is just to get a general statement on the State being an equity owner, and secondly of course we have SB 251 which is Senator Huber's bill actually.

RICHARD KILGORE - I haven't seen the bill itself.

SENATOR HUBER - It establishes an authority Dick, and with all of the powers, 100% of the authority to build the gas line.

RICHARD KILGORE - Well, frankly I would prefer, if you don't mind kind of deferring an answer to this question, and give it a little more thought. I know we have in the past, I guess, generally kind of questioned states being involved in things of this sort, and I don't want to give a general answer.

SENATOR HUBER - I don't want to force it either, but the reason that you might give it some consideration when you go back home is that the bill is not this one that is just an idea of whether we do it next year. This particular bill is an either now or never type of thing because it is designed, the whole purpose of it is to supply the North Slope gas to the lower '48 at an economically feasible price to make the project feasible, so it don't have to be subsidized either by users or the government, and if with the FEA setup and everything is set up with the President's approval and everything, it's an either pass it, so it's a method or else it will not be a factor. It's kind of a forced thing but it's now or never. It's timely.

RICHARD KILGORE - Senator, there are a lot of ramifications and a lot of things to think through on this particular kind of thing. I would prefer rather than just giving it off the top of my head, if we did especially take a look at the bill in itself, think it through carefully, and either come back to you with a written response or on the occasion of our next visit be prepared to respond.

MEETING ADJOURNED.

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ADDRESS TO HOUSE (SENATE) RESOURCES COMMITTEE

ON

PROPOSED NEW OIL AND GAS TAXATION
(HB 638, 803 - SB 620, 621)

Mr. Chairman, members of the committee. My name is Oliver Leavitt. I am a resident of Barrow, Alaska and am appearing before you today as Treasurer and Director of the Arctic Slope Regional Corporation. I also serve as an officer and director of AFN, Inc.

As you are aware the native regional corporations and AFN, Inc. have gone on record unanamously in opposition to a package of proposed bills in both the house and senate. These bills, if enacted, will greatly increase taxes on oil produced in the state.

Uniquely, out of a commonality of purpose rather than by design or intent we find ourselves aligned with all present and potential future producers of oil. This includes any individual or corporate entity who holds or may ever hold an interest in oil produced in this state.

The cliche that "Politics makes strange bedfellows" is appropriate to emphasize that we are not here in collaboration with the oil industry. No conspiracy or plot by design or inference exists, but by coincidence we find ourselves on the same side of the playing field. Simply stated it is a case of the well worn expression "whose ox is getting gored."

While our self-interests or, better stated our economic survival is at stake we would also like to bring out in a few brief remarks why we believe the consequences of enactment of the proposed legislation at this time could have damaging effects on organized labor, the general business sector, and the individual consumer/taxpayer in Alaska.

Some of you may think that it is out of context for the native people of Alaska to argue for or against anything but preservation of our culture or historic life style including a subsistence living pattern. The Alaska Native Claims Settlement Act in recognition of the value of extinguishment of aboriginal rights and title, provided for compensation

in the form of land and its attendant resources as well as cash dollars. The primary vehicle for management of the assets that were granted are the regional corporations. Congress expressly mandated that the corporations be structured as profit making organizations who have an obligation and responsibility to improve the economic well being of their shareholders. So, like it or not, our task is similar to any other non-public corporation. Maybe because we are relatively new in this game we enthusiastically embraced the free enterprise concept. An individual through hard, honest work is entitled to make a buck and to be allowed to keep some of it.

That is what we have been led to believe. The intent of the Settlement Act was to provide a means to economically develop in a free society without the shackles of subservience or bondage of governmental domination. But, in truth, we are not there yet and we have a long way to go before our economic stability is assured.

Now, let us examine the whole spectrum of what is involved with this proposed legislation.

I. THE CONCEPT OF TAXATION:

Everyone in this nation let alone the State of Alaska understands why governmental authority from the largest to the smallest imposes taxes. Also we know what the taxes are supposed to do - provide services for the public. Taxes run the machinery of government which in turn provides the taxpayers with necessary services that they otherwise cannot effectively and efficiently do for themselves. Education, health, protection, transportation, economic stimulation, aid for those who need it, management of renewable and non-renewable resource belonging to the public - all these and more are the charge of government. Our system is to provide funds through taxes to support the level of need. The idea of taxing beyond the immediate and discernible need is not our system - it best fits those societies who think confiscation or exappropriation are the way of life.

Some of you may believe that industry is such a greedy creature that no matter what tax is levied they will hang on. I won't belabor this point other than to cite a recent example that has been accurately statistically documented.

The action by the Western Canadian Provinces, especially British Columbia, in the past few years saw a sharp percentage drop until many people wised up and changed the make up of the government.

II. THE POSSIBLE EFFECT OF USUROUS TAXATION

Both our U.S. Senators have recently commented publicly that Alaska may be on the verge of being considered a "bad little rich boy." We obtain more in federal support per capital annually than any other state - exceeded only by Washington D.C. But more than this Alaska receives 90 percent of the revenues from Federal Oil and Gas leases in the state and receives 25 percent of the stumpage from Federal Timber Sales. The latter is common to other forest product producing states but should be mentioned because the revenues flow directly to the local communities.

If the present proposed tax laws are enacted and the federal treasury loses from 25 to 38 percent over what it otherwise would receive from income of Alaska producers from sale of Alaska resources, why in the name of heaven would the preferential treatment continue? Lost distribution of federal receipts affect everyone - consumer, housewife, and individual taxpayer.

III. THE IMPACT ON ASRC AND OTHER REGIONAL CORPORATION

I have attached to copies of this written testimony our interpretation of how the proposed taxes would effect our income from oil produced on ASRC lands, under both the House and Senate versions of the bills.

cents/barrel taxation upon the company, that is, you had anticipated that a $6.50 wellhead value will obtain for most of the production on the North Slope, in which case the cents per barrel really is not onerous, because the companies were paying on a percent of wellhead value. So if your cents/barrel is geared to hurt a company only if the wellhead value falls below $6.50, and you don't anticipate it falling below $6.50. Oh, this was a kind of compromise, protection against what might go wrong. Well, a lot of things went wrong. Among the things that went wrong were things that were partly beyond control of the company. Namely the adverse economics of disposing of the Prudhoe Bay production beyond California. One of the other things that went wrong, not necessarily wrong but went counter to the expectations of the Legislature, was that the pipeline tariff posted by the companies and now applicable pending adjudication by the Department of Energy, the successor to the ICC, is a very high pipeline tariff. This tends to reduce the wellhead value. So partly the companies have in effect shifted wellhead value down, because of the profit of the pipeline, but partly it has to do with economic circumstances, the ability to market at a good market, the prices in California are not that different than in Gulf Coast, for competitive reasons, but that's a different story. Basically, the price that they have to compete against is not much different in California than in the Gulf of Mexico. The big difference is the difference in transportation costs and there is a difference of $2.50 in transportation costs gross, and probably somewhere between 70 - 80¢ net after taxes out of pocket to the companies to go all the way to the US Gulf Coast.

Q: Sumner: I believe that I heard you say this morning that if we keep foremost in

mind the subject of future investment incentives in Alaska that we're going to have to weigh very carefully, even though we may want to restructure the tax structure here in Alaska, but as it relates to the aggregate of the total taxes that are being paid, I got an impression that you thought maybe we ought to think cautiously of how much we might increase in aggregate the taxes that are paid as it concerns the future investment incentives.

Lipton: I think that's right. I think that no industry can be indifferent and because the industry is important to Alaska, no legislature can be indifferent to the aggregate tax burden. I think that's quite a different thing from simply being overwhelmed by a statistic which says this industry is already paying, given our assumptions, somewhat, 5% more, five percentage points more than we would be paying in California. There's a shadow area between where tax burdens or expected tax burdens suddenly are going to affect industry investment incentives, particularly in the area of exploration. One thing you know, that the exploration dollar does not go automatically where the tax burden is least. The exploration dollar tends to go where the exploration prospects are best. You can surely shift it somewhere in this gray, shadowy area, where the tax burden get so overwhelming, or if there is somewhere the perception, and I think this is one of the things the Legislature surely will want to consider, that if the perception is that changes in the tax structure, as it is applied to the oil and gas industry, are regularly taken, largely with the view to budgetary needs or revenue deficiency, and hardly ever with the long view as to what is a reasonable tax regime for the state, then I think it creates impressions which may be even more important in discouraging investment than the fact of the tax burden per se. And this is why I think in all of our discussions with the legislature, we've

tried to emphasize that a balanced tax structure, in which each of the three elements, which are the income tax, the severence tax, and the ad valorem tax, have to be weighed somehow by a different criteria because they have different effects on the industry, but if it's balanced and if there's a concept of continuity over time, that under those circumstances we have not yet seen this legislature placing such extravagant burdens on the industry that if they had sufficient confidence in, you know, the trend over the future, that this would not discourage investment.

Q: Sumner: What is your guess to the liklihood of depressed oil prices in Alaska to resolve the oil activity throughout the rest of the world. Right now in terms of the efforts to increase or step-up production in many areas of the world and the West Coast surplus to some degree, do you see that as building on itself?

LIPTON: No. I don't think that there's anything in the nature of oil exploration world-wide. One has to have an incentive, and two, has to have a purpose. The incentive is the hoped-for profitability of the relatively high foreign oil prices. The purpose is to try to create the reserves, the expanded reserves that will meet world oil requirements in the future. If I may digress for just a moment, we're living in a strange circumstance. The productive capacity in the world today is considerably larger than world oil requirements. The reserves of the world today are really not very great compared to what future demand is going to be. We're facing a temporary surplus of collective capacity but a long run deficiency in the reserve base for oil, so the exploration is going to go on. I don't think there's any adverse effect on Alaska. I think the long run opportunities for marketing Alaskan oil in North America at prices that are attractive from the standpoint of the profitability

of exploration ventures, from the standpoint of the state's share of the economic value, the prospects down the line are terrific, and if the geologists of the company see the opportunities here, the exploration money will come.

Q: Sumner: I'm trying to determine what period of years might be involved in your projection there and weigh that against what is scheduled to be the peak production years, Prudhoe Bay for instances, which is right now of course one of the largest reserves in the state. You know, if it's ten years down the road, we won't be competitive, or we will have marketed the major part of this oil from that reserve. So does the long term picture look like three years, four years before improved or upturned pricing structure.

LIPTON: I don't think your prospects are all that adverse even at the present time. You're suffering a temporary disadvantage by virtue of several things, one, price control and two, the fact that your production is surplus to the ability or the willingness of California refiners to take that amount of your oil, and this will become aggravated next year when the production goes up substantially and the demand for all crude oil in California refineries is not going to be large, so that a larger portion of your oil is going to move beyond, but there will be in the interim, there'll be improvement in both world and US oil prices, world oil prices because of the level detemined by OPEC and US oil prices under whatever compromise on energy policy evolves.

Q: SUMNER: On the near and the long term?

Q: HUBER: Milton, would you go further into the relationship between cents/barrel in relation to vertically intergrated companies allocation to expenses and profits, sales, processing, production, transportation, such as possibly what would be the difference in situations with BP?SOHIO for instance if they have decided to take not the maximum in the transportation but to take

a minimum from the pipeline transportation and maximize their production profits.

LIPTON: Well, Senator Huber, you pick a difficult example. British Petroleum has a direct participation in the pipeline, so whatever the after-tax profitability of the pipeline operations are, for its undivided share of tax it accrues 100% of the profitability. Now, whatever the effect will be upon the wellhead value at Prudhoe Bay, therefore on the tax liabilities of Prudhoe Bay producers, therefore on the after-tax profits of Prudhoe Bay producers, affect British Petroleum only through it's partial ownership of SOHIO. What the net effect would be, I would assume without doing a great deal of number work, British Petroleum looks at 100% interest on the one hand and less than 100% interest through SOHIO's participation in Prudhoe Bay, would in a sense place greater weight on it's 100% equity which is the pipeline participation than on it's indirect participation in Prudhoe Bay. But you see, neither this company nor any other company has complete flexibility in how they operate. The tariff that British Petroleum set TAPS can set on the same basis as all the other operating companies; that is to say they chose to calculate a tariff based upon the old ICC 8% rate-making modified by the 7% consent decree with Department of Justice, and so they all use the same principles, they've got approximately the same tariffs depending upon their debt proportions and so on. British Petroleum behaved exactly the same way, and obviously, if it did behave the same way as the other companies, it was thinking in terms of what seemed, from their assumptions, to be an appropriate policy. I really don't know that there's so much difference among the companies. The other part of your question is a meaningful one. If you have integrated operations, and if in fact the

tax exposure of profits earned in one place or one function is different, in other words, if you earn the profits here you pay more taxes, therefore you like to have the profit somewhere else. If you earn the profits in production, you pay higher taxes, therefore you like to have the profits in transportation. This is true of any company that has the possibility of shifting through transferring pricing the profitability from production to (IA). But the companies don't have freedom here in terms of the pipeline. . . The issue of the pipeline tariff really I think should be divorced from the taxing policy of the legislature, at least at this moment in time because it's now at issue. First of all in the courts and certain legal respect, and more importantly, it's at issue before the Economic Regulatory Administration, Department of Energy, which is looking into both things, both what the capital base is for the determination of tariffs, and two, what the proper rate of return ought to be. And this is now in adjudiction. And your own Alaska Pipeline Commission is seized with the issue of the tariff between Prudhoe Bay and Fairbanks. It's going through it's own administrative process, and if it turns out that in fact, the administrative decision upheld in the courts is that the pipeline tariff is too high you will get higher wellhead values and (IA) the companies whatever their predilection will be low side of profitibility and tax exposure, are going to have to follow suit.

Q: HUBER: I can recall the arguments when we put in the cents per barrel, and it was to protect the state, if I remember right, through revenues even if the oil would fall to zero wellhead value, and even if the allowed transportation should be extremely high. Coupled with that was the figures given to us many times that most oil pipelines were allowed to 8% maximum but the history of the ICC shows that they weren't, the prices were such that they weren't taking only 5%, 6%, 4.5%

of these figures and many others several times showed that most of ICC-controlled pipelines were not charging that maximum amount. Here we have the situtation that you brought up, SOHIO is paying 12.25% effectively because of the floor

LIPTON: (INTERRUPTS) (16.5)

Q: (continues) you said 16.5% effective, and yet every one of them is change and it seems like they have decided that the Alaska pipeline that the old proportion will be used, they will go for the maximum they can and I'd hate to see what it would be if we didn't have the lid of 8%. It looks like you've got a whole new ball game here.

LIPTON: Senator Huber, I think I do recall your reference to the past.

We have been rather vocal on this subject of ICC tariff regulations and pointed out the history of two things, one, that the 8% rate making rule was a monstrous rate-making rule because it had been adopted in an economic environment which no longer existed and the ICC for unfathomable reasons has never gone back and reviewed the 8% and the rate-making rule, and because of that, we raised the whole question of the effect upon netback values, wellhead values, and we strongly supported the establishment of the Alaska Pipeline Commission, which gives you your own avenue of administrative regulation. But you know, an interesting thing happened. All of a sudden the ICC came alive, and the ICC said that that old 8% rate-making rule is no good. We're going to go to a 10% rule. But you know the 10% rule yields much lower tariffs than the old 8% rule. The 8% rule was 8% after tax and after recovery of interest on total valuation. The 10% rule, and there's nothing magic about it, and I suspect that in the course of time the review of the whole issue will mmodify that too, but the whole point of the 10% rate-making rule is not to give a higher rate of return. What is said in effect was the 10% shall be the total return to capital; that is to say your interest charges,

which are such a fantastically large thing have to be covered by that 10% return of your capital, and this led to ICC-proposed tariffs which were $1.50 or so on the average below what the companies have posted. Now I suspect that the change in attitude of the ICC did not arise of a vaccum. It was a reflection of a long discussion on the implications of the rates that had taken place before your legislature over many years and argumentation over what the appropriate rates of return should be, what the appropriate rate base should be, and what the resulting tariff would be, and I think that at this stage of the game, from the standpoint of Alaska, not from the standpoint of the companies, there is reason to anticipate at least that there will be very very serious review of these pipeline rates. Now if it turns out that after all administrative review and after all judicial review, that the company tariffs stand, where are we left then? What's the judgement then? That everybody's wrong? The companies are wrong? The Department of Energy io wrong? The courts which uphold them are wrong? The Alaska Pipeline Commission hasn't been able to do anything. I doubt that that's the case. But if all of that does transpire, what then is the implication? Maybe the tariffs are not of out line. If it's done through all process, I don't think that's going to be the result. I think the strength of the Alaskan position is in everything which has transpired over the last few years, including the arguments about the rate base, the arguments about the rate of return, and everything else, I think this, I strongly believe that this is a judgment, a personal judgment, that you will have substantially lower tariffs on TAPS than were promulgated by the companies themselves.

Q: HUBER: Just one final follow-up. It is within our responsibility, purvue as legislators for the State of Alaska's people to determine at what point do you say this is what we would do in fairness, or do you say if it isn't economically feasible to produce this oil at this time because of transportation problems, federal rules that are in many cases arbitrary assumptions, maybe we shouldn't get rid of this depletable well at this time. The cents per barrel tends to do that, what I'm talking about, rather than removing it entirely, or move the cents/barrel down to where we could bring more fairness to the companies as you say, what do we do with ...

LIPTON: Senator Huber, if you're talking about revenue per se, it's a persuasive argument. If the function is to provide an underpinning to state revenues, the cents/barrel does it. Now, the other question is what are the implications when you choose to buttress or underpin state revenues by doing this? First of all, what you see is a kind of ad hoc taxing policy, increasingly year after year dedicated to our budgetary needs, revenue deficiencies, or whatever the case may be. There are circumstances which may militate in that direction, if it's necessary, if the state faces a crisis. But you must always ask yourself, is this to be the principle of taxation that you'll follow in every legislative session, or are you willing to say that the state has an economic interest which is represented by, first of all, it's royalty claim in the lease, secondly by principles of taxation which have been evolved over sessions, and only under extreme situations do you start intruding unique revenue problems as the basis for change in the tax liability in one year or the next year or the third year. I have no argument against the necessity of doing so from time to time, when abnormal circumstances intrude. I do think that it

causes, the question is asked of me so many times, including just this session, where do you start adversely affecting corporate investment decisions, and I said thenand I still feel that you could with the burden of taxation do it, but more likely, the kind of changes in the burden of taxation really won't have that much effect, but if there is a perception that tax policy always is detemined with a kind of a unique view toward the budgetary exigencies and the revenue deficiencies of the moment, and there seems to eb no continually over time, that would have a very adverse effect.

Q: HUBER: By possibly reducing the floor, and I do hope that in some cases this might be a viable suggestion. I just can't get it with our responsibility that floor of 62.5 ¢ a barrel, for Alaskan oil now at least that's the floor on severence tax, and I can't see how that could be effective now when this same oil it's competing with throughout the world, other countries like Arabia, are taking $10.00 a barrel, we're taking too much at 62.5¢. I just wonder if we're making our discussions in the right range. We shouldn't be making off somewhere halfway in between somewhere instead of down below the bottom one.

LIPTON: I'll give you a very quick answer to that. Saudi Arabia in effect takes more than $10 a barrel for their oil. But let's assume that you'll be satisfied with a modest $10/barrel taxation on your oil. You take $10/barrel for your oil and the oil has to be sold in L.A in competition with Saudi Arabian oil, or $13/barrel. Now you have left $3/barrel to pay your transportation costs from L.A. to Valdez, never mind the profit on the pipeline, your pipeline costs from Valdez up to PrudhoeBay, the costs of producing the oil. $3 won't do that. That's why you can't get $10 for your oil and Saudi Arabia can

get $10 for it's oil. Furthermore, you are not a Saudi Arabia in Alaska. Let me be presumptious for a moment in addressing the Alaska Legislature. You are not a United States in Alaska either. You're living as part of a nation which also has a tax regime. The United States has all forms of taxation upon oil and gas operations, including your oil and gas operations here in Alaska. The United States has a policy with respect to development of energy resources, the pricing of energy resources, they may be unattractive in Alaska. They are largely tax regimes attractive to the oil companies, the price and policies are attractive to the, but never the less, it is our national policy and it seems to me that the State of Alaska in its perception of how it treats the oil industry, must do so as part of the United States talking about an oil industry which is also part of the United States.

Q: HUBER: It just seems like we've got about a 20 to 1 difference there, and I hate to get working below the one figure in figuring where we should come out when I have a feeling it's somewhere between the 1 and the 20 instead of below the zero line, below the 1 line. And I just can't relate it.

LIPTON: A, Senator here, let me put it this way. There are companies operating here in Alaska who are operating in the Middle East, and earning in the range from .15¢ to .21¢ a barrel for their producing operations. And it's a bonanza to them. A fantastic bonanza, ever so much profitable than any operation in Alaska. If they earn as a margin of after tax profit in Alaska $2 a barrel we couldn't come close to the profit ability of middle east operations. Look at the fantastic difference in investment that's involved. What's of interest is not just how many cents per barrel we take away after cost and taxes, but how much of an investment of that is necessary to do it. There's a tremendous difference. I'm not addressing myself again to the fact the industry could not

stand any increase in taxation here or it's too high now. This is a very difficult thing to arrive at and this is a thing the legislature always has to balance. But I don't think, this is my only point, I don't think that the criterian the legislature should use in deciding whether the taxes are too high, or whether in fact they should raise taxes on the oil industry here. That they should look at the government take or the taxation in foreign producing countries. It's completely irrelevent.

Q: HUBER: Could you tell us better and more direct how should Alaska get it's honest, true, fair share both as a property owner and as a taxing entity if we don't use comparative means. That I think is the level we set up.

LIPTON: You're comparing yourselves with other tax jurisdictions which are also state states in the United States. I mean this is one of the reasonable comparisons. And you look at one form of taxation which is a corporate income tax and try to get what is a, well, you've got a corporate income tax rate. The problem is that that rate is going to apply to too low an estimate income. You can correct that if you choose. You have a severence tax which has evolved over time, I think in a very healthy direction. You have increased the ceiling percent of well head value over time not to any onerous letters compared to other states. You reduced it at the other end. You tried to provide not only for the state's revenue under optimum circumstances, but for protection of larger industry operations under adverse circumstances. You loaded on ad valorem taxes at a very considerable extent, and you did that under the exigencies I think it's quite understandable that, in your judgement revenue needs which anticipated the flow of revenues. You chose an avenue which was to tax before profits were being generated. It happens alot of times. But I think this is the basis upon which you judge. You look first at the total tax burden, then you look at the individual parts, and how are

they in terms of the revenue for the state and what are the economic implications for the companies that have to operate under those taxes. Certainly you've never subscribed here to the opinion that you're aggregate taxation, or that individual aspects of taxation were so onerous that in a sense they are discouraging operations here is Alaska. There's no evidence that operations here in Alaska are discouraged. If there's been a lag in exploratory drilling there certainly hasn't been because of the tax regime. It's because of the problems of leasing, land selection.

Q: REP. MILLER: Just real quick, and I'm curious, name a few states that use separate accounting.

LIPTON: Louisiana and Oklahoma

Q: REP. OSTERBACK: Talking about the oil. Have you done any figuring on the gas? That's the next thing that's going to face us in our Committee, the well-head price on gas. Have you done anything on that.

LIPTON: No. This is a wide open subject, and I have nothing but pity for those individuals who must now wrestle with the problem of not only what, what the well-head price of Prudhoe Bay gas can be. Second, Question, what the well-head price of gas ought to be. Can be, ought to be, and third, is how to get at those things. This is an awesome problem. Just let me say that I think this is one thing which is again to the thinking of the legislature. We always said that your oil is a price taker. That is to say, the price at which your oil can be disposed of in the refining centers of the lower 48 states can never be determined by Alaska, the state of Alaska or Alaskan producers. You're price takers you've got to move into the refineries in competition with other forms of oil. Which is why any increase in real costs that are incurred, for example, the ultimate cost of the pipeline, they come out of the ultimate profitability of Alaskan operations and they come out of the state revenue. There's no way of getting away from that. This

is not quite true in the case of gas. In the case of gas things which happen here in Alaska have influenced what the price of that gas will be when it's delivered to lower 48 markets. For example, severence taxes can be passed on. Increases in cost can be passed on. The reason is that the barrel of oil that reaches the California refinery has to be refined in competition with a barrel of oil from somewhere else. And MCF gas which reaches the Great Lakes area from Alaska doesn't have the market and competition with the MCF of gas which comes up from Texas, or off shore Louisiana, because you've got rolled in pricing which is involved at different stages of the game. Both in the transmission pricing and the distribution gas companies. Now how that's going to be resolved over future years, it has to be resolved before the new gas pipeline is finally going to be brought before us. But it is quite possible that the well-head price of gas on the North Slope will turn out to be higher on the BTU basis than the well-head value of the oil. It's quite possible. In which case the utilization of that gas in Alaska may not be so effective. If that's the way it works out. Although the utilization of the liquids may be very attractive, but that's a different story. I'm sorry but this is kind of a long winded answer, but the answer is basically I don't know what the price is going to be, but there's a difference between the way the price of gas can be determined and the way the price of oil can be determined.

Q: BUTROVICH: At what point in time and has the Prudhoe Bay oil been felt by the National Energy picture?

LIPTON: On sure. I mean there's no two ways about it. You've got 800,000 barrels a day of American oil being produced here which would increase our imports by 800,000 barrels a day if we didn't have.

If you ask how important is that 800,000 barrels a day or 1.2 million barrels a day which hopefully you'll reach next year, or 2 million barrels a day that you may reach by 1980. It's very difficult to judge how important that is from the standpoint of national balances. You would just hate like hell not to have it.

Q: BUTROVICH: I was going to ask you if that is good. The overall effect.

LIPTON: I don't think there's any argument on the part of the producing companies that have to pay your taxes and the part of the State of Alaska that have revenues, and the part of the United States as a whole, which has the benefit of that oil, no question about it.

Q: BUTROVICH: Suppose it hadn't gone on stream until July 1, 1979.

LIPTON: We're importing more oil now. The interim volumes of oil would be available in 1979 and thereafter. I don't think it would be the decisive factor in the national interest. I don't think it would have a very major impact upon the companies, and probably the state of Alaska. The companies' cash flow in the state of Alaska is revenue, you know.

Q: BUTROVICH: Would you elaborate a little about the companies cash flow, I'm not that concerned about the state's revenues.

LIPTON: There's no question that from the standpoint of operating companies the invested proceeds over time there is in the best of circumstances a very considerable lag between the time the investment starts and the time the investment is completed the first production, the first pipeline really begins and then build up your revenues thereafter. The companies have to pay out the money for a long period of years and incur interest costs over the whole interim. The duration between outlay and income, let us say the cash flow, is a very vital consideration, no question about it. Which is one of the reasons

that in almost all instances the companies would look for the most expeditious possible development of a resource the earliest possible production. The cash flow is, you said something interesting about the workers of other companies than the government because the government

Q: BUTROVICH: Pardon me. I didn't mean to say I was more concerned with the companies. I was more concerned with what effect it would have on the companies that's what I wanted to elaborate on. I'm more concerned about the state.

LIPTON: Yes. But your point, I was going to suggest that your comment really is a very meaningful comment in another context. For a profit making company the timing of it's outlays and it's income and it's cash flow, is extremely important to the continuity of it's operations because the dollar that's spent out can't be reemployed until it's returned in so for a company that would like to expand and continue to grandise it's profits. Cash flow is what provides the dynamics of it's operation. But for most governments the cost of waiting for income is really not as terrible as it is for companies. The cost of waiting if you have to put a discount factor or interest factor is bound to be lower for government, because for governments the governments are looking to a continous lead for revenues over the future. Now nobody wants to defer revenue too long, but the dollar of revenue deferred which becomes a dollar of revenue earned is going to play it's role in the budgetary balance wherever it takes place. The viability of government is not dependent upon the timing of cash flow really so much as it is for a profit making organization. That's one of the reasons, again we're talking about taxes. If you built a foreign producing operations, one of the forms that has

recently evolved is a production sharing contract. And you have a company that operates as a producer for a government oil entity and the nature of the production sharing contract is that the company will recover out of early production all of it's operating costs and what barrels of oil recover it's operating costs and relatively will quickly get enough barrels of oil to recover it's whole capital investment. Now after that shares go in increasing proportions say to government. For the company the amount that it's willing in negotiations to give to a foreign government will be the greater. The earlier the foreign government allows that company to get enough barrels of oil to recover it's costs. In other words, they will split more number of the government the earlier they can get back to themselves, because the cash flow is so important to them and the governments which recognize that are willing to do it, because they feel that the cash flow to the government is always going to be valuable in terms of their budgetary balances.

Q: RADAR: Mr. Lipton, the failure of Arthur Andersen to take into consideration the Cook Inlet production, is that considering amount of production. Does that significantly alter their conclusions here.

LIPTON: First of all I was not critical of Arthur Andersen for not doing this. They did what they were asked to do.

Q: RADAR: Yes, we are talking about a statewide policy here and ranking. What I'm saying is the failure of their application only to Prudhoe . . . What effect do you think it would have had, had they included Cook Inlet?

LIPTON: Senator, if all you did was to expand Cook Arthur Andersen model to include Cook Inlet as it is today, an extrapolation of the remaining reserves into a production profile for for Cook Inlet and apply the whole thing you'd have very little effect on the sum total. Because we're talking about close to 10 billion barrels of oil in Prudhoe Bay we're talking very

limited reserves, you know production now out of Cook Inlet is around 120,000 barrels a day which is projected with a (IA) overtime. Now I don't, the specific answer to your question is if the model had been designed to include all oil producing operations, all oil reserve discovered and available for development and production as they now exist in Alaska the effect upon the ranking would be very very small.

Q: RADAR: Would it be as much as 1%, maybe bringing 1 from 92 - 93 or something in that range?

LIPTON: I don't know. The answer is two-fold. The effect depends on two things. First of all upon the relative volumes. Now we know what that is. The relative volumes are overwhelmingly in the Prudhoe Bay direction. Plus the pipeline which is so much profitability and taxation involved in the pipeline. However, some of the greatest advantages the state gives under it's tax regime are given to Cook Inlet. I would not think it would make as much as 1 percentage point difference in the ranking producers.

Q: RADAR: In the future when we're in full production instead of limited production because of problems with the pipeline, full production Alaskan wells will move into higher bracket and Alaskan rating or ranking actually as compared to the next closest state would be further apart as the fields grow older and the fields produce less and less. Alaska's ranking would be closer to Louisianias' for example.

LIPTON: I'm not sure that I get the thrust of your question, and that is to say as you increase your production for example, if next year you average 7,000 barrels a day for a Prudhoe Bay well your cents per barrel goes up to 64.8¢. So your cents per barrel tax goes up. The chances are that your

average well-head value if the tariff remains the same will go down. The average well-head will go down, because a larger volume of the Prudhoe Bay production next year is going to have to move to the Gulf Coast and net back even lower. So if you're looking one year ahead then the incidence of taxation in Alaska will look worse than today. If the study were made just for one year, remember Arthur Andersen study is based upon a projection of 25 years. So if you are just doing it for next year as compared to this it will look less favorable. They've already done this for 25 years. That shouldn't have any effect upon their (IA) but let me just say something else. That if your tax regime remains as it is, abstract what may change, you have only to project reasonable increases in the well-head value because of what is happening to world oil prices and what's happening to government prices. Reasonable increases in well-head value and suddenly the tax burden becomes proportionately lower here in Alaska. Because increase in the value of the oil will go to a very considerable extent to the companies themselves. That is to say what's going to be the increase in the tax burden as the value of the oil goes up. Your ad valorem taxation really isn't going to increase very much. Your severence taxation will increase a little bit as you go through cents per barrel into percent of well-head value and by god, your state income tax revenue will hardly increase at all. Because you are under a formula an allocation formula. So as production increases in the future and as the value of Prudhoe oil goes up in the future the burden, the relative burden of Alaska taxation as things now stand becomes less.

Q: RADAR: I'm interested in your observation as to the statement we the federal government is going to expect Alaska to participate in the financing of an Alcan pipeline and the federal government in no circumstance is going to participate. I don't know that, and I understand that some federal people

will be up here in a couple of weeks to talk about that very thing. I'm a little bit uneasy as to what our posture is and what our maneuvering room is against what their maneuvering room is.

LIPTON: I recently returned form Alberta, Edmundton, where we are also consultants. The question of financing the gas line of course has been raised in Alberta as well as in the State of Alaska. I find it of double interest because while the pipelines were competing for authorization the promotors were very hush hush about requiring outside financing and everything. Once the competition was over and the realities begin to emerge and one begins to worry about who's going to do the financing and whether the province of Alberta should take an equity interest or whether the State of Alaska should lend money or whether the State of Alaska should in a sense guarantee the bonds so the rate of interest will be lower. I don't know how many different roles the state of Alaska can be cast. It's already been, with respect to the oil and gas industry, cast in the role of a soverign power. It's already cast in a role of a land owner, and now it's going to be cast in the role of a money lender. I just don't know the answer. This comes down in the end to very pragmatic consideration. What are the realities of financing as they are presented to you? What is the state's interest in pursuing this? How far should the state go?

Q: RADAR: What do you think promoted the Federal government to take the position that it was reasonable for the state to finance or participate in the financing but unreasonable for the federal government to participate.

LIPTON: That's what they said to the city of New York.

Q: RADAR: New York was asking for something, we're not asking for anything.

LIPTON: No. They're saying that these are problems internal to Alaska and we should not take the responsibility for it. That is a bad analogy. But this a subject

one can address themselves to a lot better after one knows what the real circumstances are. I don't know that the Federal government in the end will not play in some kind of a role in the financing of the gas line. An awful lot depends on the extent in which the federal government wants (1) the gasline built by a certain date, (2) is convinced that private financing either is not available, which is unlikely, but is available at onerous interest rates. Therefore what role should the government, any government whether it federal, state or provincial. I think it is a little too early because so far I suspect that what we are hearing are the protestations of the party of the first part. That is to say the people who are involved in the financing.

Q: RADAR: When do you expect when the federal government will reach an agreement on the price, set a price, April - May?

LIPTON: This Spring or early this Summer I would suspect it has to be done. Even if the least optimistic time schedule or authorization, financing, construction, design and construction of the gas line has been met, the pricing policy is basic to almost any other decision that can be made.

Q: RADAR: Well if they expect the state to participate, again I'm thinking about our session and our opportunity to address this problem. Do you think we are likely to have before us the facts that it takes to intelligently address this problem if we were to adjourn in June, what's your best estimate on that?

LIPTON: I would doubt very much if you'll have all the facts, but I think you may have, the first thing I think you have to listen to more than anything else is just what the facts along this line are going to be, what are now the alternatives to the companies involved in the construction line. How do they see their own alternatives. What is the Federal Government realistically thinking about. I don't think the Federal Government is

actually asking the state of Alaska to undertake any of the responsiblity, I'm sure of that at all. The Federal Government may be simply saying to the people building this pipeline, "Look, you go ahead. These are the authorizations - these are the rules of the game. Now you go where can in terms of equity in terms of debt capital and in terms of the government entities that are involved. Really, which is basically the state of Alaska, the Province of Alberta, the Federal government of Canada to a certain extent, even the problems of British Columbia. I doubt if you'll have all the facts, but you'll probably have alot more."

(Answer to question asked by George Silides in Commissioner Gallagher's testimony)

Tom Williams Madame Chairman with your permission I would like to try to address that question and also try to speak a little bit to what Senator Radar was talking about earlier. For the record my name is Tom Williams I'm the Director of Petroleum and Revenue. We have two changes in the severence tax that we are suggesting. One is the economic limit factor and the other is the increase in cents per barrel floor. Right now we have a federal pricing decision to give oil , to Prudhoe Bay oil new oil treatment for both pricing purposes and for entitlements purposes. Entitlement is a transfer of money back and forth among the refiners to equalize their apposition costs to the national average, that is the objective of the entitlement, and new oil in the lower forty eight comes in the refinery less than imported oil consequently there is a fraction of an entitlement that didn't flaw, for the right to run as new oil. Our oil when it gets there, will not be below the cost for import oil it will be right at the cost for import oil. In fact the national policy has been for new oil like high risk North Slope production we got right from our Prudhoe Bay field. National policy is to give that, right now a $10.95 average price, cause of the realities of market, we tried, if we insisted

or if the producers who own that insisted on getting a market price at the refinery that corresponded to a $10.95 well-head price, someone is going to have to pay the transportation cost, and if you have say a total $5.00 transportation cost you would be getting into the market place at $15.95 the Saudi oil which is competitive with ours is selling for $13.50 to $13.75 so somebody would have to, I mean where's the incentive to buy, you'd have to compell people to buy our oil to get $10.95 price or there would have to be a subsidy. This has not been a thing that we have been requesting the federal government to do. We recognize the fact that this is how the market is, we are far away from it in terms of cost. Consequently the well-head value is not that it's realized by a refinery price that's competitive with the Saudi Arabian oil. Our well-head value is going to be lower than the ceiling. The problem is that they are going to, if they treated this new oil, they are going to try to equalize something that is already equalized and it is going to result in a penalty over $3.00 a barrel, this equalization. They will equalize all the rest of new oil for the lower forty eight, it won't hurt them too much, it will cause some problems though, because it will over equalize new oil producers in the lower forty eight. But for us it doesn't, it's completely inappropriate because our oil is already coming in at the level corresponding to imports. There is no need to equalize. Consequently if you make them buy at a fractional entitlement at a cost of $3.00 or $3.35 that means the refiner is going to pay that much less instead of paying $13.50 he will pay $10.50, and that means a Prudhoe Bay producer or the State of Alaska if it takes its royalty in kind and goes out and tries to sell it, when he gets it to the west coast is gonna see only $10.50 coming to him. $3.00 goes into the entitlement,

we never see that. So you start from $10.50 down there in California and then you have that when you get to a $4.00 welling price. Our contention is that if that happens the game is over. There will be no more exploration. There are no more Prudhoe Bays. It is highly unlikely, there is only one Prudhoe Bay in the United States and there may be a second one down in Mexico, in the Tabascoarea in the farmers fields, but a, there pretty darn few and far between to find a field that large and at $4.00 well-head value. If that's the prospect, four dollar well-head with

today's cost, even if you found it out of Prudhoe Bay the chances are nill that it would be developed. And so the game is over because we are not likely to find fields twice and three times the size of Prudhoe Bay. So given that the game would be over, we are not doing any more damage by saying that well, instead of $6.00, $7.10 is the floor and the post which is our present floor with the cents per barrel, we are simply saying, Why should the people of Alaska follow the resource? At the game, it then becomes a question of priorities and where our allegiance lies, with the people of Alaska or the share holders in the larger corporations? Now there is a balance, but given that &7.50 is not a reasonable well head price for North Slope oil in the beginning of a cut, and as production continues and through what builds up, if it, the federal began, assuming the federal government doesn't screw things up and destroy the insantitudes, the increase thuroughfare will lower the pipeline tariff. This will allow the well head value to rise. OPEC countries can be expected to raise their price, that includes Arabia. So if the refinery price for our oil, our refineries will raise the charge for getting our oil from Prudhoe Bay to the refineries will be less. These two things will conbine to raise our well head value and by the early 1980's we won't get by talking about the well head value of $7.50, we will be taldingabout well head values greater than $10.00. In fact extrapulating out by the end of this century, we will be seeing well head values of well, your world market values it sounds obsurd today, but $20.00 well values are certainly not inconceivable at that time, and thats $20.00 in terms of today's dolars, you know, not inflation dolars of the year 2000, that twenty of today's dolars,

thats simply because we have increasing demand, our Latin American neighbors for instance, their energy consumption is growing at a rate ten times ours, their population keeps growing, and world energy demands are far outstripping our own nation's demand and as vast as the OPEC resources are, this is a world wide shortage developing in the next 10-15 years. This shortage is going to cause, ask developers, its going to cause the price to rise in real terms that is to say in addition to the effects of inflation, we will have an additional increase in the real rather than the illusion. Consequently when we turn back, to the point, if the federal government gives us new oil in Tilener's treatment, the question then becomes whether we are willing to sit by and say OK we will take 8% or 10% off for dolars and there it is, its not good, but thats all there is to it. Even though we are paying right now, importing almost 10 mission barrels a day to each, though I don't know what the latest figures are and we are paying our good, loyal allies, Arabs, Iranians, Abu Dhabians, and all those nice people and Indonesians, Nigerians and Algerians, 14-15 somewhere in that range, 14-15 dolars is the average per import acquisition cost.

QUESTION- Tom, I understand what you are saying, I really do, but how, I must have missed somthing, how does that help Cook Inlet today?

- OK, with Cook Inlet, we, Sterling and I have gone to the Federal Energy Administration last summer and in fact, the hearings that they had earlier, in April or May, it was in Anchorage regarding the price of new oil and how to compound the upper and lower tears should move through time, and also about this problem

of oil production that reaches its break-even point with the control oil price. Right now, I mean the federal government is not reluctant to price our oil severly below what its actually worth, in the inlet that oil is beginning from $5.00 to $5.15, and for oil of similar quality we are paying, almost, we are probably paying over $15.00 a barrel to get it from Indonesia to the west coast or Pudget Sound. So we don't see a very friendly attitude on the behalf of the federal government toward Alaska production to begin with. We went there and pointed out that there are some properties in the oil that were at that time dangerously close to reaching this break-even point at $5.00 a barrel, we said we know you have shis procedure to allow pricing on this basis, to allow the price to go up, so that they continue to have more revenue than expenditures. Then they, thats indeed true, then they said that of course we are not going to give it to the State of Alaska because thats fixed cost, you are going to be stuck there at $5.00. Well that presents an interesting question about how they rewrite our lease, but they said that they would allow that much pressing relief and return the property to the level of profitability enjoyed in May of 1973 when price controls, that's the reference period they all relate back to, May of '73. But he said, we'll allow to have that same measure of profitability, which to my thinking would include among as profit, you have what's over for tax. So if you raised the severence tax, that's an increase cost, but an oil company can go into the FEA and present the case saying, here are my thoughts, now give me my May 1973 rate of return,

and in fact that should accelerate the movement to a more realistic price to the upper tear which is not still the market price, but at least its, $10.95 is a good site better than $5.00. And consequently, if the Federal Energy Administration is doing what they say they are going to do and if they can do it in a timely fashion, there should be no problem for the oil companies because this is simply an expence, severence taxes are recognised as such.

- that had not been explained before, thank you.

SENATE RESOURCES COMMITTEE

HOUSE RESOURCES COMMITTEE

Testimony of Lawrence L. Wilson

March 25, 1977

My name is Lawrence L. Wilson, Associate Tax Counsel, Union Oil Company of California. I shall be speaking today on a number of bills which cover income taxation, severance taxation and property taxation. Specifically, these will be SB 105 and its companion bill, HB 145 and HB 322, all of which deal with income taxation along with SB 202 which is the "net proceeds" tax. I will also cover SB 103 and HB 321 and its companion bill HB 144, which deal with severance taxation. Finally, there will be remarks covering HB 323 dealing with property taxation and HB 328 dealing with the Reserves Tax. Where appropriate, my remarks will also comment on testimony that has already preceded my testimony. The first bill I wish to comment on is SB 105. No reference is made to HB 145 since it is an identical bill.

SB 105

SB 105 is a bill which purports to determine income to Alaska through the "separate accounting" method. The preficatory language in Section 1 states that the present method of apportioning income under the three-factor formula embodied in the Multistate Tax Compact does not fairly represent the extent of

the business activities in Alaska for corporations engaged in the production and pipeline transportation of crude oil and natural gas. Section 1 goes on to state that the legislature, therefore, intends that section 18 of Article IV of the Compact, which allows separate accounting, shall be adopted for determining income derived from the production and pipeline transportation of oil and gas.

Richard Kilgore of Walter J. Levy and Associates and Professors Jerome Zeifman and Kenneth Ainsworth have commented on "separate accounting" as a method of determining income with Mr. Kilgore defending it and Messrs. Zeifman and Ainsworth attacking it. Even Mr. Kilgore acknowledged that the administrative problems of determining "value" for a product transferred out of the state and of allocating expenses to Alaska were troublesome. Messrs. Zeifman and Ainsworth painted a picture of corporate maneuvering by astute managers to deliberately operate Alaska affiliates at a low profit through such means as selling property to the affiliate at high prices to get high depreciation and by allocating excessive overhead.

However, none of these witnesses have provided this Joint Committee with the really significant reasons why separate accounting is an unsatisfactory method of determining income within a state. First, even if one could overcome the administrative problems of valuing production and allocating overhead, separate accounting simply cannot adequately and properly determine how much profit of a business is derived from within a

state where the overall business has parts which are dependent upon one another and which are located in more than one state. It was for this very reason that the "unitary business" concept was developed along with apportionment formulas to determine how much of the total income of the total multistate business should be apportioned to a state. This is precisely the procedure which Alaska uses today, as well as most taxing jurisdictions, i.e., the total income of the total business of a multistate company is determined and then apportioned.

The other reason why separate accounting should not be adopted is that it exposes the taxpayer to multiple taxation. Income which would be fully taxed in Alaska would also be apportioned to other states using the apportionment method, which looks to the total income of the taxpayer as a taxable apportionment base. Conversely, Alaska's or any other state's adoption of separate accounting could cause it to lose tax from an overall profitable multistate company -- specifically, where the in-state separate accounting calculations produce an in-state loss for such overall profitable company. As Mr. Bonney of EXXON will demonstrate LATER, this would have been his company's case had Alaska been on separate accounting during the development years of the North Slope. Instead, Alaska received income tax by using the current apportionment method, apportioning a part of that company's overall profit into Alaska.

Turning to the provisions of SB 105, it is clear that the bill is not even the form of separate accounting which any of the witnesses were debating. Rather, it is a hybrid form of

separate accounting. It seeks to determine income by simple reference to the wellhead value of oil and gas used for severance tax purposes and then allows only seven deductions while totally ignoring any other legitimate deductions which represent business expenses allowable under established principles of income taxation. Five of the seven allowed deductions relate to costs closely associated with production. Another category is for unsuccessful exploration costs incurred in Alaska. The only out-of-state cost allowed is for interest expense "not capitalized and capitalizable", but this expense would be severely limited for most companies through the use of a ratio of the book value of the fixed assets associated with the field to the total book assets held by the corporation and of its affiliates. All interest expense related to a company's operations within the state should be recognized as a current operating expense, without the limitation described in this bill.

It is clear that SB 105 would introduce new concepts of taxing an oil and gas producer which radically depart from concepts found under the existing Alaska corporate income tax structure. The traditional concepts established over decades of experience and which are contained in that corporate income tax structure would in large part not apply, yet the producer would be taxed at the same 9.4% corporate rate of tax.

One of the seven deductions is for "severance taxes actually paid." This provision may appear to be without problems until one analyzes it in connection with the reserves tax.

Unless the statute is amended, the reserves tax will likely result in nearly $240-250 million dollars paid to the state next June 30th. With the $220 million paid on June 30, 1976, the aggregate of nearly $500 million represents, in essence, prepaid severance taxes because the reserves tax may be used as a credit against future severance taxes payable. Hence, the word "actually" in the clause "severance taxes actually paid" takes on significance, and it appears that the authors' intent is to allow as a deduction only that amount of severance tax "actually" paid over after the credit with the result that some $500 million would be denied as a deduction.

Depreciation is allowable but only on facilities closely associated with production, but the amount of depreciation is simply left to the Department of Revenue to handle by regulation. Depreciation is a vastly complex subject under income tax laws and can be handled in many ways to provide fair and equitable results to a taxpayer. The bill provides little or no guidance on a subject of such importance to a taxpayer.

As noted earlier, SB 105 does not fit within the category of the "separate accounting" method of determining income. What it really seeks to do is draw a ring around successful oil and gas operations and allow as expenses only those that are literally tied to the lease, plus expenses for unsuccessful exploration efforts and a severely limited amount of interest expense. The resulting amount is supposed to be net income, but in fact, would represent a level of income much higher than would occur under regular principles of income taxation.

In addition to the tax received by Alaska based on an inordinately high level of income, the authors of SB 105 would, under Section 43.20.014, still seek to reach, through apportionment, the taxpayer's out-of-state income, including its oil and gas and pipeline income as well as all other income. In short, SB 105 would allow Alaska to fully, or, rather, more than fully, tax directly all of the Alaska income from oil and gas and pipeline transportation and would also require the taxpayer to apportion to Alaska all of its other income except the income already taxed by SB 105. And, of course, the final effect to the taxpayer would be that other states where it does business would also apportion income to themselves under their tax laws and included in that apportionment to them would be the Alaska income already fully taxed by Alaska.

A state may constitutionally tax only that income of a taxpayer which is derived from within its borders. That fundamental rule applies irrespective of the method used to determine income. SB 105 seeks to reach all income from oil and gas and pipeline transportation in Alaska and at the same time, through apportionment, seeks to reach the taxpayer's other income including its non-Alaskan oil and gas and pipeline income, thereby raising the constitutional question of the taxation of extraterritorial value in violation of the Fourteenth Amendment of the U. S. Constitution.

With respect to income from pipeline transportation of oil, Sec. 43.20.013 simply provides that where such a pipeline is regulated by the Interstate Commerce Commission (ICC), the

annual taxable income "shall be eight percent of the valuation." There are no guidelines to determining income under any set of rules, and items of income and expense are not even considered. Obviously, this provision is aimed at the Trans Alaska Pipeline and, in effect, says that the tax shall be valuation times 8% to get around $600 million of "annual income" which, when taxed at 9.4%, produces a tax of about $60 million.

Attempting to tax a business in this manner would be similar to a law which says that an individual shall be deemed to have annual income equal to a certain percentage of the assets he owns. For example, suppose such a law say that a person's annual income is deemed to be 50% of his assets and the person owns an apartment house worth $200,000 but has a $150,000 mortgage against it. His annual income would be $100,000 to be taxed irrespective of his costs. It would not matter that the person may, in fact, show very little profit.

A taxing scheme which deems "income" to be a percent of value of assets without regard to actual income and expenses is, in effect, nothing more than a property tax under the guise of an income tax and raises serious legal and constitutional problems.

The authors, however, have attempted to provide a form of "escape hatch" to the foregoing method of taxation by providing in Section 43.20.013(c) that the corporation operating such an ICC-regulated oil pipeline may elect to have taxable income from the pipeline determined under rules and regulations of the

Alaska Pipeline Commission. Thus, the idea seems to be that if the corporation does not like the percent-of-value method of determining annual income (which would deem annual income to be at a very high and ficticious level), then it can be economically forced to submit to the rules and regulations of the Alaska Pipeline Commission whose rules may or may not be parallel with the ICC rules. In fact, section 6 of the bill contains an amendment to Section 42.06.041 by adding new provisions which require the Alaska Pipeline Commission to give the Department of Revenue a certificate that the pipeline corporation so electing has complied with the Commission's rules and regulations. Subsection (c) of Section 041 provides that the Commission shall by regulations establish an accounting procedure to define net income to "coincide as nearly as possible with the net income definition used by the Commission in establishing rates and measuring rate of return."

What is happening under these provisions seems clear enough. The idea seems to be to put such an onerous tax burden on the ICC-regulated pipeline that it would be forced to elect to comply with all applicable regulations and orders of the Alaska Pipeline Commission concerning accounting methods and reports. In short, the Commission would set the rules for income determination notwithstanding that the pipeline company remains subject to the primary jurisdiction of the ICC. Thus, there would be four parties involved in determining income: the taxpayer, the ICC, the Alaska Pipeline Commission, and the Commissioner of Revenue who is interpreting the Alaska Commission's rules.

Use of the tax laws to achieve the apparent goal of regulation by the Alaska Pipeline Commission is an abuse of the taxing power. Further, the scheme raises obvious legal and constitutional questions and with so many parties that would be involved in the income determination process, the stage would be set for endless controversies.

The foregoing discussion relates to ICC-regulated oil pipelines. Where an oil pipeline does not yet have a value established by the ICC or where the oil pipeline is strictly an intrastate oil pipeline, the bill provides that such a corporation having one of these pipelines shall have its income determined under the rules and regulations of the Alaska Pipeline Commission. Here again, as would be the case of an ICC-regulated pipeline corporation which was forced to elect to have income determined by the Commission (discussed above), the income determination is left to another agency under rules and regulations as it chooses. In essence, the whole matter of determining income to tax under an income tax law is left to the vague guidelines of another governmental agency. This, in itself, raises questions whether there has been an unconstitutional delegation of legislative authority. But even if one gets over that hurdle, the fact remains that whatever rules would finally apply, those rules would not accord with general principles of income taxation which ought to apply to pipeline operations just as they apply to any other type of operation.

As to gas pipelines regulated by the Federal Power Commission (FPC), SB 105 provides in Section 43.20.013(d) that

taxable income shall be determined in accordance with reporting procedures established by the FPC. Here again, there is a departure from normal application of income tax principles because a gas pipeline, though regulated, is really no different from any other taxpayer insofar as having income tax principles applied to its operations. The regulation and rate-making process of the FPC fully takes into account a gas pipeline's handling of its operations where that pipeline utilizes the provisions of the Internal Revenue Code to achieve tax savings for the benefit of not only its customers but also its shareholders.

Finally, I would like to say a word about Section 43.20.015 which deals with "Public Reporting." Under that provision the Commissioner of Revenue is to compile and transmit to the legislature each year an annual report which shows the tax paid under SB 105 together with the itemized deductions that have been allowed and how much tax revenue was not collected because of the deductions. Further, the report is to provide a summary of the total amount of oil and gas produced by each taxpayer, the taxable income as calculated under Section 12 and 13 relating to oil and gas income and pipeline transportation in Alaska, and the out-of-state income of the taxpayer apportioned to Alaska.

In short, SB 105 would open up for general scrutiny without safeguards of confidentiality the whole operation of the oil and gas producers and pipeline operators in Alaska. I would hope that we haven't progressed to the point in this country where a

taxpayer's returns have become a matter of public record. I doubt if anyone would consent to having their tax return information bundled up by the tax collector to be laid bare for anyone to review. There are strict rules in all states and at the federal level covering disclosure of tax return information, and there are ways whereby certain limited groups of people having a legitimate interest can obtain that information on a strictly confidential basis with criminal sanctions imposed for violations. But under SB 105, the information could be made available to a large number of people where there are no guidelines whatsoever over disclosure. Such a provision is one that simply should not be tolerated no matter who the taxpayer may be.

HB 322

The next bill I wish to discuss is HB 322. This is the Department of Revenue's bill which adopts the recommendations of Professors Zeifman and Ainsworth. Essentially, this bill has the following features:

1. Impose a franchise tax on oil and gas producers operating in Alaska who have gross receipts of $250 million or more.

2. The income base to be taxed would be the higher of (1) pre-tax book income as reported to stockholders before any reduction by reason of taxes on income, or (2) taxable income under the Internal Revenue Code.

3. Apportion the pre-tax book income under item 2 by means of a three-factor formula where the property and payroll factors are the same as now contained in the Multistate Compact but the sales factor in the Compact would be replaced by an extraction factor. Such extraction factor would be the ratio of oil and gas produced in Alaska (expressed in BTU's) to total production of the taxpayer everywhere.

Thus, there are two main themes to HB 322: tax base changes and apportionment factor changes. Such changes are the same changes discussed and recommended by Professors Zeifman and Ainsworth in their testimony earlier this week.

Professors Zeifman and Ainsworth would reject federal taxable income as a tax base because the Federal Internal Revenue Code contains many deductions, credits and exclusions which they allege have diluted revenue-raising potential through subsidization of of some activities while discouraging others.

In their report, though not mentioned except briefly in their testimony, the professors attempted to demonstrate how the revenue raising potential has been eroded and referred to the concept of "tax expenditures" which, in essence, is simply a listing of those items or categories constituting deductions, credits, or exemptions found in the Internal Revenue Code, together with the estimated effect they have on revenue collected. This listing is required to be published each year under the

Congressional Budget Act of 1974. However, instead of discussing and commenting on the more than 75 general categories of items in the published list as they apply to both individual and corporate taxpayers, the professors chose only to extract in their report but six categories, and only one of the six (expensing of exploration and development costs) applies specially to the petroleum and mining industry.

I have here the complete listing of "tax expenditures" for the Fiscal Year 1978 which also shows those "tax expenditures" for years 1976 and 1977. A copy of this listing is attached. There are two columns for each year, one for corporations and one for individuals. A review of both the number of categories listed as well as dollar amounts will reveal that individual taxpayers indeed have fared very well compared with corporate taxpayers. It will also be noted that there are only two items relating specially to the petroleum industry. One deals with the expensing of exploration and development costs, which, from the testimony of the professors as well as Mr. Kilgore, one would think was the major provision in the Internal Revenue Code but which in reality represents a rather small item compared to other items in the listing. In fact, that item has a revenue loss effect about equal to the loss from the credit allowed for buying new homes. The other category deals with the excess of percentage depletion over cost depletion. But this latter item applies to over 100 different minerals which involve percentage depletion--oil and gas being but one category. In any event, percentage depletion has

negligible application to major oil companies because of the severe restriction of percentage depletion for oil and gas resulting from the 1975 Tax Reform Act. The professors' attempt in their paper to show the petroleum industry as a highly favored industry that receives a major share of tax benefits is simply incorrect.

After leveling a finger at corporate taxpayers generally, the professors then recommended that one special group--namely oil companies--be singled out for tax "reform". However, the professors failed to discuss either in their paper or their testimony the inequity or possible legal problems of proposing a "book income" base for major oil companies which would be far different than would apply to any other class of taxpayers. They did not even mention in their report that no state in the country has a law utilizing "pre-tax book income" as a tax base though questioning by the Committee did bring out this information.

Even if one were to agree with the novel approach suggested by Professors Zeifman and Ainsworth and embodied in HB 322, a true advocate of their theory could not logically propose its use with one set of taxpayers and then ignore its applicability to the vast majority of other taxpayers. If such a radical change in tax approach is to be made, then it should apply to all taxpayers under all income tax laws at the same time, with corresponding adjustments of tax rates for all.

An approach which uses the higher of book income before taxes or taxable income can lead to distorted results. Mr. Bonney of EXXON will demonstrate through a simple example how the use of one versus the other could prevent a full recovery of a capital investment and yet tax phantom or non-existent income. Further distortion may result from the inclusion of earnings of non-controlled companies in pre-tax income, as required by generally accepted accounting principles. While the oil companies may be required to report the earnings of their investments in non-controlled companies, they do not determine if or when the earnings of these entities are distributed. Yet HB No. 322 provides for immediate taxation of this income because it would be included within the pre-tax book income reported to stockholders.

Professor Zeifman emphasized the fact that book income is invariably larger than taxable income, thereby showing that big corporations have tax benefits. However, of what real significance is it that a corporation's management chooses to adopt a conservative book accounting method as long as it is consistent in doing so year after year to avoid distortions? Differences between book and tax income due to different treatment has existed for decades under generally accepted accounting principles. For tax purposes the Internal Revenue Service, as well as a company's own auditors, will require a full reconciliation of the taxable income back to the book income and there are extensive schedules in tax returns which do this every year.

The only point Professor Zeifman is making is that under the Internal Revenue Code corporations are permitted certain deductions, or credits, or exclusions which, if taken advantage of, show a lesser "taxable" income than shown on the books if the management chooses to use a consistent method which treats the item differently. But the same thing can be said for all taxpayers, i.e., all taxpayers receive some form of tax treatment which causes their taxes to be less than if the tax law simply taxed the gross dollars received at a specified rate. This can be seen from the "tax expenditures" listing referred to earlier. Pointing the finger at one group of taxpayers as ones who should first go on the chopping block of reform while ignoring others who are not so treated is asking a lot of any legislative body whose duty it is to play fair with its citizens, whether they be corporate citizens or individuals.

Substitution of an "extraction" factor for the "sales" factor

The second main point of HB 322 deals with deleting the sales factor and substituting an extraction factor.

Before plunging into this subject, I believe it would be helpful to give the Committee some background about the traditional three-factor formula utilizing property, payroll and sales, where it came from and why it is used today by most states which tax corporate income. Another reason why this will be helpful is that Professors Zeifman and Ainsworth gave their testimony recommending a change strictly on the basis

that its use will apportion more income and, therefore provide more tax. However, the matter is not quite as simple as the professors have indicated.

When states began taxing corporate income over 50 years ago, there were various formulas used to divide the income. Because there were different formulas, it was not long before disputes arose between states and taxpayers, usually involving the question whether the state was reaching for too much of the taxpayer's income. It is very important to bear in mind all the way through the discussion of this subject that a state can constitutionally tax only that income of the taxpayer which is derived from within the state's borders. Thus, the search has always been to find a formula which gives both the taxpayer and the state fair treatment. But as to the taxpayer who operates in more than one state, the problem has also been to utilize a method of dividing income which does not subject the taxpayer to multiple taxation.

It is not difficult to see how multiple taxation can occur. Suppose X corporation operates in states A, B, and C, each of which has the same standard three-factor formula of property, payroll, and sales and each of which has an 8% income tax rate. In would be rare if X corporation had exactly the same mixture of property, payroll, and sales in each state. However, when each of the three states apply their tax laws and divide the income under their uniform formulas, X's total tax to all three states will be no more than 8% of its total income.

But let's vary the example just slightly and assume that in state A, X corporation has a heavy concentration of property and payroll but not many sales and that state A decides to delete its sales factor and have only a two-factor formula. In such a case state A will apportion to itself a greater amount of X's income but apportionment to States B and C will remain the same. The result will be that an amount greater than X's total income will be apportioned in the aggregate to all three states and X will have been subjected to multiple taxation because State A broke the uniformity.

The foregoing is a simplified example but nevertheless demonstrates how multiple taxation can result. As noted earlier, disputes over income taxation existed for decades and it was not until 1957 when the Commissioners on Uniform Laws in conjunction with the tax section of the American Bar Association and many other interested parties finally wrote a model law known as the "Uniform Division of Income for Tax Purposes Act" (UDITPA) in the hope that states would adopt it and thus put an end to the chaotic condition that existed. The apportionment formula settled upon utilized property, payroll and destination sales. Underlying this three-factor theory of apportionment is the concept that the employment of capital in the form of property, labor as reflected in payrolls and ultimate sales to generate the sustaining revenues for the business are all vital factors to be given equal weight in determining income. Thus, the theory recognizes that in a true economic sense some part of taxable income is earned at every stage of the business process.

To date, about one-half of the states (including Alaska) have adopted UDITPA and all but two states which impose an income tax use the three-factor formula of property payroll and sales.

The UDITPA model law only deals with apportionment of income and does not contain provisions setting forth rules or procedures whereby a state cooperates with other states to administer income taxation on a joint basis. In an effort to promote uniformity of tax rules and cooperation, a number of states formed what is now called the Multistate Tax Compact. However, a state which adopts the Compact also adopts the three-factor division of income formula based on the UDITPA model law. Alaska adopted the Compact in 1970 but followed the UDITPA formula before 1970. Hence, states which have adopted the Compact and states which simply follow the UDITPA rules have compatible laws.

With this brief background let me turn to the proposal to delete the sales factor and impose an extraction factor. The nub of the professors' argument is that the sales factor is low due to destination sales which causes lesser apportionment of income to Alaska and this can be cured by substituting an extraction factor. Thus, the sales factor is dismissed by the professors and the reader of their paper and the audience to their testimony is simply left with a conclusion void of any reasoning except maximizing revenue.

There was a sound reason for the UDITPA and Compact treatment of sales on a destination basis for purposes of the "sales" factor. A destination sale is one which occurs in a state if goods are

delivered in that state or services are performed in that state. Suppose a manufacturer has its plant in Illinois and has a large payroll at that plant. From this plant the manufacturer ships most all of his products to purchasers in other states. If this is the only plant, the property and the payroll factor to Illinois

will be high and if the sales are attributed to the Illinois plant as the origination point of the sale, then Illinois would apportion nearly all the income for taxation in Illinois. As can be seen from this simplified example, the major manufacturing states would receive an unreasonably high proportion of apportioned income to the detriment of non-manufacturing states. Hence, the "destination" sales concept is one which not only affords protection to less populated, non-manufacturing states, such as Alaska, but also gives legitimate recognition to sales activity in consumer states by deeming the sale to "occur" where the purchase takes delivery.

What the professors have proposed as a factor change is no different from what they might propose in any state based upon simple reasoning to get more revenue, the only difference being that in such other states it might be a different factor which provides the key. For example, they might shift their proposal to Illinois or Pennsylvania to point out that its sales factor also is destination-oriented and because most products are shipped out-of-state, the ratio of sales in either of those states will be lower. The professors could then recommend that the "destination" sales factor be changed to an "origin" sales factor or that the sales factor be deleted in favor of one based on manufactured units (e.g., television sets) in the state to total units manufactured everywhere. By such changes, those states could then command most of the apportioned revenue since, being manufacturing states, they already have the bulk of property and payroll and, through the sales factor change, they could prevent

dilution of the total factor to be used by the taxpayer.

But suppose it was some state which did not have heavy manufacturing (i.e., low property and payroll in the state)? Under the professors' reasoning this might call for use of only a sales factor -- i.e., destination sales and not origin sales because only the former would help the state (in contract to what was said above as being in the "best interests" of Illinois or Pennsylvania). By so limiting the formula to a single factor, the non-manufacturing state maximizes apportionment of income to the state.*

The foregoing are only two examples out of many one could establish to tailor apportionment formulas for various states if the only objective is simply maximizing revenue without concern for inequitable or unconstitutional consequences. However, the problems with the examples are parallel to the same problems that are contained in the professors' proposal for an extraction factor. In each instance there is a break in the uniformity of treatment by a state which inevitably results in the taxpayer being subjected to multiple taxation. The state breaking uniformity will tax a larger part of the income by use of its advan-

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* Recently the Iowa courts struck down as unconstitutional that state's use of a single factor of sales because it was not an adequate measure of the taxpayer's income derived from within Iowa. (Moorman Mfg. Co., Polk Cty. Dist. Ct. No. CE 3-1595 (12-17-76)). Similarly, in General Motors Corporation vs. Dist. of Columbia, 380 U.S. 512 (1965), the United States Supreme Court struck down use of a single sales factor by the District of Columbia.

tageous apportionment factors. Unfortunately, part of that same income will also be apportioned to and taxed by the other states having the uniform apportionment formula.

As noted, the professors have given no reason for use of the extraction factor except that it will raise revenue. Missing is the reasoning why the present factors are not a proper measure of a taxpayer's income within Alaska or, conversely, why use of the extraction factor will give a more accurate measure of that income. Merely saying that oil goes out of the state and does not count as a "sale" in Alaska to its detriment is not good enough because, as shown earlier, any state could analyze its economic position and make the same argument when it observes a resource material or manufactured item being shipped out of the state. If that happened, then clearly the states and taxpayers would be back to the same chaotic situation that existed before the uniform rules of UDITPA and the Multistate Tax Compact were formulated and adopted.

To satisfy constitutional requirements, an apportionment formula must fairly and reasonably measure a taxpayer's net income in the particular state since a state has jurisdiction to tax only that income derived within its borders. The professors and some Alaskan critics of the present three-factor formula have simply looked at the oil production aspects of the business of a multistate oil company operating in Alaska but apparently wish to ignore the other part of the business where that oil has to be transported, refined into products, distributed and sold.

In fact, the bulk of such a company's employees and a large portion of its investment lie in these phases of the business. Moreover, the revenue which pays for the expenses of company operations is generated mainly out of the sales of refined products.

The concept of income taxation is the taxation of the overall profits of an enterprise which may have many parts in many states but all of which contribute to the ultimate profit or loss. In devising a formula to measure income for apportionment, the drafters of the UDITPA model law were not being arbitrary when they settled upon use of property, payroll and "destination-oriented" sales. They were looking for a formula which not only contained elements reflecting as many aspects or segments of the business as possible but also for a formula which could be easily and uniformly administered and which provided equitable treatment to states as well as taxpayers. Using these guidelines, the drafters found that property, payroll and sales provided a balance of factors reaching and reflecting the essential elements of any manufacturing or mercantile business.

There can be no doubt that the author's solution fails to protect the taxpayer from multiple taxation but, rather, actually creates it. While this is reason enough to reject use of the extraction factor, it also is clear that use of this form of factor in place of a sales factor reduces the segments or sectors contained within a business whose operations are reflected in the formula. Sales from all phases of the integrated business are the sustaining element of the business without which the business fails, and such sales reflected in the sales factor

are drawn from the total business. Units of petroleum extracted are important to the business too but represent operations pertaining to only one segment or phase of an integrated petroleum company's total business.

While crude oil extracted may have a value at the point of production, that value exists only because of consumer demand for products produced within other equally important phases of the business consisting of refining, product transportation and marketing distribution. In this regard, oil production in the case of the oil industry is not unique and the same reasoning can be applied for iron ore in connection with steel making, for raw timber in connection with finished wood products, or even for grapes grown for winemaking since in each of these cases the raw product can be viewed as having been "extracted". In all these cases, as well as with the oil industry, the "extracted" material undergoes a complex transformation into products resulting in sales revenues only after having been acted upon by other necessary phases of the business containing most of the taxpayer's employees and containing facilities representing a substantial part of the taxpayer's invested capital, both of which are distinct from the "extraction" phase yet still a part of the overall operation of the enterprise.

By using an extraction factor in place of a sales factor the whole element of sales which sustain the business for its survival are disregarded. Units of oil and gas produced is simply not a proper measuring factor and, as will be pointed

out in an example by Mr. Bonney of EXXON, the substitution of an extraction factor can result in a distorted attribution of "downstream" income from transportation, refining, marketing, etc. to Alaska which can result in the taxpayer having income taxed twice.

From the foregoing it can be seen that substituting an "extraction" factor for the "sales" factor actually distorts rather than improves the measurement of net income of the total enterprise attributable to or derived from within a particular state. What it does is provide a change to "maximize" revenue which is not a goal of formula apportionment when done at the expense of sacrificing the other principles which lie behind the concept of apportionment

I would like to say a word about the provision in HB 322 which the professors recommend as being a basis for Alaska including OCS property, payroll and extracted oil and gas as its own factors when the OCS property is dependent upon on-shore Alaska operations. The professors were certainly correct in saying that there may be problems. However, they failed to point out that section 1333 of Title 43, which deals in part with state laws applicable to the OCS area, contains rather troublesome language for a state attempting to extend its tax laws to the OCS area. Section 1333(a)(2) contains the following sentence:

> "State taxation laws shall not apply to the Outer Continental Shelf."

At least one state, California, has looked deeply into this matter of whether California, could consider the OCS developed area as providing property, payroll and sales factors for use by California, i.e., the same consideration being recommended by Professor Ainsworth. The California Franchise Tax Board in Legal Ruling No. 366 has held that California cannot claim property, payroll and sales in the OCS area for California's benefit, i.e., California cannot put these factors in the numerator for California. There is attached to my testimony copies of the pertinent federal statute referred to above, along with a copy of Legal Ruling No. 366 of the California Franchise Tax Board.

SB 202

SB 202 is basically the same bill which was considered in the 1976 session as SSSB 620. The main difference between the bills is that under SSSB 620 the net proceeds tax was a credit against regular corporation income tax insofar as that corporation income tax would represent tax on income from oil production taxed under SSSB 620; under SB 202, the taxpayer also remains subject to the Alaska corporation income tax but is deemed to be exempt only to the extent of income earned from production of oil in the state. In short, under SSSB 620 there was an actual credit against the Alaska corporation income tax but the net proceeds tax credit was only applicable against that part of the corporation income tax which was applicable to income from Alaska oil operations. Under SB 202 there is no credit as such but the taxpayer who apportions income to Alaska is simply not

taxed on income deemed to come from Alaska oil production.

As some of the members of this Committee know, I testified on SSSB 620 last year and pointed out what I believed to be the deficiencies in that bill. That testimony is no doubt still available in the Committee files and I do not propose to go into all the details of the bill again. Rather, I shall have some general comments on the bill and point out how this bill impacts on the taxpayer, as well as point out some of the legal problems with its operation.

The "net proceeds tax" contemplated by its proponents has features of an income tax in that it attempts to reach a level of "income" or "profitability" from successful oil and gas production operations with a tax rate applied which is equal to (or higher than) the regular Alaska corporation income tax rate (i.e., 9.4%). Essentially, the tax would be determined by subtracting from the wellhead value of oil and gas production certain limited costs and expenses directly associated with production and multiplying the difference by the corporation income tax rate of 9.4%.

Proponents of the "net proceeds" tax have chosen to label it as an "ad valorem" tax rather than an "income" tax. However, in substance and operation the tax is unquestionably a form of income tax and merely calling it by another name cannot change that fact.

Because the "net proceeds" tax approach is itself a form of separate accounting, taxpayers will be exposed to multiple

taxation under that approach for the same reasons as discussed in connection with SB 105. In fact, the economic effect to a taxpayer would be even more adverse since the goal of the "net proceeds" tax is simply to isolate successful Alaskan oil and gas producing operations, allow a very limited amount of deductions closely and directly associated with production, and tax the resulting "net proceeds" at the corporation income tax rate (9.4%) as though those "net proceeds" constituted net income of the taxpayers.

Proponents of the "net proceeds" tax in the past have admitted that the "net proceeds" to be taxed would represent a tax base which is higher than would occur under regular principles of income taxation applicable to other taxpayers. Hence, the economic effect is that Alaska would place a tax (at the 9.4% corporate income tax rate) on a level of income (but called "net proceeds" instead of "income") which is much higher than would result under regular income tax principles, and that same income (or at least a certain level of that income) would be included in the base subject to apportionment to other states and taxed by them because they use the standard three-factor apportionment formula.

But the adverse effect of the "net proceeds" tax approach would not stop there because under that approach the same taxpayer would still be subject to the regular Alaska corporation income tax. SB 202 would still require the taxpayer to apportion to Alaska under the three-factor formula all of the tax-

payer's income from outside Alaska, including its non-Alaska oil and gas income. Thus, SB 202 would provide Alaska with the best of all worlds: it would receive a tax at the 9.4% corporate income tax rate on Alaska "net proceeds" which would constitute a tax base much higher than under regular income tax principles and, through apportionment, it would also seek to reach all of the taxpayer's income from outside Alaska as well as any non-oil and gas income from within Alaska.

The concept of the "net proceeds" tax which would operate in substance like an income tax raises a legal question whether the method would permit the state to tax a greater amount of net income than reasonably could be attributed to Alaska.

Proponents of the "net proceeds" tax have claimed that a "precedent" exists for such form of tax and have cited the states of Nevada, Utah, Colorado, Idaho, Montana, and New Mexico as examples. However, a review of the statutes in those states reveals that the "net proceeds" tax has nothing whatsoever to do with a scheme to tax income such as that being advanced by the proponents of the "net proceeds" tax. Rather, the "net proceeds" involved in the states referred to are simply convenient and simplified means of arriving at a value on mining or oil properties for purposes of applying property tax rates by local county assessors in order to provide property tax revenue in the local counties. Such a method is essentially a substitution for the rather sophisticated and complex valuation procedure that would otherwise occur each year, such as the complex

valuation of the Prudhoe Bay field for purposes of applying the reserves tax in Alaska.

It is safe to say that no state in the country imposes a "net proceeds" tax of the type the proponents in Alaska have in mind.

I would now like to direct my comments to the Legislative Council's proposed production tax changes incorporated in the identical bills, SB 103 and HB 144.

DESCRIPTION OF THE BILL

As discussed yesterday, the proposal would:

a. Change the point where the taxable value of oil is determined from the "well" to the point where "oil is first metered or measured in a condition of pipeline quality".

b. Realign the stepped tax rates, lowering the tax on the first 1,000 bbls per well per day and substantially raise the tax on all production over the first 1,000 bbls with a high rate of 14% on all production exceeding 3,500 bbls per day.

c. Use lease or property averaging in determining each well's daily production.

d. Tax flared gas at 5 times the normal rate.

e. Advance the monthly tax due date to the 20th day of the month following production.

COMMENTS

1. Adoption of lease or property averaging of daily bbl. per well production is a step in the right direction in properly ascertaining the stepped tax rates applicable to a field. The change, of course, will aid both the taxpayer and the state administratively.

2. The resultant increase in the overall industry tax burden (estimated by the Legislative Affairs Agency to be about $180 million per year by 1980) is completely unwarranted, considering the question of need which others have already addressed and considering the fact that Alaska oil is already being taxed at virtually the highest level in the nation. The limited benefit given to the lower producing fields in Cook Inlet in no way should be considered as justification (or a basis of consistency) for placing such a harsh extra tax burden on high producing wells in the North Slope or any other location. This approach portrays the concept of taxing the taxpayer at a high level, not on the basis of state governmentel need, which we believe to be grossly unfair.

3. Retention of the alternate cents-per-barrel rate floor with its wholesale price index adjustments more than counteracts any true benefit out of reduced rates given low Cook Inlet producing wells through percentage rate reduction. As Levy Associates has maintained, this minimum price-setting device has created an artificially high value on the old Cook Inlet oil for tax purposes, resulting in an effective tax rate well in excess of what we believe was intended by the legislature on such oil. The last time I reviewed the situation--which was about a year ago--the cents-per-barrel feature of the severance tax had caused Union and other companies for which it reports severance tax to pay about

$5 million more than would have been paid under the percent-of-value method. We view this amount as simply an unintended windfall benefit to the State since January 1, 1974, the date the current cents-per-barrel tax took effect.

4. We do not see any justification for imposing a penalty rate (5 times normal rate) for flared gas, considering the fact that such flaring controls are best placed with regulatory agencies, not taxing agencies. If proper regulatory authority exists to flare gas, such as for safety pruposes, there is no justification for adding tax at a confiscatory rate to a product that the producer loses through flaring where that flaring is done for reasons of safety.

5. Moving the point of measurement of production value downstream to the point of metering in a condition of pipeline quality could unjustly place a substantial tax on transportation costs on some fields which for a variety of reasons require movement of oil significant distances before measurement. Since the Alaska Production Tax is an occupation tax on the privilege of severing oil and gas, it would be more appropriate to continue measuring it by its value at the point of severance, i.e., the wellhead, instead of adding on to it incremental values of gathering, transportation and field treatment.

6. Advancing the delinquent date for payment from the first of the month following the month of production to the 20th day of the month following the month of production would place

an undue administrative strain on the reporting groups within the various producing companies. In most cases, the production data to calculate tax liability and prepare returns must be transmitted to offices outside Alaska. Advancing the delinquent date by 10 days will simply make worse an already short time open to comply with the law. By advancing the reporting time 10 days, the State, overall, only gains a total of 10 days for revenue collection which seems inconsequential compared with the added administrative burden on producers.

My next comments pertain to HB 321 and SB 238, identical bills, which contain the Administration's recommended changes to the oil and gas production tax.

Briefly, the bills would replace the present stair-stepped tax rates on oil production per well with a single rate of 10% on value or one alternative minimum cents-per-barrel rate of 75 cents (adjusted for gravity and for changes in the "Gross National Product Deflator").

Also, the 4% rate on gas would increase to 10% with a new alternative minimum tax of 6.4 cents per MCF. The new percentage rate and cents-per-unit rates would be adjusted by an "economic limit factor (ELF) discussed later.

The proposal also makes other changes, including changing the point of measurement from the wellhead to the point of measurement of pipeline quality. The proposal also imposes a double rate of tax on flared gas.

We strongly oppose perpetuation of cents-per-barrel floor prices and expansion of it to gas production, as well as increasing the minimum price to which it relates, that is, $7.50 per barrel. As Milton Lipton has advised, the current floor as escalated by the National Wholesale Crude Price Index has worked in unintended ways on Cook Inlet Crude, creating an artificial taxing value well in excess of the value permitted by the FEA on old oil. Now the Administration not only recommends continuance of the minimum price concept but also proposes to increase the minimum price to $7.50 per barrel.

The Administration supports this course with the argument that the FEA price is artificially low. But the oil companies producing such "old" oil nevertheless suffer the economic realities of federal pricing. Accordingly, we believe it is unfair that in addition to bearing such economic loss in price, the Cook Inlet producer must also bear an increase in production tax because of an arbitrary floor of $7.50 per barrel used as the measure of tax. This, of course, would be equally true on the North Slope if the FEA placed a value below $7.50 on that production. We fail to see any justification for the State to arbitrarily burden the production with such a heavy production tax through an artificially set value because of the possibility that FEA pricing decisions may not be favorable.

As mentioned above, HB 321 introduces the concept of an Economic Limit Factor (ELF) as an adjustment to the percentage rate of tax applied to both oil and gas. According to the Department of Revenue's February 1977 study, the Department believes that the present "stair step" rate schedule does not adequately take into account differences in the economic conditions existing from field to field, e.g., a well producing 1,000 bbl/day at one location may be marginal while such a producing rate at another location may be profitable. In short, the stair-step approach is deemed defective because it does not adequately protect against excessive taxation as a well approaches its economic limit.

To correct this, the Department proposes an ELF, the calculation of which begins by determining a fraction the numerator of

which is the "monthly production rate at the economic limit" and the denominator of which is the production during the month for which the tax is to be paid. Under HB 321, the numerator is by statute deemed to be 100 barrels times the number of well-days. Well-days are by definition the number of days a well is operating. Thus, if there were 10 wells on a lease operating for 28 days each, the numerator would be 100 X 10 X 28 = 28,000 bbls. If the total monthly production on the lease was 280,000 bbls, the ratio would be 10%, or expressed as a decimal, .10. The next step in determining the ELF is to reduce "unity", i.e., 1.00, by the ratio expressed as a decimal. Thus, 1.00 less .10 = .90 = ELF.

The best way to explain how the HB 321 mechanism works is through a simplified example, a copy of which is attached. The example uses Cook Inlet production of 35° oil at a $4.85 per barrel controlled price. Under the bill, one of the adjustments is a half-cent for each degree above 27°, so 4 cents is added to the 75 cents. The GNP Deflator adjustment is ignored. The statutory presumption of 100 barrels is the numerator and 1,600 barrels is the denominator which gives a decimal of .0625, and when subtracted from 1.00 gives an ELF of .9375. Both the cents per barrel of 79 cents and the 10% rate are multiplied by .9375 to find the adjusted cents-per-barrel and percent-of-value rates. Next, the royalty of 200 barrels is subtracted to find 1,400 non-royalty barrels. Finally, the 1,400 barrels are multiplied by the value of $4.85 and then by 9.375% to find the tax under the percent-of-value method, and are multiplied by $.7406 to find the tax under

the cents-per-barrel method. Since the tax of $1,036.84 is the higher (i.e., under the cents-per-barrel), that tax is the one that would be payable.

At the bottom of the example the tax under HB 321 is compared with the tax produced on the same production if it occurred this month (March 1977) under current law. As shown, the increase is about 60%. Also at the bottom of the example it is shown that the effective rate of the production tax under current law would be 9.5% but 15.3% under HB 321. While not shown if the production rate had been 800 bbls/day instead of 1,600, the increase in tax over the current tax would have been around 75% instead of 60%.

As mentioned earlier and used in the example, the monthly production rate at the economic limit is, by statute, presumed to be 100 barrels times well-days unless the producer in a formal hearing proves by "clear and convincing evidence" that it is otherwise. However, in proving this, HB 321 contains some rather curious and questionable ground rules which do not track with reality. These provisions are found in subsections (b), (c), and (d) of Section 43.55.013. In essence, the "average monthly direct operating cost" (based on at least 4 consecutive months) is divided by the value at the point of production of oil which is produced from the lease, but this "value" is not the value the producer actually gets but, rather, that value which is deemed to be the value of comparable crude at West Coast refineries for imported oil which is then "backed out" to the wellhead.

Translated, the "value" used to divide into the monthly operating costs is, for Cook Inlet, Indonesian Crude laid into Los Angeles at about $14.50 per barrel. When the $14.50 is "backed out" to the wellhead, the value at the wellhead is about $13.50. Thus, it is not the $4.85 real price used to calculate "monthly production rate at the economic limit" but, rather, $13.50.

While that is bad enough, with regard to the "direct operating expenses allowed", the bill only allows four: drilling supplies, fuel, routine maintenance and wages and benefits of employees working on production operations. Specifically excluded are capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for repairs or replacements (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, or monies paid or set aside to cover the cost of terminating operations, i.e., abandonment costs.

Allowing only four listed costs is not realistic because there are cash operating costs not allowed but which are tied to operations versus no operations. Any cash cost which would be affected by a decision to operate or not operate is the realistic approach and more in line with the way it would actually be approached by a producer in a true situation. HB 321 would even deny severance taxes on the production itself and property taxes on the equipment. In short, "economic limit" is that point at which actual revenue and actual costs are equal.

I requested Union Oil's oil and gas division engineers to run some calculations using real data as a test. Doing it in the

normal way, our people used the realistic value of about $4.85/bbl for value and the real operating costs to get an ELF of about .67. But by using $13.50 per barrel as a value and limiting the costs to the four categories the ELF was around .92. We also made a rough comparison of the taxes under HB 321 compared with taxes paid in 1976 and found that the tax on oil production would have been increased by about 50% if HB 321 had been in effect in 1976.

HB 321 also contains an ELF for gas production though it is not totally clear under the bill language how this is computed. In any event, the principle is the same and the same four direct operating costs are used but the value used for gas is the highest price in the field or within 100 miles.

With respect to gas production, the minimum of 6.4 cents per MCF is especially onerous, since gas is customarily sold under long term contracts and those contracts may not permit the seller to receive a value which happens to be the highest price on the lease on "within 100 miles". The 6.4 cents minimum tax is equal to 64 cents gas at a 10% rate, but there are contracts of sale for gas where the price is much less than 64 cents. Hence, the effective rate of tax on gas is much higher. For example, if gas were sold at 42 cents, the tax would nevertheless be the minimum of 6.4 cents (assuming no ELF applied) which would equate to an effective rate of tax of 15.2%.

With respect to the proposed gas rate increase--while admittedly the gas tax rate might warrant some degree of increase, the severity of this proposal is overreaching. We would suggest that any value tax on gas be based on actual sales price at the

sales meter. We would discourage taxation governed by an artificial floor price or by what some other producer may be receiving for his gas in some other field.

For flared gas, the rate is doubled, i.e., 12.8 cents. Even gas used for safety flaring necessary to safe operations would be taxed, which cannot be justified by any standard. We oppose this double tax for the same reasons as stated in the discussion under SB 103.

In summary, while there is merit to the concept of an economic limit factor, the manner in which it is determined under this bill is unrealistic and virtually meaningless. It seems to me a lot more thought has got to go into it before it can be a worthwile mechanism. The way it is set up now--with questionable use of phantom values and restricted costs--an ELF so determined could have other consequences beyond just severance tax because the concept of economic life of a field is one used in valuation for property tax too. If economic lives of oil or gas properties as used for property valuations are to be determined using the methods for the ELF for severance tax purposes, then the stage is further set for endless arguments and disputes over property values as well as in connection with the ELF itself.

I would next like to comment on the Administration Sponsored Bill, HB 323.

This bill proposes several amendments to the so-called "20-Mill Hardware Tax", and certain provisions of Title 29, governing municipal taxing limitations.

Section 1 would add to the statute a highly controversial amendment to regulation 15 AAC 05.840 which was issued by the Department of Revenue in June 1976. This provides that any municipal tax levy, say for bonded debt, which is in excess of the $1,500 per capita limitation is not creditable against the 20-mill tax.

We take direct exception to this provision in that AS 43.010(a) quite clearly provides for a maximum tax of 20 mills on our state-assessed properties. This issue is presently being litigated in a case involving the 1976 tax levy of the North Slope Borough. It would seem appropriate to let the court rule on this important issue rather than to amend the statute at this time.

Heretofore, the state 20-mill tax has applied to exploration, production, and pipeline transportation properties. HB 323 would extend this tax to refineries, liquefaction or processing plants, plants manufacturing oil or gas products and also to tankers and other marine equipment used in the transportation of oil and gas.

We believe it inadvisable to enact any further extension of this special state property tax imposed upon oil and gas producers.

The taxable basis on the marine equipment is specified as replacement cost less depreciation based on useful life multiplied by a fraction of days in Alaska ports over days in port both within and without the state. This proposal raises serious questions in

that it is believed that only the home port, under long standing case law and practice, has taxing jurisdiction over ocean-going vessels.

Aside from the "home port" doctrine, and assuming that Alaska could legally assess these properties, we would suggest a more equitable formula. One possibility would be use of days in Alaska ports versus days in the year.

Due to the controversial nature of this issue, however, we would respectfully urge that this section of the bill be stricken, irrespective of what action is taken on the remainder.

HB 323 additionally would delete the existing provision for using straight line depreciation of historical cost on pipeline assessable values in those instances where the physical life of the pipeline materially exceeds the economic life of reserves committed thereto. As a consequence, pipelines would be assessed with regard to "economic" value based on the economic life of committed reserves.

This issue is being litigated in the Cook Inlet Pipeline Co. case and it would seem appropriate to let the court rule on the issue rather than amending the statute. It is further believed that the existing law and Regulation 15 AAC 05.890 pertaining thereto are sufficiently workable to develop assessments for operating pipelines which will be fair and reasonable, both for the state and the taxpayer.

Section 8 of the bill provides that the municipal taxing limitation of $1,500 per capita shall be adjusted each year in accordance with changes in the Consumer Price Index for Anchorage.

Assuming that the $1,500 per capita levy is reasonable, it would likewise be reasonable to key it to an inflation index.

Section 12 makes the provisions of HB 323 retroactive to January 1, 1977, except for tanker assessments which begin January 1, 1978. This retroactive provision seems peculiarly unreasonable in view of the fact that the 1977 tax returns have been filed and assessment notices have been issued by the Department.

I will now turn to House Bill Number 328, the Administration's proposal on the Oil and Gas Reserves Tax.

The Reserves Tax was enacted for a two year period, 1976 and 1977, for the purpose of meeting anticipated revenue shortfalls for Fiscal Years 1976 and 1977. The statutory tax rate for 1976 was 20 mills (2%) and the 1977 tax rate was set by the 1976 legislature at the same rate -- 20 mills. Reserves Taxes paid in 1976 were $223 Million and in 1977 are expected to total approximately $270 Million.

In Fiscal Year 1976, because of the Reserves Tax revenues and increases in other revenue sources, unrestricted general fund revenues exceeded expenditures by approximately $125 Million, leaving a surplus of $505 Million, of which $338 Million was available for appropriation at 6/30/76. Revenues in FY 1977 are also expected to exceed expenditures, thereby increasing the surplus.

HB No. 328 proposes to reduce the 1977 tax rate from 20 mills to 12 mills, reducing the revenue from this tax from $270 Million to about $170 Million, but subject to the following:

(1) If on October 1, 1977, TAPS thru-put is less than 600,000 bbls/day, an additional 8 mills would be levied, payable November 30. 1977.

(2) If on December 15, 1977, TAPS thru-put is less than 1.2 Million bbls/day, the Reserves Tax would be extended another year.

While the prospect of a reduced tax rate is always welcomed, we question the propriety of the limitations mentioned, which limitations are so specific and restrictive.

Present indications are that the Prudhoe Bay Field will start delivering oil to TAPS reasonably close to schedule at mid-1977. It seems unreasonable that some minor variance from the restrictive provisions of this bill could cause the tax rate to be increased and possibly for the Reserves Tax to be extended another year.

Accordingly, we believe that the Reserves Tax should expire, as scheduled in the existing statute, at the end of 1977. However, we certainly agree that the 1977 tax rate can be reduced to 12 mills, since the 1978 budget can be met with no difficulty and the 1979 budget as well unless there were some serious, prolonged delay in TAPS startup. This reduction would certainly be consistent with the original intent of the reserves tax which was to help the state over a potential period of deficit in the General Fund.

ATTACHMENTS TO TESTIMONY

OF

LAWRENCE L. WILSON

SPECIAL ANALYSES BUDGET OF THE UNITED STATES GOVERNMENT

FISCAL YEAR

1978

repeal of all itemized deductions resulting in tax expenditures. This hypothetical revenue gain would be $21.2 billion in 1978, whereas the simple sum of the tax expenditures for each separate item is $31.3 billion. The estimate for the combined effect of all such deductions was derived from a model of the tax system that accounts for the interaction between tax expenditure provisions and the provisions of the normal structure. In particular the model provides that individuals would take the standard deduction if itemized deductions were repealed. No comparable estimate can reasonably be made for the combined effect of a hypothetical repeal of all exclusion provisions.

A few aggregations of related tax expenditure items are presented and discussed in the next section. These aggregates have been specially estimated so as to account for the interactions referred to above but do not consider the effect of changes in behavior. Where tax expenditures for both individuals and corporations result from the same tax code provision, such as the investment tax credit, the two estimates may appropriately be added together.

Tax Expenditures by Function

Estimates of tax expenditures are grouped together by functional category and presented in table F–1. The estimates are shown separately for individuals and corporations. Wherever possible, particular tax expenditures have been classified according to the functional categories used for budget outlays. Many tax expenditures do not, however, fit into these categories and for this reason three special functional categories have been added: business investment; personal investment; and other tax expenditures.

A brief description of each of the special tax provisions for which a tax expenditure estimate is shown in table F–1 follows.

National defense.—The supplements to salaries of military personnel, including provision of quarters and meals on military bases and quarters allowances for military families, and virtually all salary payments and reenlistment bonuses to military personnel serving in combat zones, are excluded from tax. Disability-related military pensions received by current retirees are largely excluded from taxable income. The Tax Reform Act of 1976 terminated the exclusion of noncombat related disability pensions for those who entered the armed services after September 24, 1975.

International affairs.—Prior to 1976, a U.S. citizen was generally able to exclude up to $20,000 a year of foreign earnings if the taxpayer were a bona fide resident of a foreign country. After 3 years of foreign residence a taxpayer could exclude up to $25,000 a tax year of foreign earnings. The Tax Reform Act of 1976 modified these provisions, limiting the exclusion to $20,000 only for employees of U.S. charitable organizations and reducing it to $15,000 for all others, denying tax credits for foreign taxes paid on excluded income, and taxing income beyond the amount eligible for exclusion at the higher bracket rates which would apply if the excluded income were also subject to tax. The estimates also reflect the tax-exempt status of certain allowances received by Federal employees working abroad.

Table F-1. TAX EXPENDITURE ESTIMATES BY FUNCTION[1]

(In millions of dollars)

Description	Corporations			Individuals		
	1976	1977	1978	1976	1977	1978
National defense:						
Exclusion of benefits and allowances to Armed Forces personnel	-----	-----	-----	1,020	1,095	1,260
Exclusion of military disability pensions	-----	-----	-----	90	105	115
International affairs:						
Exclusion of gross-up on dividends of LDC corporations	40	-----	-----	-----	-----	-----
Exclusion of income earned abroad by U.S. citizens	-----	-----	-----	145	120	135
Deferral of income of domestic international sales corporations (DISC)	1,220	1,030	1,190	-----	-----	-----
Special rate for Western Hemisphere trade corporations	50	35	25	-----	-----	-----
Agriculture:						
Expensing of certain capital outlays	85	80	70	455	370	440
Capital gain treatment of certain income	10	10	15	315	350	350
Natural resources, environment, and energy:						
Exclusion of interest on State and local government pollution control bonds	110	170	220	50	75	100
Exclusion of payments in aid of construction: Water and sewage utilities	-----	15	10	-----	-----	-----
Expensing of exploration and development costs	640	610	600	160	105	150
Excess of percentage over cost depletion	1,010	1,035	1,060	285	275	300
Pollution control: 5-year amortization	10	−80	−130	-----	-----	-----
Capital gain treatment of royalties on coal and iron ore	15	20	20	40	45	50
Capital gain treatment of certain timber income	290	300	325	95	95	100
Commerce and transportation:						
Exemption of credit unions	145	165	185	-----	-----	-----
Exclusion of certain income of cooperatives	410	455	490	−155	−165	−170
Corporate surtax exemption	4,170	4,630	4,250	-----	-----	-----
Deferral of tax on shipping companies	110	90	70	-----	-----	-----
Railroad rolling stock: 5-year amortization	−25	−35	−40	-----	-----	-----
Financial institutions: Excess bad debt reserves	485	560	645	-----	-----	-----
Deductibility of nonbusiness State gasoline taxes	-----	-----	-----	710	795	880
Community and regional development:						
Housing rehabilitation: 5-year amortization	15	10	5	25	20	10
Education, training, employment, and social services:						
Exclusion of scholarships and fellowships	-----	-----	-----	195	250	285
Personal personal exemptions for students, ages 19 and over	-----	-----	-----	720	750	770
Deductibility of contributions to educational institutions	190	215	240	510	540	565
Deductibility of and credit for child and dependent care expenses	-----	-----	-----	770	840	870
Credit for employing AFDC and public assistance recipients	10	15	15	-----	-----	-----
Health:						
Exclusion of employer contributions to medical insurance premiums and medical care	-----	-----	-----	4,440	5,195	5,840
Expensing of removal of architectural barriers to the handicapped	-----	5	10	-----	-----	-----
Deductibility of medical expenses	-----	-----	-----	2,315	2,585	2,870
Income security:						
Exclusion of social security benefits:						
Disability insurance benefits	-----	-----	-----	330	380	430
OASI benefits for aged	-----	-----	-----	2,725	3,135	3,600
Benefits for dependents and survivors	-----	-----	-----	615	730	795

See footnote at end of table.

Table F-1. TAX EXPE

Descrip
Income security—Continued
Exclusion of railroad reti
Exclusion of sick pay
Exclusion of unemployme
Exclusion of workmen's c
Exclusion of public assist
Exclusion of special be miners
Net exclusion of pension ings:
Employer plans
Plans for self-employe
Exclusion of other emplo
Premiums on group-t
Premiums of acciden insurance
Income of trusts to fina ployment benefits
Meals and lodging (ot
Employer contributio plans
Employee stock owner through investment
Exclusion of capital ga
Excess of percentage sta income allowance
Additional exemption fo
Additional exemption fo
Retireme t income credi
Earned income credit
Veterans benefits and ser
Exclusion of veterans d
Exclusion of veterans p
Exclusion of GI bill ben
General government: Cas litical contributions
Revenue sharing and ge ance:
Exclusion of interest o local debt
Credit for corporation
Deductibility of nonbu (other than on owne line)
Interest: Deferral of inte
Business investment:
Exclusion of interest o development bonds
Excess first-year depre
Depreciation on build
Rental housing
Other
Expensing of research tures
Expensing of constru taxes
Capital gain: Corpora timber)
Investment credit

See footnote at end of

Table F–1. TAX EXPENDITURE ESTIMATES BY FUNCTION—Continued

(In millions of dollars)

Description	Corporations			Individuals		
	1976	1977	1978	1976	1977	1978
Income security—Continued						
Exclusion of railroad retirement system benefits	-----	-----	-----	190	200	205
Exclusion of sick pay	-----	-----	-----	195	50	55
Exclusion of unemployment benefits	-----	-----	-----	3,335	2,745	2,445
Exclusion of workmen's compensation benefits	-----	-----	-----	590	705	810
Exclusion of public assistance benefits	-----	-----	-----	95	100	105
Exclusion of special benefits for disabled coal miners	-----	-----	-----	50	50	50
Net exclusion of pension contributions and earnings:						
Employer plans	-----	-----	-----	7,290	8,715	9,940
Plans for self-employed and others	-----	-----	-----	1,060	1,305	1,535
Exclusion of other employee benefits:						
Premiums on group-term life insurance	-----	-----	-----	765	800	835
Premiums of accident and accidental death insurance	-----	-----	-----	65	70	75
Income of trusts to finance supplementary unemployment benefits	-----	-----	-----	10	10	10
Meals and lodging (other than military)	-----	-----	-----	310	330	350
Employer contributions to prepaid legal expense plans	-----	-----	-----	-----	5	10
Employee stock ownership plans (ESOP) funded through investment tax credits	25	245	255	-----	-----	-----
Exclusion of capital gain on home sales if over 65	-----	-----	-----	40	40	70
Excess of percentage standard deduction over low-income allowance	-----	-----	-----	1,140	1,285	1,410
Additional exemption for the blind	-----	-----	-----	20	20	20
Additional exemption for over 65	-----	-----	-----	1,145	1,220	1,280
Retirement income credit and credit for the elderly	-----	-----	-----	110	495	440
Earned income credit	-----	-----	-----	220	215	205
Veterans benefits and services:						
Exclusion of veterans disability compensation	-----	-----	-----	595	655	690
Exclusion of veterans pensions	-----	-----	-----	30	30	35
Exclusion of GI bill benefits	-----	-----	-----	305	255	200
General government: Credits and deductions for political contributions	-----	-----	-----	35	40	35
Revenue sharing and general purpose fiscal assistance:						
Exclusion of interest on general purpose State and local debt	2,845	3,105	3,470	1,520	1,650	1,850
Credit for corporations in U.S. possessions	240	285	310	-----	-----	-----
Deductibility of nonbusiness State and local taxes (other than on owner-occupied homes and gasoline)	-----	-----	-----	7,255	8,035	8,990
Interest: Deferral of interest on savings bonds	-----	-----	-----	550	565	625
Business investment:						
Exclusion of interest on State and local industrial development bonds	150	195	235	75	90	110
Excess first-year depreciation	40	45	45	140	135	145
Depreciation on buildings in excess of straight line:						
Rental housing	100	100	100	405	405	405
Other	225	210	200	200	180	175
Expensing of research and development expenditures	1,325	1,395	1,450	25	30	30
Expensing of construction period interest and taxes	415	475	500	215	150	140
Capital gains: Corporate (other than farming and timber)	545	555	550	-----	-----	-----
Investment credit	7,655	8,640	9,670	1,810	1,970	2,205

See footnote at end of table.

Table F-1 TAX EXPENDITURE ESTIMATES BY FUNCTION—Continued
(In millions of dollars)

Description	Corporations			Individuals		
	1976	1977	1978	1976	1977	1978
Personal investment:						
Dividend exclusion	-----	-----	-----	430	455	480
Capital gain: Individual (other than farming and timber)	-----	-----	-----	7,320	7,030	7,360
Exclusion of interest on life insurance savings	-----	-----	-----	1,655	1,815	1,995
Deferral of capital gain on home sales	-----	-----	-----	845	890	935
Deductibility of mortgage interest on owner-occupied homes	-----	-----	-----	4,870	5,435	6,050
Deductibility of property taxes on owner-occupied homes	-----	-----	-----	4,030	4,500	4,995
Deductibility of casualty losses	-----	-----	-----	310	345	380
Credit for purchase of new home	-----	-----	-----	650	100	-----
Other tax expenditures:						
Deductibility of charitable contributions (other than education)	350	400	445	4,360	4,930	5,475
Deductibility of interest on consumer credit	-----	-----	-----	2,105	2,310	2,565
Maximum tax on earned income	-----	-----	-----	605	730	855
MEMORANDUM						
Combined effect of provisions disaggregated above:						
Capital gains	865	885	905	7,770	7,560	7,860
Exclusion of interest on State and local de	3,110	3,475	3,925	1,645	1,850	2,090
Deductibility of State and local nonbusine	-----	-----	-----	10,865	12,125	13,480
Deductibility of charitable contributions	540	620	655	4,870	5,440	6,040

[1] All estimates are based on the tax code as of Dec. 31, 1976.

The 1976 Act repealed a special provision for U.S. firms operating in a less developed country (LDC). When a foreign subsidiary of a U.S. corporation operating in a LDC repatriated dividends to its parent corporation, that income could, under prior law, be reported net of foreign income taxes paid. U.S. tax liability was then calculated on that net amount and the foreign tax taken as a credit. For non-LDC corporations, foreign source income must now be "grossed up" by adding back in an amount equal to foreign taxes paid. Under prior law the failure to "gross up" dividends by the amount of the foreign taxes paid to LDCs resulted in a tax expenditure.

The profits of a domestic international sales corporation (DISC) are not taxed to the DISC but instead are taxed to the shareholders when distributed to them. This deferral was available for 50% of the export income of a DISC prior to 1976. The Tax Reform Act of 1976 permits DISC benefits to the extent that current export gross receipts exceed 67% of the DISC's average for a 4-year moving base period (initially 1972-75) which will move forward year-by-year after 1979. DISCs with less than $150,000 of taxable income are exempt from the incremental rule. The Tax Reduction Act of 1975 denied DISC benefits to exporters of energy products and the 1976 Act terminated DISC benefits for 50% of military sales.

The 1976 Act phases out the 14-percentage-point tax rate reduction provided under prior law for domestic corporations qualifying as Western Hemisphere trade corporations.

TITLE 43 U.S.C. § 1333

§ 1333. Laws and regulations governing lands—Constitution and United States laws; laws of adjacent States; publication of projected States lines; restriction on State taxation and jurisdiction

(a) (1) The Constitution and laws and civil and political jurisdiction of the United States are extended to the subsoil and seabed of the outer Continental Shelf and to all artificial islands and fixed structures which may be erected thereon for the purpose of exploring for, developing, removing, and transporting resources therefrom, to the same extent as if the outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State: *Provided, however,* That mineral leases on the outer Continental Shelf shall be maintained or issued only under the provisions of this subchapter.

(2) To the extent that they are applicable and not inconsistent with this subchapter or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each adjacent State as of August 7, 1953 are declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and artificial islands and fixed structures erected thereon, which would be within the area of the State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf, and the President shall determine and publish in the Federal Register such projected lines extending seaward and defining each such area. All of such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

(3) The provisions of this section for adoption of State law as the law of the United States shall never be interpreted as a basis for claiming any interest in or jurisdiction on behalf of any State for any purpose over the seabed and subsoil of the outer Continental Shelf, or the property and natural resources thereof or the revenues therefrom.

federal regulation invalid or the regulation itself is changed. Accordingly, until such time, retirement benefits payable to disabled San Francisco policemen and firemen, after such personnel has applied for service retirement under the new Charter provisions, are not excludable from gross income under the exclusion formula contained in Revenue and Taxation Code Section 17131(d).

[¶ 205-026] Legal Ruling No. 366.

Franchise Tax Board, December 11, 1973.

Franchise—Corporation Income—Allocation and Apportionment—Taxation of Income Generated by Offshore Oil Operations.—The activities of a unitary enterprise conducting offshore oil operations under federal jurisdiction by reason of the Outer Continental Shelf Lands Act can only be reflected in the denominators of the three-factor apportionment formula. Under the Act, California lacks jurisdiction to tax the revenues derived from the Outer Continental Shelf since it is under exclusive federal jurisdiction. By including the Continental Shelf factors only in the denominators of the formula, no income is apportioned to California.

However, the operation of a drilling barge within California's jurisdiction must be reflected in the California numerators of the apportionment formula denominator.

See ¶ 12-414.

Facts:

Advice has been requested as to the treatment to be accorded to the income earned by unitary businesses, taxable in California, from oil operations beyond the three mile continental limit. The operations considered are:

1. The actual operations of an offshore oil well, beyond the three mile continental limit, conducted from a fixed drilling platform; and

2. The exploring and drilling operations beyond the three mile continental limit conducted from floating drilling barges.

Questions:

For California franchise tax purposes, what is to be included in the numerator and denominator of the apportionment formula with respect to:

1. Activities conducted from fixed drilling platforms which are under federal jurisdiction by reason of the the Outer Continental Shelf Lands Act?

2. Activities conducted from fixed drilling platforms which are within the jurisdiction of a foreign country?

3. Activities conducted from floating drilling barges?

Decision:

See discussion.

Discussion:

1. In 1953 the United States Congress passed the Outer Continental Shelf Lands Act (67 Stat. 462, 43 U.S.C. §§ 1,331 et seq.) which extended the Constitution and laws of the United States to the Outer Continental Shelf, i.e., that property located beyond the three mile limit of state jurisdiction which was established by the Submerged Lands Act (43 U.S.C. §§ 1,301 et seq.). The outer limit of the continental shelf is not established with precision, but rather is marked only by a steep drop of the continental mass toward the ocean deeps. (1953 U.S. Code Congressional and Administrative News, p. 2,178). In some cases this may occur several hundred miles from shore.

Section 1333(a)(1) of the Outer Continental Shelf Lands Act extends federal jurisdiction to all artificial islands and fixed structures erected on the Outer Continental Shelf:

> ... to the same extent as if the Outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State. ...

It is a matter of settled law that no state has jurisdiction to tax in an area of exclusive federal jurisdiction located within a state. *Surplus Trading Co. v. Cook*, 281 U.S. 647, *Standard Oil Co. v. California*, 291 U.S. 242, *James v. Dravo*, 302 U.S. 134. Since Congress extended federal jurisdiction to the Outer Continental Shelf "to the same extent" as if it were an area of exclusive federal jurisdiction within a state, this body of settled law applies with equal force to the Outer Continental Shelf and effectively prohibits the imposition of any state tax on revenues derived therefrom.

The lack of jurisdiction in a state to tax in areas of exclusive federal jurisdiction applies not only to direct taxes but to indirect taxes as well. In *James v. Dravo*, *supra*, the United States Supreme Court was faced with the question of whether "annual privilege taxes" measured by profits from "business and other activities" could be imposed by West Virginia on a contractor working on government-owned land. The Supreme Court stated that this depended upon, "... whether the United States has acquired exclusive jurisdiction over the respective sites. Wherever the United States has such jurisdiction [the Court added] the state would have no authority to lay the tax."

In the Buck Act, 4 U.S.C.A., §§ 101-110, Congress did provide the states with jurisdiction to levy certain specified taxes within federal enclaves. The

Buck Act cannot be construed, however, to apply to the Outer Continental Shelf. Section 1333 provides:

> . . . State taxation laws shall not apply to the Outer Continental Shelf. . . .
>
> The provisions of this section for adoption of State law as the law of the United States shall never be interpreted as a basis for claiming any interest in or jurisdiction on behalf of any State for any purpose over the seabed and subsoil of the Outer Continental Shelf, or the property and natural resources thereof or the *revenues* therefrom . . . (Emphasis added.)

In view of the well settled law establishing the absence of state jurisdiction to tax in federal enclaves, the provisions of Section 1333(a)(1) extending federal jurisdiction to the Outer Continental Shelf by reference to such enclaves, the provisions of Section 1333 negating any possible application of the Buck Act to the area in question, it is clear that California tax laws cannot reach revenues derived from the Outer Continental Shelf.

Before considering the formula it should be mentioned that the income to be apportioned is the total business income including that derived from the Outer Continental Shelf. When a corporation doing business solely within California commences operations on the Outer Continental Shelf, outside California, it becomes subject to Section 25101 and its business income will be apportioned in a like manner with other unitary businesses as follows.

Property Factor: All real and tangible personal property owned by the taxpayer everywhere must be included in the denominator. But the numerator can include only those properties with sufficient California connections. In this situation, any such contacts appear to be minimal.

Although some suggestions have been made to exclude the property from both the numerator and the denominator, if such is done, there will be an indirect apportionment of additional income to California contrary to federal law.

However, it may be noted that, under the rule set forth in *Montgomery Ward & Co., Inc.* v *Franchise Tax Board*, 6 Cal. App. 3d 149 (1970), that oil in transit to a California location would be considered California property includible in the numerator of the property factor.

Payroll Factor: Regulation 25132 provides that the payroll factor shall include the total amount paid by the taxpayer in the regular course of its trade or business for compensation during the tax period. Subdivision (b) further provides that the denominator of the payroll factor is the total compensation paid everywhere during the taxable year. Accordingly, compensation paid to employees whose services are performed entirely in a state where the taxpayer is exempt from taxation, for example by Public Law 86-272, is included in the denominator of the payroll factor. In other words, there is no throwback of the payroll to the California numerator even though the taxpayer is exempt from taxation in the state in which the services are performed. Where the services are performed partially within California and without California, the tests set forth under Regulations 25132(c) and 25133 apply. Payroll shall be included in the California numerator in accordance with the provisions of Section 25133 and the regulations thereunder.

Sales Factor: In view of the express federal ban against any state taxation of revenues derived from the Outer Continental Shelf, none of the sales, if any, which take place in the Outer Continental Shelf area will be includible in the sales factor numerator. Furthermore, in order that there be no indirect taxation of income from such sales, the sales factor denominator must include these sales. And, of course, if the natural resource is placed on the driller's own ships, no sale has occurred. On the other hand, if the natural resource is piped or brought into California, then the sale can be included in the numerator thereafter (assuming that it is subsequently sold in California).

It should be recognized that there are two fundamental considerations involved in this question. There is first the mandate that; under California law, the income of a unitary business must be apportioned by formula. *Edison California Stores* v. *McColgan*, 30 Cal. 2d 472 (1947). *John Deere Plow Co.* v. *Franchise Tax Board*, 38 Cal. 2d 214 (1951). Secondly, there is the federal prohibition against state taxation of revenue derived from the Outer Continental Shelf.

It is established that while formula apportionment is inherently incapable of attaining exactitude, so long as the formula employed produces a reasonable result its use will be sustained. *El Dorado Oil Works* v. *McColgan*, 34 Cal. 2d 731 (1950). It is submitted that the formula factors set forth above take into account both fundamental considerations. They provide formula apportionment to California of the income reasonably attributable to California sources, and by including the Continental Shelf factors only in the denominator, they do not apportion income to California, thereby giving effect to the federal law.

2 Section 25120(f) of the California Revenue and Taxation Code provides that the definition of "state" includes a foreign country. A basic purpose of the Uniform Division of Income for Tax Purposes Act (UDITPA), which is codified in Sections 25120-25139, is to insure that 100 percent of income, no more or no less, would be subject to tax. See Pierce, The Uniform Division of Income for Tax Purposes Act, 35 Taxes 747.

It therefore seems clear that where another state has jurisdiction to tax and the taxable activity has no connection whatever to California, the factors associated with the activity may not be reflected in

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the California numerator. These factors, however, are income producing and must be included in the denominator. *McDonnell Douglas Corporation v. Franchise Tax Board*, 69 Cal. 2d 531 (1968).

3. The Outer Continental Shelf Lands Act extends federal jurisdiction (and prohibits state taxation) "To the subsoil and seabed of the Outer Continental Shelf and to all artificial islands and fixed structures which may be erected thereon. . . ." 443 U.S.C. §§ 1333(1).

It has been established by a number of decisions that a drilling barge or rig is neither an artificial island nor a fixed structure within the contemplation of the Act, but rather is properly classified as a vessel.

Offshore Company v. Robison, 266 Fed. 2d 769 (1959); *Producers Drilling Co. v. Gray*, 301 Fed. 2d 432 (1966); *Marine Drilling Company v. Autin*, 363 Fed. 2d 579 (1966). Although the cited cases arose in the context of wrongful death or injury under the Jones Act (46 U.S.C. § 688), rather than a tax contest, they hold squarely that drilling barges or rigs are vessels and not within the ambit of the Outer Continental Shelf Lands Act. It therefore follows that the Act likewise does not exempt the activities of such barges or rigs from state taxation and California can apply its usual rules to tax the income earned from the operations of the barges.

Under the Submerged Lands Act (43 U.S.C. §§ 1301 *et seq.*) California's jurisdiction to tax extends offshore for three miles. There can therefore be no question that, to the extent that the drilling barges are within the three mile limit their presence and activities must be reflected in the California numerators of the apportionment formula. Similarly, the activities of drilling barges not present within California's jurisdiction will only be reflected in the denominator of the factors of the apportionment formula.

When, during a taxable year, the drilling barge is both within and without California waters, its operations and presence shall be reflected in the California numerator in accordance with the rules set forth in Cal. Adm. Code, tit. 18, Regs. 25128 to 25136, inclusive.

[¶ 205-027] Legal Ruling No. 367.

Franchise Tax Board, December 14, 1973.

Franchise—Corporation Income—Sales Factor of the Apportionment Formula—Advertising Receipts.—Receipts from sales of advertising space in magazines and periodicals are included in the numerator of the sales factor of the apportionment formula in the same ratio as the sales of magazines and periodicals in California bears to total sales.

See ¶ 12-442.

Advice has been requested regarding the inclusion of advertising revenue in the sales factor of the apportionment formula under the Uniform Division of Income for Tax Purposes Act (UDITPA) for publishers of magazines and periodicals.

Receipts from the sales of magazines and periodicals and advertising space in such magazines and periodicals by publishers, gives [give] rise to income from transactions and activity in the regular course of the taxpayer's trade or business constituting "business income" under Section 25120(a), Bank and Corporation Tax Law. Gross receipts from those transactions constitute "sales" as defined in Section 25120(e) which are required to be included in the sales factor (Section 25134) of the apportionment formula under UDITPA.

Tangible property is that which is visible and corporeal, having substance and body. *Roth Drug, Inc. v. Johnson*, 13 Cal. App. 2d 720, 734 (1936). It is evident that a magazine or periodical has substance and body. Consequently, the sale of magazines and periodicals by the publisher to subscribers and newsstands are sales of tangible personal property. (cf. *Time, Inc. v. Hulcher*, 201 N.Y. 2d 374, 377, 31 Ill. 2d 344.) Receipts from such sales are to be included in the sales factor in accordance with Section 25135 governing sales of tangible personal property.

The sale of advertising space in such magazines and periodicals is closely connected with the sale of the publication. The primary purpose of the advertiser is to reach the market provided by the publisher. The publisher in turn guarantees a particular circulation volume, or in other words, a market. Since advertising included in magazines and periodicals is inextricably connected with the sale of those publications, it is concluded that advertising receipts are to be included in the numerator of the sales factor based upon the ratio which sales of magazines and periodicals in this state bears to the total sales of magazines and periodicals everywhere.

[¶ 205-028] Legal Ruling No. 368.

Franchise Tax Board, December 14, 1973.

35° Gravity - $4.85/bbl Controlled Price

Tax Calculation

Under Current Law

(a) % Of Value Method:

300 bbl X $4.85 X 5% =	$72.75
700 bbl X 4.85 X 6% =	203.70
600 bbl X 4.85 X 8% =	232.80
	509.25
Less 1/8 Royalty Portion	63.66
Tax =	$445.59

(b) Cents Per Bbl Method:

300 bbl X $.3519 =	$105.57
700 bbl X .4224 =	295.68
600 bbl X .5632 =	337.92
	739.17
Less 1/8 Royalty Portion	92.40
Tax =	$646.77

Tax Payable (higher of (a) or (b) = $646.77

Tax Calculation Under HB 321

Tax rate = 10% of value or $.75 per bbl plus adjustments for gravity (up 1/2 cent for each degree above 27°) and for Gross National Product Deflator-- (1st Qtr. 1977 = base period).

Cents per bbl = $.75 X .04 = $.79

Percent of value rate and cents per bbl rate multiplied by Economic Limit Factor (ELF):

$$ELF = \frac{100 \text{ bbl}}{1600 \text{ bbl}} = .0625$$

1.000 - .0625 = .9375 = ELF

Cents per bbl adjustment:

$.79 X .9375 = $.7406

% of value adjustment:

10% X .9375 = 9.375%

Tax Calculation

1600 less royalty (200) = 1400 bbls

% of value method:

1400 X $4.85 = $6,790

$6,790 X 9.375% = $636.56 (Tax)

Cents per bbl method:

1400 X $.7406 = $1,036.84

Tax Payable: $1,036.84

Difference in tax between HB 321 and Current Law:

HB 321 =	$1,036.84
Current Law	646.77
	$390.07 = 60.3% increase in tax

Production tax burden as a % of producer's net share of $6,790 (1400 bbls X $4.85):

Under current law = 9.5%
Under HB 321 = 15.3%

Joint Resources Committees

QUESTIONS AND ANSWERS
PROFESSORS ZEIFMAN AND AINSWORTH
March 21, 1977

SENATOR HUBER - I'd like to get into that change in apportionment formula. I believe you said substituting a production factor for sales.

PROFESSOR ZEIFMAN - We called it an extraction factor.

SENATOR HUBER - Alright an extraction factor. Was that in addition to sales or was that separate from sales?

PROFESSOR ZEIFMAN - In our proposal, we recommended the use of an extraction factor instead of the sales factor. So that there would only be property, payroll, and extraction.

SENATOR HUBER - Okay, now you can by defending yourself, why instead of an extraction factor, in answering this question, you'll get what I want, instead of an extraction factor why didn't you, so that Alaska would get the best possible deal, why didn't you put in a factor that said the average number of degree days below zero degrees celceus? Now, I'm serious about that. If you can answer why you did something like that instead of that....

PROFESSOR ZEIFMAN - If I were a resident of Alaska, I think I'd prefer rainy days in Juneau.

SENATOR HUBER - _____ but why is it we can't use something like that instead of adding an extraction factor. What stops us?

PROFESSOR ZEIFMAN - Well, I think the nature of the Supreme Court decisions in this area if you'll look at the Northwestern Portland Cement Company case, is that an apportionment factor has to or should in some ways reflect the business activities of the company in the State and be reasonably related to the economic impact that those activities have on the State. If we were using rainy days in Juneau to total rainy days, that would make no sense unless the companies themselves were producing the rain.

SENATOR HUBER - Excuse me Madam Chairman. Do we have to have the concurrence of any of the other members of the multi-state compact in order for the change in factor or can we change it unilaterally for Alaska?

PROFESSOR ZEIFMAN - I think that you can change it unilaterally for Alaska both persuent to Section 18 of the compact, but also this is a soverign state and you can enact this whatever laws you wish. There is no penalty provided for in the compact for states that depart in this line. I think that you can change it unilaterally.

SENATOR HUBER - If we went ahead with the extraction factor which would take care of things in oil, wouldn't we then have lost the sales factor that takes care of such things as us getting a fair return from the J. C. Penny Company, and from other outfits that sell in Alaska? In other words, you've got enough of it, I think.

PROFESSOR ZEIFMAN - Yeah. Well, I don't think in fact that that follows. I think you could continue to use the sales factor for other types of industries. As a matter of fact I would draw a distinction between the petroleum industry and other types of industry because of the fact that the petroleum industry is removing from the State a non-renewable resource, and I think that's a perfectly legitimate basis for drawing distinction between the use of an extraction factor and sales factor. I think that the sales factor is far more appropriate to a merchantile type of operation that is not engaged in production and certainly not engaged in the removel or the extraction of non-renewable resources.

SENATOR HUBER - Well, I can see Professor, and I won't pursue this much longer, Madam Chairman. I can see that our extraction factor could very well be New Jersey's sales factor, and they could for instance have an extraction factor maybe on wood products or something else. That would then become a sales

factor here. It's like a doubled ended thing, it could work from both ends.

PROFESSOR ZEIFMAN - Well, My immediate reaction is that I don't think you have to worry about that too much. West Virginia for example has a two factor formula based only on property and payroll, and Florida has a different type of a sales tax there than Alaska does. The fact that other states have departed from the Uniform Act in one form or another or had not adopted the Uniform Act, I don't think is a matter that ought to pursuade you one way or another.

SENATOR HUBER - It is obvious, Madam Chairman, that some of us don't understand about the multi-state compact and how some of the factors are brought into it. They might appreciate an answer of just if you wanted to change to the two factor system or substitute extraction factors for sales on petroleum, or sales on other things, who in this State has to act in what manner. What has to be done to bring this about?

PROFESSOR ZEIFMAN - I think it simply requires an act of the State Legislature.

SENATOR HUBER - I can't find any multi-state compact act in our books now. It looks like the thing is done somewhere else, except we're members is all I know. I can't find it in the statutes.

PROFESSOR ZEIFMAN - There is a statute, I don't have the statutes in front of me, but the citation is referred to.

SENATOR HUBER - It makes us a member of the multi-state compact but it doesn't spell these out.

PROFESSOR ZEIFMAN - You have also adopted the formula and also the formula has a provision in it that the Uniform Division of Income for Tax Purposes Act has a section 18 which permits modification.

SENATOR CROFT - I had two particular sets of questions. One, in the Bill itself on the bottom of Page 3, the definition of net income, Section 41.1030 defines net income as the net income determined and certified by an independent certified public accountant for the purpose of a report to shareholders covering its earnings, and the like, and I noticed in today's Wall Street Journal on Page 6 there's a summary of a considerable amount of recent activities with regard to the drawing suspicion that independent auditor's opinions are simply unreliable. In the first place, the commission on auditor's responsibilities of the American Institute of Certified Public Accountants as long as two and one half years ago put out a report critical of auditors opinions, and now there's a Senate subcommittee headed by Lee Metcalf of Montana holding hearings on the role of auditors and financial reporting,

and this article says a highly critical report by the subcommittee staff accused auditors of being too close to their corporate clients and recommended a major expansion of the government's role in setting accounting and auditors standards, and I'm curious why with the increasing suspicions that corporate management can manipulate the auditors reports. You're suggesting that the study should base its tax on something of that nature.

PROFESSOR ZEIFMAN - Well, Senator, I think that any changes in the procedure in this area as our society becomes more and more consumer oriented, if that's the right way to describe it, any changes will reflect a tightening up of the procedures rather than a liberalization of them in terms of tax avoidance, so that the concern of Senator Metcalf, which I would agree is a legitimate one, about the use of the independent _____ I think is relevant, but I think that the significant thing is that given all of the flexability that does exist in the law, the company has an incentive under the present system to face it fully and realistically, to put it in a colloquial way, I think our proposal catches the company between the bark and the tree, or the auditor between the bark and the tree. The accountants have an interest in maximizing earnings and profits in terms of the report to the share holders, and they have an interest in minimizing taxable income for tax accounting purposes. So we're suggesting that the State would do better by adopting a tax base which is measured by an amount where the

company itself has an incentive to maximize the amount rather than minimize it. I cannot see company accountants for purposes of reporting earnings and profits collectively, espousing as your suggesting, espousing an accounting method that's going to decrease their earnings and profits. So, to whatever extent there is flexability, by and large, the companies own accountants will want to maximize the book income, now if we were talking about this as a 60% tax, we might have a different kind of a situation, but in view of the fact, once again, that the accountants have a desire to maximize earnings and profits, I would think that it would be a desirable thing for the state to simply say, listen what you report to your shareholders, we regard as more a reflection of your real profitability, and then as a way of protection, I don't think this is needed, but as the Administration bill does, if you simply say look, we'll take federal taxable income or book income whichever is the higher, you have plugged the loopholes if that's what you want to call them more effectively than has the federal government, and I would suggest you have plugged the loopholes more effectively than has any other state in the United States.

SENATOR CROFT - Madam Chairman, I don't care to belabor the point, I do understand what you're saying if you're basic assumption is correct that the companies for reporting purposes will maximize their income in terms of book value which may or may not be correct, then what you say may be appropriate,

but the notion that the independent autitor is not subject to manipulation by the corporation, it seems to me that all of the information the past couple years indicates they are, but if you are correct about book value, it seems to me that what you're saying is that our Department of Revenue, if you're correct with regard to your figures about oil corporations in Alaska today, our Department of Revenue has simply not been doing an adequate job of enforcing the existing law, be it you're saying that they can take book value now and have increased the income taxes to be paid to the State of Alaska because they have the authority to do that even under the multi-state compact do they not?

PROFESSOR ZEIFMAN - No. Respectfully, I think you misunderstand the law. The law talks about giving the administrator the power to modify the apportionment formula, but not the unapportioned tax base.

SENATOR CROFT - Let me ask you then, what is the interpretation of 43.19.010, Section 18, which says that the allocation and apportionment provisions of this article do not fairly represent the extent of the taxpayers business activity in this state. The taxpayer may petition for or the tax administrator may require in respect to any or all of the taxpayers business activity if reasonable A. separate accounting. And then they go ahead and list three other factors.

PROFESSOR ZEIFMAN - Senator, I believe that's not relavent to this discussion. That is the means of dividing a pie. The pie is the tax base prior to apportionment. The size of the allocation and apportionment method is a method of determining what percentage of the pie is going to be taxed by Alaska, but the subject of how large is the pie which is going to be subject to the apportionment and allocation is the subject of the undivided tax base. For defining the undivided tax base prior to apportionment, the State has adopted the federal definition of taxable income so that our findings in no way indicate any remission on the part of the Department of Revenue, though the Department of Revenue does not have the power to eliminate the deductions for intangible drilling expenses in defining the tax base, so I think that the talk about the tax base prior to apportionment is a separate subject than the subject of modifying the apportionment formula. I hope that's clear.

SENATOR CROFT - Then I'm curious why you propose, Madam Chairman, that we change the formula if the present formula adequately addresses Alaska's interests. Why is one of your major provisions a change in the formula as well as increasing the size of the pie?

PROFESSOR ZEIFMAN - Well, if I were hungry so to speak, and I was concerned about getting more to eat, I would try to

persuade my mother to both make larger pies and to give me a larger percentage.

SENATOR CROFT - And would you argue the percentage of the existing pie if you had the authority to do it?

PROFESSOR ZEIFMAN - Yes.

SENATOR CROFT - And we have that authority?

PROFESSOR ZEIFMAN - No. Only under extraordinary circumstances is the case I would argue that in terms of both the case law and the statutes that only under those circumstances in which the company is involved in something called a nonunitary type of business and that would not be relevant with respect to the vertically integrated petroleum companies.

SENATOR CROFT - I thought you had said a minute ago that the section of the statute that I read gave the State only the authority to change the allocation as it related to other states and not to increase the size of the pie itself.

PROFESSOR ZEIFMAN - Right.

SENATOR CROFT - Then my question is, how has the State attempted to increase the amount of the multi-state income that's allocated

to the State under its existing statute? You said that that was one of the two things that you would do.

PROFESSOR ZEIFMAN - Well, when you say the State do you mean the Department of Revenue or the legislature?

SENATOR CROFT - No. the Department of Revenue.

PROFESSOR ZEIFMAN - Well, the Department of Revenue, as I understand it, has been trying to administer the present formula in its present statutory form. The legislature in its wisdom has enacted a statutory method including the use of a sales factor and said, so to speak, to the Department of Revenue, this is the general method of doing it, and this is the method that you should use. In very extraordinary cases, we are giving you authority to exercise some discretion. Generally, that kind of administrative discretion that is provided for in the statute has not been construed as far as I understand it by the tax administrator of this State or by the tax administrators of other states as a kind of license to exercise an _____ discretion and say look, we don't like the size of the pie that the statutory formula gives us, so therefore I'm going to come up with my own method of doing this. I would be opposed frankly as an interested citizen if you will, to that type of approach to the whole text deals anyway with where the Administrator would take the position of "We didn't get enough money from

your company this year, therefore, we're going to change the rules some. I think that's the worst kind of tax administration.

SENATOR CROFT - One final question. Doesn't your bill allow that though? Doesn't it say that in the event the Commissioner of Revenue decides that the method of reporting that the company uses on book value isn't adequate, that the Commissioner can change the rules of the game and require a different reporting method?

PROFESSOR ZEIFMAN - Now, that's a different kind of a situation, Senator Croft, that's prescribing a normal amount of administrative discretion with respect to prescribing rules which most tax administrators have that would be consistent with the statutory scheme. I would not construe every grant of discretion to be a total departure, I think as you are suggesting, from the prescribed statutory methods.

SENATOR RADER - Is there an easier way or a more clearer way to get the tax that the State should have from the petroleum activities and what we _____do you have any other suggestions? Are there any other avenues that would be easier or more fair?

PROFESSOR ZEIFMAN - Well, easier, yes. I think that, first of all my philosophical point of view, if you wish, the nature of a corporate income tax, a tax measured by profitability

is such that it invariably runs into the kinds of problems we're discussing, allocation and apportionment. I personally feel that the most effective and the easiest way to tax petroleum production is at the wellhead in terms of the severance tax. I think that an effective severance tax is perhaps the most, certainly the easiest if it's valued properly. I want to add, however, though there's a subject that I'm particularly interested in. The income tax does offer you the advantage perhaps, and I don't hold out any guarantee of this, but at least it gives you a crack at outer-continental shelf development through the apportionment device. Under the present law, you are just not going to get, I would say you have no chance of winning a supreme litigation, trying to impose a severance tax with respect to outer-continental shelf activity, so in that regard, that would be the exception. I think an apportioned income tax has a better chance of withstanding constitutional attack with respect to the outer-continental shelf production, but generally in the arsonal of state tax weapons, if that's an appropriate way to put it, I would regard the severance tax as the main battery, and income tax as kind of a secondary battery.

SENATOR RADER - Are there other states using the method that you are suggesting here that we adopt.

PROFESSOR ZEIFMAN - There are no other states as far as I know that have adopted the method of using book income. It's rather interesting. Some years ago, the State of Tennessee had that kind of a provision that taxable income is the income determined by a normal _____two standard accounting procedures. When we were investigating the tax structures of all the states, I was particularly fascinated by that and talked to the tax administrator, and to my surprise, he said "oh well, we don't bother with that, we'll accept whatever income they report for federal tax purposes. That part of it is novel of our proposal in that respect. The idea of an apportionment formula based on production as one of the factors is not novel, it's used in one form or another by different types of states. A few states, I don't have our report with me, but some states have used apportionment factors, special apportionment factors based on cost of production. As I mentioned West Virginia eliminates the sales factor entirely, so that the use of a specially fashioned apportionment factor designed to reflect the peculiar economic situation of the State I think is very conventional.

PROFESSOR AINSWORTH - Senator, if I might add just a comment to Professor Zeifman here that the book value is not used as such by any state that we know of. On the other hand, a number of states do start with taxable income and then tend to restore

toward book value to some degree. I think with the Supreme Court case in mind that Professor Zeifman just mentioned in his earlier testimony and with the general desirability as many states see it of restoring taxable to a degree that this would be a forward looking step and you might find yourself cut off from the restoration thing and you would have to go all the way to its value if you wished to use it.

SENATOR RADER - Of course you have a great volume of law and experience and regulation as to what is _____ taxable income. Do we have any such law, body and experience as to what should be book value income, so that when you have this acute, I know that you mentioned that the bad apple is the bad apple, the bad apple accessor or the bad apple tax payer in this direct accounting approach left too much to discretion. Do we have a body of law that can resolve disputes? Part of our problem with our corporate citizens or other citizens is to resolve as easy as possible, put grease on those places where we have pressure and have a difference of interests so that it will work without too much scraping and burning and chewing. What kind of discription do we have of book income that when we get into a dispute with someone as to.....

PROFESSOR ZEIFMAN - Well, I think that we have the experience of the Securities Exchange Commission and the experience of

stockholders in general. I appreciate the observation, and I think Senator, that it's a very profound one. I think that the great body of law however, is a two edge sword. The great body of law has also created an army of lawyers, accountants and tax planners that have given an enormous incentive to diminish the taxable base through various types of devices. I think that the beauty of the book income proposal is that the company as I mentioned to Senator Croft, if the company wants to diminish its income for Alaska tax purposes, it's got to persuade its shareholders that it is not being operated very profitably.

SENATOR RADER - Well, let me ask you this. Let's take EXXON because they're so large and let's assume that only 5% of their operation is in this state. From their point of view to their stockholders, they're going to be interested in a consolidated sheet that shows their whole operations. Do you say it's their incentive to keep them honest and to sell their stock and to keep the FCC, and if they meet all of the FCC requirements, but still won't they have the same incentive and the same opportunity to shift the responsibility of their costs in the book method as they would have in any other method? And if we are only 5%, let the Alaska portion show as being unprofitable and pick it up someplace where they don't go on book method.

PROFESSOR ZEIFMAN - Again, Senator, I think that your observation gets right to the heart of the question, and I agree with your

observation, however, that would occur only if you have a separate accounting system. I think your question illustrates the disadvantages and the dangers of separate accounting.

SENATOR RADER - Can you create a system to do that? I mean you've only had one system and the federal government doesn't care, they're not going to care as to how we do it at least between the states, excuse me, go ahead.

PROFESSOR ZEIFMAN - You see the advantages, rather than talk about individual companies like EXXON, we have not identified the individual companies. In no case, let's assume that the book income, I think you can reasonably assume that the book income is going to be at least twice, at least double the amount of federal taxable income.

SENATOR RADER - This is as defined by them.

PROFESSOR ZEIFMAN - Yes, worldwide.

SENATOR RADER - Without any body of law to define how they define that.

PROFESSOR ZEIFMAN - Other than the regulatory procedures of the FCC.

SENATOR RADER - Which are only calculated to prevent them from overstating their _____, not understating them, I assume.

PROFESSOR ZEIFMAN - Well, it cuts both ways, and although we are talking about book income as though it were different from federal taxable income. Let me also point out this, Senator, I think this is a key feature that frankly I think that Mr. Kilgore glossed over. Many of the basic book accounting mechanisms are in fact policed by the Internal Revenue Service. For example, Mr. Kilgore mentioned inventory accounting and talked about the fluctuation of inventory. Well, the Internal Revenue code requires that the company use the same tax accounting technique in terms of evaluation of its inventory, the exact same for federal tax purposes as it does for reporting its book income, and so in a sense the advantages of book income as I see it is you have the feds. in a sense policing a big hunk of the accounting aspects of the company. The company cannot play hanky panky with its inventory accounting, with its gross receipts, with the major blocks of its item. The IRS is policing that, and the internal revenue code requires that it police that, so that in using book income, you're not departing from.....(end of tape) ..... provision that would go like this would say no depreciation deductions would be allowed in excess of the depreciation actually taken of the companies books. In that way small companies would

continue to have the advantages of excellerated depreciation here and there, but the large companies would not be able to use quick write-offs to a very large extent to substantially reduce their taxable income. So, I think that although we have been talking about the difference between book income and federal taxable income as though they were two different things, the major sediments that comprise blocks of income and expenses that comprise book income are in fact audited by the Federal government.

SENATOR RADER - Well, then you're saying we're not making a significant change. It is a significant change, but you're saying that the major portions are already audited so _____ right now.

PROFESSOR ZEIFMAN - Right.

SENATOR RADER - And so we're talking about this insignificant change which is going to be tempered by their own statement to their own stockholders in which they have a goal of maximizing profits instead of minimizing, but then I get down to this, and we don't have a body of law. That's really largely management discretion, I assume. The security exchange regulation which I don't know now, that's what I'm asking you, isn't it largely a management discretion then to, you're not breaking the federal tax laws when you report your income differently to your stockholders on different accounting

basis, and as Senator Croft observed independent auditors will I think, generally submit to management discretion if there is no breech to the law, and the most that they would do would be to footnote it with an asterik and say this is within management discretion, and can be done three different ways. This is an acceptable way. How do we eliminate without a body of knowledge and law, and with the same opportunity to shift income for book purposes between one state and another or between one opportunity and another, so long as the bottom line is the same.

PROFESSOR ZEIFMAN - Well, the last part of your sentence, Senator, is the part that I have the most trouble with, and somehow Senator Croft's question indicated for example a misunderstanding. We are combining the notion of use of book income with the idea of the combined report. We are saying to EXXON if you will, look, we don't care. If you want to play games for any purposes. If you want to keep your Alaska subsidiary at a low level of profitability for your books, you go ahead and do it. We are aware of that fact that you might want to do that. The advantages of the apportionment formula and the combination approach, and as a result the _____disadvantages of separate accounting is we are saying look, we are going to look at the whole pie, and we want the book income of the whole pie, and so long as we're dealing with the book income of the whole pie, it makes no difference whether the company in its internal bookkeeping among its affiliates divides it up.

SENATOR RADER - I see what you're saying. I understand that, but now let me ask you one other thing. You say no other states have adopted this. Now, to be the devil's advocate, why not? Is this something of your own creation that hasn't been tried yet?

PROFESSOR ZEIFMAN - Let me make this observation of why not, and I say this I hope that based on 20 years of experience working for the United States Congress, I would say lack of political muscle, in the sense especially with respect to the petroleum industry and because of the United States Congress. The Congress does not have political muscle in part to remove the tax subsidies from the internal revenue code, on the one hand that are related to the petroleum industry. Another part of it is perhaps a question of policy. When Congress decided that it was going to, if ever there was a radical departure from the use of normal accounting procedures, it was percentage deflation. Congress decided it was going to subsidize the petroleum industry, and so it provided for a percentage depletion. In a sense, the use of book income as we conceive it, and in terms of a general policy, we are saying look what we are interested in the earnings and profits with no subsidies. If we are going to subsidize the petroleum industry, we might do it in other ways, but we're talking about a tax base that is based on purely accounting procedures, as distinct from a tax base that's eroded through policies that reflect a desire to reduce the tax.

SENATOR RADER - Let me ask you again, and I think you've answered it, and it's only my own inability to receive your intelligence as fast as you can state it. I'm unaccustomed and haven't got quite the receiver you have transmitter either, but when you get back to it, is there a body of law through the FCC or otherwise to which we could go to if we were in a dispute with any one of our corporate citizens, and say, we think that when we say book value that the questions have been answered to the extent that there's a reasonable body of law that people with the opposite interests of the taxpayer and the tax collector can look at that and their attornies can look at that and handle that problem without rubbing each other wrong and fighting their way through courts interminably.

PROFESSOR ZEIFMAN - I think Senator, that there's probably as much of a body of law on that subject as there is..... I think it's a less complicated body of law in terms of the federal taxable income, and its lack of complexity, I think, is an advantage. As a lawyer, let me make this observation. This is an everyday kind of dispute. If I'm a minority stockholder for a closely held corporation, and we get involved in litigation as to its profitability, or if there's going to be a dispute among partners for the evaluation of the states. The extent to which the accountants have overstated or understated various items I think is a subject that the courts and most lawyers have had a great deal of experience with. I suppose I'm doing my own profession a disservice, but I'm suggesting that the use of book

income takes the body of law, the normal body of law, and applies that as distinct from the highly specialized priesthood of the internal revenue code.

SENATOR RADER - One more question, if I might. Now, Mr. Kilgore, I think, suggested this morning that he made some actual projections using this extraction factor and it did not appear to him to protect the State as well as he had thought it might. I might have misunderstood him in that, but have you done any such estimates as to how it will actually work.

PROFESSOR ZEIFMAN - Yes, we have on the basis, and I'm glad you mentioned that Senator, because I had a meeting with Mr. Kilgore and Mr. Lipton in New York, and at the outset before I agreed to accept the contract as a consultant to Alaska, I made it clear that I did not want to be a consultant or make any recommendations unless I was able to make the recommendations as I put it on the basis of actual data and not addressing myself to paper solutions to paper problems. I think that the data that Mr. Kilgore has relied on has been data which has been admittedly been fictitious, a sample that was provided to a large extent by Standard Oil of Ohio. Our predictions and our data are based on a study of the actual tax returns.

SENATOR RADER - If my previous question about is there an easier or better way, and you said well, the easiest and the simplist way is at the wellhead. Count the barrels and put a tax on it, and a gross income tax instead of a net income tax so you don't have to worry about all the rest or the other half of that problem. What is the customary way of doing that? Do I understand you to say that the main reason that you're proposing the book income tax is the ability or the possibility to capture the outer-continental shelf production which can not be done with a severance tax.

PROFESSOR ZEIFMAN - No. The use of the book income, you could adopt our proposal in part using the extraction factor and the outer-continental shelf feature without adopting the book income part. Do you follow? That's an apportionment part. The book income is the means of defining the pie.

SENATOR RADER - Now wait a minute, say that to me again, I don't understand it.

PROFESSOR ZEIFMAN - You could continue to use federal taxable income and still have a formula that has an extraction factor in it, and also include in the numerator of the extraction factor as is done in the administration's bill, the amounts related to the outer-continental shelf production. It's not the book income feature of our proposal which relates to the

outer-continental shelf, it's the extraction factor.

SENATOR RADER - I see. Thank you, Madam Chairman.

SENATOR HUBER - I wonder if I could get just a line, a short quicky on the bottom of Senator Rader's before the thought is lost? I was following along very well when you answered Senator Rader about going it alone. This is the reason for going with the compact instead of going it alone. If a corporation or any corporation taking in a profit, is doing so from a state such as Delaware or Washington, that does not have an income tax, and then they have an Alaska subsidiary here, and they don't give a darn about the Alaska subsidiary taking a blood bath every year in the annual report book because their stockholders are in the main corporation and they think the more Alaska takes a blood bath in the Alaska corporations the higher the value of the coupons that I clip. Now, aren't we still leaving that loophole? I think it's a yes or a no.

PROFESSOR ZEIFMAN - Under our proposal, No.

SENATOR HUBER - That loophole is plugged?

PROFESSOR ZEIFMAN - Yes, because of the fact that we're saying to the company, that's the advantage, and you see this is the disadvantage to saparate accounting. We're saying to the

company, look, we're saying to the whole group, the whole multi-corporate enterprise. We're saying look, we want to see the whole pie, and then we will apportion a piece of the whole pie to us, and so if the company, for example, and I appreciate your question, Senator because it really illustrates what we're getting at. Suppose you had under the present system to make it simple. Lets say New Hampshire does not have a corporate income tax, and I were going to drill in Alaska, here's what I would do. I would create a New Hampshire parent. I'd get a Delaware corporation, has its principal place of business, its so called domicil with Deleware, have its office in New Hampshire, and have it own an Alaska subsidiary. I would operate the Alaska subsidiary at a low level of profitability and the New Hampshire parent at a high level of profitability. Since New Hampshire has no corporate income tax, I'd be off the hook entirely, and if Alaska insists on separate accounting, Alaska has no remedy. Under our proposal, we're saying look, we are going to take the Deleware corporation. We don't care about all these arrangements, we want to know the size of the pie, the total income, the total profitability of the whole family, then we will make an apportion to Alaska. That is the modern progressive method of corporate income taxation that has been adopted by those other states that have progressive modern forms of taxing corporate income including California, Minnesota, and many other states.

SENATOR HUBER - They can't get out of that by only operating in the states that isn't a member of the inter-state compact?

PROFESSOR ZEIFMAN - That's right. They cannot get out of it. That's the advantage of the combined report approach, and you see, this is exactly what has been going on in Alaska for years. Alaska affiliates of large petroleum companies have been reporting to Alaska that they have a low level of profitability. They have said separate accounting. The tax administrator recently, consistent with the practices of a multi-state tax compact have been saying in so many words, listen, we are not going to buy that. We want to know whether or not, we want to know about the relationship between you and the parent. In a sense this is what I'm getting at with the treaty. The treaty which Great Britian has persuaded the Treasury Department to adopt, and which the Senators from Alaska were opposed as well as I understand the Governor and the tax administrator would say to Alaska, you must only look at the Alaska subsidiary, and if the Alaska subsidiary is operated a low level of profitability, there is no way, according to this treaty, that you can look at the parent if the parent is located in Great Britain, and that's exactly the disadvantage of separate accounting. It's been _____, I suppose I'm making a speech, but it's been _____by the proponents of separate accounting some wierd notion, they say we ought to draw a ring around Alaska as though it's kind of a bath tub, and only look at the local subsidiary. Well, I am suggesting to

you that if you really want to know about the profitability of the petroleum companies operations in Alaska, that I would urge you not to simply look at the books of Alaska's subsidiary, but to go for the whole pie.

SENATOR HUBER - Thank you Madam Chairman. It did straighten me out, but I'm going to have to do some more background yet on why, I guess that's the word. There's a piece missing there.

REPRESENTATIVE GRUENING - Professor Zeifman, you mentioned the treaty. Does that treaty in any way prevent us from getting the advantage of the franchise tax?

PROFESSOR ZEIFMAN - It sure would. Of course, the treaty has not yet been approved. Fortunately, it has to be ratified by the United States Senate, and due to the opposition of some Senators it came close to being ratified by the way. I would like to urge this body to adopt a resolution urging the President to withdraw the treaty, and the present Secretary of the Treasury to get the United States out of that treaty. But at any rate the treaty would, as I indicated, prevent you from looking at the whole pie. It also would prevent you from. I'm sorry, the treaty would. The separate accounting proposal would accomplish the same thing as the treaty, and that's what I find is rather extraordinary, the proposal that Alaska would inflict upon itself. The same limitations on its

own taxing power by compelling its own tax administrator to look only at the Alaska subsidiary in its books, destroy the most powerful weapon that it's had, when the petroleum industry is urging especially those parts of it that are related to the United Kingdom is urging the Congress to impress this limitation on Alaska as well.

REPRESENTATIVE GRUENING - Aren't we doing about the same thing though on the franchise tax in terms of apportionment in theory as done under the multi-state compact by saying, okay, we're going to take a different look at what the basis is, but we're still going to use an apportionment theory to attribute the sum of that income back to Alaska.

PROFESSOR ZEIFMAN - Right, exactly.

REPRESENTATIVE GRUENING - But is there a constitutional problem then with through treaty with the federal government telling us that we can't use this as a describing basis. I mean isn't this an interference under the constitution with State rights?

PROFESSOR ZEIFMAN - One of the unfortunate conditions under which you labor is the supremecy clause of the constitution which makes the federal statutes and treaties and treaties are given equal status under the supreme law of the land, so that if for example the United States were to enter into a treaty with France protecting french citizens against

inheritance taxes in Alaska, I think you would be stuck.

REPRESENTATIVE GRUENING - I have one other question. Mr. Kilgore, this morning outlined some disadvantages of the franchise tax, and I think maybe Senator Rader's questions about the body of law might have answered them, but as I recall, you were here this morning listening to his presentation. Three things allows a different treatment on accounting methods, greater write-off flexability and companies can revise their accounting procedures. Now, maybe Mr. Kilgore ought to elaborate on that, but as I understand the criticism there, it's not so definite, you're relying on the incentive factor to keep them from changing, as I understand his criticism, I may be unfairly stating it.

PROFESSOR ZEIFMAN - I very much appreciate the fact that Senator Rader brought this up in questioning because it frankly compelled me to address myself to it. That is, you know, I want to make it clear that the use of book income is not an either, or, we're not saying we're not going to use the federal tax system because anyone who has filed a corporate income tax report can tell you. You just don't go changing your inventory method in terms of the book income and your accounting method for the purposes of the companies books without the IRS policing them, and so any system, for example, and I was rather amazed by Mr. Kilgore's observation about inventory. There is a very strict requirement, and as a matter

of fact there is probably no subject which is more carefully audited by the Internal Revenue Service. You just can't go playing around for federal tax purposes by using a different inventory method of accounting on your books that you are using for federal tax purposes. The inventory accounting that you use for federal tax purposes is required by law to be the same as you are using for your book income. So that fluctuation, I think, is very unrealistic.

REPRESENTATIVE GRUENING - What is meant by greater write-off flexability under the franchise. Maybe I should ask _____ I mean that was listed as a disadvantage, greater write-off flexability.

PROFESSOR ZEIFMAN - I would agree that there would be greater write-off flexability with the use of book income, and some write-offs would be permisable.

REPRESENTATIVE GRUENING - That are not permisable under .....

PROFESSOR ZEIFMAN - Yes, but again the observation is the company, if it does that, it's going to diminish its earnings and profits for shareowners. I'll give you the example, I think, the most dramatic example of that. The petroleum industry as you know, is able right now to expense intangible drilling costs. Take a current deduction, and use intangible drilling costs to minimize their federal taxable income as a result. Well, many

of the large petroleum companies do not expense their intangible drilling costs because if they did they would diminish their earnings and profits for purpose of distribution to the shareholders, so they capitalize their earnings and profits, in a sense it is true, I would agree with Mr. Kilgore's observation that there may be some ways in which the companies could have a lower book income this year, that they would have some flexability, but at the same time that flexability as I put it sort of gets them between the bark and the tree because in order to reduce the Alaska tax base, they would have to tell their stockholders they were earning less money, and that's a different kind of position than they are now in.

REPRESENTATIVE MEEKINS - Is there a provision in the bill that, I think I heard you say, that you take the federal taxable income or the book value, whichever is greater, so in relation to what Senator Rader was asking, you're saying that there's a motivation that's strong enough to keep them from playing around with these possibilities, flexabilities they have, with the motivation being that they have to report to their stockholders the profitabilities because that's what we're looking at. They can't erode our Alaska tax base without going against that other need that they have.

PROFESSOR ZEIFMAN - Yes, they could not go below which is the advantage of the alternative base here. No matter how much flexability there is.....

REPRESENTATIVE MEEKINS - They'll never go below the taxes, so in that respect we're not any worse off even if they did.

PROFESSOR ZEIFMAN - It is inconceivable to me that the use of book income will cause, the way it's written in this bill, it's inconceivable to me that the use of book income would result in a lower tax base for Alaska with the alternative written into it.

REPRESENTATIVE MEEKINS - You see, that brings up the question, I mean the point of going to book income is that there's not really that much faith in the federal taxable income because of the subsidy as you call it written into it. So I'm wondering wouldn't it also make sense to, couldn't we have the alternative be federal taxable income plus putting back into that some of these allowances that are taken out? Couldn't we do that also and then.....

PROFESSOR ZEIFMAN - Yes, we mentioned that in our report as an alternative. You could take federal taxable income _____ add back all capital losses. California has done that. Federal taxable income plus, we will prohibit carryovers. Federal taxable except that intangible drilling expenses are to be deducted.

REPRESENTATIVE MEEKINS - Well the, what I'm getting at is then you would really have them because you could also then say that either, or whichever is higher, book value or that value, but that valu

is even higher, so the difference, if there was any possibility of arranging that as some people are fearing, you'd have even still a higher base for the federal taxable income in which to make or take your percentage.

PROFESSOR ZEIFMAN - I agree that that's an alternative. The advantage of book income is that you're doing it all in one fell swoop and the easiest way that we know how. The item by item thing, frankly again if I can be political, would compel you to have to fight it out on each front. You're going to add back, you're going to have a vote and add back, disallow the carryover, the capital gains item by item. The book income does have the advantage of simplicity, I think.

REPRESENTATIVE MEEKINS - I have one more question on separate accounting. I'm not quite sure. When you do separate accounting, does that mean you just look at the Alaska subsidiaries, the numbers that they have on their books, but you don't consider anything else at all. There's no apportionment whatsoever, there's just totally separate accounting?

PROFESSOR ZEIFMAN - Essentially, yes.

REPRESENTATIVE MEEKINS - Essentially you are using the numbers that the companies give you, in that case, wouldn't that be correct?

PROFESSOR ZEIFMAN - Essentially, yes.

REPRESENTATIVE MEEKINS - Can you put back into that your own extraction factors and things like that?

PROFESSOR ZEIFMAN - No, the extraction only works when you are talking about a pie to a portion.

REPRESENTATIVE MEEKINS - Yes, so if you put in an extraction factor, you're not.....

PROFESSOR ZEIFMAN - Let me give you a simple example of separate accounting that the Supreme Court reputiated. There is a case, Wallgreen Drugs. Now you know everybody's got a drug store, that ought to be simple, it's just like a candy store. Wallgreen Drugs tried to argue that it ought to be able to use separate accounting because it could show through separate accounting that its Minnesota drug stores were being operated at a lower level of profitability than its non-Minnesota drug stores. The Minnesota tax administrator said, "hey listen, we can't unscramble that egg. All we know is that Wallgreen is in the drug retailing business. In effect it's a kind of a view that goes like this, it doesn't have any geographic source. It has an economic source. They said in effect, "look the ice cream manufacturing plant that you've got outside of Minnesota, that contributes to the profitability of the Minnesota store, so we're going to require you now to make an apportionment, add the

whole thing together. How much income did all of your drug stores earn all over the United States, and then we will make an apportionment based on the ratio of Minnesota to total property payroll and sales. The taxpayer argued separate accounting. We ought to be able to use separate accounting, I can keep my own books, I can show you the Minnesota sales of the Minnesota drug store", but the court reputiated that, so on its surface separate accounting is deceptively simple, but with any degree of sophistication at all, especially when you're dealing with multi-national companies, it is no difficult problem at all for a non-United States company for example, or a New York based company to operate its Alaska subsidiary at a low level of profitability, and especially in getting it back, Senator, to your observations about the federal government, here's the rock now. The federal government doesn't care. In other words if you have a New Hampshire company operating at a high level of profitability, and the Alaska subsidiary at a loss, the federal government doesn't care because it's getting the tax from the New Hampshire company, and it's not concerned about the policing of it. The federal audit in the apportionment area is not really going to be helpful. So, I hope that my observations are, I hope that I have been helpful to you, and again, I want to reiterate that no state of the United States, currently and as far as I know in the last 30 or 40 years has adopted separate accounting method of taxation under these

kinds of circumstances as a general method of imposing a tax. The controversy has always been as to whether or not any form of separate accounting was going to be permitted, even in extraordinary circumstances, and generally the court has been said to look with disfavor on the separate accounting notion. I might add, for example, in California, you don't have much Alaska case law. I mean, you have no Alaska case law on this subject, but in California, let me give you an example. This perhaps will confuse you because it goes the other way. The Wildcat Oil Company, drilling a dry hole in one state and operating, if you want, not striking oil. It then goes to drill another hole in another state and still doesn't strike oil, and it goes on through six or seven states that way, and still doesn't strike oil, but most of California, and in California it strikes oil, and all of the oil is sold at the wellhead, right then and there. This is an unusual type of operation. The California tax administrator said in so many words, "this is one of those extraordinary cases in which we might try separate accounting, because after all if we only talk about the California operation, it's a desirable state of affairs. The taxpayers said, "listen I'm a unitary business, I've been operating all around, you've got to treat me as a single entity. The California courts invalidated the use of separate accounting under those circumstances. So, again, I would urge you to examine the notion of separate accounting very carefully because, not because of the disadvantages that Mr. Kilgore points out, about the hypothetical pricing and

the administrative overhead. That's not the disadvantage of separate accounting, the disadvantage of separate accounting is that you don't get to look at the whole pie, and he didn't mention that.

SENATOR RADER - Then, it's like you say, if the piece of the pie was very perfitable and the rest of their operation non-profitable, we might want to separate out and have accounting only as California attempted to do. You're saying that our court, if they followed the California court would not permit separate accounting if the Alaska operation was a bonanza and the Texas operation was no longer profitable.

PROFESSOR ZEIFMAN - That's right if they followed the California Supreme Court. And perhaps Professor Ainsworth ought to address himself to this because in the longrun the advantages of the combination approach, as I see it, is in the longrun you're dependent upon the fact that on the overall profitability of the whole multi-corporate family, and I would argue that that provides you with a much more stable type of a tax base. It's almost like a diversified investment. We could, for example, in the Wallgreen Drug case, you could have this kind of a situation which would make good business sense. Wallgreen goes into Minnesota, intentionally operates its drug stores at a low level of profitability, sells its products low and at a cheap price in order to compete in the local market, but it really is as a result the profitability of the whole. The whole company is

enhanced because of the additional sales and the large quantity, so for the State to deny itself, and to take away from the tax administrator, if I could leave you with this thought, whether you buy that proposal or adopt a proposal of that book income, or the extraction factor, perhaps there's a separate question, and maybe these are not alternatives. Whether you adopt the proposal of book income or the extraction factor is perhaps a separate question, but I would urge you to not voluntarily, by your own act, deprive your Department of Revenue and your State of the most effective tax weapon that you have in the corporate income tax area, and that's the ability to look at the whole picture and the whole pie.

SENATOR RADER - Well, I have a little different line of inquiry, if I could? We're in Juneau with the Prudhoe Bay situation where we're in pricing hearings right now, or we start Wednesday. Are you at all familiar with what our problem is there? They have not set a price for Prudhoe Bay as one tier or another tier, new oil or old oil. They haven't said, they might leave it uncontrolled like they suggested for Pet 4, which is not producing doesn't make any difference then. There's some suggestion that's come to our attention that the Federal government in their Prudhoe Bay pricing will take into consideration the tax structure that the corporations operating there and elsewhere in Alaska are facing in so far as it affects their incentive to explore and develop further. It seems to me

like sort of a delima problem. If we were going to increase the tax burden on a petroleum industry, our state administration is going in and asking for the highest possible price, I believe that's there position, the highest possible allowable federal price, it would be new oil or uncontrolled oil, and so it would be with the foreign oil, and their argument is that we need this as an incentive because of the extraordinary cost in Alaska. True we've had a bonanza in Prudhoe Bay, but then that's statistically and otherwise not expected to be counted upon and that we really need a very, very high price here to insure that lesser sands, sands that we know to be less profitable in existance, that you will preclude us from pumping or developing those, or even exploring further unless you give us a high price, and the State if urging the same thing because we are a royalty owner on one side. We've got one hat as an _____ and on the other side, we have the hat of the tax collector, and on the side of the _____, we want the highest price we can get, and we also want it for our oil company citizens. We're all citizens and we are all _____ 7/8 and 1/8 all have the same interests, but when you get to the point of doing the taxes, should the State if we're going to pull taxes, impose it now before they set a price on that oil, or should we wait until after they set a price on that oil. The argument being that if we try to set it before we set a price on the oil, that it destroys our credability that we need a high price for purposes of encouraging development, and the other argument being that if

we don't assess it now, that it will not be taken in as a cost, and therefore that if we cry to assess it later on, we would genuinely create a disincentive that would be so severe to the companies that they couldn't produce under the pricing, and I'm not sure I understand the problem, so I'm certainly sure I can't explain it. Does any of this ring a bell to you?

PROFESSOR AINSWORTH - I think that in a situation like that, I don't know how the State tax or the enactment of a state tax right now would effect the price that the federal authorities might permit you or might not permit you. I would suggest, of course, that any business entity including oil companies would welcome a higher price, and part of the justification in that in the case of oil is always the exploration and coming up with new and better resources, and I think so far as the oil supply situation in general was concerned, that I would leave that pretty much to national policy. Now, as to your own tax, I would say yes, a state tax will indeed reduce in some measure, if you look narrowly at it, the profitability of the oil company. I don't think there's any question about that. On the other hand, what I think taxpayers as well as tax collectors and the State generally would also see is that this tax comes at a time and in a situation where you have no history of taxing oil companies really. I think that this is a whole new thing as far as the State of Alaska goes with substantial oil being produced and generating income and therefore being subject to tax. So that you're coming in more or less at ground zero

as far as major production is concerned and what you ought to be concerned about is not whether you go from say the experiences of '73, '74 where so many separately accounted zero income to your state and so on and so forth, but you ought to look at that and say well now, how will our tax compare with other taxes around about in other states because ultimately it's the differential between your state's tax and other oil producing states tax. If that differential is not substantial after you take account of the very high quality deposit you have here, why then I'd see no great disadvantage to the State going with a 9.4% tax that was effectively applied to oil profit. Every State taxes it in some measure.

SENATOR RADER - Now let's follow that up a little bit. I saw an analysis put together by one of our operators here which had indicated that our total combined tax load if you consider our Ad Valorum taxes, the taxes on the pipeline, the taxes on the whole works, of their properties and their operation that we were 114% above California, or Texas, or something like that. We were 99% of Louisiana. In other words there might be one state in the Union that has imposed a heavier tax load on its petroleum extraction industry than Alaska. Is that, how do you respond to that kind of a statement? And if that is the case should we be talking about imposing any more tax?

PROFESSOR AINSWORTH - Well, I'm not familiar with that particular oil company's own report on its tax problems, but I would suggest

that this is one company, and it apparently comes up after it analyzes its own tax situation for its own information presumably. With this finding, that difference might possibly apply to one company, but not apply to all companies. Certainly a differential of tax as between and among states would however, have to look at what I understand to be the relatively good deposit that you have here, differentially good deposits relative to some other area, and if I were looking at this, I think, strictly from a state point of view, I would certainly take account of that quality differential before I assessed any ninety nine hundred and fourteen study that a particular oil company made.

SENATOR RADER - Let's assume that we determined that our present tax level was all taxes combined, was at the very top, very close to the top in the nation. Do you think as a policy matter, can we go much beyond that or not? What kind of constraints do we have there?

PROFESSOR AINSWORTH - All taxes combined, I think I've seen some of these general statements also, and yet I don't have a detailed picture of them before me, but frequently the general statements I've seen, when they say all taxes combined, the oil companies had sometimes included what they paid the farmer for the oil in North Dakota as a part of the payment to the State.

SENATOR RADER - They broke out the royalty payments as being different than the tax payments.

PROFESSOR AINSWORTH - So you certainly ought to wipe that out first.

SENATOR RADER - I think that's broken out clearly. What they did was they took the operation, they took the wells in operation, and they took the pipeline, the gathering lines of the rest of it and they applied it, and said you can pick this whole thing up and move it to Louisiana and use Louisiana's rates, in some places they're higher than ours, in some places they're lower than ours, and in some places there's no Ad Valorum taxes, _____ that we were at 99% Louisiana, and Louisiana was the highest in the nation, and we were 114 - 125% of other states to which they made the comparison. Now let's assume, I don't know if it's right or not either, but let's assume for purposes of discussion that that presentation was fairly made.

PROFESSOR AINSWORTH - If that were fairly made, then I would only caution that the only thing that they can't pick up from the State of Alaska and put it in Louisiana, even hypothetically, is the oil itself in the ground, and that's differentially good in Alaska, so you may have a margin there to work on.

SENATOR RADER - And how would you determine that the historical experience of the petroleum industry in all fields of Alaska as compared with historical experience of the industry in all fields in Texas, or something? How would you determine that?

PROFESSOR AINSWORTH - Well, I think I would make a current comparison of productivity, potential productivities as we look from here ahead.

SENATOR RADER - Well, if you do that, because of our extraordinary Prudhoe Bay situation, then I would assume that you might say we could afford a tax at a much higher rate than 125% of the next highest state in the nation, and still not provide disincentive to the petroleum industry. If you look at only where we are so far rather than statistically trying to estimate the liklihood of a repeat. I don't know how to judge it, I'm completely at sea on it myself, so I'm not asking you a question on which I have any opinion. I just know that the oil companies make the argument that I'm making to you, and that is "look, we're at the very highest right now, we admit that Prudhoe Bay is a heck of a find, but can we afford to continue hoping to hit that one long shot if your taxes are out of line with what is customary in other producing states". How do we analyze that?

PROFESSOR AINSWORTH - I would say the first thing to analyze would be to do your own study of differential taxation. Included in that study, I would certainly look at all of the work that

the companies have done and take full account of what they've done, say for their Texas, their Louisiana, whatever other place, how they came out of it there as getting all the information you can about statements regards taxability, levels of taxation in various states, and come to your own conclusions, then as to how far you could go on a differentially high side would depend largely, I think, on the relative of quality which is perhaps not quite the right word here of your own deposits visa vis others, actual and potential, and I would be concerned that the State of Alaska should, especially with this a non-renewable type resource, take its own long distance welfare into account in deciding whether or not the tax differentially high, and how far you might reasonably go in that direction.

SENATOR RADER - Well, I think in taking a look at our own welfare, we'd like to say that, we certainly would not want this to be the last exploration done by the petroleum industry in this state because of the fact that we have established an unreasonable taxing method based upon a bonanza, instead of based upon what could be expected to be an average productivity profitability for an industry, and I have no idea how to judge that, nor do I think again, I think you're right, you have to look at and compare our own state with other states, and I don't say you rely on any one elses analysis for that, but I'm just saying let's assume that we've made that analysis, and we've found that our taxes were among the highest and we have transportation

costs. If you did get too high, how would you know it?

PROFESSOR AINSWORTH - You would know it by whether or not the companies continued to operate at profitable levels and whether they continue to explore, how far they went. I would think you could consider that as kind of a current evaluation of what they do in the circumstances that they present.

SENATOR RADER - If we were to take something that's current here on how to explore, what would we have to do, ask them ask EXXON, I keep picking on EXXON just because we started in. It's nothing personal or impersonal about it, but they are a corporate citizen. Would we ask them how much of their exploration budget is coming to us as against other states and other areas of the United States to determine whether or not we think that we have already based a tax level which has created disincentive considering the costs of production and the transportation problems when we get through with the rest of it. How would we go about putting our finger on what is a reasonable level? Everybody talks about fair share. You want to tax your fair share? Sure. I want to pay my fair share. Sure. They're miles apart. Nobody knows what that is.

PROFESSOR AINSWORTH - I think you have very little problem there because as is so vividly reported at the federal level and regards the shortages of fuel just this past winter.

Nobody seems to have data that they agree about regards reserves and what was and what wasn't done with that. We seem to get different stories on that. I would think that the best thing and it probably doesn't apply explicitly or exclusively to Alaska, but would be that if one could come up with your own independent testiments of what your resources are, and the potential yields and profitabilities of them.

SENATOR RADER - Well, we could do that to some extent, but finally the proof is what is their ability to spend the money to poke the hole, and there's been some suggestion that the state should start going out and wildcatting. That way they would know alright, but I imagine they would blow a lot of money too.

PROFESSOR AINSWORTH - That might be a kind of a check that the State would want to make.

SENATOR RADER - Can you think of any way we could get a handle on that problem as to whether or not we've become unreasonable in our tax policy, and in effect driving our petroleum industry out of the state, or diminishing to an unreasonable point their incentive to explore further for new finds and new development.

PROFESSOR AINSWORTH - I think the only way to work at that is to do what seems to be a reasonable job of getting your tax in order for the first time on this kind of industry and activity

really. By that I mean bringing it up surely to the level of other states which with the sales destination and so on, I would judge under the separate accounting would not be the case. Get it up to that level then assess the differential quality as best you can. The information is imperfect. The companies and the energy people in the federal government seem to agree on that at least, and you just have to continue to evaluate.

SENATOR RADER - Well is there any argument in anybody's mind that we are taxing among the highest rate on our severance taxes and on our other taxes than any other states? You see that I thought we were nudging the very top for a long, long time and exceeded almost everybody.

PROFESSOR AINSWORTH - Of course, we're buying an awful lot of oil just now from foreign sources which I think would have a total tax and price situation that would make Alaska's quite minutive perhaps.

SENATOR HUBER - In the studies that you've been doing, do you have any doubt but what singling out Prudhoe Bay. It seems to be what we're basically talking about there anyway. Is there any doubt but what it could stand exceptionally high taxation rates in comparison with other places in the country? Have you discovered that it couldn't, that it would have to be held down to an average of what other states are, or could Prudhoe Bay as being a bonanza, something that you don't find

everyday, could it bear a high rate of taxation in relation to other places?

PROFESSOR AINSWORTH - Of course we're out of the area of the income tax.

SENATOR HUBER - No, we're really not out of the area of the income tax. We're talking about a total rate. Madam Chairman, if you'll give me a little latitude here, Senator Rader was tying us down to the approximate maximum of what other states were doing, and we've had other studies and testimonies since the Tanzer report indicating that Prudhoe Bay is capable of supporting from 50-85% total taxation rate, and many other studies that show maybe as much as 50%. We know that countries in the middle east, some of them with about the same production that we have here are sustaining from 10-11 dollars a barrel tax out of a total price of $14, so that's what I want to get some comments about. I thought it was all going on one side that maybe the oil companies were going to leave before we left this room.

PROFESSOR AINSWORTH - I would not expect that, but more specifically to that point, I think first of all, your suggestion, Senator, that one looks to the other states, but also of course to other places in the world, the petroleum market and its exploration and so on is indeed a worldwide kind of thing, so before concluding as to what could be done by way of taxation

of petroleum companies in Alaska, I would certainly take a very broad look at it. Secondly, it seems to me that we're really not quite at the point of being differentially high in Alaska. We're really sort of starting from the beginning as far as oil operations are concerned, and the ineffectiveness historically, ineffectiveness of the sales destination package historically has set a low base here as a starting point and unless something is done, I think that it would continue perhaps unfortunately low to the disadvantage of the State. Then a final observation I would make is this that in terms of the kind of taxes that are most inconveniently kind, as it were, for all taxpayers, but certainly including corporate taxpayers, it seems to me the net income tax applies only when there is in fact net income, and what we're proposing primarily is a system for determining what that net income is and assigning its fair share to Alaska, and then taxing it. If it comes out zero as it conceivable could, though I think unlikely in the forseeable future, why then it would go away, unlike a tax, say well the tax that Professor Zeifman mentions as the first string on the bow, if you wish, the severance tax, that does not vary with the profitability of the oil companies, so in a sense an income tax is a more conveniently kind tax which gets less if profitability diminishes. So its differential effect between and among the states would be somewhat moderated as compared with say the severance tax and those other taxes which are not geared to net profitability, so I think you have a way

to go before you come up to for all practical purposes this line if you look nationwide and indeed OPECwide, and also the income tax would be of less concern, I should think, than almost any other tax because it is a net thing. It's only after their profitable that in fact taxes are applied.

SENATOR HUBER - Madam Chairman, would you care to comment upon the different make up of the type of oil companies that we have on the slope in Alaska, mainly comment maybe on there being more of the vertically integrated multi-national in regards to the small independents there in many states like Texas and other places. I know it's an entirely different problem of handling them and dealing with the two different kinds of companies. In fact it's entirely different to be fair with them even. Would you care to comment on that?

PROFESSOR AINSWORTH - I would comment to this extent on that, and then perhaps Professor Zeifman can add something. It seems to me that if you look at the House proposal before you 322, the destination versus the Senate proposal 105, the separate accounting one, that for the company which is entirely and exclusively in Alaska, any one of these three is likely to come to about the same end result, because you are indeed all there. Now, if you look at it however, from the other perspective. If you keep the destination factor or if you use the separate accounting device as a way to determine Alaska taxable income, then you will be providing an opportunity

for the large integrated company to reduce its tax liability differentially low, relative to the small highly local company because the effective rate of 9.4% will indeed be applied to that local company which is 100% Alaska no matter how you look at it. The whole pie is here obviously and simply. The destination factor and the separate accounting factor provides an opportunity for some shipping of income out of Alaska which might buy the House 322 be apportioned to Alaska, and in that sense, the small local company will be treated equally. They will pay their 9.4% on income just as the large company will pay 9.4% on its income more reasonably now apportioned to Alaska, so the small company gains not in the sense that its taxes go down all that much, but in the sense the other competitors, larger competitors will be paying at the same effective rate or more nearly so, now there is also a size provision that applies in some measure here and perhaps Professor Zeifman.....

PROFESSOR ZEIFMAN - Our proposal of course applies really for all practical purposes only to multi-national corporations, and I think we've already discussed the tax avoidance possibilities of them with respect to the use of separate accounting. I would sort of like to address myself to both of your observations, and that is that I wouldn't necessarily be persuaded by one way or the other by the fact that whether Alaska has the highest effective rate of taxation of the petroleum industry of any state in the United States of course has some relevance, but

I don't think that that ought to be necessarily the measure. At the same time, you could say that one of the chief industries of Alaska, perhaps more than other states, that the heaviest industry in Alaska is the petroleum industry, and therefore it follows that it would come out that way. I interestingly enough, and this is purely coincidental, most of my experience or ten years of my experience with the Congress, especially with the subcommittee on the outer-continental shelf was working with a chairman from Louisiana who used to be in his earlier days, was the majority leader of the Louisiana assembly, and he used to talk to me in great lengths about the problem of taxation in Louisiana where the State had a similar kind of situation before the oil companies came, and that was the timber industry. It came into Louisiana, stripped the timber bare, and left, and left the state with practically no tax base, and then when the petroleum industry came, I suppose Huey Long who often became criticized for other things began a program to try to develop an effective tax program with respect to the petroleum industry, but as the petroleum industry becomes more and more multi-national, again I want to reiterate that for the State to look at a multi-national petroleum company, only in terms of the profitability as determined by the company, in terms of its own books, in terms of the Alaska subsidiary, I think prevents you from getting the kind of data and the kind of perspective that you would need in order to make this kind of a decision. As I mentioned to you before, if I were working for a multi-national petroleum

company, what I would do would be to try to demonstrate again, and again, and again the low level of profitability of Alaska petroleum developemnt, and the way I would do it would be to establish affiliates, have them operate in Alaska, and control them from parent corporations that exist elsewhere and argue that their profitability was low. So again, I think in order to get the kind of perspective that you're talking about, that both of you are talking about, you have to look at the whole picture of the petroleum companies operations. Also, again I think that we run into this problem all over, in the sense that the New York stock exchange threatened to move out of New York. There are some industries that can't move. The California wine industry is not going to move from California. I don't think the citrus industry is going to move from California, and the petroleum industry is not going to move from Alaska, but you have, I think, an especially important problem here, and that is the non-renewable nature of the resource, and so I think that in addition to asking yourself the question about what happens if, are we going to discourage the petroleum companies to move out. You ought to also ask the question of the extent to which you are extracting revenues from them that are commensurate with the burden and with the long-range economic environmental burden that they are imposing on the State. The more the petroleum industry comes into Alaska, the more it imposes burdens, so I would suggest to you that an important measure of the tax begins where I first started, the preficatory

language of the bill that the measure of the tax to a large extent ought to be related to the economic burden and demand for services that the petroleum industry creates for the State. Admittedly, to translate that into a tax rate is I guess fortunately for us lawyers, that's the kind of thing that economists are dealing with.

SENATOR HUBER - Madam Chairman, it's interesting to note about this language at the beginning of the bill. I think maybe Professor Zeifman mentions that it seems to be important. If I remember right, I don't have to remember back very far. Four years ago our drafting attornies used to tell me that we couldn't put it in. Three years ago they started putting it in if I jumped up and down hard enough, and now every bill I get has it drafted in, and they all tell me it don't mean anything, it has nothing to do with the legality, so I'm not sure that it does, but there's one observation that you made about the 9.4% tax that Alaska corporation would have to pay doing the same thing, and where the multi-national or vertically individual company gets away from it, and this is where we got started, where we are now is trying to plug up that loophole, that Alaska corporation would have to pay, and the other ones wouldn't have to pay. We look back at history like you mentioned in Louisiana, and we found that our fur traders were here and all they did was left us with a bunch of mad indians, and then they came along and dug the gold up and left us with tailing piles, then the salmon were gone and

all we're left is fighting with the Japanese over whats left of the little piddlin bit of salmon that's left, so now it's oil. It seems like Alaska has had one after another.

PROFESSOR ZEIFMAN - It sort of ends the history of successful people in mankind doesn't it?

SENATOR HUBER - Something on that order, but we end up with in each case Alaska's ending up with the impact, but look at salmon, and those pilings that we pick up all over aren't worth a damned, as Senator Poland will tell you. It's another thing that makes it a paying thing, and somehow or another I suppose we're trying to do the same thing with the petroleum industry which we know is depletable.

CHAIRMAN Poland - Senator Huber, did you have another question? I think that our consultant for the Committee, Mr. Silides might have some.

GEORGE SILIDES - Madam Chairman, both Mr. Erickson and I have several, but I think we'll have to defer, except for one which I think is going to need answering on Rader's plan of _____ If we might be able to mail them or telephone them in.

PROFESSOR AINSWORTH - Or if you wish we could remain with you, whichever.

GEORGE SILIDES - I'm concerned about how effectively your approach would be in apportioning income to Alaska from Prudhoe Bay and the Alyeska operations. You know, Alyeska in particularly is wholly an inter-state corporation. That was the question. How effective are you or would your scheme be in apportioning income to Alaska from the Prudhoe Bay and the Alyeska operation?

PROFESSOR AINSWORTH - Well, I would argue that it is the more effective way by far in the sense that first of all, I think there's a little bit of a mystery as to how the pipeline company is going to operate totally, but I would argue that, let me put it this way in order to be very specific. Again, I'm not talking about the book income part of it, and I'm talking in part about the extraction factor, but the part again that I want to emphasize, because frankly, respectfully, I feel that Mr. Erickson has totally misunderstood the nature of this problem, but anyway I want to make that clear that the idea of looking at the whole picture of the out of state owners and their profitability of the whole picture of their profitability is important, extremely important because the truth of the matter is that in a true economic sense, the pipeline companies are not operating solely in Alaska. They are part of a worldwide conglomerate type of operation, and although they have set up subsidiaries that operate in Alaska, in a true economic sense, those pipeline companies are truly and part of a unitary kind of business, and it has been suggested

to me for example by Mr. Erickson, that the state ought to draw a ring around Alaska, and therefore make sure that it is effectively taxing all those companies. That ring that Mr. Erickson would draw around Alaska is a ring that would prevent the State from having any effective remedy if the control of the pipeline companies, let's face it, the pipeline companies are not controlled by Alaska. They are not controlled by the legislature. They are controlled by corporations who have their corporate headquarters, and the major portion of their resources outside of Alaska. If they operate those in a manner to minimize their profitability which they easily can do, and the Department of Revenue is stradled with what I call this bow and arrow, obsolete, outmoded, mioptic form of taxation based on separate accounting. I think you are opening the flood base for widespread tax avoidance on the part of pipeline operators.

GEORGE SILIDES - Madam Chairman, Professor, that was not Mr. Erickson's question, but at any rate, one last thing. What is to prevent, now let me ask you this, you have said that no other state has adopted this particular procedure.

PROFESSOR AINSWORTH - Now, let me be very specific about this, and I'm very appreciative to Senator Rader for having brought this up. When I said that no other state has adopted this procedure, I am talking about the use of book income as a taxpayer, not the subject of the so called worldwide combination

or combined report which most of the progressive states have adopted.

GEORGE SILIDES - I understand all that, but now supposing that all the other 49 states have adopted this book income, wouldn't Alaska or Prudhoe Bay with it's high profitability, wouldn't Alaska income be voted by other states as jumping on to a possible venture?

PROFESSOR AINSWORTH - If all of the states adopted the book income approach, all the states would agree on the total size of the worldwide pie that's all. That is not related. If I could rephrase your question, I think what you're getting at is if all states are adopting the kind of apportionment formula that we are talking about.

GEORGE SILIDES - No.

PROFESSOR AINSWORTH - Well, I understand it to be addressed to book income, and I would say that the effect of all states adopting book income as the state taxable income would be to enlarge the corporate tax revenue for every state, a little bit as we suggested it be enlarged in Alaska. It would not shift income from one state to another, but every state would be more effective in raising revenue by that device.

GEORGE SILIDES - From the company?

PROFESSOR AINSWORTH - Yes, but not at the expense of Alaska.

GEORGE SILIDES - That answers my question.

PROFESSOR AINSWORTH - If I may Madam Chairman, in further comment so far as the pipeline property is concerned, in ing my estimates of revenue, I have assumed that property would indeed be incorporated into the numerator and the denominators of the appropriate oil company, so in that sense it would also be incorporated into this proposal that we have. We did not exclude that as part of the property factor.

GEORGE SILIDES - Professor we understand that we have a unique situation here, the pipeline companies are actually small.

PROFESSOR AINSWORTH.- Also, let me make an additional observation about the pipeline company which is a form of justification for departing from the uniform act. The uniform act itself and the draftsman of the uniform act expressly, intentionally they were cognizant of the fact that transportation companies present special problems, and so they did not include, they excluded transportation companies from the coverage of the uniform act, which is a further justification for the use of an extraction factor with respect to the apportionment of income in Alaska.

CHAIRMAN POLAND - Are there no further questions? Thank you very much Professor Ainsworth and Professor Zeifman, and ladies and gentlemen for your patience. We will resume our joint resources meeting here tomorrow at 1:30 in the afternoon.

STATEMENT

OF

BRISTOL BAY NATIVE CORPORATION

February 9, 1978

Madam Chairman, my name is Donald F. Nielsen, a shareholder and Vice President of Bristol Bay Native Corporation.

We are opposed to S.B. 236 or any other proposal to establish an oil and gas corporate franchise tax. Under the terms of our agreement with a major oil company, if oil or gas is produced on our lands, we will share in the production and would become a producing oil company. The market for our production would be outside of Alaska. The figure in excess of $250,000,000 gross receipts may be of some protection in the immediate future; however, there is no assurance that if such a proposed bill becomes law that this figure could not be adjusted downward to fit any given corporation, nor does it take into account any future price increases.

As an Alaskan corporation, we do not feel we should be required to keep separate accounts and pay any different tax than any other normal Alaska corporation. Also, we feel the proposed franchise tax, if passed, could later be applied to other industires such as mining, all of which tends to discourage major investments and financing of any type of investments in Alaska. The same reasoning applies to any burdensome tax policies that that effect Alaska's investment climate. Thank you.

CITIES SERVICE MINERALS CORPORATION
A SUBSIDIARY OF CITIES SERVICE COMPANY
1016 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501

DON STEVENS, PH.D.
DISTRICT GEOLOGIST

(907) 272-9441

March 17, 1977

Mr. Bill Bishop
Bristol Bay Native Corp.
445 East 5th Avenue
Anchorage, AK 99501

Dear Bill:

Mr. Ranspot and I want to thank you and the Bristol Bay Native Corporation staff for the courtesies extended during our meeting last week. We found our review of the Bear Creek Mining Data to be most interesting and, in fact, these data exceeded our expectations. Bear Creek Mining has done an excellent job in its investigation of porphyry type targets.

As I mentioned on the phone, we have had to decline entering into an exploration agreement with Bristol Bay Native Corporation for a number of reasons in spite of the excellent mineral potential indicated by the data reviewed.

Certainly one important reason for being very hesitant to engage in new minerals exploration programs has been the Hammond administration's attitude toward mining taxes. Not only are attempts being made to adversely change the present mining license tax but several comments by the administration have indicated that an additional severance tax bill is going to be introduced in the next session of the legislature. One needs only to look at what has happened to taxes on oil and gas production in the last ten years to believe that the same thing will happen to the mining industry. With the high capital costs and the high infrastructure costs in mine development in Alaska a high tax burden will simply eliminate any chance for development of a mining industry.

The attractiveness of possible mining operations on native corporation land is being outweighed by the ever more burdensome tax policies generated in Juneau.

Sincerely,

Donald L. Stevens

DLS:bh

OIL AND GAS TAXATION

SENATE RESOURCES COMMITTEE

HOUSE RESOURCES COMMITTEE

Testimony of Lawrence L. Wilson

March 25, 1977

My name is Lawrence L. Wilson, Associate Tax Counsel, Union Oil Company of California. I shall be speaking today on a number of bills which cover income taxation, severance taxation and property taxation. Specifically, these will be SB 105 and its companion bill, HB 145 and HB 322, all of which deal with income taxation along with SB 202 which is the "net proceeds" tax. I will also cover SB 103 and HB 321 and its companion bill HB 144, which deal with severance taxation. Finally, there will be remarks covering HB 323 dealing with property taxation and HB 328 dealing with the Reserves Tax. Where appropriate, my remarks will also comment on testimony that has already preceded my testimony. The first bill I wish to comment on is SB 105. No reference is made to HB 145 since it is an identical bill.

SB 105

SB 105 is a bill which purports to determine income to Alaska through the "separate accounting" method. The preficatory language in Section 1 states that the present method of apportioning income under the three-factor formula embodied in the Multistate Tax Compact does not fairly represent the extent of

the business activities in Alaska for corporations engaged in the production and pipeline transportation of crude oil and natural gas. Section 1 goes on to state that the legislature, therefore, intends that section 18 of Article IV of the Compact, which allows separate accounting, shall be adopted for determining income derived from the production and pipeline transportation of oil and gas.

Richard Kilgore of Walter J. Levy and Associates and Professors Jerome Zeifman and Kenneth Ainsworth have commented on "separate accounting" as a method of determining income with Mr. Kilgore defending it and Messrs. Zeifman and Ainsworth attacking it. Even Mr. Kilgore acknowledged that the administrative problems of determining "value" for a product transferred out of the state and of allocating expenses to Alaska were troublesome. Messrs. Zeifman and Ainsworth painted a picture of corporate maneuvering by astute managers to deliberately operate Alaska affiliates at a low profit through such means as selling property to the affiliate at high prices to get high depreciation and by allocating excessive overhead.

However, none of these witnesses have provided this Joint Committee with the really significant reasons why separate accounting is an unsatisfactory method of determining income within a state. First, even if one could overcome the administrative problems of valuing production and allocating overhead, separate accounting simply cannot adequately and properly determine how much profit of a business is derived from within a

state where the overall business has parts which are dependent upon one another and which are located in more than one state. It was for this very reason that the "unitary business" concept was developed along with apportionment formulas to determine how much of the total income of the total multistate business should be apportioned to a state. This is precisely the procedure which Alaska uses today, as well as most taxing jurisdictions, i.e., the total income of the total business of a multistate company is determined and then apportioned.

The other reason why separate accounting should not be adopted is that it exposes the taxpayer to multiple taxation. Income which would be fully taxed in Alaska would also be apportioned to other states using the apportionment method, which looks to the total income of the taxpayer as a taxable apportionment base. Conversely, Alaska's or any other state's adoption of separate accounting could cause it to lose tax from an overall profitable multistate company -- specifically, where the in-state separate accounting calculations produce an in-state loss for such overall profitable company. As Mr. Bonney of EXXON will demonstrate, LATER, this would have been his company's case had Alaska been on separate accounting during the development years of the North Slope. Instead, Alaska received income tax by using the current apportionment method, apportioning a part of that company's overall profit into Alaska.

Turning to the provisions of SB 105, it is clear that the bill is not even the form of separate accounting which any of the witnesses were debating. Rather, it is a hybrid form of

separate accounting. It seeks to determine income by simple reference to the wellhead value of oil and gas used for severance tax purposes and then allows only seven deductions while totally ignoring any other legitimate deductions which represent business expenses allowable under established principles of income taxation. Five of the seven allowed deductions relate to costs closely associated with production. Another category is for unsuccessful exploration costs incurred in Alaska. The only out-of-state cost allowed is for interest expense "not capitalized and capitalizable", but this expense would be severely limited for most companies through the use of a ratio of the book value of the fixed assets associated with the field to the total book assets held by the corporation and of its affiliates. All interest expense related to a company's operations within the state should be recognized as a current operating expense, without the limitation described in this bill.

It is clear that SB 105 would introduce new concepts of taxing an oil and gas producer which radically depart from concepts found under the existing Alaska corporate income tax structure. The traditional concepts established over decades of experience and which are contained in that corporate income tax structure would in large part not apply, yet the producer would be taxed at the same 9.4% corporate rate of tax.

One of the seven deductions is for "severance taxes actually paid." This provision may appear to be without problems until one analyzes it in connection with the reserves tax.

Unless the statute is amended, the reserves tax will likely result in nearly $240-250 million dollars paid to the state next June 30th. With the $220 million paid on June 30, 1976, the aggregate of nearly $500 million represents, in essence, prepaid severance taxes because the reserves tax may be used as a credit against future severance taxes payable. Hence, the word "actually" in the clause "severance taxes actually paid" takes on significance, and it appears that the authors' intent is to allow as a deduction only that amount of severance tax "actually" paid over after the credit with the result that some $500 million would be denied as a deduction.

Depreciation is allowable but only on facilities closely associated with production, but the amount of depreciation is simply left to the Department of Revenue to handle by regulation. Depreciation is a vastly complex subject under income tax laws and can be handled in many ways to provide fair and equitable results to a taxpayer. The bill provides little or no guidance on a subject of such importance to a taxpayer.

As noted earlier, SB 105 does not fit within the category of the "separate accounting" method of determining income. What it really seeks to do is draw a ring around successful oil and gas operations and allow as expenses only those that are literally tied to the lease, plus expenses for unsuccessful exploration efforts and a severely limited amount of interest expense. The resulting amount is supposed to be net income, but in fact, would represent a level of income much higher than would occur under regular principles of income taxation.

In addition to the tax received by Alaska based on an inordinately high level of income, the authors of SB 105 would, under Section 43.20.014, still seek to reach, through apportionment, the taxpayer's out-of-state income, including its oil and gas and pipeline income as well as all other income. In short, SB 105 would allow Alaska to fully, or, rather, more than fully, tax directly all of the Alaska income from oil and gas and pipeline transportation and would also require the taxpayer to apportion to Alaska all of its other income except the income already taxed by SB 105. And, of course, the final effect to the taxpayer would be that other states where it does business would also apportion income to themselves under their tax laws and included in that apportionment to them would be the Alaska income already fully taxed by Alaska.

A state may constitutionally tax only that income of a taxpayer which is derived from within its borders. That fundamental rule applies irrespective of the method used to determine income. SB 105 seeks to reach all income from oil and gas and pipeline transportation in Alaska and at the same time, through apportionment, seeks to reach the taxpayer's other income including its non-Alaskan oil and gas and pipeline income, thereby raising the constitutional question of the taxation of extraterritorial value in violation of the Fourteenth Amendment of the U. S. Constitution.

With respect to income from pipeline transportation of oil, Sec. 43.20.013 simply provides that where such a pipeline is regulated by the Interstate Commerce Commission (ICC), the

annual taxable income "shall be eight percent of the valuation." There are no guidelines to determining income under any set of rules, and items of income and expense are not even considered. Obviously, this provision is aimed at the Trans Alaska Pipeline and, in effect, says that the tax shall be valuation times 8% to get around $600 million of "annual income" which, when taxed at 9.4%, produces a tax of about $60 million.

Attempting to tax a business in this manner would be similar to a law which says that an individual shall be deemed to have annual income equal to a certain percentage of the assets he owns. For example, suppose such a law says that a person's annual income is deemed to be 50% of his assets and the person owns an apartment house worth $200,000 but has a $150,000 mortgage against it. His annual income would be $100,000 to be taxed irrespective of his costs. It would not matter that the person may, in fact, show very little profit.

A taxing scheme which deems "income" to be a percent of value of assets without regard to actual income and expenses is, in effect, nothing more than a property tax under the guise of an income tax and raises serious legal and constitutional problems.

The authors, however, have attempted to provide a form of "escape hatch" to the foregoing method of taxation by providing in Section 43.20.013(c) that the corperation operating such an ICC-regulated oil pipeline may elect to have taxable income from the pipeline determined under rules and regulations of the

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Alaska Pipeline Commission. Thus, the idea seems to be that if the corporation does not like the percent-of-value method of determining annual income (which would deem annual income to be at a very high and ficticious level), then it can be economically forced to submit to the rules and regulations of the Alaska Pipeline Commission whose rules may or may not be parallel with the ICC rules. In fact, section 6 of the bill contains an amendment to Section 42.06.041 by adding new provisions which require the Alaska Pipeline Commission to give the Department of Revenue a certificate that the pipeline corporation so electing has complied with the Commission's rules and regulations. Subsection (c) of Section 041 provides that the Commission shall by regulations establish an accounting procedure to define net income to "coincide as nearly as possible with the net income definition used by the Commission in establishing rates and measuring rate of return."

What is happening under these provisions seems clear enough. The idea seems to be to put such an onerous tax burden on the ICC-regulated pipeline that it would be forced to elect to comply with all applicable regulations and orders of the Alaska Pipeline Commission concerning accounting methods and reports. In short, the Commission would set the rules for income determination notwithstanding that the pipeline company remains subject to the primary jurisdiction of the ICC. Thus, there would be four parties involved in determining income: the taxpayer, the ICC, the Alaska Pipeline Commission, and the Commissioner of Revenue who is interpreting the Alaska Commission's rules.

Use of the tax laws to achieve the apparent goal of regulation by the Alaska Pipeline Commission is an abuse of the taxing power. Further, the scheme raises obvious legal and constitutional questions and with so many parties that would be involved in the income determination process, the stage would be set for endless controversies.

The foregoing discussion relates to ICC-regulated oil pipelines. Where an oil pipeline does not yet have a value established by the ICC or where the oil pipeline is strictly an intrastate oil pipeline, the bill provides that such a corporation having one of these pipelines shall have its income determined under the rules and regulations of the Alaska Pipeline Commission. Here again, as would be the case of an ICC-regulated pipeline corperation which was forced to elect to have income determined by the Commission (discussed above), the income determination is left to another agency under rules and regulations as it chooses. In essence, the whole matter of determining income to tax under an income tax law is left to the vague guidelines of another governmental agency. This, in itself, raises questions whether there has been an unconstitutional delegation of legislative authority. But even if one gets over that hurdle, the fact remains that whatever rules would finally apply, those rules would not accord with general principles of income taxation which ought to apply to pipeline operations just as they apply to any other type of operation.

As to gas pipelines regulated by the Federal Power Commission (FPC), SB 105 provides in Section 43.20.013(d) that

taxable income shall be determined in accordance with reporting procedures established by the FPC. Here again, there is a departure from normal application of income tax principles because a gas pipeline, though regulated, is really no different from any other taxpayer insofar as having income tax principles applied to its operations. The regulation and rate-making process of the FPC fully takes into account a gas pipeline's handling of its operations where that pipeline utilizes the provisions of the Internal Revenue Code to achieve tax savings for the benefit of not only its customers but also its shareholders.

Finally, I would like to say a word about Section 43.20.015 which deals with "Public Reporting." Under that provision the Commissioner of Revenue is to compile and transmit to the legislature each year an annual report which shows the tax paid under SB 105 together with the itemized deductions that have been allowed and how much tax revenue was not collected because of the deductions. Further, the report is to provide a summary of the total amount of oil and gas produced by each taxpayer, the taxable income as calculated under Section 12 and 13 relating to oil and gas income and pipeline transportation in Alaska, and the out-of-state income of the taxpayer apportioned to Alaska.

In short, SB 105 would open up for general scrutiny without safeguards of confidentiality the whole operation of the oil and gas producers and pipeline operators in Alaska. I would hope that we haven't progressed to the point in this country where a

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taxpayer's returns have become a matter of public record. I doubt if anyone would consent to having their tax return information bundled up by the tax collector to be laid bare for anyone to review. There are strict rules in all states and at the federal level covering disclosure of tax return information, and there are ways whereby certain limited groups of people having a legitimate interest can obtain that information on a strictly confidential basis with criminal sanctions imposed for violations. But under SB 105, the information could be made available to a large number of people where there are no guidelines whatsoever over disclosure. Such a provision is one that simply should not be tolerated no matter who the taxpayer may be.

HB 322

The next bill I wish to discuss is HB 322. This is the Department of Revenue's bill which adopts the recommendations of Professors Zeifman and Ainsworth. Essentially, this bill has the following features:

1. Impose a franchise tax on oil and gas producers operating in Alaska who have gross receipts of $250 million or more.

2. The income base to be taxed would be the higher of (1) pre-tax book income as reported to stockholders before any reduction by reason of taxes on income, or (2) taxable income under the Internal Revenue Code.

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3. Apportion the pre-tax book income under item 2 by means of a three-factor formula where the property and payroll factors are the same as now contained in the Multistate Compact but the sales factor in the Compact would be replaced by an extraction factor. Such extraction factor would be the ratio of oil and gas produced in Alaska (expressed in BTU's) to total production of the taxpayer everywhere.

Thus, there are two main themes to HB 322: tax base changes and apportionment factor changes. Such changes are the same changes discussed and recommended by Professors Zeifman and Ainsworth in their testimony earlier this week.

Professors Zeifman and Ainsworth would reject federal taxable income as a tax base because the Federal Internal Revenue Code contains many deductions, credits and exclusions which they allege have diluted revenue-raising potential through subsidization of of some activities while discouraging others.

In their report, though not mentioned except briefly in their testimony, the professors attempted to demonstrate how the revenue raising potential has been eroded and referred to the concept of "tax expenditures" which, in essence, is simply a listing of those items or categories constituting deductions, credits, or exemptions found in the Internal Revenue Code, together with the estimated effect they have on revenue collected. This listing is required to be published each year under the

Congressional Budget Act of 1974. However, instead of discussing and commenting on the more than 75 general categories of items in the published list as they apply to both individual and corporate taxpayers, the professors chose only to extract in their report but six categories, and only one of the six (expensing of exploration and development costs) applies specially to the petroleum and mining industry.

I have here the complete listing of "tax expenditures" for the Fiscal Year 1978 which also shows those "tax expenditures" for years 1976 and 1977. A copy of this listing is attached. There are two columns for each year, one for corporations and one for individuals. A review of both the number of categories listed as well as dollar amounts will reveal that individual taxpayers indeed have fared very well compared with corporate taxpayers. It will also be noted that there are only two items relating specially to the petroleum industry. One deals with the expensing of exploration and development costs, which, from the testimony of the professors as well as Mr. Kilgore, one would think was the major provision in the Internal Revenue Code but which in reality represents a rather small item compared to other items in the listing. In fact, that item has a revenue loss effect about equal to the loss from the credit allowed for buying new homes. The other category deals with the excess of percentage depletion over cost depletion. But this latter item applies to over 100 different minerals which involve percentage depletion--oil and gas being but one category. In any event, percentage depletion has

negligible application to major oil companies because of the severe restriction of percentage depletion for oil and gas resulting from the 1975 Tax Reform Act. The professors' attempt in their paper to show the petroleum industry as a highly favored industry that receives a major share of tax benefits is simply incorrect.

After leveling a finger at corporate taxpayers generally, the professors then recommended that one special group--namely oil companies--be singled out for tax "reform". However, the professors failed to discuss either in their paper or their testimony the inequity or possible legal problems of proposing a "book income" base for major oil companies which would be far different than would apply to any other class of taxpayers. They did not even mention in their report that no state in the country has a law utilizing "pre-tax book income" as a tax base though questioning by the Committee did bring out this information.

Even if one were to agree with the novel approach suggested by Professors Zeifman and Ainsworth and embodied in HB 322, a true advocate of their theory could not logically propose its use with one set of taxpayers and then ignore its applicability to the vast majority of other taxpayers. If such a radical change in tax approach is to be made, then it should apply to all taxpayers under all income tax laws at the same time, with corresponding adjustments of tax rates for all.

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An approach which uses the higher of book income before taxes or taxable income can lead to distorted results. Mr. Bonney of EXXON will demonstrate through a simple example how the use of one versus the other could prevent a full recovery of a capital investment and yet tax phantom or non-existent income. Further distortion may result from the inclusion of earnings of non-controlled companies in pre-tax income, as required by generally accepted accounting principles. While the oil companies may be required to report the earnings of their investments in non-controlled companies, they do not determine if or when the earnings of these entities are distributed. Yet HB No. 322 provides for immediate taxation of this income because it would be included within the pre-tax book income reported to stockholders.

Professor Zeifman emphasized the fact that book income is invariably larger than taxable income, thereby showing that big corporations have tax benefits. However, of what real significance is it that a corporation's management chooses to adopt a conservative book accounting method as long as it is consistent in doing so year after year to avoid distortions? Differences between book and tax income due to different treatment has existed for decades under generally accepted accounting principles. For tax purposes the Internal Revenue Service, as well as a company's own auditors, will require a full reconciliation of the taxable income back to the book income and there are extensive schedules in tax returns which do this every year.

The only point Professor Zeifman is making is that under the Internal Revenue Code corporations are permitted certain deductions, or credits, or exclusions which, if taken advantage of, show a lesser "taxable" income than shown on the books if the management chooses to use a consistent method which treats the item differently. But the same thing can be said for all taxpayers, i.e., all taxpayers receive some form of tax treatment which causes their taxes to be less than if the tax law simply taxed the gross dollars received at a specified rate This can be seen from the "tax expenditures" listing referred to earlier. Pointing the finger at one group of taxpayers as ones who should first go on the chopping block of reform while ignoring others who are not so treated is asking a lot of any legislative body whose duty it is to play fair with its citizens, whether they be corporate citizens or individuals.

Substitution of an "extraction" factor for the "sales" factor

The second main point of HB 322 deals with deleting the sales factor and substituting an extraction factor.

Before plunging into this subject, I believe it would be helpful to give the Committee some background about the traditional three-factor formula utilizing property, payroll and sales, where it came from and why it is used today by most states which tax corporate income. Another reason why this will be helpful is that Professors Zeifman and Ainsworth gave their testimony recommending a change strictly on the basis

that its use will apportion more income and, therefore provide more tax. However, the matter is not quite as simple as the professors have indicated.

When states began taxing corporate income over 50 years ago, there were various formulas used to divide the income. Because there were different formulas, it was not long before disputes arose between states and taxpayers, usually involving the question whether the state was reaching for too much of the taxpayer's income. It is very important to bear in mind all the way through the discussion of this subject that a state can constitutionally tax only that income of the taxpayer which is derived from within the state's borders. Thus, the search has always been to find a formula which gives both the taxpayer and the state fair treatment. But as to the taxpayer who operates in more than one state, the problem has also been to utilize a method of dividing income which does not subject the taxpayer to multiple taxation.

It is not difficult to see how multiple taxation can occur. Suppose X corporation operates in states A, B, and C, each of which has the same standard three-factor formula of property, payroll, and sales and each of which has an 8% income tax rate. In would be rare if X corporation had exactly the same mixture of property, payroll, and sales in each state. However, when each of the three states apply their tax laws and divide the income under their uniform formulas, X's total tax to all three states will be no more than 8% of its total income.

But let's vary the example just slightly and assume that in state A, X corporation has a heavy concentration of property and payroll but not many sales and that state A decides to delete its sales factor and have only a two-factor formula. In such a case state A will apportion to itself a greater amount of X's income but apportionment to States B and C will remain the same. The result will be that an amount greater than X's total income will be apportioned in the aggregate to all three states and X will have been subjected to multiple taxation because State A broke the uniformity.

The foregoing is a simplified example but nevertheless demonstrates how multiple taxation can result. As noted earlier, disputes over income taxation existed for decades and it was not until 1957 when the Commissioners on Uniform Laws in conjunction with the tax section of the American Bar Association and many other interested parties finally wrote a model law known as the "Uniform Division of Income for Tax Purposes Act" (UDITPA) in the hope that states would adopt it and thus put an end to the chaotic condition that existed. The apportionment formula settled upon utilized property, payroll and destination sales. Underlying this three-factor theory of apportionment is the concept that the employment of capital in the form of property, labor as reflected in payrolls and ultimate sales to generate the sustaining revenues for the business are all vital factors to be given equal weight in determining income. Thus, the theory recognizes that in a true economic sense some part of taxable income is earned at every stage of the business process.

To date, about one-half of the states (including Alaska) have adopted UDITPA and all but two states which impose an income tax use the three-factor formula of property payroll and sales.

The UDITPA model law only deals with apportionment of income and does not contain provisions setting forth rules or procedures whereby a state cooperates with other states to administer income taxation on a joint basis. In an effort to promote uniformity of tax rules and cooperation, a number of states formed what is now called the Multistate Tax Compact. However, a state which adopts the Compact also adopts the three-factor division of income formula based on the UDITPA model law. Alaska adopted the Compact in 1970 but followed the UDITPA formula before 1970. Hence, states which have adopted the Compact and states which simply follow the UDITPA rules have compatible laws.

With this brief background let me turn to the proposal to delete the sales factor and impose an extraction factor. The nub of the professors' argument is that the sales factor is low due to destination sales which causes lesser apportionment of income to Alaska and this can be cured by substituting an extraction factor. Thus, the sales factor is dismissed by the professors and the reader of their paper and the audience to their testimony is simply left with a conclusion void of any reasoning except maximizing revenue.

There was a sound reason for the UDITPA and Compact treatment of sales on a destination basis for purposes of the "sales" factor. A destination sale is one which occurs in a state if goods are

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delivered in that state or services are performed in that state. Suppose a manufacturer has its plant in Illinois and has a large payroll at that plant. From this plant the manufacturer ships most all of his products to purchasers in other states. If this is the only plant, the property and the payroll factor to Illinois

will be high and if the sales are attributed to the Illinois plant as the origination point of the sale, then Illinois would apportion nearly all the income for taxation in Illinois. As can be seen from this simplified example, the major manufacturing states would receive an unreasonably high proportion of apportioned income to the detriment of non-manufacturing states. Hence, the "destination" sales concept is one which not only affords protection to less populated, non-manufacturing states, such as Alaska, but also gives legitimate recognition to sales activity in consumer states by deeming the sale to "occur" where the purchase takes delivery.

What the professors have proposed as a factor change is no different from what they might propose in any state based upon simple reasoning to get more revenue, the only difference being that in such other states it might be a different factor which provides the key. For example, they might shift their proposal to Illinois or Pennsylvania to point out that its sales factor also is destination-oriented and because most products are shipped out-of-state, the ratio of sales in either of those states will be lower. The professors could then recommend that the "destination" sales factor be changed to an "origin" sales factor or that the sales factor be deleted in favor of one based on manufactured units (e.g., television sets) in the state to total units manufactured everywhere. By such changes, those states could then command most of the apportioned revenue since, being manufacturing states, they already have the bulk of property and payroll and, through the sales factor change, they could prevent

dilution of the total factor to be used by the taxpayer.

But suppose it was some state which did not have heavy manufacturing (i.e., low property and payroll in the state)? Under the professors' reasoning this might call for use of only a sales factor -- i.e., destination sales and not origin sales because only the former would help the state (in contrast to what was said above as being in the "best interests" of Illinois or Pennsylvania). By so limiting the formula to a single factor, the non-manufacturing state maximizes apportionment of income to the state.*

The foregoing are only two examples out of many one could establish to tailor apportionment formulas for various states if the only objective is simply maximizing revenue without concern for inequitable or unconstitutional consequences. However, the problems with the examples are parallel to the same problems that are contained in the professors' proposal for an extraction factor. In each instance there is a break in the uniformity of treatment by a state which inevitably results in the taxpayer being subjected to multiple taxation. The state breaking uniformity will tax a larger part of the income by use of its advan-

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* Recently the Iowa courts struck down as unconstitutional that state's use of a single factor of sales because it was not an adequate measure of the taxpayer's income derived from within Iowa. (Moorman Mfg. Co., Polk Cty. Dist. Ct. No. CE 3-1595 (12-17-76)). Similarly, in General Motors Corporation vs. Dist. of Columbia, 380 U.S. 512 (1965), the United States Supreme Court struck down use of a single sales factor by the District of Columbia.

tageous apportionment factors. Unfortunately, part of that same income will also be apportioned to and taxed by the other states having the uniform apportionment formula.

As noted, the professors have given no reason for use of the extraction factor except that it will raise revenue. Missing is the reasoning why the present factors are not a proper measure of a taxpayer's income within Alaska or, conversely, why use of the extraction factor will give a more accurate measure of that income. Merely saying that oil goes out of the state and does not count as a "sale" in Alaska to its detriment is not good enough because, as shown earlier, any state could analyze its economic position and make the same argument when it observes a resource material or manufactured item being shipped out of the state. If that happened, then clearly the states and taxpayers would be back to the same chaotic situation that existed before the uniform rules of UDITPA and the Multistate Tax Compact were formulated and adopted.

To satisfy constitutional requirements, an apportionment formula must fairly and reasonably measure a taxpayer's net income in the particular state since a state has jurisdiction to tax only that income derived within its borders. The professors and some Alaskan critics of the present three-factor formula have simply looked at the oil production aspects of the business of a multistate oil company operating in Alaska but apparently wish to ignore the other part of the business where that oil has to be transported, refined into products, distributed and sold.

In fact, the bulk of such a company's employees and a large portion of its investment lie in these phases of the business. Moreover, the revenue which pays for the expenses of company operations is generated mainly out of the sales of refined products.

The concept of income taxation is the taxation of the overall profits of an enterprise which may have many parts in many states but all of which contribute to the ultimate profit or loss. In devising a formula to measure income for apportionment, the drafters of the UDITPA model law were not being arbitrary when they settled upon use of property, payroll and "destination-oriented" sales. They were looking for a formula which not only contained elements reflecting as many aspects or segments of the business as possible but also for a formula which could be easily and uniformly administered and which provided equitable treatment to states as well as taxpayers. Using these guidelines, the drafters found that property, payroll and sales provided a balance of factors reaching and reflecting the essential elements of any manufacturing or mercantile business.

There can be no doubt that the author's solution fails to protect the taxpayer from multiple taxation but, rather, actually creates it. While this is reason enough to reject use of the extraction factor, it also is clear that use of this form of factor in place of a sales factor reduces the segments or sectors contained within a business whose operations are reflected in the formula. Sales from all phases of the integrated business are the sustaining element of the business without which the business fails, and such sales reflected in the sales factor

are drawn from the total business. Units of petroleum extracted are important to the business too but represent operations pertaining to only one segment or phase of an integrated petroleum company's total business.

While crude oil extracted may have a value at the point of production, that value exists only because of consumer demand for products produced within other equally important phases of the business consisting of refining, product transportation and marketing distribution. In this regard, oil production in the case of the oil industry is not unique and the same reasoning can be applied for iron ore in connection with steel making, for raw timber in connection with finished wood products, or even for grapes grown for winemaking since in each of these cases the raw product can be viewed as having been "extracted". In all these cases, as well as with the oil industry, the "extracted" material undergoes a complex transformation into products resulting in sales revenues only after having been acted upon by other necessary phases of the business containing most of the taxpayer's employees and containing facilities representing a substantial part of the taxpayer's invested capital, both of which are distinct from the "extraction" phase yet still a part of the overall operation of the enterprise.

By using an extraction factor in place of a sales factor the whole element of sales which sustain the business for its survival are disregarded. Units of oil and gas produced is simply not a proper measuring factor and, as will be pointed

out in an example by Mr. Bonney of EXXON, the substitution of an extraction factor can result in a distorted attribution of "downstream" income from transportation, refining, marketing, etc. to Alaska which can result in the taxpayer having income taxed twice.

From the foregoing it can be seen that substituting an "extraction" factor for the "sales" factor actually distorts rather than improves the measurement of net income of the total enterprise attributable to or derived from within a particular state. What it does is provide a change to "maximize" revenue which is not a goal of formula apportionment when done at the expense of sacrificing the other principles which lie behind the concept of apportionment.

I would like to say a word about the provision in HB 322 which the professors recommend as being a basis for Alaska including OCS property, payroll and extracted oil and gas as its own factors when the OCS property is dependent upon on-shore Alaska operations. The professors were certainly correct in saying that there may be problems. However, they failed to point out that section 1333 of Title 43, which deals in part with state laws applicable to the OCS area, contains rather troublesome language for a state attempting to extend its tax laws to the OCS area. Section 1333(a)(2) contains the following sentence:

> "State taxation laws shall not apply to the Outer Continental Shelf."

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At least one state, California, has looked deeply into this matter of whether California, could consider the OCS developed area as providing property, payroll and sales factors for use by California, i.e., the same consideration being recommended by Professor Ainsworth. The California Franchise Tax Board in Legal Ruling No. 366 has held that California cannot claim property, payroll and sales in the OCS area for California's benefit, i.e., California cannot put these factors in the numerator for California. There is attached to my testimony copies of the pertinent federal statute referred to above, along with a copy of Legal Ruling No. 366 of the California Franchise Tax Board.

SB 202

SB 202 is basically the same bill which was considered in the 1976 session as SSSB 620. The main difference between the bills is that under SSSB 620 the net proceeds tax was a credit against regular corporation income tax insofar as that corporation income tax would represent tax on income from oil production taxed under SSSB 620; under SB 202, the taxpayer also remains subject to the Alaska corporation income tax but is deemed to be exempt only to the extent of income earned from production of oil in the state. In short, under SSSB 620 there was an actual credit against the Alaska corporation income tax but the net proceeds tax credit was only applicable against that part of the corporation income tax which was applicable to income from Alaska oil operations. Under SB 202 there is no credit as such but the taxpayer who apportions income to Alaska is simply not

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taxed on income deemed to come from Alaska oil production.

As some of the members of this Committee know, I testified on SSSB 620 last year and pointed out what I believed to be the deficiencies in that bill. That testimony is no doubt still available in the Committee files and I do not propose to go into all the details of the bill again. Rather, I shall have some general comments on the bill and point out how this bill impacts on the taxpayer, as well as point out some of the legal problems with its operation.

The "net proceeds tax" contemplated by its proponents has features of an income tax in that it attempts to reach a level of "income" or "profitability" from successful oil and gas production operations with a tax rate applied which is equal to (or higher than) the regular Alaska corporation income tax rate (i.e., 9.4%). Essentially, the tax would be determined by subtracting from the wellhead value of oil and gas production certain limited costs and expenses directly associated with production and multiplying the difference by the corporation income tax rate of 9.4%.

Proponents of the "net proceeds" tax have chosen to label it as an "ad valorem" tax rather than an "income" tax. However, in substance and operation the tax is unquestionably a form of income tax and merely calling it by another name cannot change that fact.

Because the "net proceeds" tax approach is itself a form of separate accounting, taxpayers will be exposed to multiple

taxation under that approach for the same reasons as discussed in connection with SB 105. In fact, the economic effect to a taxpayer would be even more adverse since the goal of the "net proceeds" tax is simply to isolate successful Alaskan oil and gas producing operations, allow a very limited amount of deductions closely and directly associated with production, and tax the resulting "net proceeds" at the corporation income tax rate (9.4%) as though those "net proceeds" constituted net income of the taxpayers.

Proponents of the "net proceeds" tax in the past have admitted that the "net proceeds" to be taxed would represent a tax base which is higher than would occur under regular principles of income taxation applicable to other taxpayers. Hence, the economic effect is that Alaska would place a tax (at the 9.4% corporate income tax rate) on a level of income (but called "net proceeds" instead of "income") which is much higher than would result under regular income tax principles, and that same income (or at least a certain level of that income) would be included in the base subject to apportionment to other states and taxed by them because they use the standard three-factor apportionment formula.

But the adverse effect of the "net proceeds" tax approach would not stop there because under that approach the same taxpayer would still be subject to the regular Alaska corporation income tax. SB 202 would still require the taxpayer to apportion to Alaska under the three-factor formula all of the tax-

payer's income from outside Alaska, including its non-Alaska oil and gas income. Thus, SB 202 would provide Alaska with the best of all worlds: it would receive a tax at the 9.4% corporate income tax rate on Alaska "net proceeds" which would constitute a tax base much higher than under regular income tax principles and, through apportionment, it would also seek to reach all of the taxpayer's income from outside Alaska as well as any non-oil and gas income from within Alaska.

The concept of the "net proceeds" tax which would operate in substance like an income tax raises a legal question whether the method would permit the state to tax a greater amount of net income than reasonably could be attributed to Alaska.

Proponents of the "net proceeds" tax have claimed that a "precedent" exists for such form of tax and have cited the states of Nevada, Utah, Colorado, Idaho, Montana, and New Mexico as examples. However, a review of the statutes in those states reveals that the "net proceeds" tax has nothing whatsoever to do with a scheme to tax income such as that being advanced by the proponents of the "net proceeds" tax. Rather, the "net proceeds" involved in the states referred to are simply convenient and simplified means of arriving at a value on mining or oil properties for purposes of applying property tax rates by local county assessors in order to provide property tax revenue in the local counties. Such a method is essentially a substitution for the rather sophisticated and complex valuation procedure that would otherwise occur each year, such as the complex

valuation of the Prudhoe Bay field for purposes of applying the reserves tax in Alaska.

It is safe to say that no state in the country imposes a "net proceeds" tax of the type the proponents in Alaska have in mind.

I would now like to direct my comments to the Legislative Council's proposed production tax changes incorporated in the identical bills, SB 103 and HB 144.

DESCRIPTION OF THE BILL

As discussed yesterday, the proposal would:

a. Change the point where the taxable value of oil is determined from the "well" to the point where "oil is first metered or measured in a condition of pipeline quality".

b. Realign the stepped tax rates, lowering the tax on the first 1,000 bbls per well per day and substantially raise the tax on all production over the first 1,000 bbls with a high rate of 14% on all production exceeding 3,500 bbls per day.

c. Use lease or property averaging in determining each well's daily production.

d. Tax flared gas at 5 times the normal rate.

e. Advance the monthly tax due date to the 20th day of the month following production.

COMMENTS

1. Adoption of lease or property averaging of daily bbl. per well production is a step in the right direction in properly ascertaining the stepped tax rates applicable to a field. The change, of course, will aid both the taxpayer and the state administratively.

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2. The resultant increase in the overall industry tax burden (estimated by the Legislative Affairs Agency to be about $180 million per year by 1980) is completely unwarranted, considering the question of need which others have already addressed and considering the fact that Alaska oil is already being taxed at virtually the highest level in the nation. The limited benefit given to the lower producing fields in Cook Inlet in no way should be considered as justification (or a basis of consistency) for placing such a harsh extra tax burden on high producing wells in the North Slope or any other location. This approach portrays the concept of taxing the taxpayer at a high level, not on the basis of state governmentel need, which we believe to be grossly unfair.

3. Retention of the alternate cents-per-barrel rate floor with its wholesale price index adjustments more than counteracts any true benefit out of reduced rates given low Cook Inlet producing wells through percentage rate reduction. As Levy Associates has maintained, this minimum price-setting device has created an artificially high value on the old Cook Inlet oil for tax purposes, resulting in an effective tax rate well in excess of what we believe was intended by the legislature on such oil. The last time I reviewed the situation--which was about a year ago--the cents-per-barrel feature of the severance tax had caused Union and other companies for which it reports severance tax to pay about

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$5 million more than would have been paid under the percent-of-value method. We view this amount as simply an unintended windfall benefit to the State since January 1, 1974, the date the current cents-per-barrel tax took effect.

4. We do not see any justification for imposing a penalty rate (5 times normal rate) for flared gas, considering the fact that such flaring controls are best placed with regulatory agencies, not taxing agencies. If proper regulatory authority exists to flare gas, such as for safety pruposes, there is no justification for adding tax at a confiscatory rate to a product that the producer loses through flaring where that flaring is done for reasons of safety.

5. Moving the point of measurement of production value downstream to the point of metering in a condition of pipeline quality could unjustly place a substantial tax on transportation costs on some fields which for a variety of reasons require movement of oil significant distances before measurement. Since the Alaska Production Tax is an occupation tax on the privilege of severing oil and gas, it would be more appropriate to continue measuring it by its value at the point of severance, i.e., the wellhead, instead of adding on to it incremental values of gathering, transportation and field treatment.

6. Advancing the delinquent date for payment from the first of the month following the month of production to the 20th day of the month following the month of production would place

an undue administrative strain on the reporting groups within the various producing companies. In most cases, the production data to calculate tax liability and prepare returns must be transmitted to offices outside Alaska. Advancing the delinquent date by 10 days will simply make worse an already short time open to comply with the law. By advancing the reporting time 10 days, the State, overall, only gains a total of 10 days for revenue collection which seems inconsequential compared with the added administrative burden on producers.

My next comments pertain to HB 321 and SB 238, identical bills, which contain the Administration's recommended changes to the oil and gas production tax.

Briefly, the bills would replace the present stair-stepped tax rates on oil production per well with a single rate of 10% on value or one alternative minimum cents-per-barrel rate of 75 cents (adjusted for gravity and for changes in the "Gross National Product Deflator").

Also, the 4% rate on gas would increase to 10% with a new alternative minimum tax of 6.4 cents per MCF. The new percentage rate and cents-per-unit rates would be adjusted by an "economic limit factor (ELF) discussed later.

The proposal also makes other changes, including changing the point of measurement from the wellhead to the point of measurement of pipeline quality. The proposal also imposes a double rate of tax on flared gas.

We strongly oppose perpetuation of cents-per-barrel floor prices and expansion of it to gas production, as well as increasing the minimum price to which it relates, that is, $7.50 per barrel. As Milton Lipton has advised, the current floor as escalated by the National Wholesale Crude Price Index has worked in unintended ways on Cook Inlet Crude, creating an artificial taxing value well in excess of the value permitted by the FEA on old oil. Now the Administration not only recommends continuance of the minimum price concept but also proposes to increase the minimum price to $7.50 per barrel.

The Administration supports this course with the argument that the FEA price is artificially low. But the oil companies producing such "old" oil nevertheless suffer the economic realities of federal pricing. Accordingly, we believe it is unfair that in addition to bearing such economic loss in price, the Cook Inlet producer must also bear an increase in production tax because of an arbitrary floor of $7.50 per barrel used as the measure of tax. This, of course, would be equally true on the North Slope if the FEA placed a value below $7.50 on that production. We fail to see any justification for the State to arbitrarily burden the production with such a heavy production tax through an artificially set value because of the possibility that FEA pricing decisions may not be favorable.

As mentioned above, HB 321 introduces the concept of an Economic Limit Factor (ELF) as an adjustment to the percentage rate of tax applied to both oil and gas. According to the Department of Revenue's February 1977 study, the Department believes that the present "stair step" rate schedule does not adequately take into account differences in the economic conditions existing from field to field, e.g., a well producing 1,000 bbl/day at one location may be marginal while such a producing rate at another location may be profitable. In short, the stair-step approach is deemed defective because it does not adequately protect against excessive taxation as a well approaches its economic limit.

To correct this, the Department proposes an ELF, the calculation of which begins by determining a fraction the numerator of

which is the "monthly production rate at the economic limit" and the denominator of which is the production during the month for which the tax is to be paid. Under HB 321, the numerator is by statute deemed to be 100 barrels times the number of well-days. Well-days are by definition the number of days a well is operating. Thus, if there were 10 wells on a lease operating for 28 days each, the numerator would be 100 X 10 X 28 = 28,000 bbls. If the total monthly production on the lease was 280,000 bbls, the ratio would be 10%, or expressed as a decimal, .10. The next step in determining the ELF is to reduce "unity", i.e., 1.00, by the ratio expressed as a decimal. Thus, 1.00 less .10 = .90 = ELF.

The best way to explain how the HB 321 mechanism works is through a simplified example, a copy of which is attached. The example uses Cook Inlet production of 35° oil at a $4.85 per barrel controlled price. Under the bill, one of the adjustments is a half-cent for each degree above 27°, so 4 cents is added to the 75 cents. The GNP Deflator adjustment is ignored. The statutory presumption of 100 barrels is the numerator and 1,600 barrels is the denominator which gives a decimal of .0625, and when subtracted from 1.00 gives an ELF of .9375. Both the cents per barrel of 79 cents and the 10% rate are multiplied by .9375 to find the adjusted cents-per-barrel and percent-of-value rates. Next, the royalty of 200 barrels is subtracted to find 1,400 non-royalty barrels. Finally, the 1,400 barrels are multiplied by the value of $4.85 and then by 9.375% to find the tax under the percent-of-value method, and are multiplied by $.7406 to find the tax under

the cents-per-barrel method. Since the tax of $1,036.84 is the higher (i.e., under the cents-per-barrel), that tax is the one that would be payable.

At the bottom of the example the tax under HB 321 is compared with the tax produced on the same production if it occurred this month (March 1977) under current law. As shown, the increase is about 60%. Also at the bottom of the example it is shown that the effective rate of the production tax under current law would be 9.5% but 15.3% under HB 321. While not shown, if the production rate had been 800 bbls/day instead of 1,600, the increase in tax over the current tax would have been around 75% instead of 60%.

As mentioned earlier and used in the example, the monthly production rate at the economic limit is, by statute, presumed to be 100 barrels times well-days unless the producer in a formal hearing proves by "clear and convincing evidence" that it is otherwise. However, in proving this, HB 321 contains some rather curious and questionable ground rules which do not track with reality. These provisions are found in subsections (b), (c), and (d) of Section 43.55.013. In essence, the "average monthly direct operating cost" (based on at least 4 consecutive months) is divided by the value at the point of production of oil which is produced from the lease, but this "value" is not the value the producer actually gets but, rather, that value which is deemed to be the value of comparable crude at West Coast refineries for imported oil which is then "backed out" to the wellhead.

Translated, the "value" used to divide into the monthly operating costs is, for Cook Inlet, Indonesian Crude laid into Los Angeles at about $14.50 per barrel. When the $14.50 is "backed out" to the wellhead, the value at the wellhead is about $13.50. Thus, it is not the $4.85 real price used to calculate "monthly production rate at the economic limit" but, rather, $13.50.

While that is bad enough, with regard to the "direct operating expenses allowed", the bill only allows four: drilling supplies, fuel, routine maintenance and wages and benefits of employees working on production operations. Specifically excluded are capital expenditures, tangible or intangible drilling expenses, costs of well workovers, costs for repairs or replacements (other than routine maintenance), depreciation or amortization, taxes, insurance, overhead, or monies paid or set aside to cover the cost of terminating operations, i.e., abandonment costs.

Allowing only four listed costs is not realistic because there are cash operating costs not allowed but which are tied to operations versus no operations. Any cash cost which would be affected by a decision to operate or not operate is the realistic approach and more in line with the way it would actually be approached by a producer in a true situation. HB 321 would even deny severance taxes on the production itself and property taxes on the equipment. In short, "economic limit" is that point at which actual revenue and actual costs are equal.

I requested Union Oil's oil and gas division engineers to run some calculations using real data as a test. Doing it in the

normal way, our people used the realistic value of about $4.85/bbl for value and the real operating costs to get an ELF of about .67. But by using $13.50 per barrel as a value and limiting the costs to the four categories the ELF was around .92. We also made a rough comparison of the taxes under HB 321 compared with taxes paid in 1976 and found that the tax on oil production would have been increased by about 50% if HB 321 had been in effect in 1976.

HB 321 also contains an ELF for gas production though it is not totally clear under the bill language how this is computed. In any event, the principle is the same and the same four direct operating costs are used but the value used for gas is the highest price in the field or within 100 miles.

With respect to gas production, the minimum of 6.4 cents per MCF is especially onerous, since gas is customarily sold under long term contracts and those contracts may not permit the seller to receive a value which happens to be the highest price on the lease on "within 100 miles". The 6.4 cents minimum tax is equal to 64 cents gas at a 10% rate, but there are contracts of sale for gas where the price is much less than 64 cents. Hence, the effective rate of tax on gas is much higher. For example, if gas were sold at 42 cents, the tax would nevertheless be the minimum of 6.4 cents (assuming no ELF applied) which would equate to an effective rate of tax of 15.2%.

With respect to the proposed gas rate increase--while admittedly the gas tax rate might warrant some degree of increase, the severity of this proposal is overreaching. We would suggest that any value tax on gas be based on actual sales price at the

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sales meter. We would discourage taxation governed by an artificial floor price or by what some other producer may be receiving for his gas in some other field.

For flared gas, the rate is doubled, i.e., 12.8 cents. Even gas used for safety flaring necessary to safe operations would be taxed, which cannot be justified by any standard. We oppose this double tax for the same reasons as stated in the discussion under SB 103.

In summary, while there is merit to the concept of an economic limit factor, the manner in which it is determined under this bill is unrealistic and virtually meaningless. It seems to me a lot more thought has got to go into it before it can be a worthwile mechanism. The way it is set up now--with questionable use of phantom values and restricted costs--an ELF so determined could have other consequences beyond just severance tax because the concept of economic life of a field is one used in valuation for property tax too. If economic lives of oil or gas properties as used for property valuations are to be determined using the methods for the ELF for severance tax purposes, then the stage is further set for endless arguments and disputes over property values as well as in connection with the ELF itself.

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I would next like to comment on the Administration Sponsored Bill, HB 323.

This bill proposes several amendments to the so-called "20-Mill Hardware Tax", and certain provisions of Title 29, governing municipal taxing limitations.

Section 1 would add to the statute a highly controversial amendment to regulation 15 AAC 05.840 which was issued by the Department of Revenue in June 1976. This provides that any municipal tax levy, say for bonded debt, which is in excess of the $1,500 per capita limitation is not creditable against the 20-mill tax.

We take direct exception to this provision in that AS 43.010(a) quite clearly provides for a maximum tax of 20 mills on our state-assessed properties. This issue is presently being litigated in a case involving the 1976 tax levy of the North Slope Borough. It would seem appropriate to let the court rule on this important issue rather than to amend the statute at this time.

Heretofore, the state 20-mill tax has applied to exploration, production, and pipeline transportation properties. HB 323 would extend this tax to refineries, liquefaction or processing plants, plants manufacturing oil or gas products and also to tankers and other marine equipment used in the transportation of oil and gas.

We believe it inadvisable to enact any further extension of this special state property tax imposed upon oil and gas producers.

The taxable basis on the marine equipment is specified as replacement cost less depreciation based on useful life multiplied by a fraction of days in Alaska ports over days in port both within and without the state. This proposal raises serious questions in

that it is believed that only the home port, under long standing case law and practice, has taxing jurisdiction over ocean-going vessels.

Aside from the "home port" doctrine, and assuming that Alaska could legally assess these properties, we would suggest a more equitable formula. One possibility would be use of days in Alaska ports versus days in the year.

Due to the controversial nature of this issue, however, we would respectfully urge that this section of the bill be stricken, irrespective of what action is taken on the remainder.

HB 323 additionally would delete the existing provision for using straight line depreciation of historical cost on pipeline assessable values in those instances where the physical life of the pipeline materially exceeds the economic life of reserves committed thereto. As a consequence, pipelines would be assessed with regard to "economic" value based on the economic life of committed reserves.

This issue is being litigated in the Cook Inlet Pipeline Co. case and it would seem appropriate to let the court rule on the issue rather than amending the statute. It is further believed that the existing law and Regulation 15 AAC 05.890 pertaining thereto are sufficiently workable to develop assessments for operating pipelines which will be fair and reasonable, both for the state and the taxpayer.

Section 8 of the bill provides that the municipal taxing limitation of $1,500 per capita shall be adjusted each year in accordance with changes in the Consumer Price Index for Anchorage.

Assuming that the $1,500 per capita levy is reasonable, it would likewise be reasonable to key it to an inflation index.

Section 12 makes the provisions of HB 323 retroactive to January 1, 1977, except for tanker assessments which begin January 1, 1978. This retroactive provision seems peculiarly unreasonable in view of the fact that the 1977 tax returns have been filed and assessment notices have been issued by the Department.

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I will now turn to House Bill Number 328, the Administration's proposal on the Oil and Gas Reserves Tax.

The Reserves Tax was enacted for a two year period, 1976 and 1977, for the purpose of meeting anticipated revenue shortfalls for Fiscal Years 1976 and 1977. The statutory tax rate for 1976 was 20 mills (2%) and the 1977 tax rate was set by the 1976 legislature at the same rate -- 20 mills. Reserves Taxes paid in 1976 were $223 Million and in 1977 are expected to total approximately $270 Million.

In Fiscal Year 1976, because of the Reserves Tax revenues and increases in other revenue sources, unrestricted general fund revenues exceeded expenditures by approximately $125 Million, leaving a surplus of $505 Million, of which $338 Million was available for appropriation at 6/30/76. Revenues in FY 1977 are also expected to exceed expenditures, thereby increasing the surplus.

HB No. 328 proposes to reduce the 1977 tax rate from 20 mills to 12 mills, reducing the revenue from this tax from $270 Million to about $170 Million, but subject to the following:

(1) If on October 1, 1977, TAPS thru-put is less than 600,000 bbls/day, an additional 8 mills would be levied, payable November 30. 1977.

(2) If on December 15, 1977, TAPS thru-put is less than 1.2 Million bbls/day, the Reserves Tax would be extended another year.

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While the prospect of a reduced tax rate is always welcomed, we question the propriety of the limitations mentioned, which limitations are so specific and restrictive.

Present indications are that the Prudhoe Bay Field will start delivering oil to TAPS reasonably close to schedule at mid-1977. It seems unreasonable that some minor variance from the restrictive provisions of this bill could cause the tax rate to be increased and possibly for the Reserves Tax to be extended another year.

Accordingly, we believe that the Reserves Tax should expire, as scheduled in the existing statute, at the end of 1977. However, we certainly agree that the 1977 tax rate can be reduced to 12 mills, since the 1978 budget can be met with no difficulty and the 1979 budget as well unless there were some serious, prolonged delay in TAPS startup. This reduction would certainly be consistent with the original intent of the reserves tax which was to help the state over a potential period of deficit in the General Fund.

ATTACHMENTS TO TESTIMONY

OF

LAWRENCE L. WILSON

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SPECIAL ANALYSES BUDGET OF THE UNITED STATES GOVERNMENT

FISCAL YEAR

1978

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repeal of all itemized deductions resulting in tax expenditures. This hypothetical revenue gain would be $21.2 billion in 1978, whereas the simple sum of the tax expenditures for each separate item is $31.3 billion. The estimate for the combined effect of all such deductions was derived from a model of the tax system that accounts for the interaction between tax expenditure provisions and the provisions of the normal structure. In particular the model provides that individuals would take the standard deduction if itemized deductions were repealed. No comparable estimate can reasonably be made for the combined effect of a hypothetical repeal of all exclusion provisions.

A few aggregations of related tax expenditure items are presented and discussed in the next section. These aggregates have been specially estimated so as to account for the interactions referred to above but do not consider the effect of changes in behavior. Where tax expenditures for both individuals and corporations result from the same tax code provision, such as the investment tax credit, the two estimates may appropriately be added together.

Tax Expenditures by Function

Estimates of tax expenditures are grouped together by functional category and presented in table F–1. The estimates are shown separately for individuals and corporations. Wherever possible, particular tax expenditures have been classified according to the functional categories used for budget outlays. Many tax expenditures do not, however, fit into these categories and for this reason three special functional categories have been added: business investment; personal investment; and other tax expenditures.

A brief description of each of the special tax provisions for which a tax expenditure estimate is shown in table F–1 follows.

National defense.—The supplements to salaries of military personnel, including provision of quarters and meals on military bases and quarters allowances for military families, and virtually all salary payments and reenlistment bonuses to military personnel serving in combat zones, are excluded from tax. Disability-related military pensions received by current retirees are largely excluded from taxable income. The Tax Reform Act of 1976 terminated the exclusion of noncombat related disability pensions for those who entered the armed services after September 24, 1975.

International affairs.—Prior to 1976, a U.S. citizen was generally able to exclude up to $20,000 a year of foreign earnings if the taxpayer were a bona fide resident of a foreign country. After 3 years of foreign residence a taxpayer could exclude up to $25,000 a tax year of foreign earnings. The Tax Reform Act of 1976 modified these provisions, limiting the exclusion to $20,000 only for employees of U.S. charitable organizations and reducing it to $15,000 for all others, denying tax credits for foreign taxes paid on excluded income, and taxing income beyond the amount eligible for exclusion at the higher bracket rates which would apply if the excluded income were also subject to tax. The estimates also reflect the tax-exempt status of certain allowances received by Federal employees working abroad.

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Table F-1. TAX EXPENDITURE ESTIMATES BY FUNCTION[1]

(In millions of dollars)

Description	Corporations			Individuals		
	1976	1977	1978	1976	1977	1978
National defense:						
Exclusion of benefits and allowances to Armed Forces personnel	-----	-----	-----	1,020	1,095	1,260
Exclusion of military disability pensions	-----	-----	-----	90	105	115
International affairs:						
Exclusion of gross-up on dividends of LDC corporations	40	-----	-----	-----	-----	-----
Exclusion of income earned abroad by U.S. citizens	-----	-----	-----	145	120	135
Deferral of income of domestic international sales corporations (DISC)	1,220	1,030	1,190	-----	-----	-----
Special rate for Western Hemisphere trade corporations	50	35	25	-----	-----	-----
Agriculture:						
Expensing of certain capital outlays	85	80	70	455	370	440
Capital gain treatment of certain income	10	10	15	315	330	350
Natural resources, environment, and energy:						
Exclusion of interest on State and local government pollution control bonds	110	170	220	50	75	100
Exclusion of payments in aid of construction: Water and sewage utilities	-----	15	10	-----	-----	-----
Expensing of exploration and development costs	640	610	600	160	105	150
Excess of percentage over cost depletion	1,010	1,035	1,060	285	275	300
Pollution control: 5-year amortization	10	−80	−130	-----	-----	-----
Capital gain treatment of royalties on coal and iron ore	15	20	20	40	45	50
Capital gain treatment of certain timber income	290	300	325	95	95	100
Commerce and transportation:						
Exemption of credit unions	145	165	185	-----	-----	-----
Exclusion of certain income of cooperatives	410	455	490	−155	−165	−170
Corporate surtax exemption	4,170	4,650	4,250	-----	-----	-----
Deferral of tax on shipping companies	110	90	70	-----	-----	-----
Railroad rolling stock: 5-year amortization	−25	−35	−40	-----	-----	-----
Financial institutions: Excess bad debt reserves	485	560	645	-----	-----	-----
Deductibility of nonbusiness State gasoline taxes	-----	-----	-----	710	795	880
Community and regional development:						
Housing rehabilitation: 5-year amortization	15	10	5	25	20	10
Education, training, employment, and social services:						
Exclusion of scholarships and fellowships	-----	-----	-----	195	250	285
Parental personal exemptions for students, ages 19 and over	-----	-----	-----	720	750	770
Deductibility of contributions to educational institutions	190	215	240	510	540	565
Deductibility of and credit for child and dependent care expenses	-----	-----	-----	790	840	870
Credit for employing AFDC and public assistance recipients	10	15	15	-----	-----	-----
Health:						
Exclusion of employer contributions to medical insurance premiums and medical care	-----	-----	-----	4,760	5,195	5,840
Expensing of removal of architectural barriers to the handicapped	-----	5	10	-----	-----	-----
Deductibility of medical expenses	-----	-----	-----	2,315	2,585	2,870
Income security:						
Exclusion of social security benefits:						
Disability insurance benefits	-----	-----	-----	330	380	430
OASI benefits for aged	-----	-----	-----	2,775	3,175	3,460
Benefits for dependents and survivors	-----	-----	-----	645	730	795

See footnote at end of table.

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Table F-1. TAX EXPENDITURE ESTIMATES BY FUNCTION—Continued

(In millions of dollars)

Description	Corporations			Individuals		
	1976	1977	1978	1976	1977	1978
Income security—Continued						
Exclusion of railroad retirement system benefits	-----	-----	-----	190	200	205
Exclusion of sick pay	-----	-----	-----	195	50	55
Exclusion of unemployment benefits	-----	-----	-----	3,335	2,745	2,445
Exclusion of workmen's compensation benefits	-----	-----	-----	590	705	810
Exclusion of public assistance benefits	-----	-----	-----	95	100	105
Exclusion of special benefits for disabled coal miners	-----	-----	-----	50	50	50
Net exclusion of pension contributions and earnings:						
Employer plans	-----	-----	-----	7,290	8,715	9,940
Plans for self-employed and others	-----	-----	-----	1,060	1,305	1,535
Exclusion of other employee benefits:						
Premiums on group-term life insurance	-----	-----	-----	765	800	835
Premiums of accident and accidental death insurance	-----	-----	-----	65	70	75
Income of trusts to finance supplementary unemployment benefits	-----	-----	-----	10	10	10
Meals and lodging (other than military)	-----	-----	-----	310	330	350
Employer contributions to prepaid legal expense plans	-----	-----	-----	-----	5	10
Employee stock ownership plans (ESOP) funded through investment tax credits	25	245	255	-----	-----	-----
Exclusion of capital gain on home sales if over 65	-----	-----	-----	40	40	70
Excess of percentage standard deduction over low-income allowance	-----	-----	-----	1,140	1,285	1,410
Additional exemption for the blind	-----	-----	-----	20	20	20
Additional exemption for over 65	-----	-----	-----	1,145	1,220	1,280
Retirement income credit and credit for the elderly	-----	-----	-----	110	495	440
Earned income credit	-----	-----	-----	220	215	205
Veterans benefits and services:						
Exclusion of veterans disability compensation	-----	-----	-----	595	655	690
Exclusion of veterans pensions	-----	-----	-----	30	30	35
Exclusion of GI bill benefits	-----	-----	-----	305	255	200
General government: Credits and deductions for political contributions	-----	-----	-----	35	40	35
Revenue sharing and general purpose fiscal assistance:						
Exclusion of interest on general purpose State and local debt	2,845	3,105	3,470	1,520	1,680	1,850
Credit for corporations in U.S. possessions	240	285	310	-----	-----	-----
Deductibility of nonbusiness State and local taxes (other than on owner-occupied homes and gasoline)	-----	-----	-----	7,255	8,095	8,950
Interest: Deferral of interest on savings bonds	-----	-----	-----	550	565	625
Business investment:						
Exclusion of interest on State and local industrial development bonds	150	195	235	75	90	110
Excess first-year depreciation	40	45	45	140	135	145
Depreciation on buildings in excess of straight line:						
Rental housing	100	100	100	405	405	425
Other	225	210	200	200	180	175
Expensing of research and development expenditures	1,325	1,395	1,450	25	30	30
Expensing of construction period interest and taxes	415	475	500	215	150	140
Capital gains: Corporate (other than farming and timber)	545	555	550	-----	-----	-----
Investment credit	7,685	8,640	9,670	1,810	1,970	2,205

See footnote at end of table.

AGO 547557

Table F-1 TAX EXPENDITURE ESTIMATES BY FUNCTION—Continued
(In millions of dollars)

Description	Corporations			Individuals		
	1976	1977	1978	1976	1977	1978
Personal investment:						
Dividend exclusion	-----	-----	-----	430	455	480
Capital gain: Individual (other than farming and timber)	-----	-----	-----	7,320	7,030	7,360
Exclusion of interest on life insurance savings	-----	-----	-----	1,655	1,815	1,995
Deferral of capital gain on home sales	-----	-----	-----	845	890	935
Deductibility of mortgage interest on owner-occupied homes	-----	-----	-----	4,870	5,435	6,050
Deductibility of property taxes on owner-occupied homes	-----	-----	-----	4,030	4,500	4,995
Deductibility of casualty losses	-----	-----	-----	310	345	380
Credit for purchase of new home	-----	-----	-----	650	100	-----
Other tax expenditures:						
Deductibility of charitable contributions (other than education)	350	400	445	4,360	4,900	5,475
Deductibility of interest on consumer credit	-----	-----	-----	2,105	2,310	2,565
Maximum tax on earned income	-----	-----	-----	605	730	855
MEMORANDUM						
Combined effect of provisions disaggregated above:						
Capital gains	865	885	905	7,770	7,500	7,860
Exclusion of interest on State and local debt	3,110	3,475	3,925	1,645	1,850	2,090
Deductibility of State and local nonbusiness taxes	-----	-----	-----	10,865	12,125	13,460
Deductibility of charitable contributions	540	620	635	4,870	5,440	6,040

[1] All estimates are based on the tax code as of Dec. 31, 1976.

The 1976 Act repealed a special provision for U.S. firms operating in a less developed country (LDC). When a foreign subsidiary of a U.S. corporation operating in a LDC repatriated dividends to its parent corporation, that income could, under prior law, be reported net of foreign income taxes paid. U.S. tax liability was then calculated on that net amount and the foreign tax taken as a credit. For non-LDC corporations, foreign source income must now be "grossed up" by adding back in an amount equal to foreign taxes paid. Under prior law the failure to "gross up" dividends by the amount of the foreign taxes paid to LDCs resulted in a tax expenditure.

The profits of a domestic international sales corporation (DISC) are not taxed to the DISC but instead are taxed to the shareholders when distributed to them. This deferral was available for 50% of the export income of a DISC prior to 1976. The Tax Reform Act of 1976 permits DISC benefits to the extent that current export gross receipts exceed 67% of the DISC's average for a 4-year moving base period (initially 1972–75) which will move forward year-by-year after 1979. DISCs with less than $150,000 of taxable income are exempt from the incremental rule. The Tax Reduction Act of 1975 denied DISC benefits to exporters of energy products and the 1976 Act terminated DISC benefits for 50% of military sales.

The 1976 Act phases out the 14-percentage-point tax rate reduction provided under prior law for domestic corporations qualifying as Western Hemisphere trade corporations.

AGO 547558

TITLE 43 U.S.C. § 1333

§ 1333. Laws and regulations governing lands—Constitution and United States laws; laws of adjacent States; publication of projected States lines; restriction on State taxation and jurisdiction

(a) (1) The Constitution and laws and civil and political jurisdiction of the United States are extended to the subsoil and seabed of the outer Continental Shelf and to all artificial islands and fixed structures which may be erected thereon for the purpose of exploring for, developing, removing, and transporting resources therefrom, to the same extent as if the outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State: *Provided, however,* That mineral leases on the outer Continental Shelf shall be maintained or issued only under the provisions of this subchapter.

(2) To the extent that they are applicable and not inconsistent with this subchapter or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each adjacent State as of August 7, 1953 are declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and artificial islands and fixed structures erected thereon, which would be within the area of the State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf, and the President shall determine and publish in the Federal Register such projected lines extending seaward and defining each such area. All of such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

(3) The provisions of this section for adoption of State law as the law of the United States shall never be interpreted as a basis for claiming any interest in or jurisdiction on behalf of any State for any purpose over the seabed and subsoil of the outer Continental Shelf, or the property and natural resources thereof or the revenues therefrom.

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federal regulation invalid or the regulation itself is changed. Accordingly, until such time, retirement benefits payable to disabled San Francisco policemen and firemen, after such personnel has qualified for service retirement under the new Charter provisions, are not excludible from gross income under the sickpay formula contained in Revenue and Taxation Code Section 17139(d).

[¶ 205-026] Legal Ruling No. 366.

Franchise Tax Board, December 14, 1973.

Franchise—Corporation Income—Allocation and Apportionment—Taxation of Income Generated by Offshore Oil Operations.—The activities of a unitary enterprise conducting offshore oil operations under federal jurisdiction by reason of the Outer Continental Shelf Lands Act can only be reflected in the denominators of the three-factor apportionment formula. Under the Act, California lacks jurisdiction to tax the revenues derived from the Outer Continental Shelf since it is under exclusive federal jurisdiction. By including the Continental Shelf factors only in the denominators of the formula, no income is apportioned to California.

However, the operation of a drilling barge within California's jurisdiction must be reflected in the California numerators of the apportionment formula denominator.

See ¶ 12-414.

Facts:

Advice has been requested as to the treatment to be accorded to the income earned by unitary businesses, taxable in California, from oil operations beyond the three mile continental limit. The operations considered are:

1. The actual operations of an offshore oil well, beyond the three mile continental limit, conducted from a fixed drilling platform; and

2. The exploring and drilling operations beyond the three mile continental limit conducted from floating drilling barges.

Questions:

For California franchise tax purposes, what is to be included in the numerator and denominator of the apportionment formula with respect to:

1. Activities conducted from fixed drilling platforms which are under federal jurisdiction by reason of the the Outer Continental Shelf Lands Act?

2. Activities conducted from fixed drilling platforms which are within the jurisdiction of a foreign country?

3. Activities conducted from floating drilling barges?

Decision:

See discussion.

Discussion:

1. In 1953 the United States Congress passed the Outer Continental Shelf Lands Act (67 Stat. 462, 43 U.S.C. §§ 1,331 et seq.) which extended the Constitution and laws of the United States to the Outer Continental Shelf; i.e., that property located beyond the three mile limit of state jurisdiction which was established by the Submerged Lands Act (43 U.S.C. §§ 1,301 et seq.). The outer limit of the continental shelf is not established with precision, but rather is marked only by a steep drop of the continental mass toward the ocean deeps. (1953 U.S. Code Congressional and Administrative News, p. 2,178). In some cases this may occur several hundred miles from shore.

Section 1333(a)(1) of the Outer Continental Shelf Lands Act extends federal jurisdiction to all artificial islands and fixed structures erected on the Outer Continental Shelf:

> . . . to the same extent as if the Outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State. . . .

It is a matter of settled law that no state has jurisdiction to tax in an area of exclusive federal jurisdiction located within a state. *Surplus Trading Co. v. Cook*, 281 U.S. 647; *Standard Oil Co. v. California*, 291 U.S. 242, *James v. Dravo*, 302 U.S. 134. Since Congress extended federal jurisdiction to the Outer Continental Shelf "to the same extent" as if it were an area of exclusive federal jurisdiction within a state, this body of settled law applies with equal force to the Outer Continental Shelf and effectively prohibits the imposition of any state tax on revenues derived therefrom.

The lack of jurisdiction in a state to tax in areas of exclusive federal jurisdiction applies not only to direct taxes but to indirect taxes as well. In *James v. Dravo, supra*, the United States Supreme Court was faced with the question of whether "annual privilege taxes" measured by profits from "business and other activities" could be imposed by West Virginia on a contractor working on government-owned land. The Supreme Court stated that this depended upon, ". . . whether the United States has acquired exclusive jurisdiction over the respective sites. Wherever the United States has such jurisdiction [the Court added] the state would have no authority to lay the tax."

In the Buck Act, 4 U.S.C.A., §§ 101-110, Congress did provide the states with jurisdiction to levy certain specified taxes within federal enclaves. The

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Buck Act cannot be construed, however, to apply to the Outer Continental Shelf. Section 1333 provides:

> . . . State taxation laws shall not apply to the Outer Continental Shelf. . . .
>
> The provisions of this section for adoption of State law as the law of the United States shall never be interpreted as a basis for claiming any interest in or jurisdiction on behalf of any State for any purpose over the seabed and subsoil of the Outer Continental Shelf, or the property and natural resources thereof or the *revenues* therefrom. . . . (Emphasis added.)

In view of the well settled law establishing the absence of state jurisdiction to tax in federal enclaves, the provisions of Section 1333(a)(1) extending federal jurisdiction to the Outer Continental Shelf by reference to such enclaves, the provisions of Section 1333 negating any possible application of the Buck Act to the area in question, it is clear that California tax laws cannot reach revenues derived from the Outer Continental Shelf.

Before considering the formula it should be mentioned that the income to be apportioned is the total business income including that derived from the Outer Continental Shelf. When a corporation doing business solely within California commences operations on the Outer Continental Shelf, outside California, it becomes subject to Section 25101 and its business income will be apportioned in a like manner with other unitary businesses as follows.

Property Factor: All real and tangible personal property owned by the taxpayer everywhere must be included in the denominator. But the numerator can include only those properties with sufficient California connections. In this situation, any such contacts appear to be minimal.

Although some suggestions have been made to exclude the property from both the numerator and the denominator, if such is done, there will be an indirect apportionment of additional income to California contrary to federal law.

However, it may be noted that, under the rule set forth in *Montgomery Ward & Co., Inc.* v. *Franchise Tax Board*, 6 Cal. App. 3d 149 (1970), that oil in transit to a California location would be considered California property includible in the numerator of the property factor.

Payroll Factor: Regulation 25132 provides that the payroll factor shall include the total amount paid by the taxpayer in the regular course of its trade or business for compensation during the tax period. Subdivision (b) further provides that the denominator of the payroll factor is the total compensation paid everywhere during the income year. Accordingly, compensation paid to employees whose services are performed entirely in a state where the taxpayer is exempt from taxation, for example by Public Law 86-272, is included in the denominator of the payroll factor. In other words, there is no throwback of the payroll to the California numerator even though the taxpayer is exempt from taxation in the state in which the services are performed. Where the services are performed partially within California and without California, the tests set forth under Regulations 25132(c) and 25133 apply. Payroll shall be included in the California numerator in accordance with the provisions of Section 25133 and the regulations thereunder.

Sales Factor: In view of the express federal ban against any state taxation of revenues derived from the Outer Continental Shelf, none of the sales, if any, which take place in the Outer Continental Shelf area will be includible in the sales factor numerator. Furthermore, in order that there be no indirect taxation of income from such sales, the sales factor denominator must include these sales. And, of course, if the natural resource is placed on the driller's own ships, no sale has occurred. On the other hand, if the natural resource is piped or brought into California, then the sale can be included in the numerator thereafter (assuming that it is subsequently sold in California).

It should be recognized that there are two fundamental considerations involved in this question. There is first the mandate that, under California law, the income of a unitary business must be apportioned by formula. *Edison California Stores* v. *McColgan*, 30 Cal. 2d 472 (1947); *John Deere Plow Co.* v. *Franchise Tax Board*, 38 Cal. 2d 214 (1951). Secondly, there is the federal prohibition against state taxation of revenue derived from the Outer Continental Shelf.

It is established that while formula apportionment is inherently incapable of attaining exactitude, so long as the formula employed produces a reasonable result its use will be sustained. *El Dorado Oil Works* v. *McColgan*, 34 Cal. 2d 731 (1950). It is submitted that the formula factors set forth above take into account both fundamental considerations. They provide formula apportionment to California of the income reasonably attributable to California sources, and by including the Continental Shelf factors only in the denominator, they do not apportion income to California, thereby giving effect to the federal law.

2. Section 25120(f) of the California Revenue and Taxation Code provides that the definition of "state" includes a foreign country. A basic purpose of the Uniform Division of Income for Tax Purposes Act (UDITPA), which is codified in Sections 25120-25139, is to insure that 100 percent of income, no more or no less, would be subject to tax. See Pierce, The Uniform Division of Income for Tax Purposes Act, 35 Taxes 747.

It therefore seems clear that where another state has jurisdiction to tax and the taxable activity has no connection whatever to California, the factors associated with the activity may not be reflected in

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the California numerator. These factors, however, are income producing and must be included in the denominator. *McDonnell Douglas Corporation v. Franchise Tax Board*, 69 Cal. 2d 506 (1968).

3. The Outer Continental Shelf Lands Act extends federal jurisdiction (and prohibits state taxation) "To the subsoil and seabed of the Outer Continental Shelf and to all artificial islands and fixed structures which may be erected thereon. . . ." (43 U.S.C. §§ 1333).

It has been established by a number of decisions that a drilling barge or rig is neither an artificial island nor a fixed structure within the contemplation of the Act, but rather is properly classified as a vessel.

Offshore Company v. Robison, 266 Fed. 2d 769 (1959); *Producers Drilling Co. v. Gray*, 361 Fed. 2d 432 (1966); *Marine Drilling Company v. Autin*, 363 Fed. 2d 579 (1966). Although the cited cases arose in the context of wrongful death or injury under the Jones Act (46 U.S.C. § 688), rather than a tax contest, they hold squarely that drilling barges or rigs are vessels and not within the ambit of the Outer Continental Shelf Lands Act. It therefore follows that the Act likewise does not exempt the activities of such barges or rigs from state taxation and California can apply its usual rules to tax the income earned from the operations of the barges.

Under the Submerged Lands Act (43 U.S.C. §§ 1301 et seq.) California's jurisdiction to tax extends offshore for three miles. There can therefore be no question that, to the extent that the drilling barges are within the three mile limit their presence and activities must be reflected in the California numerators of the apportionment formula. Similarly, the activities of drilling barges not present within California's jurisdiction will only be reflected in the denominator of the factors of the apportionment formula.

When, during a taxable year, the drilling barge is both within and without California waters, its operations and presence shall be reflected in the California numerator in accordance with the rules set forth in Cal. Adm. Code, tit. 18, Regs. 25128 to 25136, inclusive.

[¶ 205-027] Legal Ruling No. 367.

Franchise Tax Board, December 14, 1973.

Franchise—Corporation Income—Sales Factor of the Apportionment Formula—Advertising Receipts.—Receipts from sales of advertising space in magazines and periodicals are included in the numerator of the sales factor of the apportionment formula in the same ratio as the sales of magazines and periodicals in California bears to total sales.

See ¶ 12-442

Advice has been requested regarding the inclusion of advertising revenue in the sales factor of the apportionment formula under the Uniform Division of Income for Tax Purposes Act (UDITPA) for publishers of magazines and periodicals.

Receipts from the sales of magazines and periodicals and advertising space in such magazines and periodicals by publishers gives [give] rise to income from transactions and activity in the regular course of the taxpayer's trade or business constituting "business income" under Section 25120(a), Bank and Corporation Tax Law. Gross receipts from those transactions constitute "sales" as defined in Section 25120(e) which are required to be included in the sales factor (Section 25134) of the apportionment formula under UDITPA.

Tangible property is that which is visible and corporeal, having substance and body. *Roth Drug, Inc. v. Johnson*, 13 Cal. App. 2d 720, 734 (1936). It is evident that a magazine or periodical has substance and body. Consequently, the sale of magazines and periodicals by the publisher to subscribers and newsstands are sales of tangible personal property. (cf. *Time, Inc. v. Hulman*, 201 N.E. 2d 374, 377, 31 Ill. 2d 344.) Receipts from such sales are to be included in the sales factor in accordance with Section 25135 governing sales of tangible personal property.

The sale of advertising space in such magazines and periodicals is closely connected with the sale of the publication. The primary purpose of the advertiser is to reach the market provided by the publisher. The publisher in turn guarantees a particular circulation volume, or in other words, a market. Since advertising included in magazines and periodicals is inextricably connected with the sale of those publications, it is concluded that advertising receipts are to be included in the numerator of the sales factor based upon the ratio which sales of magazines and periodicals in this state bears to the total sales of magazines and periodicals everywhere.

[¶ 205-028] Legal Ruling No. 368.

Franchise Tax Board, December 14, 1973.

AGO 547562

MARCH 1977 PRODUCTION
1600 BBL/DAY WELL
35° Gravity - $4.85/bbl Controlled Price

Tax Calculation

Under Current Law

(a) % Of Value Method:

300 bbl X $4.85 X 5% =	$72.75
700 bbl X 4.85 X 6% =	203.70
600 bbl X 4.85 X 8% =	232.80
	509.25
Less 1/8 Royalty Portion	63.66
Tax =	$445.59

(b) Cents Per Bbl Method:

300 bbl X $.3519 =	$105.57
700 bbl X .4224 =	295.68
600 bbl X .5632 =	337.92
	739.17
Less 1/8 Royalty Portion	92.40
Tax =	$646.77

Tax Payable (higher of (a) or (b) = $646.77

Tax Calculation Under HB 321

Tax rate = 10% of value or $.75 per bbl plus adjustments for gravity (up 1/2 cent for each degree above 27°) and for Gross National Product Deflator--(1st Qtr. 1977 = base period).

Cents per bbl = $.75 X .04 = $.79

Percent of value rate and cents per bbl rate multiplied by Economic Limit Factor (ELF):

$$ELF = \frac{100 \text{ bbl}}{1600 \text{ bbl}} = .0625$$

1.000 - .0625 = .9375 = ELF

Cents per bbl adjustment:

$.79 X .9375 = $.7406

% of value adjustment:

10% X .9375 = 9.375%

Tax Calculation

1600 less royalty (200) = 1400 bbls

% of value method:

1400 X $4.85 = $6,790

$6,790 X 9.375% = $636.56 (Tax)

Cents per bbl method:

1400 X $.7406 = $1,036.84

Tax Payable: $1,036.84

Difference in tax between HB 321 and Current Law:

HB 321 =	$1,036.84
Current law	646.77
	$390.07 = 60.3% increase in tax

Production tax burden as a % of producer's net share of $6,790 (1400 bbls X $4.85):

Under current law = 9.5%
Under HB 321 = 15.3%

AGO 547563

TO: CHAIRMAN, HOUSE RESOURCES COMMITTEE
AND ALL COMMITTEE MEMBERS

FROM: SUB-COMMITTEE ON OIL & GAS

During the week of march 21 - 26 the Joint Senate and House Resources Committees met to hear testimony relating to the various oil and gas taxation bills currently before us. Some of the bills under discussion, have not been refered to this committee.

Of the ones that have been, the Sub-committee on Oil and Gas recommends that H.B. 321, H.B. 322, C.S.H.B. 323, H.B. 328, and S.B. 274 be brought to the full committee's attention for consideration and that they be acted upon and passed out of committee no later than April 7.

Each of these bills have a further referal to House Finance and the Finance Committee has scheduled hearings and work sessions on these bills beginning early next week. Representatives from the oil companies and several nationally recognized economists will be present. We urge all members, who are able, to attend.

RECOMMENDED BILLS

H.B. 321 - SEVERENCE TAX

This tax, in our opinion, rates highest in priorities. It's timeliness is dependant upon the actions undertaken by the Federal Energy Administration in setting a recommended "well head" price by April 15, 1977, and further by actions later taken by the I.C.C. in recommending the transportation cost of North Slope crude. For other features of the bill, we refer the committee's attention to the Governor's transmittal letter for H.B. 321, included with this report.

H.B. 322 - ALASKA NET INCOME TAX OR FRANCHISE TAX

This tax bill, in our opinion, has several advantages over our present income tax collection system. It is easy to administer, is based upon the amount earned within the state, including OCS development, and would provide the State and the industry with a stable taxation policy for years to come. For other features, we refer you to the Governor's transmittal letter for H.B. 322, included in this report.

AGO 547565 +

H.B. 323 - PROPERTIES AD VALOREM TAX

This tax bill, in our opinion, is premature. It would increase the scope of taxable property to include refining, liquefaction, and marine transportation. We believe that it would act as a "disincentive", at this time, for future development within our state, and of all the tax bills before us, meet with the most resistence. Accordingly, we have asked the Department of Revenue to place before this committee, a committee substitute for H.B. 323 which would reduce the bill to a "house-keeping" measure. This has been done and is before the committee for consideration.

H.B. 328 - RESERVE TAX

This tax bill amends the reserves tax bill to allow a credit reduction of tax levied 12 [20] if the oil flow through the Trans-Alaska Pipeline by October 1, 1977 has reached at least 600,000 barrels of oil on a daily average. Otherwise, the bill extends the reserve tax beyond the December 31, 1977 effective date of the original act. We urge its passage.

S.B. 274 - THE TAKING OF OIL AND GAS ROYALITY IN KIND

This bill requires that royality oil and gas be taken "in kind" rather than in money unless deemed otherwise by the commissioner, the Alaska Royality Oil and Gas Development Advisory Board, and the the Legislature. As an encouragement for future development within our state, we urge the passage of this bill.

RLD ?
Are you taking up that bill tomorrow that I suppose Stuart part of?

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CONCLUSION:

The Sub-committee bleieves that the passage of these tax proposals, taken in conjunction with the desire to have the Alaskan Permanent Fund replace the eventual and inevitable passage of our nonrenewable resources, will produce a desired benefit for the State of Alaska. We further believe that they <u>will not</u> act as a disincentive for the oil industry and that their passage will ensure Alaska's "fair share" in the wealth of our state. Regarding this aspect, we urge committee members to read the Tanzer Report, "IMPACT OF INCREASED TAXATION ON OIL EXPLORATION AND DEVELOPMENT IN ALASKA", submitted to all members of the Alaskan State Legislature on March 25, 1977.

We have asked that Mr. John Messenger from the Department of Revenue be present to assist committee members in answering their questions and would, as this time, like to highly commend the staff of Senate and House Resources for providing the back-up material needed for the committee's deliberations.

Rep. Merle G. Snider
Rep. Hugh Malone
Rep. William Akers.

HOUSE BILL NO. 321 by the Rules Committee by request of the Governor, entitled: HB 321

"An Act relating to the oil and gas properties production tax; and providing for an effective date."

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

The Governor's transmittal letters appear following the bill to which it pertains: fiscal notes appear in House Supplemant No. 31 to today's journal.

"March 8, 1977

HB 321

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill relating to the oil and gas properties production tax.

As a result of a recent study of Alaska's oil and gas tax structure, the Department of Revenue has recommended several changes in the state's production or "severance" tax. This bill incorporates those specific recommendations.

Currently the state's oil production tax is calculated according to "stair stepped" rates depending upon the level of production for the lease or property. As currently structured the tax may have an adverse impact upon a particular property as it reaches its economic limit. The "stair step" approach may not alleviate this adverse effect since the economic limit may vary substantially from one part of the state to another. This is because it may be more costly to produce and transport the oil in the more remote areas of the state. Accordingly, the bill contains an economic limit mechanism which automatically scales the tax rate down as the production nears its economic limit. This will insure that the tax will not unduly inhibit oil production as it reaches its economic limit.

One of the immediate dangers which face the state's revenue picture is the potential for artificially depressed pricing of the state's North Slope oil. This could result from federal pricing decisions or excessive tariff costs from the wellhead to the refinery. To insulate the state's petroleum revenues from these forces, the bill provides for a mechanism which would raise the cents-per-barrel floor to correspond to a mid-range market value for North Slope oil and tie that floor to an index which will let the floor keep pace with inflation.

One of the Department of Revenue's recommendations -- the oil and gas surtax -- which was designed to offset revenue losses due to depressed pricing of North Slope oil and which was to be imposed only on holders of state-owned leaseholds was deleted on the advice of this department because of the substantial legal problems involved.

The bill places the tax on gas at a parity with the tax on oil. Currently gas is taxed at only 4 percent while oil is taxed from 5 to 8 percent. The bill would tax both oil and gas at 10 percent. In addition, the bill sets a cents-per-Mcf floor for the gas tax similar to the cents-per-barrel floor for oil. This new floor for gas corresponds to the highest market price in the state, and it too is tied to an index to keep pace with inflation.

Sincerely,

[signature]

Jay S. Hammond
Governor"

AGO 547568

HOUSE BILL NO. 322 by the Rules Committee by request of the Governor, entitled: HB 322

"An Act establishing an oil and gas corporate franchise tax; and providing for an effective date."

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

"March 8, 1977

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.50.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill establishing an oil and gas corporate franchise tax.

The Department of Revenue, in its oil and gas tax study, found two basic deficiencies with the corporate income tax as it relates to oil and gas corporations. This bill would correct those deficiencies.

HB 322

The first problem is the eroded federal tax base. The department found that the federal corporate tax base which Alaska has adopted has been substantially eroded by special exemptions, deductions, credits and other accounting devices. The result has been that oil and gas corporations pay an effective tax rate much smaller than the statutory 48 percent. Accordingly, the bill would enact a separate franchise tax on a corporation's "book income." "Book income" is the net income which the corporation reports to its stockholders. This would eliminate all the special Congressional tax provisions.

In addition, the department found that the present apportionment formula does not fully represent the oil and gas corporate activity in the state. The present formula of property, payroll, and sales generally measures corporate business activity in the state. For natural resource companies, however, it does not. No reflection in the present formula is made for the scarcity value of the oil and gas produced. Accordingly, the bill will substitute for the present sales factor an extraction factor which will give weight specifically to oil and gas production activity.

One of the advantages of this franchise tax is that it will take into account elements of property, payroll, and extraction located on the Outer Continental Shelf which causes a resulting impact on the adjoining state. Thus property, payroll, and extraction not located in any state but which are located off the shores of an adjoining state which is impacted by the oil and gas production activity will be allocated to that state suffering the impact. Although this latter provision may raise some constitutional law questions, we believe that the proposal comes within the limits of the state's taxing powers given the impact on the coastal communities of our state of these OCS activities.

Sincerely,

Jay S. Hammond
Governor"

AGO 547569

HOUSE BILL NO. 328 by the Rules Committee by request of the Governor, entitled:

HB 328

"An Act amending the oil and gas reserves ad valorem tax; and providing for an effective date."

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

" March 9, 1977

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.50.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill amending the oil and gas reserves ad valorem tax.

Section 1 of this bill proposes that the reserve tax levy be reduced from 20 mills to 12 mills this year with the condition that an additional levy will be made if there is a delay in the start-up of the Trans-Alaska Pipeline.

This amendment is proposed because the state has a budget surplus for FY 1977. This surplus is somewhat illusory, however, since the reserve tax payments may be recouped by oil and gas producers by credits against future severance tax. Accordingly, the adoption of this measure would reduce the surplus for 1977 and also reduce the amount "borrowed" from future revenues.

Section 2 provides for a contingent 1978 assessment at a rate to be determined by that year's legislature.

Sincerely,

Jay S. Hammond
Governor"

AGO 547570

HOUSE BILL NO. 323 by the ...
the Governor, entitled:

"An Act relating to the oil and gas exploration, production, and pipeline and marine transportation property tax; and providing for an effective date."

(introduced, read the first time and referred to the ...ittees on Resources and Finance.

"March 8, 1977

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.050(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill relating to the oil and gas exploration, production, and pipeline and marine transportation property tax.

The Department of Revenue has recently completed its study of Alaska's oil and gas tax structure and has made several recommendations. One set of recommendations dealt with the state's 20-mill property tax imposed by AS 43.56. This bill would implement that set of recommendations.

The bill corrects four problem areas in the current property tax: the omission of certain important kinds of oil-and-gas-related properties from the definition of taxable property; present uncertainty about how pipelines should be valued; the static nature of the $1500 per-capita limitation on municipal taxation, and the extent to which municipal property tax payments should be allowed as credits against the state tax. The bill's features are described below:

Section 1 of the bill makes clear that taxes paid to municipalities which exceed the statutory limitations in AS 29.53.045 and 29.53.050 are not creditable against the state tax.

Section 3 of the bill removes the current uncertainty on pipeline valuation by ensuring that pipelines will be valued on the basis of their full and true value with due regard to their economic value. This will eliminate the possibility of pipelines being valued under the depressed valuation method of actual cost depreciated.

Section 4 of the bill defines full and true value of property used in refining or liquefying of gas or oil as replacement cost less depreciation. It also defines the value of taxable marine transportation property.

Section 7 adds new categories of taxable property including oil refineries, gas processing plants and liquefied natural gas facilities. This will mean greater revenues to the state from these important oil and gas properties.

Section 8 and 9 of the bill tie the $1500 per capita municipal limitation to the Anchorage cost-of-living index in order that the limitation would increase over time as inflation raises the cost to municipalities of providing services to its residents.

HB 323 In addition, Sections 2, 4, 5, 6, and 7 are aimed at amending the relevant provisions of AS 43.56 to provide for the taxation of marine transportation property (i.e. tankers) on an apportioned basis determined by the number of days spent on ports loading and unloading gas and unrefined oil divided by the total number of days-spent-in-ports everywhere. Although these provisions raise close and difficult questions of constitutional law regarding the ability of the state and municipalities to impose an ad valorem property tax on such vessels in light of the traditional application of the "home port" doctrine, it is the view of the Department of Law that these vessels have sufficent nexus with the state to bring them within the constitutional parameters of the state's taxing power.

Sincerely,

Jay S. Hammond
Governor"

AGO 547571

TESTIMONY OF MR. RICHARD KILGORE
OF WALTER J. LEVY CONSULTANTS CORP.
FOR THE JOINT SENATE AND HOUSE
RESOURCES COMMITTEE MEETING ON
OIL AND GAS TAXATION - MARCH 21, 1977

CHAIRMAN POLAND - We will bring the meeting of the Senate and House Resources Committee meetings to order. We have with us as our first witness this morning, our consultant from the firm of Walter J. Levy, Mr. Richard Kilgore. We have asked Mr. Kilgore to address us this morning on the net income tax bills and those closely associated thereto. We will break at 10:00 AM, and will resume again this afternoon at 1:30 PM.

For those who are sitting behind me, if you'll raise your hand so that Mr. Farleigh can notify me if you have a question, you will be recognized, and with that I'd like to welcome Mr. Kilgore back to Alaska and let him take over.

RICHARD KILGORE - Thank you Senator Poland. I think it is appropriate since I am the leadoff witness, that I present here this morning what I call an overview of tax legislation.

CHAIRMAN POLAND - Mr. Kilgore, for the record, would you identify yourself.

RICHARD KILGORE - Yes. I'm Richard Kilgore. I'm Director of Research for W. J. Levy, Consultants. I've been with the firm for about fourteen years.

What I'm going to attempt to do here this morning is to provide what we would call an overview. I'm not really going to go into very much detail about the individual pieces of legislation, at least the specific provisions of them, and concentrate more on the approaches, the alternatives, and so on. Most of my remarks will have to do with income taxation, but I also have some remarks on severance taxation if we have enough time; and I'd like to say a little bit in the end about a total tax package - total tax regime in Alaska because the whole thing is obviously more than a sum of these parts if it has to do with the impact of the total program.

I'd like to look at the major areas of taxation and really consider the alternatives presented to you because they are quite diverse, and give you our appreciation, really, of the major pros and cons this time of the major pieces of legislation, of the major approaches and the kinds of pros and cons, advantages and disadvantages which we think you legislators should be looking at and asking questions of witnesses as you go along. We will be available as I say, for specifics later.

As many of you may recall, our firm has been urging upon the legislature, for many years, that it review its corporate income tax, and especially to do this before Prudhoe Bay Production really comes on and you have major questions of taxation there. We have pointed out in the past, and I think it's fairly well known now the problems of apportionment under the present regulation, and I don't really think we have to get into that in detail. We ourselves did our own analysis of how the present system might work for Prudhoe Bay. Taking data submitted by SOHIO, in submission 1 at the request of the legislature, and very roughly what it turned up was that if one applies the present system, that is the three factor apportionment system with sales and property, and payroll, what you turn up in the way of income apportion to Alaska is roughly one quarter of what the producing income and the pipeline income would be. Saying that another way - if the present system were applied to Prudhoe, using as I say, data supplied by SOHIO, what you would get is an effective rate of taxation instead of something like 9.4% an effective rate of taxation, roughly a quarter of that, two to two and a half percent, so there are obviously problems with the present system, and as I say, I won't burden you with too much of that as I think by this time it's fairly well known by everyone.

Now, you at the present time have before you three different bills, basically two different approaches, but three different bills designed basically to deal with this problem of the inappropriateness of the present formula. The first is the bill submitted by the Governor, and this comes out of the work of Professors Zeifman and Ainsworth, and a report done by the Department of Revenue. This is SB 236, and HB 322. We basically feel that this is quite an imaginative and new approach, and involves basically two features: A change in the tax base, and a modification of the apportionment formula. I'll come back to that. Second, we have a bill on separate accounting introduced by the subcommittee on leasing and taxation, and third we have the net proceeds bill introduced again this year which reads to similar, and I guess even identical, to the net proceeds tax of last year. So we have three bills basically, I'm going to say, on two approaches, and lets look at some of the pros and cons of these. I should say at the outset that like many things in the field of taxation, no one approaches his ideal here, there's no magic answer to this that's going to come out, and one approach is not just going to stand out that is uniquely better than any other one. It's just not the case. So there's clearly room for debate, and for your careful look at these approaches. So first lets look at this Governor's bill coming out of the Zeifman and Ainsworth work.

Basically, as you see, there are two features to this legislation. One is a change in the tax base, and the second is a change, as I say, in the apportionment factors themselves. The present system as you probably know, uses federal taxable income. That's its base, and takes a portion of that federal taxable income. This new proposal involves a switch to book net income before income taxes as reported by oil companies to their stockholders. Now, there are certain clearcut advantages or pros for the State in this switch in tax base from taxable income to book net profits. First of all, figures are readily available from annual reports. This concept of income is reported by most companies or at least most of the major companies that will be operating as oil producers in Alaska. Second, as you will hear, I'm sure, from Professor Zeifman and from the Revenue Department, there are fewer so called erosions than in federal taxable income, that is under federal taxable income rules there are various kinds of generous accounting rules allowed to companies which works to reduce the amount of income on which they pay taxes, and you're fairly familiar with this too, I'm sure. Such things as intangible drilling expenses are under federal tax law, can be treated as expense items, not as capital items, and this involves large write-offs. The federal government allows accelerated depreciation and so on, and companies in their book accounting

rarely, if ever, expense intangibles or use accelerated. They use normal kinds of depreciation under normal accounting rules. So very clearly switching in this direction results in a higher tax base than federal taxable income, and this obviously throws up more income to the State of Alaska. But switching from taxable income to debt book income does have problems. It is not without problems. I'll just enumerate a few of these. Later we can talk about these in more detail. Even within acceptable accounting principals there's a certain flexability, obviously, to companies in respect to how they report income, the kind of deduction and so on. Inventory gains and losses are often treated differently by companies, and they have some choice in this. Currency changes, how they are affected by currency changes, gains and losses, they are often treated differently by companies. Incidentally, some of these factors which resulted in different kinds of accounting don't always even show up in company annual reports. If they're not material, they may not even be stated within a company annual report. One would probably have to go beyond that, if one wanted to see the effect of these factors. There is also a certain amount of flexibility in accounting for write-offs. When does one realize a loss, if one has some sort of venture that is going bad, at what point do you write the thing off as a total loss? There is a certain amount of flexibility in this. Companies at times will use what is sometimes

called the "blood bath" approach to accounting. When things really go wrong, and you have a lot of losses, there is a tendency to just write it all off in one year, and take all the bad at one time. Of course, the company doing this, it would effect the tax base that Alaska would be looking to in this approach. But, I don't think any of these while they present problems in switching to book income are probably disabling. Revisions could also be a problem. Companies at times change accounting procedures, and will then revise their book income and various parts of this back through time, and this would cause problems also if one does this, if there's a later revision, do you then change your tax base, and so on. So this presents problems. I think perhaps, a more serious problem in going to pre-tax book income has to do with how one arrives at that. Now, normally pre-tax income, if you went to a company annual report, what you would do was take net income after taxes and add back all income tax payments, and that's apparently what is proposed here in this piece of legislation. That would include all income taxes including income taxes paid to foreign governments. This looks to us like it could really present problems, and it raises questions about what sort of a tax base you are really reaching when you look at pre-tax book net income. If you'll take the annual report of a company like EXXON which is going to be an operator in Prudhoe Bay, is going to be a producer there, also a company that has very large foreign operations and pays very large

foreign income taxes, it is very interesting to see what has happened in the past to those foreign income taxes, and then I would like to talk about what may happen in the future to foreign income taxes and how this might effect the tax base that you'd be using if you should go to net book income under your appropriate income tax.

If you look at the annual report of EXXON or any other oil company operating in the foreign field, what you will find is that over the past few years, and particularly the years '73 and '74, there was a very sharp buildup in foreign income tax payments. That is tax payments to foreign producing governments such as the Saudi-Aribs in Iran, and so on, and the result of this huge increase in foreign income tax payments this bid build up, as you all know, had to do with the increase in OPEC prices. OPEC dictated very substantially higher prices. These higher prices were obviously not intended to benefit the companies, but to benefit the producing governments themselves, and so what the producing governments did was take a large part of this income generated by the very much higher prices and tax it away from the oil companies in the term of income taxes. Some of it they called royalty, some of it they called income tax, but there was a very large income tax component to this, and this resulted in very large increases in foreign income tax payments

by oil companies. And, if Alaska had been on this system which involves using book income, what would have happened over these years is that Alaska would have benefited from a huge increase in pre-tax income from a company such as EXXON, and this would have resulted in large part not after tax profits EXXON earned, but because of its income tax payments to foreign government. So Alaska, over this period, would have benefited from a very short run up in pre-tax income because of income tax payments by oil companies to foreign governments. It would have worked to the benefit of Alaska, had Alaska been on this system. But now, if we look ahead, we find the concession terms are changing in the middle east and elsewhere, and almost all foreign areas. Foreign governments have increasingly taken control of producing operations themselves. When the companies remain, they remain as producers and operators, but they serve in increasingly different roles. They serve as contractors, not as concessionaires, and under this new type of system, payments to the producing governments tend not to be in the form of income tax, they tend to be in terms of purchase of oil, purchase at market prices with the companies being compensated in terms of service fees for their continuing operations in these countries. So what is beginning to happen is these huge payments to foreign producing governments are increasingly not called income tax payments, they are called purchases,

purchases of oil from the Saudi Arabian State Oil Company for example, and already if you look at the annual report of a company like EXXON, you will see that we have a decline already in 1975, and I guess when the 1976 annual report of EXXON is out, you will find another decline in foreign income tax payments, so what had happened in foreign oil markets would have worked to the benefit of Alaska over the past few years, but now would be working in the other direction. That is EXXON may have a relatively constant after tax profit on its foreign producing operations in countries such as Saudi Arabia, but its pre-tax will be going down. Why? Because it won't be making income tax payments to the Saudi's or other foreign governments. It will be purchasing oil and this would effect the pre-tax profit. So you could have a declining base from this kind of thing.

Now, I dwelled at some length on this because it's interesting. What it demonstrates is that when you use this approach, you do have some problems, and you have things happening outside Alaska which effects the tax base that you are going to reach an apportion part of, but it's very much affected by the things that have nothing to do with profitability in Alaska. And this, I think, the foreign income tax things, are a good illustration, and they are an important one,

and that's why I spent some time with this. So under this kind of system you would have things effecting net book income that really have very little to do with Alaska, and this is something of a problem, and one doesn't know for the future how these various kinds of changes would effect it, and what I'm talking in foreign income taxes probably will work to the disadvantage of Alaska. Other things that we may know nothing about could work the other way. So moving to book income as a concept had truly some advantages. You'll have obviously a higher income that you are trying to take a part of, but it's not without problems. We can discuss those more at some later point. The second part of this approach has to do with a change in the apportionment formula. What has been suggested here in the legislation is changing from sales to extraction, and there are some very clear advantages to Alaska in this obviously. The extraction isn't oriented measured and is production measured in Alaska, and is obviously more appropriate than a measure such as sales where a large part of sales of crude oil in Alaska are not made within Alaska, but they are made without Alaska. So this kind of a move will clearly apportion more income to Alaska, and is certainly a step in the direction of higher appropriate income tax receipts for the State of Alaska. Now here again, although this step obviously works in the direction of favoring Alaska and higher income tax payments to the State,

there are technical problems as well that you should be aware of, and especially in foreign areas. Net production of companies is not always so easy to define, and net production as set out in the annual reports of the oil companies may not quite match Alaska's definition. The legislation before you does define net income in certain specified ways. The production figures that you get from the companies may not always match, and there may be problems of meeting your definitions, especially in foreign areas such as Indonesia, for example, where companies work under contracts. The concept of net production is not the same as the simple system where one has the simple royalty that one takes off, and it may be difficult to define what really is net production. What is production of a company? What is purchased oil? So that moving in this direction has some benefits for the State, but it obviously is not without problems.

In general, we feel that this approach, this one and rather novel new approach for the State has certain advantages. I sum these up by saying it will clearly increase Alaskan tax revenues. It works better in a sense, and why it does is quite obvious. Book income is higher than taxable income. Extraction is a better measure than sales, so you throw up more income to Alaska. If you throw up more income it

obviously means you are moving closer, hopefully, to getting something like 9.4% of what will be the producing income in Alaska. And although the administration end of it is not quite so simple as it looks, initially, and for some of the reasons that I've set out here, it obviously has some administrative advantages over other approaches. It is somewhat simpler, and this is certainly an advantage in this approach. Now the real basic disadvantage that we feel to this whole approach is that while it would get higher income apportioned in Alaska, one doesn't really know out of this system, how close one would get to true profitability. That is, how much income in Alaska and how close that is to what seems to be extensively profitability in Alaska. This is very difficult to know, very difficult to know how close it is. In total and company by company, it's difficult to know how the thing will actually work.

We ourselves tried a very simple approach to try to see how close it would come, and what we did, and anyone can do this, if one takes the annual reports to say, the three major companies that will be producing on Prudhoe Bay, ARCO, EXXON, and SOHIO, takes the latest data available for them, and that's the 1975 annual reports of these companies, (the 1976 one is not out), and then simply adds to that data for Prudhoe Bay, profitability, production, and so forth for Prudhoe Bay, and rather than make our own estimates

for that, again we turn to the data submitted by SOHIO, in SOHIO submission 1, so what we attempted to do was simply combine the data for Prudhoe Bay/Alyeska as contained in SOHIO submission 1, with the company's latest annual report data, and then attempted to see how this new approach would work that is using as our tax base pre-tax book inco and then using a property factor, payroll factor and an extraction factor, and this is a very rough approximation obviously, but what happens when one does that, you find out that this apportionment formula does not apportion all the income that is assumed for Prudhoe Bay and Alyeska. It does not apportion it all, and more interesting than that, what you get is if you look at the three companies, just to see how three companies of this type would fare under this system, you get quite different results for the different companies. That is, some companies, at least one of the companies, you would get a fairly high porportion of the income earned in Alaska by this approach. From another company, you would get quite low percentage of it, so that one could, at least this little illustration suggests, that one could have companies with exactly similar operations in Alaska such as for example ARCO and EXXON, and get very different tax liabilities for the two companies, and we think this looks to be a potential disadvantage. You say this is only an illustration and one doesn't know what would be thrown out of this approach, but it does suggest

that what you may be getting in the way of apportion income and income tax payments may be off the mark of what profitability really is. So, we receive that as kind of the key draw back to this. You go in the right direction, but you don't know where you really are. Some people could be underpaying income taxes, other people could be overpaying, and how it would balance out to the State as a whole, it's difficult to say.

We would make this suggestion. If the legislature decides that this new approach in the bill submitted by the Governor is the approach it wants, and it might well because of ease of administration or whatever reasons that one chose this, we would suggest that perhaps the legislature might want to consider at the same time that it did this, that it ask or require of the Department of Revenue that it provide every year, estimates of profitability on oil and gas production within Alaska, perhaps with input from company, I don't know, but estimates by Revenue, the best estimates they can make and how much is made on oil production, pipelining or whatever in Alaska, so that the legislature can take this information, set it against the income tax receipts it's actually getting, and try to get some measure of how this thing is really working, that is how well is it achieving its goal of identifying income in Alaska.

Perhaps such reports could even have data by company not identified or something of this sort so that one could also, so that the legislature could evaluate over time how well it was working company by company. So that if you take this approach, we suggest that you might want to consider also getting some sort of information estimates out of the Department so that you would be in a position to evaluate in subsequent years how well it seems to be working.

Moving from this approach to a second and quite different approach to income taxation, take a look at direct accounting. Now, in principal of course, direct accounting is getting around some of these problems of apportionment. It's going directly at a measure of how much income there is from oil and gas operations in Alaska, so that in principal at least, if it can be done in a reasonable way, it does not suffer from the defects of this other approach. It is trying to measure directly what you really want to tax, in total in company by company, and we've always felt if it was legally possible to do this, and it were administratively possible to do this, this would seem to be the logical approach to taxation. Now, the problem as will be pointed out by many other people who will be testifying in here is that there are

problems of administration. There clearly are, and they are real. There are various problems of how one allocates expenses to Alaska, how does one look at and evaluate inter-affiliate sales, and things of this sort, corporate overhead and how much is allocated to Alaska, and so on. So that there are very real administrative problems to this approach, even though it is a more straight forward approach. It requires, on the part of tax administrator's rules, regulations, rather extensive ones, and obviously involves audit capabilities. One has to audit. There is a lot more auditing under this approach, and so on. And a lot, I think, has been said in the reports by the Department of Revenue and by Professors Zeifman and Ainsworth about these administrative problems. What we would urge the legislature to do though is really to try to weigh these very carefully. This is the major drawback, the administrative problems in this more direct more logical approach, weigh very carefully just what are the magnitude of these problems? How difficult are they to handle? How many people will be involved? How much money would have to be spent and so forth. How difficult is it really? And what seems to me the attempt you have to get some judgement as is to weigh whether the difficulties in administrating this thing are really worth the effort. It is a difficult thing, really, to assess, and I think that in assessing these kinds of things, one can't necessarily

look for parallels elsewhere or general problems of separate accounting or direct accounting in other states. I don't think you can put too much weight simply on the fact that companies sometimes favor separate accounting. I think when you're looking at the difficulties here, you've really got to look at the circumstances of the oil producing operations in Alaska and try to get some handle on this by looking at that, not by looking at parallels elsewhere. Try to assess _____ ask questions on how to assess, how difficult it would be for the oil producing industry in Alaska. That's what we're talking about.

I won't really spend much time on the net proceeds. It was an attempt last year, really, an indirect attempt at direct accounting by a separate oil and gas production tax. It based, although differing in some respects from separate accounting and from the separate accounting bill, it's basically the same approach as direct accounting. So I think if one is going the route of attempting directly to estimate or tax income in Alaska, one would worry about the differences between the net proceeds and the separate accounting tax, but more important, I think, are the two basic approaches to income taxation in Alaska, and what you're going to have to do is weigh very carefully the pros, cons, advantages and disadvantages of these two basic approaches to a problem inherent in the present corporate income tax

regime in Alaska as it applies to oil and gas production.

Chairman Poland, I had planned at this time to go on with some comments on severance tax. I don't know whether you would want to break for questions on corporate income taxation or go on.

CHAIRMAN POLAND - Do any members of the committee have any questions that they would like to ask Mr. Kilgore at this time?

SENATOR HUBER - Madam Chairman, I thought that Dick might want to make some comments on the data base which you gather by a net proceeds tax approach that you may not find available in the other ones. That's been a major consideration by Levy Company and Associates, helping to develop that particular item.

RICHARD KILGORE - Okay, this is one of the obvious. Looking at this and direct accounting, this is one of the aspects to it. And the net proceeds things, you are doing it on kind of a property by property basis. You are not aggregating everything as you might under certain separate accounting approaches, and having access to that kind of information

would be of use to the State, because it does give the State some feel for profitability of individual properties, ranges of profitabilities, what are cost value relationships in various fields, and so on. And that is of value obviously in designing or further modifying the tax regime in Alaska.

CHAIRMAN POLAND - Any questions? Very well, Mr. Kilgore. We will go on to the severance tax at this time then.

RICHARD KILGORE - I believe our firm is on record as saying that this really is an appropriate time to review your severance tax. We have major new production coming on in Prudhoe Bay, and this production which is obviously quite different in character from that you have now in Cook Inlet. The second reason is that our office has been concerned for some time about the way the present tax works for Cook Inlet production receiving old oil prices. We've been concerned about this, and we think that the legislature should appropriately review this at this time. And I'll come back to that.

Now you have two bills - two severance taxation bills before you, but before I turn to the bills themselves, I would like to review with you certain principals we feel you should keep in mind in reviewing severance

tax legislation. First of all, we've said this before, but I will say it again, severance tax is something that one, a tax which the State cannot really expect to continue to raise endlessly without running into serious problems because of the nature of the tax itself. The tax is a tax on gross value or it's affixed per barrel tax of some sort for unit tax. It does not directly take into account the cost of production, nor net profitability of production. Cost relationships between prices or values and cost can vary considerably amongst producing fields and areas, and where costs are very high, severance taxes, being gross taxes can seriously impinge on profitability and at the extreme they can even result in shutting down production. So, there really are limits on how far the State should think in terms of pushing up severance taxes because of the nature of the tax. We have always felt that as a rule of thought that Alaska severance tax should probably not go above the highest rate in other major producing states, and the highest rate in other producing states per comperable kinds of production, and I think this is probably still a reasonable rule, to keep a severance tax within bounds. Second, given the potential problems with a gross tax such as a severance tax, we have always urged some protection for lower productivity on higher cost wells. This kind of advice goes back to our first written report for the legislature back in January of 1970

where we urged a step schedule which the State later adopted, and your current law does have a step schedule, and does provide some protection for lower productivity wells. So that the two principals basically are not pushing severance tax, try to provide some protection for lower productivity, higher cost wells. Now, you have two bills before you at this time that in principal seems to follow these guidelines. One submitted by the Governor, and the other by the subcommittee on leasing and taxes. While each raises overall severance taxes, neither bill goes above an effective rate higher than Louisiana's 12 1/2 percent on oil. Basically, they are in line with our first guideline, and both of the bills attempt to deal with the problem of higher cost wells, but we feel with different degrees of effectiveness.

The tax subcommittee's bill is basically an extension of the current law. It adds higher well productivity brackets than you presently have, and for the higher well productivity brackets, puts in higher rates of taxation, and at the same time, that bill lowers the rate at the lower end of the brackets. That is lower productivity wells would pay lower taxes under this subcommittee's bill, and this is in line with our second principal.

Now the Governor's bill developed out of the recommendations of the Department of Revenue, introduces a new and rather novel approach. An economic limit factor which attempts to deal with the economic impact of severance tax on high cost wells, and what it does instead of having a step schedule, in a sense it has a continuous schedule, so that the nearer a well is to very low levels or to its economic limit, the less tax it pays. The further it is from that limit the higher it pays. And in principal, this is a very sound thing. But we have reservations about how this particular bill would work in practice. And it appears to us, that despite the intent of the bill, it could work in the direction, and probably would work in the direction of considerably higher taxes, for example, on various Cook Inlet wells in the low well productivity ranges. So despite its adherence to what we feel is a good principal, the way the bill was drafted, and the way it appears to work on our own calculation, it does not seem to achieve its aim. And I think this is something we can take up in more detail when we come to that, and we certainly would illustrate how this appears to work to us. So despite a good principal, it would appear to not meet that principal, and I would feel that is a problem with that particular bill. Despite a good attempt, it doesn't seem to work.

Now, the other thing of concern to us is that both of these severance tax bills which we have before us retain an escalating sense _____ feature in them. That is, as the percent of wellhead value is lower than a certain cents per barrel, it's the cents per barrel tax which has effect, whichever is higher a percentage of value or a cents per barrel. Now, this tends to work in a direction of putting a very high effective severance tax rate on Cook Inlet wells that are getting the old oil price. That is that price which is being held at low levels by the federal government. They pay a cents per barrel tax because that is higher than the percentage of value, and that cents per barrel tax works out to a very high percentage of the value of production, so this present tax and both of the taxes being proposed as alternatives have this feature. High effective rates of taxation on Cook Inlet wells have old oil prices. Not only that, but since they have escalation features in them, the present legislation and the two bills being proposed have escalating features, this gets worse over time. That is the cents per barrel tax goes up, and this feature of high effective rates of taxation for these wells continues. Incidentally, if you make your calculations, you will find out that the Cook Inlet wells producing and getting old oil prices and low productivity wells will pay a higher effective rate of taxation than will Prudhoe Bay wells, than very productive Prudhoe Bay wells under cents per barrel. And this feature would

get worse with escalation. We think the legislature should seriously consider, if not eliminating this feature, that is if not eliminating the cents per barrel, and you may not because this would result in some loss of tax revenues for the State. If you don't feel you can do that, you might want to consider at least putting a hault to further escalation in the cents per barrel tax, that this feature of the taxation, I don't think is really what was intended in the beginning just doesn't continue to get worse over time.

Now, I would like to conclude by saying a little bit about the total tax package in Alaska because I think you will be hearing a lot about this from many people, and while you obviously are going to be evaluating the merits of different approaches to corporate income taxes, the different approaches to severance taxes, you will also have to be concerned with the impact of the total package of oil and gas taxation in Alaska. Severance tax, corporate income tax, property taxes, and so on, the whole range.

Industry witnesses, I'm sure, are going to talk at some length about this, and it is obviously of special importance. The total tax package and how it effects the oil and gas industry is important along with sensible approaches to each part. You obviously do not want to

destroy the oil and gas industry in your state. Here it seems to us, there ought to be two basic considerations when you're looking at the sum of all taxes in the state. Obviously you don't want the sum of all taxes in the State on oil and gas to be really an extreme burden on profitability or the prospects for profitability on successful ventures here. You don't want to do violence to the economics of ongoing oil and gas producing operations. But this is a difficult thing to measure. What may be a larger tax burden in Alaska, while in one state versus another, really can't be considered simply in the absolute. That is how much cents per barrel in total is being paid, and what really matters, obviously, is how the total sum of all the taxes paid by the industry relate to their profitability. What may be greater total taxes in one state, in a more profitable environment may be less of a burden than lower seller taxes in other states. So it has to be considered against the background of what appears to be profitability, and the second principal, another obvious one, I guess, is that you obviously don't want a total tax system which put together really discourages ongoing exploration in your State and the development of your resources.

Now those are two very, very broad principals, and there really are no easy answers as to exactly how the sum total of the package of taxes in the State can be set against

these two, which we think are very important criteria. It is a difficult assessment really to make, and reasonable men can obviously differ in their assessments as to the effect of a total tax package.

In our role as consultants to the legislature, we will do our best to assist and advise you in what is, we think, a difficult task of assessing oil and gas tax legislation.

CHAIRMAN POLAND - Thank you Mr. Kilgore. I don't really think that we have time for questions right now. We will be going into session right away. The Senate has a very light calendar this morning, and what I had hoped to do was for us to come back at 11:00 AM and continue with any questions that we might have or discussions with Mr. Kilgore. This afternoon we will hear from Professor Zeifman and Professor Ainsworth at 1:30 PM. Senator Huber.

SENATOR HUBER - Yes. I'd like to ask that Mr. Kilgore look into a couple items before he comes back. I think most of us here have heard Dick or Milton at least 10 or 15 times criticize the cents per barrel floor that we have in our severance tax, and of course, what I'm looking for is something to replace it, so that we can listen to this, we know that _____ cause in certain cases some unfairness,

but we need something to replace it in case the percentage of wellhead value is eroded by either federal action or other economic factors to where we have the old "bugaboo" negative wellhead value or something that is approaching that, so we would need something to replace that as a floor if we're going to work on that particular area. I wanted, maybe, Dick to look into that and give us some recommendations in that area because it must appear to him like we completely ignore him when he talks on that subject.

RICHARD KILGORE - We have given some thought to this. What we are talking about is a floor which protects you in case the general price level goes down, but also one which does not impose this particular problem on old oil production in Cook Inlet. We have given some thought to this.

(Chairman Poland Adjourned the meeting at 9:55 AM)

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TESTIMONY OF MR. RICHARD KILGORE
OF WALTER J. LEVY CONSULTANTS CORP.
FOR THE JOINT SENATE AND HOUSE
RESOURCES COMMITTEE MEETING ON
OIL AND GAS TAXATION - MARCH 22, 1977 (AM)

RICHARD KILGORE - I appreciate the opportunity of coming back so fast, and what I'd like to do is fire my remarks, really, to the corporate income tax issue and amplify on the very brief remarks I made yesterday morning, and also comment on what appeared to be some differences with other testimony yesterday. What I propose to do is review again in more detail, really, the pros and cons of the two basic approaches to income tax which are before you. I want to make it clear at the outset, though, that it is not our role here to advocate one approach or another. Basically, we see our role as giving you an appreciation of how we see the pros and cons, and advantages and disadvantages of these two approaches, what they seek to accomplish, how well they seem to accomplish the goals that they are intended for, and leaving it to you to make the final judgement. So I don't want my remarks to be construed as advocacy of either separate accounting or apportionment to modified apportionment approaches, and so on. I think, and I'd also really like to get down to basics on some of this, and I think maybe we lost some of the basics in some of the testimonies yesterday. I think it is important to appreciate at the outset that our concern here, my concern, your concern, is not really with how apportionment or separate accounting work in general in other

states for other industries and so on, what we are concerned with here is not with these approaches as general approaches to income taxation, but what we're talking about is their applicability to the oil and gas industry in Alaska. This is what we're talking about, and I think we have to keep this in mind. Not how well it works for other states, but why other people use it, and so on. If you will remember our original concern with the approach that you now have, the three factor approach that you now have with your income tax system didn't have anything to do with general worth, its general ability, and its general applicability. It had to do with how this thing specifically worked toward the oil and gas industry in Alaska, and this is how this whole question of reviewing your income tax came up, and it appeared to us, and we have testified many times, that the approach didn't seem to work very well for oil and gas operations in Alaska, that is in a portion, a very much smaller amount of income to Alaska than would appear to be earned by the oil and gas industry on producing operations and pipeline operations in Alaska. Now, if the oil and gas industry in Alaska were small scale, and I guess this really wouldn't matter, you probably wouldn't be very much concerned with it, and you probably also could view it as if it doesn't work for the oil industry, it probably works well for other industries, maybe for other industries it apportions more than you might expect, and so on if they wash out. But, as

you all know, the oil and gas industry will be by far the biggest income producing industry in Alaska as far as we all can see, so it obviously is of very considerable importance to you. It is important to you, I think, that you have a tax structure which gets you something like your 9.4% of what appears to be the profits generated by oil and gas operations in the State of Alaska, so we have to keep in mind, we're really talking about these two approaches very specifically in the context of oil and gas in Alaska, not as general approaches. Now, I noted the other day that Professor Zeifman argued against separate accounting at one point, and one of his arguments, I think repeated a number of times, was that a good reason for not adopting separate accounting was that no state has adopted it as a general approach to income taxation. This was an argument against separate accounting. Now, basically, I don't find that a very persuasive argument. First of all, we're not talking about other states, we're talking about Alaska, and we're not talking about general applicability to all industries, we're talking here about oil and gas, and I don't think anybody has suggested that the State of Alaska should adopt separate accounting as a general approach to income taxation in the State, and certainly the two bills before you, Senate Bill 105 on separate accounting, and Senate Bill 202 on net proceeds, both of these are clearly

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intended to apply only to the oil and gas industry in Alaska, so I don't find this a very persuasive argument against separate accounting, and I think we have to keep this in mind. Conversely, just because a number of states use this three factor apportionment formula, I don't think it's a particularly persuasive reason for applying it in Alaska if it isn't appropriate to your oil and gas producing industry.

Now, I'd really like to get down to basics here. Starting off by considering what do we really mean by income in oil and gas operations in Alaska. Is it really so scrambled up by other activities of multi-national, multi-state enterprises that it just can't be unscrambled? Are we really talking about some kind of affliction which can never be put together and that we really just shouldn't bother with it? What is this income in Alaska that we're attempting to identify? Well, let's look first at what the industry does in Alaska. It comes to Alaska, it explores Alaska, hopefully finds oil or gas. It developes those resources, transports them to a point of export in the State, be it Valdez, Cook Inlet, or whatever - at least a bulk of the oil or gas does that, and then it moves into consumption in other states. Now it is true that a lot of this kind of activity and what goes on in this whole process does take place within the integrated scheme of operations of major oil companies. In fact, in many cases the final sale of the oil produced in your state

may not be a sale between third parties until it actually gets to the gasoline pump in California, for example, that may be the first point at which the sale is made, and the rest is within integrated operations. But what does this imply about income earned in Alaska? Is there a concept of income earned in Alaska, if this is the process by which a lot of your oil really moves. Well, I would put it to you that your oil when it leaves the State of Alaska does have a value. It will have a value, and it will have a value that's highly visable. We don't know what the FEA is going to do on the pricing of Prudhoe Bay oil, for example. But it may very well be that they will establish a value at Valdez for example. It may be that they will set a wellhead value. If they set a wellhead value, we can add on a pipeline charge, and we can have a value of oil as it leaves Alaska. So, basically, it's this value of oil leaving Alaska that is identifiable which is really the final revenues from producing oil and gas in this State. These are the revenues which you can identify as being earned by oil and gas producing operations in Alaska. Obviously when you are talking about a net income, you're talking about deducting various kinds of costs. Exploration development costs, pipeline costs, operating costs, amortization of capital costs and the like. The large number of these costs are incurred in the State and can be identified as incurred in the State.

Some of them are obviously some of the costs incurred to produce your oil. To get out of the State are the costs which are incurred elsewhere. Corporate overheads, obviously, a certain amount of corporate overhead time has to do with planning for the oil producing operations in Alaska. Some of the services which are provided to the operations in Alaska come from outside the State, and these are just some of the areas where accounting problems arise, but still these are within reason, identifiable also. So the income we're really talking about identifying in taxing is the value of the oil leaving the State of Alaska and an appropriate allowance for the various costs involved. Now the question for you, with your consideration of income tax, is which of these approaches really identifies income as we seem to see it and say that it is earned by the oil and gas industry by virtue of their operations up here. Which one is going to identify a portion of income which you apply your 9.4% tax. You'll get an appropriate tax on that income. Now, as I discussed yesterday, there are basically two approaches, and those are the approaches which are before you. One is apportionment, and this is where the approach is to look at the total income available, total income earned by a company, and try to work some fraction which gets applied to that total income, gets you income in Alaska. The other

approach is basically separate accounting which goes back to those revenues and cost categories that I discussed just a little while ago, and attempts directly to identify them and come up with income in Alaska, and the question is which of these seems to identify and work best that has come closest to identifying what would appear to be the true income on operations in Alaska, but not only that, taking into account also cost difficulties of tax administration, and that cannot be ignored. An approach which gives you the perfect answer and which is extremely costly or impossible to do in practice, obviously is not the kind of tax that you want.

Now, I'll start with apportionment. You have an apportionment formula in place in your tax laws today. You have Senate Bill 236, which is a modified version of an apportionment formula, but still an apportionment formula nonetheless, and the approach is to start, as I said, with total income of the company before taxes, under your present law, taxable income. This proposal suggests shifting it to book income, but nonetheless starting with the total income earned by an enterprise. The next step in apportionment, whether it be the one you have now or a new one, is to develop a fraction to apply to this total income in a corporation which hopefully when applied, brings back to Alaska an

appropriate amount of income. Now, you do that by taking factors that appear to be indicative of income generating activities, such things as properties, payrolls, sales and the like. These are things which indicate income producing activities are taking place, and what you do is you take ratios of these in the State to the total. Now, the question is does this really work? Does it correctly assign income to Alaska, or maybe _____ when does it work? When would this give you the kind of answer that you would hope to throw up? Well, it would work if roughly the same income is generated per unit of these income identifying factors in Alaska, as in Alaska and outside Alaska. These are the circumstances under which it appears to work. That is, just let's take one factor for a moment. Let's take property, if income is proportional to property in Alaska as it is elsewhere. That says in effect, if rates are returned the same in Alaska as they are elsewhere. If that's the case, and then you take the ratio of property in Alaska to the total, th you will allocate, and apply that to the total income o corporation, you will correctly bring into Alaska the amount of income that's earned there. That's if the ratio of income, in this case the property is the same inside Alaska as it is outside Alaska. And the same would go for the other factors. If you're looking at payrolls, if income to payrolls are the same in Alaska and outside, then this would be the correct factor for

allocating income in Alaska. Now, it's obvious, I guess, to anybody looking at any of these factors, it's unlikely that they will be identical in Alaska and outside Alaska. Rates of return aren't the same. You need fewer people and payrolls under some circumstances to generate income in Alaska and elsewhere, and so on. So that the apportion approach basically says factors are not perfectly going to be the same in Alaska and outside, and therefore work perfectly, so what do we do? We take a number of these factors. Three in this case and we average them, and hope that that will give us an overall fraction which will appropriately apportion income into Alaska when applied against the total income of a corporation operating here. It averages somewhat obviously better than any single one of these factors taken by itself. Now, the question is how well it really works even when you average these factors, and how much better will it work if you move from the factors that you have now, to an extraction factor. Professor Zeifman was asked in testimony yesterday, how well his approach would work in Prudhoe Bay and Alyeska. Now, his answer was that his approach would be more effective because it takes into account the whole picture. All the profitability of the corporation was the answer. In a more general vein he also said that in reviewing the disadvantages of separate accounting, in my review of the

disadvantages of separate accounting, I didn't mention the most important disadvantage of separate accounting, that is again that it didn't look at the whole pie, it didn't look at the total income of the corporation. So he was saying first of all that his approach woul. seem to work better for Prudhoe Bay and Alyeska because it looks at the total income of the corporation. And he also said this is one of the disadvantages to separate accounting. Now, it seems to us that looking at the whole pie, that is the whole income of the corporation, all of the income it generates everywhere, it in itself has no value, unless the apportionment you come up with that you apply to this whole pie, the fraction that you apply to it, really works to get the appropriate amount of income in Alaska. What we're saying is that simply looking at the whole pie, looking at the total _____ of the corporation in and of itself is no virtue. Its only virtue only works if the apportionment formula of the fraction you apply to it is appropriate and brings it in, and I think that's very important to appreciate, simply looking to the whole income of the corporation doesn't say that this is an appropriate appraoch of getting a lot of income as it were.

Now, you remember our analysis all along, with the present system you have looked at these factors and tried to come up with how appropriate they really were. We pointed out

that if you looked at the payroll factor, it was relatively _____. You have relatively few people on payrolls in the kind of functions that you will have in Alaska in the oil and gas industry. Very few payrolls for production for pipeline and so forth relative to the income generating, so we were critical of this particular fact. In sales, it's been pointed out are often zero in Alaska. Sales are made outside Alaska. Property, that to us appeared to be a better factor. That is, you have very heavy investment here in Alaska to generate the kind of income that you are going to generate, but our analysis said that property being a better factor couldn't make up for these other ones. Now, Senate Bill 236, this new approach, substitutes extraction for sale, and this is clearly an improvement. Oil production is a good measure of generation of income, and therefore it is a better factor. But the question remains, does even this modified apportionment formula do the job? Not just get more revenues, which it clearly will, and the other part of the approach is moving to book net income also will get more revenue, and it's not simply a question of does it get more revenue, does it really get the income apportioned to Alaska that is appropriate? This still remains the question. And this is what I said yesterday, the biggest drawback to the whole apportionment approach and even a modified apportionment approach as proposed

here, is that it is unclear how close you will come to true profitability through this approach. It's a very elusive and very uncertain thing, and it appears to us there's by no means a guarantee that this will happen, and this we see as the most serious drawback to this approach, and there are really two aspects to the question of whether appropriate income is apportioned to Alaska under this approach. One has to do with how much in total is apportioned to the State of Alaska. If you take each of the individual companies, apply this approach, apportion income to Alaska, sum it up, how close does that come to the overall profitability of the industry operating in Alaska, the profitability as I laid it out before. And the second question is, how does it work for individual companies. That is, we apportion use this approach for each individual company operating here. How close does the apportionment formula come to apportioning appropriate income to Alaska for individual companies. Does it work well for some companies, not well for other companies, and so on? If this is the case, that works unevenly amongst the companies, then you have a question of equity of taxation. So these are the two aspects that are important, and this is an uncertain thing and difficult to really try to come to grips with. How well would this thing do the job? Now, I stated yesterday that our office had done some illustrative analysis to try to get some handle on this question. We had been somewhat reluctant to put this

formally on the recrod and discuss with you a little bit about the results, what I saw as the major results that came out of this thing yesterday, but we were somewhat reluctant to lay out because there are a lot of caveats involved in what we did, and when you put this thing into the public record, it's often used without regard to the caveats which are very important, and we hate to see those get lost. I have been asked if we would put this formally into the record, and I'm going to do so now, and I would then like to discuss it with you including all the caveats and get those on the records. I would like to distribute this to you at this time and discuss it. I would like to spend some time on this. I hate to burden you too much, as I say, I want to make it clear in your own minds exactly what we have here and what we don't have. Now what we have done, we have labeled very carefully a hypothetical illustration. Because it is a hypothetical illustration, I would underscore that. It is a hypothetical illustration of this modified apportionment formula applied to book income which is the feature of this new legislation, and we've done it for three major Prudhoe Bay producers. Now, I would call your attention to the note first of all because this is important. The note says the calculations shown on the table above are not intended to represent projections of income that actually would be of portion to Alaska in 1978 for the three companies

if this new approach were taken. It is not that. Rather their calculations are meant to provide a rough illustration of how this approach might work for three Prudhoe Bay producers that vary in size and scope of overall operations, and even though these are identified as SOHIO, ARCO, and EXXON, and we use some of their data, it really is not meant so much that it is these companies, it is companies of these characteristics, and these are quite diverse companies as you know. EXXON is a huge international company. SOHIO has been basically limited to domestic activities with very little production so far, and ARCO being somewhere in between, so they are not meant to be really the companies. We have used their data just to illustrate what will happen with companies of different size. Now, what we've done in this illustration is on the first line to take from the 1975 annual reports of these companies, these are the latest available to us, the pre-tax net book income of these companies outside Alaska. We've just taken a pre-tax net book income, and since basically in these companies virtually everything is outside Alaska in those years anyway, we take this as the income outside Alaska, and this is data for 1975, and all we've then attempted to do is to graph on to this sort of a Prudhoe Bay operation. Now, we cast around for data to use for Prudhoe Bay, we considered making our own estimates, but we finally settled for some data that had been submitted by SOHIO to the legislature at the request of the legislature, and we reluctantly

used this. It was readily available, reluctant because when SOHIO put this information into the record, they did it with a lot of reservations, and we have the same reservations about it, and anybody looking at these numbers, I think, certainly should take it in the context of all the reservations that SOHIO had about their own data, and we apologize to SOHIO in a way for using it without a complete list of all their reservations.

SENATOR CROFT - Could I ask just one question in that regard? That was the information that was furnished by SOHIO, at the request of the committee was furnished to you?

RICHARD KILGORE - This is SOHIO submission 1.

SENATOR CROFT - To Greg Erickson, analyzing the corporate tax? So it was for that purpose.

RICHARD KILGORE - Yes. It was for that purpose, and they labeled it as hypothetical and so on, which it is, and I want you to understand that that's all that it is, and we appreciate their reservations about it, but we had to have something to give us an idea, something that we could graph upon to present data, and we simply and arbitrarily gave 50% of that to SOHIO and 25% each to the other two companies,

simply because that seems to be roughly their equities in this thing, and if we add that, we end up with a figure for total pre-tax income. This is obviously hypothetical, it has '75 data, it has what someone hypothetically says might go on in Prudhoe Bay in '75 _____purposes. Then, we attempted to apply the approach of Professor Zeifman to this. Looking at property factors where the numerator were the property factors used in the SOHIO thing. The denominator was property as we found it in the annual reports of the companies. Payroll, we just took an arbitrary 2%. It's arbitrary that makes relatively little difference to the analysis. The extraction factor, we took net production as assumed in the SOHIO hypothetical illustration. We took as a denominator, net production as it appeared in the annual reports of the companies without worrying about whether net production was quite what was meant in this bill, and we averaged the factors for the companies. We then applied it to pre-tax book income which included other activities of companies and this hypothetical illustration for Prudhoe Bay. Divide the average of the three, which is the way this approach would work, and that gave us the income that would be apportioned to Alaska under these circumstances, and that's the second to the last line down there, and then what we did on the final line was

to take this income apportion to Alaska out of the theoretical model, but applying this new approach to this hypothetical model, and looked at what percent that was of the income assumed to have been earned on Prudhoe Bay and Alyeska operations above.

I think that the mos striking thing that came out of this was the difference in the way the approach worked for the three, companies. Again, three companies of these different characters. In the case of the EXXON type company, the approach came very close to apportioning what is assumed in the beginning was the income there. 650 up on the top. 625 apportion. So it worked very effectively for the EXXON type company in this particular situation. It worked much less effectively in the case of an ARCO type company with these sort of data. It added up to less than half, the income apportion to Alaska, than it was assumed to be earned there in the first place. And of course, in this simple model, EXXON and ARCO are earning the same money in Alaska, but the amount of income apportioned to Alaska under this mechanism are quite strikingly different. In fact in the ARCO type case it's about half. The SOHIO type company comes somewhere in between, and in total the approach allocates about two thirds of the total income from three companies in Alaska. I certainly wouldn't put too much stock in the two thirds, but I think the more striking thing is the differences that

get thrown up amongst the three companies here. Now, these are very _____ calculations, and things could very well change. I might point one thing out to you. What is striking in the case of the EXXON type corporation is that, as I say, it appears to be very effective in this case. And the question is, why? If you go to an addendum on the third page, it basically explains why this works in this particular instance for this type of a company. If you will recall, I said a while ago that if ratios of income to the various kinds of factors you use are the same within and without Alaska, then the approach works in general quite well. To take that a step further, the ratios of income to the various factors such as property or extraction are higher outside Alaska than they are inside Alaska, then the apportionment formula tends to favor Alaska. That is, it brings in more income than it should. If the ratio is higher in Alaska than outside, then these kinds of ratios work to the disadvantage of Alaska. Let me put it this way, if we look at a property factor for example, and within the State of Alaska, one earns whatever 20% on property (on assets) that's the rate of return. If it's 10% on operations outside Alaska, a lower rate of return, and you simply take the total income of the corporation then use the ratios of property to allocate to Alaska, you will not get the income to the State of Alaska that you should.

If the rates of return are higher in Alaska than they are elsewhere, then if you simply had a one factor apportionment formula, simply property, and that says that, say, 15% of the property is in Alaska, and you apply that to the total income, but the problem is that that 15%, what is it going to bring in? It's going to bring in average profitability to Alaska. An average of everything, and if Alaska is higher you're not going to bring in as much income as you should in effect. That is because what you're bringing in is average profitability if you do that. If you simply go with the ratios of property bringing in average profitability into Alaska, when in fact it's higher. And the other way around. If profitability is higher outside Alaska, higher say relative to property, and again you only have a one factor formula, and then you use the proportion of property, you bring in average profitability into Alaska, and in fact it's higher outside, so that you apportion more than you properly should. Now what this is getting to is why does this particular formula for these set of circumstances seem to work for an EXXON type corporation? Well, the answer is basically shown on the addendum. These, what we've done, if you'll look at the top panel, we've got the ratio of income pre-tax net book income to property in this model outside Alaska inside Alaska. Now, if you'll look at EXXON, it has a very much higher ratio of income to property outside Alaska than inside Alaska, Pre-tax income.

And, therefore, application of this formula for the EXXON type corporation is beneficial in the State of Alaska. It pulls in more income than it otherwise would. This very high ratio of 42.4 here, has the effect of favoring Alaska, and that's basically why you get the results that you have here. That's why it works better for the EXXON type than it does for other models that we have. Now, I want to tie back to something that I said the other day. If you look at the question of why does pre-tax net book income to property look so high for EXXON. Is it because it has really such profitable operations outside the United States? This would suggest then that on a pre-tax basis they make 42% return on their property. The answer is that this number, this ratio, is inflated by all those foreign income tax payments that I talked about the other day. EXXON works big international operations. In the year 1975 it payed tremendous amounts of income tax to foreign governments, and that inflated its pre-tax net book income. After tax it would look quite different, but we're talking pre-tax here. This is the way this thing works. So, that has inflated this figure, you get a very high figure. It happens to work to the advantage of the State of Alaska under this model. Now, as I said the other day, this is a particular aspect of this thing, pre-tax net book income including foreign income taxes that may not be the case in the future. These may very well dwindle. Income tax payments

probably will be replaced by purchases of oil, so that this high factor that's built in here with our particular model that happens to throw up a reasonable amount of income for income corporations, may not in the future, may not be this way in the future, but the fact that this EXXON type corporation, international corporation in this particular illustration ends up with an apportionment formula working correctly may not hold in the future. It's uncertain for a lot of reasons, including this particular income tax feature. If we went through this illustration five years from now, the results might be quite different here. In total, and I think amongst companies, I think really there is no way of knowing. Now, again, this is merely illustrative, nothing more. We've taken these three companies because they're quite different companies, they're quite different companies of the type that will be operating in Alaska. Their own income will be quite different obviously, but if you just grafted on the Prudhoe Bay Alyeska thing to this on some rough assumptions as profitability and investments and so on, this is the way it would appear to work, and all I submit is that it does raise questions about this approach and about its ability really to identify income. Clearly, the apportionment by picking another factor that takes up a higher amount of income, but that in the process of merely increasing the income, it creates some inequity, and if what you want to do is simply

increase the take, you ought to increase the rate instead of tinkering with one of the factors to simply produce additional income.

RICHARD KILGORE - Of course, if you increase the rate, you have to increase the rate for other corporations.

SENATOR CROFT - Sure, then what you're saying is that Alaska operations themselves are not paying enough once you've isolated it. Then your solution to that problem is to increase the rate if you think you have to have more, rather than trying to increase one of the factors that go into determining what portion of the income is allocated to the State.

RICHARD KILGORE - Well, this might be one approach. If you're not willing to change the factors, you would be left with changing the tax base which has also been suggested, or you would be left with changing the rate.

SENATOR HUBER - I wish that Dick would discuss the pre-tax net book income on extraction because I want to ask him a question about the sales factor that it replaces. It looks to me like the sales factor that it replaces would be on the same side of the book as how he explained the income

from property up above to where Alaska would get more than its share, because we have less than a reasonable share of the world-wide sales.

RICHARD KILGORE - Well, accept that to the extent that sales are really zero. This may drop out of your thing all together.

SENATOR HUBER - You mean that doesn't work out because we have a multiplying factor, or a dividing factor of zero? I don't like these mathematics that don't work both ways.

REPRESENTATIVE MEEKINS - I'm just trying to figure out how this works. Is it, I might have it backwards, is it the ratio of whatever the factor is to income to the factor if it's higher than outside then.....

RICHARD KILGORE - Then it's to your disadvantage because you're bringing it in at the average.

SENATOR CROFT - In that regard, our best guess as far as Prudhoe Bay is concerned is that with regard to about 75% of the operations at Prudhoe Bay is going to work to our disadvantage. We're talking about 50% SOHIO, and 25% ARCO.

RICHARD KILGORE - Or in total, but as I said, I would not put any precision on these at all. In this particular model, what happens in total, you throw up about two thirds when

the companies combine.

If you'll just look at the illustration itself, you will see that total income apportioned to Alaska, the sum of the three companies is seventeen sixty. When in fact by definition they are earning 2.6, it's about two thirds, but I would not take that as indicative of how much this approach will really do. I think that the more important thing here is how it seems to work for the different companies, and also in a sense says, at least suggests, that for this particular model it also doesn't throw up all of the income as well in total.

REPRESENTATIVE MEEKINS - But you could get a rough estimation of how that's going to work by seeking out different companies and going with their finding what their ratios are in terms of the profitability of their Alaskan activity versus their average, and you could see whether or not you are losing or gaining the respect of that individual company, couldn't you in that respect if you knew clearly that the profits rates in Alaska were much greater than for those factors than their average world-wide, then you wouldn't know exactly how much, but you would know that we're not getting what's appropriate, and we're taking the average instead of the higher rate.

RICHARD KILGORE - It is possible to gather enough information to look around and see how it would work with various companies, but that's not really what I suggest that you do. This is, as I said, intended purely as an illustrative to demonstrate how it works under these particular set of circumstances assumed here, and again I would look very carefully at the notes to this and also to the note which sets out some caveats about this.

Now, this illustrates, I think, some of the potential problems and I think, at least I hope, focuses on the workings of this thing, so you can think about the workings of this approach. This was described, I think, in testimony yesterday, as fictional and I guess it is illustrative based on some real data, but it certainly is not intended to be a projection of what will happen or anything of that sort. It was described as fictional as opposed to some actual data that were used, tax return data that were used to develop this approach, and I would like to make at least a couple comments on some of the inferences that were drawn from those tax return data. For one thing, they were used to illustrate net book income if you'll remember exceeded taxable income for the companies and it certainly demonstrated that, and no one was surprised at that result. Now, the second thing though, is that what turned up in those tax return data is that for

companies for which you had both apportioned income and separate accounting if you'll remember, the former, that is the apportionment is always higher, it was positive, described as always positive, and the latter, separate accounting always zero or negative, and this was taken as evidence that separate accounting doesn't work. Now, I'd like to address myself to that problem. The question is why did you get this result. Why did apportionment give you positive, and in this case which is oil companies operating in the State, 14 of them I believe back in '73, '74, and '75 that you got this kind of result. It was said that Mr. Lipton was wrong when he guessed that perhaps the reason was that you had zero sales and therefore when you went to separate accounting you had zero sales and you started subtracting and so on, but it wasn't indicated what it is that really gives you this kind of result, and I think that it would be of considerable interest to you to find out why you got this kind of result. The explanation really was not given, and when I say it was said that zero sales were not the reason, zero sales in the sense that producers that were producing and selling would declare their sales at zero. That was a hypothesis that we had, apparently that's not it. I can only speculate, I would guess that in the years covered what happened was that there were companies operating in Alaska and spending

money on payrolls, they have some office space, property, exploration, money, geophysical work maybe, bonuses, I think that bonuses were paid and the like, and there must have been such companies that had little or no revenue that were not gaining revenue out of production in Prudhoe Bay, and for these companies they would in fact be running losses. That is they would have no income. Not a question of your producing, but selling outside the State, simply that they don't have any income. Now, if they don't have any income, no revenues incurring these various expenses, they would run losses and separate accounting would certainly show them with losses, but I don't think if this is the explanation, and if it's not I think we'd like to know. If this is the explanation, I think one doesn't go from that to assume that separate accounting always ends up with no income or negative income, clearly if you apply accounting to the producers on Prudhoe Bay, they will not throw up no income. I would also point out the results which said separate accounting negative apportionment positive, why does that happen? Well that happens probably because these companies had payrolls in Alaska. People were here, and they were getting interested in the search here, and so forth, so you threw up some positive income by apportionment. You had some payroll, you had some property and so on. And you throw up positive income, but I think you have to ask the question of whether

this is really what you intend to do if we have companies operating in Alaska at losses because they haven't found any oil, haven't generated any income, do you really want to apportion income to them in Alaska and tax them on it? Should they pay income taxes when in fact they have no income in Alaska?

CHAIRMAN POLAND - Mr. Kilgore, I'm afraid we're going to have to break now. Our schedule this afternoon is 1:30 PM at the Supreme Court Room again, and we only have one individual scheduled to speak this afternoon, and that's the gentleman from British Petroleum, so possibly when he's through, we can resume the rest of this discussion with you. Thank you very much.

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AGO 547627

QUESTIONS AND ANSWERS IN TESTIMONY OF TOM WILLIAMS
DIRECTOR OF PETROLEUM AND REVENUE FOR THE JOINT SENATE-HOUSE
RESOURCES COMMITTEE MEETING ON OIL AND GAS TAXATION (24 MARCH 1977)

(Answer to question asked by George Silides in Commissioner Gallagher's testimony)

Tom Williams Madame Chairman with your permission I would like to try to address that question and also try to speak a little bit to what Senator Radar was talking about earlier. For the record my name is Tom Williams I'm the Director of Petroleum and Revenue. We have two changes in the severence tax that we are suggesting. One is the economic limit factor and the other is the increase in cents per barrel floor. Right now we have a federal pricing decision to give oil , to Prudhoe Bay oil new oil treatment for both pricing purposes and for entitlements purposes. Entitlement is a transfer of money back and forth among the refiners to equalize their apposition costs to the national average, that is the objective of the entitlement, and new oil in the lower forty eight comes in the refinery less than imported oil consequently there is a fraction of an entitlement that didn't flaw, for the right to run as new oil. Our oil when it gets there, will not be below the cost for import oil it will be right at the cost for import oil. In fact the national policy has been for new oil like high risk North Slope production we got right from our Prudhoe Bay field. National policy is to give that, right now a $10.95 average price, cause of the realities of market, we tried, if we insisted

or if the producers who own that insisted on getting a market price at the refinery that corresponded to a $10.95 well-head price, someone is going to have to pay the transportation cost, and if you have say a total $5.00 transportation cost you would be getting into the market place at $15.95 the Saudi oil which is competitive with ours is selling for $13.50 to $13.75 so somebody would have to, I mean where's the incentive to buy, you'd have to compell people to buy our oil to get $10.95 price or there would have to be a subsidy. This has not been a thing that we have been requesting the federal government to do. We recognize the fact that this is how the market is, we are far away from it in terms of cost. Consequently the well-head value is not that it's realized by a refinery price that's competitive with the Saudi Arabian oil. Our well-head value is going to be lower than the ceiling. The problem is that they are going to, if they treated this new oil, they are going to try to equalize something that is already equalized and it is going to result in a penalty over $3.00 a barrel, this equalization. They will equalize all the rest of new oil for the lower forty eight, it won't hurt them too much, it will cause some problems though, because it will over equalize new oil producers in the lower forty eight. But for us it doesn't, it's completely inappropriate because our oil is already coming in at the level corresponding to imports. There is no need to equalize. Consequently if you make them buy at a fractional entitlement at a cost of $3.00 or $3.35 that means the refiner is going to pay that much less instead of paying $13.50 he will pay $10.50, and that means a Prudhoe Bay producer or the State of Alaska if it takes its royalty in kind and goes out and tries to sell it, when he gets it to the west coast is gonna see only $10.50 coming to him. $3.00 goes into the entitlement,

we never see that. So you start from $10.50 down there in California and then you have that when you get to a $4.00 welling price. Our contention is that if that happens the game is over. There will be no more exploration. There are no more Prudhoe Bays. It is highly unlikely, there is only one Prudhoe Bay in the United States and there may be a second one down in Mexico, in the Tabascoarea in the farmers fields, but a, there pretty darn few and far between to find a field that large and at $4.00 well-head value. If that's the prospect, four dollar well-head with

today's cost, even if you found it out of Prudhoe Bay the chances are nill that it would be developed. And so the game is over because we are not likely to find fields twice and three times the size of Prudhoe Bay. So given that the game would be over, we are not doing any more damage by saying that well, instead of $6.00, $7.10 is the flcor and the post which is our present floor with the cents per barrel, we are simply saying, Why should the people of Alaska follow the resource? At the game, it then becomes a question of priorities and where our allegiance lies, with the people of Alaska or the share holders in the larger corporations? Now there is a balance, but given that &7.50 is not a reasonable well head price for North Slope oil in the beginning of a cut, and as production continues and through what builds up, if it, the federal began, assuming the federal government doesn't screw things up and destroy the insantitudes, the increase thuroughfare will lower the pipeline tariff. This will allow the well head value to rise. OPEC countries can be expected to raise their price, that includes Arabia. So if the refinery price for our oil, our refineries will raise the charge for getting our oil from Prudhoe Bay to the refineries will be less. These two things will conbine to raise our well head value and by the early 1980's we won't get by talking about the well head value of $7.50, we will be taldingabout well head values greater than $10.00. In fact extrapulating out by the end of this century, we will be seeing well head values of well, your world market values it sounds obsurd today, but $20.00 well values are certainly not inconceivable at that time, and thats $20.00 in terms of today's dolars, you know, not inflation dolars of the year 2000, that twenty of today's dolars,

thats simply because we have increasing demand, our Latin American neighbors for instance, their energy consumption is growing at a rate ten times ours, their population keeps growing, and world energy demands are far outstripping our own nation's demand and as vast as the OPEC resources are, this is a world wide shortage developing in the next 10-15 years. This shortage is going to cause, ask developers, its going to cause the price to rise in real terms that is to say in addition to the effects of inflation, we will have an additional increase in the real rather than the illusion. Consequently when we turn back, to the point, if the federal government gives us new oil in Tilener's treatment, the question then becomes whether we are willing to sit by and say OK we will take 8% or 10% off for dolars and there it is, its not good, but thats all there is to it. Even though we are paying right now, importing almost 10 mission barrels a day to each, though I don't know what the latest figures are and we are paying our good, loyal allies, Arabs, Iranians, Abu Dhabians, and all those nice people and Indonesians, Nigerians and Algerians, 14-15 somewhere in that range, 14-15 dolars is the average per import acquisition cost.

QUESTION- Tom, I understand what you are saying, I really do, but how, I must have missed somthing, how does that help Cook Inlet today?

- OK, with Cook Inlet, we, Sterling and I have gone to the Federal Energy Administration last summer and in fact, the hearings that they had earlier, in April or May, it was in Anchorage regarding the price of new oil and how to compound the upper and lower tears should move through time, and also about this problem

of oil production that reaches its break-even point with the control oil price. Right now, I mean the federal government is not reluctant to price our oil severly below what its actually worth, in the inlet that oil is beginning from $5.00 to $5.15, and for oil of similar quality we are paying, almost, we are probably paying over $15.00 a barrel to get it from Indonesia to the west coast or Pudget Sound. So we don't see a very friendly attitude on the behalf of the federal government toward Alaska production to begin with. We went there and pointed out that there are some properties in the oil that were at that time dangerously close to reaching this break-even point at $5.00 a barrel, we said we know you have shis procedure to allow pricing on this basis, to allow the price to go up, so that they continue to have more revenue than expenditures. Then they, thats indeed true, then they said that of course we are not going to give it to the State of Alaska because thats fixed cost, you are going to be stuck there at $5.00. Well that presents an interesting question about how they rewrite our lease, but they said that they would allow that much pressing relief and return the property to the level of profitability enjoyed in May of 1973 when price controls, that's the reference period they all relate back to, May of '73. But he said, we'll allow to have that same measure of profitability, which to my thinking would include among as profit, you have what's over for tax. So if you raised the severence tax, that's an increase cost, but an oil company can go into the FEA and present the case saying, here are my thoughts, now give me my May 1973 rate of return,

and in fact that should accelerate the movement to a more realistic price to the upper tear which is not still the market price, but at least its, $10.95 is a good site better than $5.00. And consequently, if the Federal Energy Administration is doing what they say they are going to do and if they can do it in a timely fashion, there should be no problem for the oil companies because this is simply an expence, severence taxes are recognised as such.

- that had not been explained before, thank you.

QUESTIONS AND ANSWERS IN TESTIMONY
OF COMMISSIONER GALLAGHER, DEPARTMENT
OF REVENUE FOR THE JOINT SENATE-HOUSE
RESOURCES COMMITTEE MEETING ON OIL AND
GAS TAXATION (24 MARCH 1977)

Senator Radar - Madame Chairman, Commissioner, your testimony on the pricing problems, state's position, governor's position, that we do need a maximum well-head or a maximum price to encourage further exploration and development. Aren't your bills which are calculated to persist for barrel and so and so forth as you say to protect the state against federal pricing manipulation or corporate manipulation, let's say take the federal pricing manipulation. Aren't you saying then that under one set of circumstances if the pricing goes bad which means that the companies have no incentive to develop further that we are going to add further burden to that disincentive by a cents per barrel floor so to speak so as to protect the state's revenues?

COmmissioner Gallagher - If the federal government is so foolish as to lower the well-head value down to $4.30, I don't think the state should be any part, have any part of that policy.

Senator Radar - Well but then our policy makes it even more burdensome from the point of view of the further exploration or development of petroleum in the state because we revert to a cents per barrel floor so that the, the very policy that you are adopting here to protect our budget, and I understand why you are doing it, it is because you want to protect our budget, but it, if the course is completely inconsistent with

any state policy which would be to encourage for the petroleum development. If that happened.

Commissioner Gallagher - I don't agree with that Senator. One of the things that we've done to encourage petroleum development and one of the things we talked about in our testimony was about the marginal fields. Prudhoe Bay will be produced at $4.30.

Senator Radar - Well it would be produced at $2.00 maybe because it would minimize their losses, but if your talking about the excuse me, go ahead.

Commissioner Gallagher - But Kuparik and Lisburne will not be produced unless they receive substantial return because its an incremental decision. One of the things that we tried to address in our tax policy where these marginal fields they are one and two billion barrel marginal fields. The tax rate under our tax proposals, we would actually lower the taxes on those fields, in fact encourage further production in the state.

Senator Radar - Do you disagree with the a analysis that was presented by a, Mr. Ronaldson SOHIO here as to where are our tax, our total tax burden relates as against Louisiania, California, and Texas?

Commissioner Gallagher - Yes I do, in looking at some of those numbers, I and we haven't run all the numbers ourselves but it seems to me that they've mixed a few apples and oranges and got fruit salad and I can see alot of the numbers they say they are in constant dollars but the only way I can get to some of those

numbers is using current dollar basis.

Senator Radar - Well you agree though that such an analysis is rather important to us don't you?

Commissioner Gallagher - I would, I would, I agree that that analysis is important. We attempted to do that in this tax study but due to only getting two man years into the study, we didn't have time and it takes substantial amount of time to do that sort of study.

Senator Radar - But if that is an important decision, then the fact that we haven't completed that study, if you do take the issue with the a SOHIO approach and perhaps you are correct, I am not saying that you are not but, but you agree that that is important information in this decision making process. A and we disagree with it but we don't have one of our own. Wouldn't that argue that fact alone would argue in waiting until we have that information before we made that decision, wouldn't it?

Commissioner Gallagher - We could provide you with that information so next year, I think it is a real danger to sit around and wait while, let the federal government do things to us.

Senator Radar - Alright then, let me ask you this then. For purposes of balancing our budget this year, we could do that with your ad valorem tax, could we not?

Commissioner Gallagher - I believe, well lets put it this way.

Senator Radar - Go ahead, I was going to say we balanced it the last several years that way, and we could do it this year too, couldn't we?

Commissioner Gallagher - You mean the reserves tax?

Senator Radar - Reserves tax yes.

Commissioner Gallagher - I assume we could, I don't favor extending the reserves tax off into the future though. To me it's a bad policy, its a poor tax and I would like to see it die a natural death.

Senator Radar - But from the point of view of balancing your budget this year you could do it that way, as we have in the last couple of years.

Commissioner Gallagher - Well you could also by raising the cents per barrel to a free market value and also do the same thing.

Senator Radar - Yes, but here's our problem. Neither the state nor the industry knows what incentives or disincentives may occur because of the federal pricing, and yet you are suggesting that we make tax decisions in which we all agree that that federal pricing is very very important if we are at all concerned about the future attractiveness of Alaska as a investment for petroleum industry.

Commissioner Gallagher - Well, one of the things that we have tried to address in our, is our testimony has been directed in all these

hearings toward getting the maximum production out of Alaska. Our tax policy is also directed in that and it addresses these marginal fields.

Senator Radar - Well but, but if the federal government were so foolish as to pursue this policy that you said that we should not have participated in then your floors make it even more difficult as far as the petroleum industry is concerned or as far as the producing marginal wells in Alaska is concerned, isn't it?

Commissioner Gallagher - Well, if they were that foolish, I don't see why we should be a part of that foolish action.

Senator Radar - It seems to me like we are adding on to it and not detracting from their fool hardiness, if they are foolish.

Commissioner Gallagher - If you know, if they did do this there wouldn't be an incentive to developing another Prudhoe Bay, so you know.

Senator Radar - Well but we are adding to whatever, we are adding to the difficulties in the production of whatever fuel might be found by adopting the floors that you are talking about here. Are we not?

Commissioner Gallagher - Not necessarily you may find one down in the Cook Inlet with the free market value should be substantially

above that.

Senator Radar - No.

Commissioner Gallagher - Also the economic limit factor comes into play on these large fields.

Senator Radar - Let me ask you if we're talking about an industry who doesn't know the value that they are going to get from their product and isn't going to know until next year, then how do we develop a stable tax policy at this time, that is dependent upon that? It seems to me as though, and I don't have any answer except that you can balance your budget with the other method. And I also recognize the difficulties of the audits in the future, on that. But at least when we come back here a year from now, when we start talking about the profitability or the non-profitability or the incentives or disincentives, won't we be talking about something that we can relate to the real world at that time, that we can't relate to the real world now?

Commissioner Gallagher - I think our policies to the real world, that's what we are trying to address in fact, if the real world says you should price the energy supply at the alternative market, the alternative market may be $20.00 a barrel, the alternate energy supplies. The OPEC countries are actually being very nice to teh United States and not taken up the alternate energy supply cost. If you want to go to the real world we should maybe put our policies up at $20.00 a barrel.

Senator Radar - But we can't do that as a state.

Commissioner Gallagher - You could set a cents per barrel that was based on $20.00 which is the alternate energy cost. That's the real world.

Senator Radar - Well but that option isn't available to us, to tax at that rate, is it?

Commissioner Gallagher - Under a cents per barrel floor, of course it is. Also, Senator, the FEA may open the pricing decision every ninety days after 1/1/78 or there after. I really doubt that they are going to make a decision on April 15th. I think you will not see a decision until somewhere around June 1. I really expect them to wait and see what the tariffs are, the initial tariffs are before they make some sort of decision.

Senator Radar - That's all. Thank you Madame Chairman.

Senator Colletta - Commissioner do you have one of these in front of you?

Commissioner Gallagher - Yes, I do.

Senator Colletta - O.K., On page 2 and you know just for the purposes of conversation and let's assume that you develop your tax package with the governors' standards, as to what they should include, now I think my question could be simply answered in two steps. First if you do agree that the industry says that they have between fourteen

and 16% worth of return on this project.

Commissioner Gallagher - I don't agree with that, but other than that.

Senator Colletta - O.K. with the assumption then the new tax proposals increase the tax by what percent?

Commissioner Gallagher - About 18% over all five bills.

Senator Colletta - What will their profitability be now that's different between that 14 and 16 percent?

Commissioner Gallagher - I reject number one the 14 to 16 percent that has the risk, under the Mortaida Study they multiplied all the assets by 4 to get the risk factor that may be appropriate to do an exploration work but it may not be important in doing other sort of work, you know the development work. If you want to use the Tanziers 33% or 35%, I don't think that is going to make 1 or 2 percent difference.

Senator Colletta - Commissioner I think I am going to try it another way. But anyway, the governor said it must generate sufficient revenues not only to compensate the state for additional service costs, attending such development but also to provide a reasonable additional dividend to Alaska. Now I would suspect you have computed that dividend in there. Can you tell me what the dividend is?

Commissioner Gallagher - The dividend to Alaskans? Well let me take you through the Prudhoe Bay numbers and maybe, you know I can work it right off the top of my head. We can talk about the dividends to various people. If you had a million two barrels a day there is four hundred and thirty eight million barrels of oil produced each year, three hundred and sixty five times one two, have you got your slide rule with me, times four hundred and thirty eight million times seven dollars and fifty cents per barrel is right on about three billion two. Is that correct, somewhere in there, less one eighth which is our royalty share. So that brings it down to four hundred million, three point two gets down to two billion eight, and let's subtract off the operating costs for the field, about three hundred and fifty million, four hundred million, let's say four hundred million we'll up it fifty million over the estimates, and that makes it down to two four. And let's say the State of Alaska through it's severence taxes takes another four hundred million, that brings it down to two billion and lets say our income taxes in effect takes us down a hundred and eighty, another hundred and eighty million, that leaves a billion eight left to share between the federal government and the oil industry. And so you have, before tax, you have a billion eight on a three billion dollar investment. Lets say they have three billion dollars investment. That's a nice return for oil industry too. One point eight billion dollars pre-tax on three billion dollars is a nice rate of return. Now they might claim that they pay forty eight percent taxes, I, you can look at SOHIO'S last report that was shown in their annual report and they showed they had effective tax rate of under ten percent. One of the things that they

happen to have is about three billion dollars of carry forwards of investment credits that will cancel off, pretty well wipe out at least fifty percent of their tax liability for the next five years. And they all have substantial investment credits so they should have developed substantial investment credits to be carried forward for the next several years, so whatever the effective federal tax rate is, you know, let's say they do pay three hundred million dollars income tax they still get in a billion and a half return on a three billion dollar investment, that's a fifty percent return per year. That's, I would take that, any day.

Senator Colletta - O.K. now, you know, we lost the Chinese and now your gettin to me, I'm understanding the last part of what you said and that's the part that a you know, I still want to come back to, a all of these companies collectively it seems and most of these reports we read, range within a two to teen percent, at least all I've seen, with the exception of one that happened last year, that say that this thing will return to those investers somewhere between this fourteen and sixteen and are you working under the assumption that they have thirty-five to fifty?

Commissioner Gallagher - Well I just, I don't want to go in and talk Chinese because there's a large difference between a, between income you report to your shareholders and discounted in cash flow, because one of the cash flows is, you know discounted

at some high rate of return to lower the number and it isn't fair. But I just demonstrated for accounting purposes it would show a fifty percent at least a fifty percent return. Now a discount in cash flow would be substantially below that because those values are, are reduced through time, for the investment. The major difference between Mortiada's investment and the investment Tanzier, like I pointed out was that one uses a risk multiplier factor that multiplies the assests by four times instead of three billion dollars investemmt they had, they used a regular return on twelve billion dollars investment and that's how you got a sixteen percent rate on a twelve billion dollar investment and you know, my numbers there kind of match out.

Senator Colletta - O.K. Commissioner I've got one other area that a I need clarified and that's item five the governor's policy statement that it must reduce uncertainity and encourage stable expectations about future resource tax and management policies. If infact these taxes did pass, would these be the last ones, would we be creating a stable future resource?

(GAP)

Commissioner Gallagher - a premarket price. Let's say Cook Inlet was priced at a premarket price. This tax would hit McCarthur River a a higher rate then it would Prudhoe Bay because it's actually more profitable. Now the East Trading Bay Unit which is decidely less profitable, it would tend to treat that fairly. What's comin into a play here is the cents per barrel floor. Yes, our written tax rate on East Trading Bay Unit is probably one third of what the cents per barrel floor should be. Now, that oil if we wanted to go after Cook Inlet it should be maybe priced at fifteen dollars

which is the price for Swede a 34% gravity on the west coast, we are only going to 7 1/2 because of Prudhoe Bay, so we are not being inconsistent, we are giving them a break.

Senator Colletta - Thank you Madame Chairman.

Senator Huber - Well, Senator Radar brought it up, I think that it's only fair to ask a ask of Sterling because we do need to get down to the nitty gritty of it. Sterling do you think that the Walter Leavy Associates have the best possible advice for the State of Alaska's interests, or do you think other economic consultants may have something to offer too?

Commissioner Gallagher - I've always appreciated the, I, of Dr. Mead, but you know there are consultants and there are consultants. They give you a good point of view Mead gives you a good point of view. I think there could be a whole series of people in that could give you worth while information.

Senator Huber - In other words you don't think we should base it all on one consultant.

Commissioner Gallagher - That's correct. I think you, you know, we have economists in the Department of Revenue, we should listen to those economists too.

Senator Huber - Obvious on the Walter Leavy Companys advice which we have been receiving quite heavily lately about removing the cents per barrel, do you disagree strongly on that?

Commissioner Gallagher - Absolutely.

Senator Huber - And do you, do the other consultants that you have hired agree with you on this?

Commissioner Gallagher - Of course they are hired by me.

Senator Huber - No some of them weren't hired by you. How about the other ones? How about the other ones on the cents per barrel?

Commissioner Gallagher - I don't know what Mead says. You know, he isn't here before you. I wish Tom Fink was here today, Madame Chairman.

George Silides - Commissioner a, I have a couple of easy ones and then a couple of little more difficult ones, I'll give you the hard ones first if I may. You've touched on them, but I will have to ask them again because I wasn't entirely sure on them and it's a matter of mechanics on the bills. It's been pointed out that the foreign income taxes constitute a large part of the pre-tax book income for international oil companies, and that these taxes are likely to decline sharply in the future as providing the producing governments take over and the companies become contractors and purchasers of crude from governments rather than from concessionares, and income tax payers. Now, the questions on that is, as you recall this was mentioned a couple of days ago, you touched on it again tonight. Now wouldn't this work to erode Alaska's tax base under the proposed legislation

that is your franchise tax? And wouldn't it work to erode the tax base more if companies would measure foreign operations, let me say that again, and wouldn't it work to erode to tax base more for companies with major foreign operations than for those with only small scale foreign operations?

Commissioner Gallagher - Well Let me say, talk a minute about where the shifting centers are in the world. It's true that I think, I believe, Saudia Arabia gives the companies nine cents for every barrel they raise after they pay for expenses. I think that's what Saudia Arabia gives. And those wells are fifteen thousand or twenty thousand barrel well days with nine cents goes up in a hurry. But alot of profit centers are shifted to other areas of the business. If you will look at the transportation business for integrated companies you might find the profit center is shifted there. Federal government has, may have a oil head put on price ceilings on the well head. They also have it on some refined products but not the whole barrel. Infact the lower end of the barrel is pretty well decontrolled and they receive whatever price they want. You know, all sorts of ends of the business you can transfer your profits to.

George Silides - I'll just take it for what you said Commissioner. Well let me ask you someting - -

Commissioner Gallagher - Infact you know, it's quite obvious to me that the federal government is trying to encourage the shifting of profit centers away from production into refining and sales.

George Silides - But don't think that the fact that the companies are taking their payment as in-kind as it were, does it make any difference in the, to your bill?

Mr. Messenger - I believe I remember the comment that Mr. Kilgore made earlier this week and to the extent that the difference between some of the differece between book income and federal tax would book income before taxes and federal taxable income to the extent that some of that difference represents a foreign taxes. If those foreign taxes reproduce that would reduce that difference between book incomeand federal taxable income I believe that there would still be a substantial difference between, still, between federal taxable income and it would be still, in our interest to adopt book income because there is still alot of other erosions from book income in the Internal Revenue Code Book.

George Silides - Well, I understand what you are saying Mr. Messenger but your answer is basically yes, that it does erode some if that happens.

Mr. Messenger - Yes, but it is still better than the federal tax reform.

George Silides - I see, Madame Chairman if I may ask the second question then, another question. Do you have any idea how much income your proposed legislation would apportion to Alaska as against what might be measured by separate accounting as proposed in the Senate Bill 105 for example, once Prudhoe Bay is in operation

that is if we, if income tax law really and truly represented the 9.4 percent tape.

Commissioner Gallagher - I think it should be essentially the same. We pick up some additional features though like the days in port like 50% of the income from the transportation subsiduaries assigned to Alaska and things like that. So I'm it's hard to compare it. Also ours would pick up the OCS.

George Silides - I see. Well in that regard Madame Chairman that brings up another question then. I notice that you mentioned the days in port and of course you were talking about, and you were mentioning also that brings to mind your ad valorem tax or your hardware tax. If you put a tax on the tankers aren't you increasing the cost of transportation, and if you are increasing the cost of transportation doesn't that lower the well-head price?

Commissioner Gallagher - Yea but, you only give up twenty cents on a dollar.

George Silides - What you are telling me is that the differential is what counts? Since we are on the hardware tax, there are some refineries a couple of refineries in at North Kenai and there is one going on up now, being built now in the North Pole, hardly can be termed world scale refineries, especially the one at the North Pole. If you tax those refineries who will be paying that tax in the long run? If we are trying to encourage a refinery say in the North Pole area to, so that the people in the interior can get the same price for oil, fuel oil as they do in Anchorage, aren't you giving with one hand and taking away with another?

Commissioner Gallagher - That's possible. Also they may be export refineries too.

George Silides - The North Pole an export refinery?

Commissioner Gallagher - Not the North Pole ones, obviously not.

George Silides - But the SOCAL one?

Commissioner Gallagher - I know some piloteers for it.

George Silides - The SOCAL one?

Commissioner Gallagher - Yea.

George Silides - Are they export?

George Silides - I'm just curious. And another question on hardware then, I'm presuming that the same answer you gave on the tankers (inaudible) tankers goes for the increase tax on the pipeline.

Commissioner Gallagher - The increase tax, there is no increase tax on the pipeline.

George Silides - Well, under your system there would be a greater take because - -

Commissioner Gallagher - No we're just trying to cure our court case.

George Silides - I see.

Commissioner Gallagher - We already think we have it.

George Silides - One final technical thing again Madame Chairman. Are you aware Commissioner that in addition to the Walter J. Leavy Associates finding a flaw in only part of your severence tax bill, did you know that the Research Division of Legislative Affairs Agency has also found essentially the same flaw?

Commissioner Gallagher - I don't, that is not a flaw. That is the cents per barrel for coming in and playing a part there. It works exactly like it is intended. Those fields that are, where the formula works out to be 50 percent of what the phenomenal rate should be, is in fact 50 percent.

George Silides - Well Commissioner, I'm just calling it to your attention so that you maybe can talk to Mr. Erickson because he feels like the Walter J. Leavy Associates does that the bill is not fulfilling the function that you designed it for and I'm only bringing it to your attention. I'm not in the position, I don't know enough about it to argue about it.

HB

2

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3500

MEMORANDUM

February 21, 1977

SUBJECT: House Bill 2, Authorizing Land to be Made Available as Homesites (W.O. #3407)

TO: The Honorable Sally Smith

FROM: George Utermohle
Research Analyst

House Bill 2 seeks to encourage settlement and development of state lands by authorizing the grant of 2.5 acres for residential purposes to each qualified state resident. This bill emphasizes that the distribution and settlement of state land serves a greater public good than does the disposal of land to the highest bidder.

SUMMARY OF HB 2

After the Director of Lands has classified and surveyed available state land for homesite entry, he shall make it available to qualified state residents. To qualify for a homesite under this program, the applicant must be 18 years of age, be a three year resident of Alaska, not be a member of a household which has already applied for a homesite permit, and agree to fulfill the conditions of the homesite permit. If there is more than one applicant for a specific homesite, the permit shall be granted on the basis of length of residence. The bill does not state how length of residence will determine which applicant receives the permit. It can be assumed that the intent is that a greater length of residence confers a greater priority, but it is not clear.

Once the qualified applicant has received his permit to occupy the homesite which he has selected, he must build and occupy a suitable dwelling. The Director of Lands will issue regulations describing what is a habitable dewlling for the vicinity in which the homesite is located. The Director will also issue regulations to establish the time limits in which the dwelling must be built. Once the dwelling has been built, the homesite applicant must occupy the dwelling for at least seven months each year for three years in order to acquire patent to the homesite.

Only one permit shall be issued to each qualified person during his lifetime.

The only costs to the homesite applicant shall be a one time permit application fee, not to exceed $10, and the cost of the land survey. The applicant does not pay rent for the homesite.

If the homesite applicant does not comply with the terms of his permit, the permit will be revoked. Any improvements which the applicant has made to the land prior to the revocation of the permit must be removed in accordance with AS 38.05.090. If the improvements are not removed in the time allowed and are valued at more than $10,000, they may be sold at public auction. The purchaser will then be required to remove the improvements. The money received at auction, less costs to the Division of Lands, shall go to the former homesite applicant. If the improvements are not removed and are valued at less than $10,000, they revert to the state. If the improvements are fixed to the land, they may be sold to the subsequent homesite applicant or to the state.

The Director of Lands must make homesite land available in each of the four judicial districts on a rotating basis. The availability of land must be advertised widely throughout the state by the Director. State land within an organized borough or city cannot be classified for homesites without consultation with the local planning authority. Land classified for homesite entry is not available for selection by boroughs or cities under their municipal land selection rights (AS 29.18.190).

By making land available for homesite entry the state does not obligate itself to supply services to the land, such as water, sewer, or electricity. These services are normally supplied by the landowners themselves operating through service districts or local governments or by private enterprise.

Members of a household which already holds a homesite permit or patent cannot obtain a permit. The terms "members of the same household" as used in the bill is not defined. If the term is not defined in the bill, the Director of Lands will define it when he established regulations for the homesite entry program. There are numerous ways to define the term, but the simplest way may be to include anyone who is declared a dependent for personal income tax purposes as a member of a household.

AVAILABILITY OF LAND FOR HOMESITE ENTRY

To date the state has received patent to 19,200,000 acres of its 104,556,000 acre entitlement. Of this 19.2 million acres, 14.4 million acres has been classied by the Director of Lands. Thus the existing vacant, unappropriated, and unreserved lands of the state is about 4.8 million acres which is available for classification as available for homesite entry.

If the Director of Lands deems that it is in the best interest of the state, he may reclassify all existing classified lands, except those reserved by the legislature, as available to homesite entry. 2.5 million acres of the land included within existing classifications are classified as open to entry. The open to entry program has been suspended since 1973, so it is conceivable that this land could be made available for homesite entry.

GU:mo

Feb. 7, 1977

Dear Sally Smith,

I would like to make some recommendations for changes in HB 2 and 6.

There seem to be at least two easily identifiable groups of people supporting these bills: those who urge the transfer of land from public to private hands for philosophical reasons and those who want land completely isolated from urban areas for "subsistence" living.

I have very strong objections to designating land completely isolated from urban areas for homesite entry.

The argument of those proponents of homesteading who seem primarily interested in the conveyance of public land into private hands seems to be: Young people should have a chance to carve their homes out of the wilderness as I was able to do in the past. The major fallacy in this reasoning is that while we're making new young people daily, no new wilderness is being made. Some generation of young people must face the fact that one can no longer carve his home out of the wilderness; let it be now while there is still some wilderness

The subsistence living groups appear to stress the values of a simple life far from the stresses of urban life, of being able to observe and relate intimately with nature, and of being dependent only on oneself. While the first two statements are valid motives for many people, the last one clearly reveals self-deception. However simple ones life may be, such things as Aladdin lamps, flour and wood stoves do not spring forth fully made from the Alaskan wilderness; all these people need some sort of cash income which they most likely get from periodic trips to the city.

A subtle and more profound difficulty with subsistence living(at least for urban whites without a cultural background of subsistence)lies in the inability of almost anyone to know who they will be in 10, 20, 30 years. A young couple goes into the wilderness; their babies become toddlers, become school age children and so forth. I think there almost always comes a time in the growth of a family when either the parents or the children desire educational and social opportunities not available in an isolated wilderness setting. As the family might find it difficult financially(especially after years of wilderness living)to move to an urban area, pressure develops for a road, electricity etc., a piece of wilderness is no more, and these people have ultimately destroyed what they first came to enjoy.

Finally there is a problem of implementation in that a family with possibly a dog team to feed needs a lot more land than 2-1/2 or 5 acres to keep themselves and their dogs in moose or caribou and their stoves in wood. The same holds true for a trapper. Each 2-1/2 or 5 acre homesite would have to be miles from any other.

If it is necessary for the State to supply subsistence living sites, a possible method for guaranteeing an opportunity for a subsistence lifestyle experience for future generations would be for the State to lease such wilderness sites. A precedent for this has existed for some years in those cases where a person or family rents an existing cabin in the wilderness for a winter or so. Thus "subsistence" living becomes a period of ones life one studies and saves for like a year taken off to travel around the world or go back to school, and the development pressure inherent in the growth of a family is eliminated. I would recommend that private enterprise continue to supply subsistence homesites in the manner it has done in the past.

House Bills 2 and 6 in Section 2, (d) point out it is inherently more difficult to classify home site entry land in urban areas than it is in isolated areas. Perhaps these Bills could be rewritten to reverse this. An obvious way is to limit homesite entry land to organized boroughs and cities.

Regions which feel the loss brought on by disappearing wilderness more keenly than we have been inclined to in Alaska, plan their residential areas in compact form rather than in isolated units a mile or so apart. House Bills 2 and 6 deal with the form homesites will take only by naming the acreage. I feel it would be environtmentally more desirable to group the homesites in subdivisions like the Spinach Creek Subdivision in the Fairbanks area. Lot size should not be arbitrarily set a 5 acres, but should be determined by the ability of the land to accept waste water and of the water table to recharge.

I suspect that the majority of Alaskans favor homesites close to jobs and an urban area, not isolated wilderness sites. Likewise the closer the homesites are to work, the more Alaskans will be able to live on their homesite and commute to work which should provide a considerable impetus for the conveyance of public lands into private hands.

Thank you for considering my opinion in this matter.

Sincerely,

Joanne E. Groves

Joanne E. Groves
Box 81199
College, Alaska
99708

MINUTES - HOUSE RESOURCE COMMITTEE - JANUARY 14, 1976

Present were: Huntington, Osterback, Swanson, Smith, Rhode, Brown, Hershberger, Chmn. Anderson and Staff Assistant Van Doren. Absent was Eliason.

Subject: HB 132

Sponsor Representative Keith Specking commented that a new approach is needed in solving the problem of opening up state lands to entry. Present policy does not work. The lease approach is necessary, rather than the fee-simple. "We should not bury our heads in the sand and allow any and all lands open to entry. Included in a lease can be requirements and restrictions not permissable in an outright sale. Also, if we rely on the newly created Planning Unit within the Div. of Lands, an endless series of sessions on land planning can end in no action.

Discussion ensued regarding getting more land into private hands, with comment being made that this was a paramount issue last year. Mention was made that under the former lease program leases could be open to entry. Also under question was the problem of who inherits under the proposed bill.

Commissioner Martin acknowledged the pressures for private ownership of land, and agreed that the first open to entry plan had inequities built into it. The Administration agrees that a private land program must become functional. However, some items to consider are:

- What does the legislature want to be allowed on the land i.e. agriculture, second home, main home, wilderness, recreation
- How can a fair market value be obtained
- What use does private ownership wish to make of the land
- Do we want to put people into new areas, with the attendant problems of roads, schools, stores, etc.
- Every program that moves land puts a great burden on the small group that must administer the program
- The Division of Lands is concerned with the end use of the land, and the eventual combining of possibly incompatible uses.

Commissioner Martin agreed to present to the committee a more formal list of administrative concerns for land ownership.

Additional discussion included problem of guaranteeing Alaskans land; pulling back into use lands identified now as wilderness areas;how to get local persons involved in planning the use of their land;the fact that Alaska is a land-tight state. Swanson stressed that we must have multiple use of the land, not prime use.

Representative Smith moved that the committee adopt the draft copy of CS HB 132, with Line 17 to read ----cognizant platting authority. Motion passed.

January 26 was scheduled as the date for the next hearing of HB 132. January 15 was scheduled as the date for hearing HB 278, and possibly HB 313 (now tabled).

Meeting was adjourned.

Tape 2 Side 2 0240--1828

HOUSE RESOURCE COMMITTEE - Minutes - January 26, 1976

Subject: HB 132 Homesite

Present were Osterback, Brown, Swanson, Eliason, Hershberger, Rhode, Staff Assistant Van Doren and Chmn. Anderson.
Excused was Huntington.

Guests included Sharon Lobaugh, Commissioner Guy Martin, Jamie Love, Joel Bennett, Waco Shelly, Sharon Mitchell and Rep. Keith Specking.

Meeting opened at 8:10 a.m, with a statement by Commissioner Guy Martin. Mr. Martin stated that the purpose of the bill seemed to be a single-purpose one--to make available single, non-contiguous areas of land to private parties. Along with urging that the Dept. of Fish and Game take a close look at the bill from the standpoint of appraising the effect on habitat areas, he stated that the bill needs to address who it intends to help. As it now stands, there is no real differentiation between Alaskans and others. (Commissioner Martin later added that it is now very difficult to spell out "Alaskan resident" requirements in any legislation.)

The biggest question posed by the bill lies in the uncertainty of land status in the state. It is a difficult time to make any additional commitments on land. Already, the demand far exceeds the land. "We don't want to cause pressures that will exceed our abilities to control". An "Open-to-Entry" program must be in addition to and supplemented by other plans and regulations.

Mr. Martin continued by urging that the committee consider the best eventual use of the land (i.e. mineral exploration, recreation, natural habitat, etc.) before opening it up. Also, there is a need to look at local government participation -- educational, transportation, communication -- and delineate responsibilities--not get the state tied up in unforeseen commitments.

Title control needs to be spelled out in the bill. If the state really wants to control the use of the land, then leases are needed, not outright sale.

Rights of individuals must be faced--if new people are encouraged by availability of land to enter an area, how do their rights compare to the rights of the people already in the area?? (Rep. Specking stressed that this could be controlled by allowing people in a given area to veto land availability)

Chmn. Anderson stated that the administration should deal with how they will implement the bill--how they will deal with the problems.

Mr. Martin commented that the administration would be faced with the same problems as the committee, and that as much should be spelled

out in the bill itself as possible.

Rep. Eliason emphasized putting more "shalls" in the bill. Rep. Swanson added that the "creeping bureaucracy" can be toned down by putting more strength in the bill. However, Swanson also mentioned that the reason many people want these isolated parcels of land is to "do their own thing" with their own property. This can be accomplished by minimal, but explicit, building and environmental standards, spelled out in the bill.

Rep. Brown stated that there should be criminal penalties for misusing land.

Questions of how to determine the fair market value of land in an area where no land has been previously sold were raised. In answer, Rep. Specking suggested the option of continuing the leases rather than eventual sale. He also suggested working closely with the Forest Service on the bill, since they have had a "successful" land program for many years.

A question by Rep. Eliason as to why only one member of a household could apply for the land, and the constitutionality of such a statement, was answered by Rep. Specking, stating that although it would limit only a husband or wife, not both, from participation in the program, it would not hinder any child from participating on setting up his own household. Specking stated that it became in part a self-limiting program.

Rep. Eliason stated that the public should be able to initiate hearings as to the desireability of opening a given section before it is opened.

Chmn. Anderson reviewed the past history of the bill, asking Commissioner Martin if the committee was addressing adequately the problems created by the previous program. Rep. Specking commented that the problems with leasing could have been solved administratively by the previous administrator. Commissioner Martin would be the one to best know whether he could comfortably work with the leasing program as it is now on the books.

Rep. Swanson insisted that the committee see copies of any regulations the administration would use to implement current or proposed legislation on open-to-entry lands, before passing any new legislation. Rep. Brown added that any regulations must be tight enough to refer problems back to the legislature.

Sharon Lobaugh, representing the Alaska Conservation Society, asked about any hearings in any other part of the state on this bill. Chmn. Anderson answered that we needed to get action before this session was over, and consequently could not travel any more. Her only other comment; that the Society was in favor of any leases reverting back to the state if they became available.

With the comment that the committee would wait for Rep. Speckings next draft of the bill, before setting up another date, meeting adjourned.

Tape 19, Side 2
1840 - end and Tape 18
0 - 1716

HOUSE RESOURCE COMMITTEE - Minutes - April 5, 1976

Present were Hershberger, Swanson, Rhode, Huntington, Osterback, Eliason, Staff Assistant Van Doren and Chairman Anderson.

Subject: HB 808
CS SS HB 626 (report only) Homesites

Rep. Rhode was asked to review his substitute for SSHB626. Background included the fact that a sanctuary isn't needed because the area already is a Habitat area. The draft Committee Substitute is the same as the Senate bill. It was moved to adopt the Rhode substitute. Motion carried. Staff was instructed to send copies to the people coming to Juneau for the hearing Friday, April 9, at 8:00 a.m.

Re: HB 808--Rep. Oral Freeman testified on his bill. Interest has been expressed from around the state for a new classification of land and a method of disposing of said lands. Previously, disposal has been on a sale basis, to raise revenue. Lands used to be bought for speculation. Southeast Alaska is boxed in by forests--there won't be much land available under this bill in this area. There should be much more in the Interior. Mr. Freeman stressed that there is nothing in this bill that would benefit him personally.

Rep. Swanson added testimony. He has received many replies to this proposed legislation. It is good legislation, and would be helpful to the whole state.

Freeman: As long as the intent of the bill is retained, changing language would be no problem to him. The biggest complaint is that people already owning property can't qualify under this bill. Possibly those persons with property who apply for one of these sites could be put at the bottom of the list in preference.

Chairman Anderson asked about the state plan for disposal of lands. Does this bill respond to that plan?

Freeman: Some say that the bill is too vague. However, that's a deliberate fact. Freeman feels that the Division of Lands should handle the details of regulation. This bill was worked out with the local representative of the Division of Lands.

Anderson: Most criticisms received have been constructive criticisms. There is concern that regulations must be set up before the lands become available--not after.

Rhode stated that the residency requirement as stated in the proposed legislation has been questioned.

Commissioner Martin testified. (Copy available) The whole problem of land disposal has been discussed often, including many times before this committee. Many of the answers to problems are not yet available. For instance, the bill doesn't say whether it is addressing rural or urban lands. As it stands now, Martin would oppose the bill. Re: a fiscal note, as the bill now stands, up to $13,000,000 per year would be needed to administer the bill. And--the bill presently favors non-residents.

Bob Pavitt, a professional planner, and a lobbyist, spoke. The Planning Association of Alaska wishes to bring to the attention of the committee the foresight that is lacking in the bill. There is no quarrel as to the proposed land use, but the highest and best use of a given parcel of land has not yet been established. There is no overall plan for Alaska as yet. Re: Section 2 of the bill--planners suggest that it takes lots of study to establish whether land is suitable for habitation. Pertinent questions: How do you determine whether a home has been lived in for 5 months per year? After title has been conveyed, how do you prohibit subdivision? Pavitt feels that the end result will be a bureaucracy serving the program instead of planning. Another point--it allows an applicant to file on several sites at the same time. Also, how about land owned in other states? This is not mentioned in the legislation. Pavitt urged that the committee keep in mind the reasons that Open to Entry was shut down. He urged that surveys be done before anything else happens.

Pavitt mentioned the fact that trailers could be moved in to the sites. Also, how can a bank loan money when the person building the house doesn't yet own the land? And additional service would be demanded by the public living on these sites.

Planners aren't negative to the concept, just this particular bill, and HB 132. A program must be developed which will accomplish the planning background before this bill becomes law.

In response to questions, Pavitt stated that the plan under study by the planners would be completed within the year.

Rep. Eliason: If these sites fall within the boundaries of a borough, the planning and zoning controls would be undertaken by the borough.

Pavitt responded by mentioning overlapping land selections. Some boroughs have selected for public use. Others have not. Planners are willing to work with anyone who will put together the concept with good planning.

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Huntington asked that the committee return later for the discussion.

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Motion to adopt the first amendment failed.

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Swanson reminded the group that these were to be homesites, not homesteads.

No action was taken on the second motion.

Meeting recessed, and resumed at 11:15 a.m. Motion was made to incorporate the 7 month wording. Motion carried.

Motion was made to adopt the amendment striking the "members of the same household" wording. Discussion ensued and Freeman stated that the intent was to avoid a husband and wife each filing. Swanson stated that the language of the bill (living in the house for 7 months) would take care of the problem.

Anderson appointed Swanson chairman of a committee to draft a Committee Substitute, or draft amendments, to HB808. Huntington was appointed to the committee.

Hearing will resume Tuesday, April 6, at 8:00 a.m.

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

JAY S. HAMMOND
GOVERNOR

NEWS RELEASE

FOR INFORMATION CONTACT:
Scott Foster, Press Secretary
Office of the Governor
Pouch A Juneau, Alaska 99811
OR PHONE: 907-465-3500

Put in all files
HB 2

GOVERNOR HAMMOND INTRODUCES RESIDENTIAL HOMESITE BILL
February 22, 1977
#34

Governor Jay Hammond today introduced his residential homesite bill which is to make land available at a reasonable cost to landless Alaskans who are willing to live on the land and build a home.

Governor Hammond's bill was intended as an improved version of the "Hippie Homestead" bills which were first introduced in the Legislature last year. At that time, Governor Hammond announced that he favored the concept of such legislation, but that there were so many problems inherent in the bills being considered that the Governor indicated his strong opposition.

According to the Governor, "I believe my opposition to the legislation last year made it imperative for me to come forward with a responsible alternative, and the bill introduced today is intended to present that alternative. My bill would make land available to some Alaskans within two years, and if the program is successful, grow in following years to make planned residential homesites available to many Alaskans each year on a lottery basis. What is most important to understand is that this single bill cannot solve the problems

of Alaska land scarcity or cost. Residential homesite legislation can be only a start, and it is my intention ultimately to have a comprehensive program involving State, Federal and local governments as well as private owners in an effort to make land available at reasonable cost in all areas of the State."

The Governor's bill introduced today will make homesites up to 2.5 acres available in areas planned with the cooperation and approval of local governments to Alaskan residents who live on the land for an aggregate of 21 months during a three-year period and erect a suitable dwelling within that time. The Governor's bill will make the first land available in areas where high costs and land scarcity problems are the most serious.

The Governor also said, "This bill is designed to avoid the abuses of past land disposal programs. In the strongest of terms I wish to emphasize the efforts undertaken by the Administration have been to frame this legislation so as to meet the objectives of a good concept without creating other problems which led to my opposition to similar legislation last year. Notwithstanding my continued support of the concept, I will not hesitate to oppose again legislation which adds elements which caused the abuses of the past or which make the cost of administration so burdensome that it is not in the best interests of the State to continue."

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

February 21, 1977

SUBJECT: House Bill 2, Authorizing Land to be Made Available as Homesites (W.O. #3407)

TO: The Honorable Sally Smith

FROM: George Utermohle
Research Analyst

House Bill 2 seeks to encourage settlement and development of state lands by authorizing the grant of 2.5 acres for residential purposes to each qualified state resident. This bill emphasizes that the distribution and settlement of state land serves a greater public good than does the disposal of land to the highest bidder.

SUMMARY OF HB 2

After the Director of Lands has classified and surveyed available state land for homesite entry, he shall make it available to qualified state residents. To qualify for a homesite under this program, the applicant must be 18 years of age, be a three year resident of Alaska, not be a member of a household which has already applied for a homesite permit, and agree to fulfill the conditions of the homesite permit. If there is more than one applicant for a specific homesite, the permit shall be granted on the basis of length of residence. The bill does not state how length of residence will determine which applicant receives the permit. It can be assumed that the intent is that a greater length of residence confers a greater priority, but it is not clear.

Once the qualified applicant has received his permit to occupy the homesite which he has selected, he must build and occupy a suitable dwelling. The Director of Lands will issue regulations describing what is a habitable dewlling for the vicinity in which the homesite is located. The Director will also issue regulations to establish the time limits in which the dwelling must be built. Once the dwelling has been built, the homesite applicant must occupy the dwelling for at least seven months each year for three years in order to acquire patent to the homesite.

Only one permit shall be issued to each qualified person during his lifetime.

The only costs to the homesite applicant shall be a one time permit application fee, not to exceed $10, and the cost of the land survey. The applicant does not pay rent for the homesite.

If the homesite applicant does not comply with the terms of his permit, the permit will be revoked. Any improvements which the applicant has made to the land prior to the revocation of the permit must be removed in accordance with AS 38.05.090. If the improvements are not removed in the time allowed and are valued at more than $10,000, they may be sold at public auction. The purchaser will then be required to remove the improvements. The money received at auction, less costs to the Division of Lands, shall go to the former homesite applicant. If the improvements are not removed and are valued at less than $10,000, they revert to the state. If the improvements are fixed to the land, they may be sold to the subsequent homesite applicant or to the state.

The Director of Lands must make homesite land available in each of the four judicial districts on a rotating basis. The availability of land must be advertised widely throughout the state by the Director. State land within an organized borough or city cannot be classified for homesites without consultation with the local planning authority. Land classified for homesite entry is not available for selection by boroughs or cities under their municipal land selection rights (AS 29.18.190).

By making land available for homesite entry the state does not obligate itself to supply services to the land, such as water, sewer, or electricity. These services are normally supplied by the landowners themselves operating through service districts or local governments or by private enterprise.

Members of a household which already holds a homesite permit or patent cannot obtain a permit. The terms "members of the same household" as used in the bill is not defined. If the term is not defined in the bill, the Director of Lands will define it when he established regulations for the homesite entry program. There are numerous ways to define the term, but the simplest way may be to include anyone who is declared a dependent for personal income tax purposes as a member of a household.

AVAILABILITY OF LAND FOR HOMESITE ENTRY

To date the state has received patent to 19,200,000 acres of its 104,556,000 acre entitlement. Of this 19.2 million acres, 14.4 million acres has been classied by the Director of Lands. Thus the existing vacant, unappropriated, and unreserved lands of the state is about 4.8 million acres which is available for classification as available for homesite entry.

If the Director of Lands deems that it is in the best interest of the state, he may reclassify all existing classified lands, except those reserved by the legislature, as available to homesite entry. 2.5 million acres of the land included within existing classifications are classified as open to entry. The open to entry program has been suspended since 1973, so it is conceivable that this land could be made available for homesite entry.

GU:mo

MINUTES - HOUSE RESOURCE COMMITTEE - JANUARY 14, 1976

Present were: Huntington, Osterback, Swanson, Smith, Rhode, Brown, Hershberger, Chmn. Anderson and Staff Assistant Van Doren.
Absent was Eliason.

Subject: HB 132

Sponsor Representative Keith Specking commented that a new approach is needed in solving the problem of opening up state lands to entry. Present policy does not work. The lease approach is necessary, rather than the fee-simple. "We should not bury our heads in the sand and allow any and all lands open to entry. Included in a lease can be requirements and restrictions not permissable in an outright sale. Also, if we rely on the newly created Planning Unit within the Div. of Lands, an endless series of sessions on land planning can end in no action.

Discussion ensued regarding getting more land into private hands, with comment being made that this was a paramount issue last year. Mention was made that under the former lease program leases could be open to entry. Also under question was the problem of who inherits under the proposed bill.

Commissioner Martin acknowledged the pressures for private ownership of land, and agreed that the first open to entry plan had inequities built into it. The Administration agrees that a private land program must become functional. However, some items to consider are:

- What does the legislature want to be allowed on the land i.e. agriculture, second home, main home, wilderness, recreation
- How can a fair market value be obtained
- What use does private ownership wish to make of the land
- Do we want to put people into new areas, with the attendant problems of roads, schools, stores, etc.
- Every program that moves land puts a great burden on the small group that must administer the program
- The Division of Lands is concerned with the end use of the land, and the eventual combining of possibly incompatible uses.

Commissioner Martin agreed to present to the committee a more formal list of administrative concerns for land ownership.

Additional discussion included problem of guaranteeing Alaskans land; pulling back into use lands identified now as wilderness areas;how to get local persons involved in planning the use of their land;the fact that Alaska is a land-tight state. Swanson stressed that we must have multiple use of the land, not prime use.

Representative Smith moved that the committee adopt the draft copy of CS HB 132, with Line 17 to read ----cogni ant platting authority. Motion passed.

January 26 was scheduled as the date for the next hearing of HB 132. January 15 was scheduled as the date for hearing HB 278, and possibly HB 313 (now tabled).

Meeting was adjourned.

Tape 2 Side 2 0240--1828

HOUSE RESOURCE COMMITTEE - Minutes - January 26, 1976

Subject: HB 132 Homesite

Present were Osterback, Brown, Swanson, Eliason, Hershberger, Rhode, Staff Assistant Van Doren and Chmn. Anderson.
Excused was Huntington.

Guests included Sharon Lobaugh, Commissioner Guy Martin, Jamie Love, Joel Bennett, Waco Shelly, Sharon Mitchell and Rep. Keith Specking.

Meeting opened at 8:10 a.m, with a statement by Commissioner Guy Martin. Mr. Martin stated that the purpose of the bill seemed to be a single-purpose one--to make available single, non-contiguous areas of land to private parties. Along with urging that the Dept. of Fish and Game take a close look at the bill from the standpoint of appraising the effect on habitat areas, he stated that the bill needs to address who it intends to help. As it now stands, there is no real differentiation between Alaskans and others. (Commissioner Martin later added that it is now very difficult to spell out "Alaskan resident" requirements in any legislation.)

The biggest question posed by the bill lies in the uncertainty of land status in the state. It is a difficult time to make any additional commitments on land. Already, the demand far exceeds the land. "We don't want to cause pressures that will exceed our abilities to control". An "Open-to-Entry" program must be in addition to and supplemented by other plans and regulations.

Mr. Martin continued by urging that the committee consider the best eventual use of the land (i.e. mineral exploration, recreation, natural habitat, etc.) before opening it up. Also, there is a need to look at local government participation -- educational, transportation, communication -- and delineate responsibilities--not get the state tied up in unforeseen commitments.

Title control needs to be spelled out in the bill. If the state really wants to control the use of the land, then leases are needed, not outright sale.

Rights of individuals must be faced--if new people are encouraged by availability of land to enter an area, how do their rights compare to the rights of the people already in the area?? (Rep. Specking stressed that this could be controlled by allowing people in a given area to veto land availability)

Chmn. Anderson stated that the administration should deal with how they will implement the bill--how they will deal with the problems.

Mr. Martin commented that the administration would be faced with the same problems as the committee, and that as much should be spelled

out in the bill itself as possible.

Rep. Eliason emphasized putting more "shalls" in the bill. Rep. Swanson added that the "creeping bureaucracy" can be toned down by putting more strength in the bill. However, Swanson also mentioned that the reason many people want these isolated parcels of land is to "do their own thing" with their own property. This can be accomplished by minimal, but explicit, building and environmental standards, spelled out in the bill.

Rep. Brown stated that there should be criminal penalties for misusing land.

Questions of how to determine the fair market value of land in an area where no land has been previously sold were raised. In answer, Rep. Specking suggested the option of continuing the leases rather than eventual sale. He also suggested working closely with the Forest Service on the bill, since they have had a "successful" land program for many years.

A question by Rep. Eliason as to why only one member of a household could apply for the land, and the constitutionality of such a statement, was answered by Rep. Specking, stating that although it would limit only a husband or wife, not both, from participation in the program, it would not hinder any child from participating on setting up his own household. Specking stated that it became in part a self-limiting program.

Rep. Eliason stated that the public should be able to initiate hearings as to the desireability of opening a given section before it is opened.

Chmn. Anderson reviewed the past history of the bill, asking Commissioner Martin if the committee was addressing adequately the problems created by the previous program. Rep. Specking commented that the problems with leasing could have been solved administratively by the previous administrator. Commissioner Martin would be the one to best know whether he could comfortably work with the leasing program as it is now on the books.

Rep. Swanson insisted that the committee see copies of any regulations the administration would use to implement current or proposed legislation on open-to-entry lands, before passing any new legislation. Rep. Brown added that any regulations must be tight enough to refer problems back to the legislature.

Sharon Lobaugh, representing the Alaska Conservation Society, asked about any hearings in any other part of the state on this bill. Chmn. Anderson answered that we needed to get action before this session was over, and consequently could not travel any more. Her only other comment, that the Society was in favor of any leases reverting back to the state if they became available.

With the comment that the committee would wait for Rep. Speckings next draft of the bill, before setting up another date, meeting adjourned.

Tape 19, Side 2
1840 - end and Tape 18
0 - 1716

HOUSE RESOURCE COMMITTEE - Minutes - April 5, 1976

Present were Hershberger, Swanson, Rhode, Huntington, Osterback, Eliason, Staff Assistant Van Doren and Chairman Anderson.

Subject: HB 808
CS SS HB 626 (report only) Homesites

Rep. Rhode was asked to review his substitute for SSHB626. Background included the fact that a sanctuary isn't needed because the area already is a Habitat area. The draft Committee Substitute is the same as the Senate bill. It was moved to adopt the Rhode substitute. Motion carried. Staff was instructed to send copies to the people coming to Juneau for the hearing Friday, April 9, at 8:00 a.m.

Re: HB 808--Rep. Oral Freeman testified on his bill. Interest has been expressed from around the state for a new classification of land and a method of disposing of said lands. Previously, disposal has been on a sale basis, to raise revenue. Lands used to be bought for speculation. Southeast Alaska is boxed in by forests--there won't be much land available under this bill in this area. There should be much more in the Interior. Mr. Freeman stressed that there is nothing in this bill that would benefit him personally.

Rep. Swanson added testimony. He has received many replies to this proposed legislation. It is good legislation, and would be helpful to the whole state.

Freeman: As long as the intent of the bill is retained, changing language would be no problem to him. The biggest complaint is that people already owning property can't qualify under this bill. Possibly those persons with property who apply for one of these sites could be put at the bottom of the list in preference.

Chairman Anderson asked about the state plan for disposal of lands. Does this bill respond to that plan?

Freeman: Some say that the bill is too vague. However, that's a deliberate fact. Freeman feels that the Division of Lands should handle the details of regulation. This bill was worked out with the local representative of the Division of Lands.

Anderson: Most criticisms received have been constructive criticisms. There is concern that regulations must be set up before the lands become available--not after.

Rhode stated that the residency requirement as stated in the proposed legislation has been questioned.

Commissioner Martin testified. (Copy available) The whole problem of land disposal has been discussed often, including many times before this committee. Many of the answers to problems are not yet available. For instance, the bill doesn't say whether it is addressing rural or urban lands. As it stands now, Martin would oppose the bill. Re: a fiscal note, as the bill now stands, up to $13,000,000 per year would be needed to administer the bill. And--the bill presently favors non-residents.

Bob Pavitt, a professional planner, and a lobbyist, spoke. The Planning Association of Alaska wishes to bring to the attention of the committee the foresight that is lacking in the bill. There is no quarrel as to the proposed land use, but the highest and best use of a given parcel of land has not yet been established. There is no overall plan for Alaska as yet. Re: Section 2 of the bill--planners suggest that it takes lots of study to establish whether land is suitable for habitation. Pertinent questions: How do you determine whether a home has been lived in for 5 months per year? After title has been conveyed, how do you prohibit subdivision? Pavitt feels that the end result will be a bureaucracy serving the program instead of planning. Another point--it allows an applicant to file on several sites at the same time. Also, how about land owned in other states? This is not mentioned in the legislation. Pavitt urged that the committee keep in mind the reasons that Open to Entry was shut down. He urged that surveys be done before anything else happens.

Pavitt mentioned the fact that trailers could be moved in to the sites. Also, how can a bank loan money when the person building the house doesn't yet own the land? And additional service would be demanded by the public living on these sites.

Planners aren't negative to the concept, just this particular bill, and HB 132. A program must be developed which will accomplish the planning background before this bill becomes law.

In response to questions, Pavitt stated that the plan under study by the planners would be completed within the year.

Rep. Elinson: If these sites fall within the boundaries of a borough, the planning and zoning controls would be undertaken by the borough.

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Hearing will resume Tuesday, April 6, at 8:00 a.m.

STATE of ALASKA

MEMORANDUM

TO: Guy Martin
Commissioner

DATE : January 28, 1977

FROM: Dave Hanson, Chief
Planning & Research

SUBJECT: Differences in Homesite Bills

The most important substantive differences between the administration bill and the Freeman Bill are set forth in the following summary. Two additional bills, the Huber Bill and the Phillips Bill, are substantially the same as the Freeman Bill except for the following differences:

Freeman - Maximum of 2.5 acres, Minimum of 3 years residency in Alaska

Phillips - Maximum of 5 acres, Minimum of 5 years residency in Alaska

Huber - Maximum of 5 acres, Minimum of 3 years residency in Alaska

A more detailed analysis of all substantive changes is attached.

2.5 acres — MAJOR DIFFERENCES — 2.5 acres

Administration Bill	Freeman Bill
Type of Title - only residential development rights	Total unencumbered title - fee
Ownership of the property - cannot own other land	No ~~provision~~ limitation
Borough Relationship - requires ~~borough~~ local gov't approval	Requires only joint study and review by ~~Borough~~ and state local gov't
Bond - $500 bond or deposit (for reclamation of abandoned homesite, if rec.)	Bond not required
Method of Disposal - Lottery	Length of Residency test
Residency requirement for qualifying - 1 year	3 years
Mobile Homes as habitable dwellings - not adequate for building requirement.	Mobile homes not mentioned
Land Availability - All of State but consideration of local or regional needs	Rotating among Judicial Divisions

Administration Bill	Freeman Bill
Obligation for State Services - Land must be developed to conform with state or borough regulations, unless waived by local govt.	No obligation to provide state services
Time limit for the Bill - repealed July 1982 Sunset provision -	No limit

Attachments

Differences between the Administration and Legislative Bill introduced by Freeman et al concerning "An Act authorizing state land to be made available as homesites"

Page/line of House Bill 2 (Freeman Bill)	Freeman Bill	Administration Bill
Purpose of the Act 1-20	Provide land for Alaskans to settle at a cost reasonably within their means, ~~where they can have a home and live as a family.~~	Provide a means for landless residents to obtain land without the ordinary cost of purchasing undeveloped land, and to relieve real or artificial related land availability problems during periods of scarcity.
Classification 1-24	Director shall classify	Commissioner may classify and develop. Commissioner shall consider regional and local land price scarcity and funds budgeted.
Type of land 1-25	Vacant, unappropriated and unreserved land	Appropriate land for the program purposes
1-28	permit	Conditional ~~Conditional~~ Contract for partial patent
1-29	Occupy seven months each year for three consecutive years	Occupy the homesite an aggregate of 21 months within three years
2-1	pay cost of survey at end of three years	Pay a pro-rated share of ~~of~~ the cost of survey before conditional contract is issued
2-2	Patent to the land conveying an unencumbered title ~~fee~~	Partial patent to the land conveying residential development rights only
2-5	Parcels not exceeding 2 1/2 acres in reasonably compact form	Parcels of appropriate size conforming with local or state zoning but not exceeding 2 1/2 acres
2-7	Offered on a rotating regional basis from the judicial districts	Consider regional or local land scarcity and price factors
~~2-10~~ 2	Following classification publish notice	No requirement to publish notice immediately
2-20	Priority in award based on length of residency	Lottery

Page/line of House Bill 2 (Freeman Bill)	Freeman Bill	Administration Bill
2-26	18 years old	At least 19 years of age
2-27	Three years continuous residence in the State	1 year resident as further defined
3-1	Erect a habitable dwelling within a reasonable time determined by the director	Erect a dwelling within three years which meets state and local regulations
3-22	Studied and reviewed jointly by the director and the local planning agency	Notice and review under Sec. 305
	Classify land available for borough or city selection	Appropriate land
3-29	If classified, it is not available for city or borough selection	Silent - (land must be classified reserved use before the Borough can select it)
4-2	No obligation to provide services to lands	The land must be developed to conform with state or borough regulations, unless waived.
4-4	Permanent dwelling with required or customary sanitary facilities - reasonable requirements to satisfy the standard of a habitable dwelling established by the Commissioner.	Erect a habitable dwelling which meets all state and local regulations. Also provision that trailers do not qualify as habitable dwellings.

At Lands is conflict with municipal selections is worded in 3-28 State bill

Residential Homesite Legislation
Bill Comparisons

	# Administration	# HB 2, HB 6 Freeman, Huber, Phillips
Purpose -	Provide low-cost land to landless Alaskan residents who are willing to live on the land, build a dwelling, and share whatever public costs are involved.	Similar, but no exclusion if other land is owned.
Eligibility -	Resident one year (19 years old)	Freeman - 3 year resident Huber - 3 year resident Phillips - 5 year resident (18 years old)
Method of Disposal -	Lottery from among applications	Length of residence among applicants (DNR to adjudge disputes)
Landsize -	Up to 2 1/2 acres	Freeman - up to 2 1/2 acres Huber - up to 5 acres Phillips - up to 5 acres
Land Available -	Commissioner shall classify - appropriate land for purposes of program	Director, Division of Lands shall classify (from vacant, unappropriated, unreserved land)
Choice of Homesite Program Areas	Based on local or regional land needs, scarcity and cost	Rotate among Judicial Districts
Planning and Preparation of Areas -	Selection of area, planning and subdivision by State prior to opening of area	Same
Local government Role	Must approve of plan after consultation	Consultation study by local government - no approval required
State and Local Requirements (sewer, roads)	Must be met unless waived by local government or State	No obligation to meet these requirements (theory is that they cannot or should not be binding on State Homesite program)

	Administration	Freeman, Huber, Phillips
Live-on Requirement	21 months aggregate during 3 year period	7 months each year for 3 years
Building Requirement	Erect dwelling within 3 years. Standards set by DNR for habitable dwelling	Erect dwelling within reasonable time. Same standards.
Title Ultimately Given	Patent conveying only residential development rights - (prevent speculation and high tax value)	Fee patent
Costs to Homesite Owner	- Survey Costs - Other costs of development (roads, sewer) unless waived by local government	Survey costs No others - theory is that local or State requirements can be overridden
Sunset Provision	July, 1982	No limit
Bond-for Reclamation of site, if abandoned	$500	No provision

FISCAL NOTE ASSUMPTIONS FOR AN ACT AUTHORZING STATE LAND TO BE MADE AVAILABLE AS HOMESITES (ADMINISTRATION BILL)

The following information is intended to outline the principal fiscal assumptions which were made in order to estimate the costs involved with a possible homesite program. The information will list positions by year, the number of lots and areas covered, and approximate value of the land transferred by the State.

SIZE OF PROGRAM

	Settled Areas		Remote Areas	
Year	# Lots	# Areas	# Remote Lots	# of Remote Areas
1978	64	1 or 2	10	1 or 2
1979	128	2 - 4	20	2 - 4
1980	192	5 - 8	30	5 - 8

PERSONAL SERVICES

Year	Positions Required	Salary
1978	1 Associate Planner	$ 21,048.00
	1 Land Management Officer I	16,884.00
Total	2	37,932.00
1979	1 Associate Planner	21,048.00
	1 Land Management Officer II	19,560.00
Total	2	40,608.00
1980	1 Associate Planner	21,048.00
	1 Land Management Officer II	19,560.00
	1 Land Management Officer I	16,884.00
Total	3	57,492.00

ESTIMATED SURVEY COSTS FOR A STATE HOMESITE PROGRAM

(Settled Area Lots)

Year	# Lots	Cost per lot	Total	Actual Total
1978	64	436.00	27904	27904
1979	128	436.00	55808	27904
1980	192	436.00	83712	27904

ESTIMATED SURVEY COSTS FOR A STATE HOMESITE PROGRAM

(Remote Area Lots)

Year	# Lots	Cost per lot	Total	Actual Total
1978	10	1825	18250	18250
1979	20	1825	36500	18250
1980	30	1825	54750	18250

Total estimated survey costs per year for a Homesite Program - 46,154

NOTE: The survey costs remain the same because it is assumed that the survey costs for the previous year will be repaid to the State. When the program ends it is assumed that there will be no survey cost to the State.

APPROXIMATE UNDEVELOPED LAND VALUE OF STATE RURAL HOMESITE LAND
(LAND VALUES NOT FIGURED IN FISCAL NOTE)

Year	Cost per acre	# Acres needed	Total Land Value
1978	2000 - 2500	80	160,000 - 200,000
1979	2000 - 2500	160	320,000 - 400,000
1980	2000 - 2500	320	640,000 - 800,000

APPROXIMATE UNDEVELOPED LAND VALUE OF STATE REMOTE HOMESITE LAND

Year	Cost per acre	# Acres needed	Total Land Value
1978	500 - 2000	25	12,500 - 50,000
1979	500 - 2000	50	25,000 - 100,000
1980	500 - 2000	75	37,500 - 150,000

Feb. 7, 1977

Dear Sally Smith,

I would like to make some recommendations for changes in HB 2 and 6.

There seem to be at least two easily identifiable groups of people supporting these bills: those who urge the transfer of land from public to private hands for philosophical reasons and those who want land completely isolated from urban areas for "subsistence" living.

I have very strong objections to designating land completely isolated from urban areas for homesite entry.

The argument of those proponents of homesteading who seem primarily interested in the conveyance of public land into private hands seems to be: Young people should have a chance to carve their homes out of the wilderness as I was able to do in the past. The major fallacy in this reasoning is that while we're making new young people daily, no new wilderness is being made. Some generation of young people must face the fact that one can no longer carve his home out of the wilderness; let it be now while there is still some wilderness

The subsistence living groups appear to stress the values of a simple life far from the stresses of urban life, of being able to observe and relate intimately with nature, and of being dependent only on oneself. While the first two statements are valid motives for many people, the last one clearly reveals self-deception. However simple ones life may be, such things as Aladdin lamps, flour and wood stoves do not spring forth fully made from the Alaskan wilderness; all these people need some sort of cash income which they most likely get from periodic trips to the city.

A subtle and more profound difficulty with subsistence living(at least for urban whites without a cultural background of subsistence)lies in the inability of almost anyone to know who they will be in 10, 20, 30 years. A young couple goes into the wilderness; their babies become toddlers, become school age children and so forth. I think there almost always comes a time in the growth of a family when either the parents or the children desire educational and social opportunities not available in an isolated wilderness setting. As the family might find it difficult financially(especially after years of wilderness living)to move to an urban area, pressure develops for a road, electricity etc., a piece of wilderness is no more, and these people have ultimately destroyed what they first came to enjoy.

Finally there is a problem of implementation in that a family with possibly a dog team to feed needs a lot more land than 2-1/2 or 5 acres to keep themselves and their dogs in moose or caribou and their stoves in wood. The same holds true for a trapper. Each 2-1/2 or 5 acre homesite would have to be miles from any other.

If it is necessary for the State to supply subsistence living sites, a possible method for guaranteeing an opportunity for a subsistence lifestyle experience for future generations would be for the State to lease such wilderness sites. A precedent for this has existed for some years in those cases where a person or family rents an existing cabin in the wilderness for a winter or so. Thus "subsistence" living becomes a period of ones life one studies and saves for like a year taken off to travel around the world or go back to school, and the development pressure inherent in the growth of a family is eliminated. I would recommend that private enterprise continue to supply subsistence homesites in the manner it has done in the past.

House Bills 2 and 6 in Section 2, (d) point out it is inherently more difficult to classify home site entry land in urban areas than it is in isolated areas. Perhaps these Bills could be rewritten to reverse this. An obvious way is to limit homesite entry land to organized boroughs and cities.

Regions which feel the loss brought on by disappearing wilderness more keenly than we have been inclined to in Alaska, plan their residential areas in compact form rather than in isolated units a mile or so apart. House Bills 2 and 6 deal with the form homesites will take only by naming the acreage. I feel it would be environtmentally more desirable to group the homesites in subdivisions like the Spinach Creek Subdivision in the Fairbanks area. Lot size should not be arbitrarily set a 5 acres, but should be determined by the ability of the land to accept waste water and of the water table to recharge.

I suspect that the majority of Alaskans favor homesites close to jobs and an urban area, not isolated wilderness sites. Likewise the closer the homesites are to work, the more Alaskans will be able to live on their homesite and commute to work which should provide a considerable impetus for the conveyance of public lands into private hands.

Thank you for considering my opinion in this matter.

Sincerely,

Joanne E. Groves

Joanne E. Groves
Box 81199
College, Alaska
99708

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

Put copies in these files put original in mine

February 24, 1977

Memo to: Alvin Osterback

From: Resources Subcommittee on
Parks, Timber and Lands
Sally Smith, Chairman

Re: HB 2 and HB 247, Relating to Homesites

The Resources Subcommittee on Parks, Timber and Lands recommends that the Resources Committee take up HB 2 and make any revisions deemed necessary on that specific bill. The Committee recommends No Action on HB 247.

Respectfully Submitted,

Sally Smith

Sally Smith, Chairman

Mike Miller

Dick Eliason

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

M E M O R A N D U M 8 March 1977

SUBJECT: HB 2 Homesites, sponsored by Rep. Freeman

TO: Rep. Terry Gardiner, Chairman
House Judiciary Committee

FROM: Al Osterback, Chairman
House Resources Committee

al Osterback

Attached is the transcript from our March 4, 1977 meeting on HB 2. It begins with Rep. Freeman's testimony. Guy R. Martin's testimony begins on page 5.

Note: VETO comment on page 13.

HOUSE RESOURCES COMMITTEE
FRIDAY @ 4 MARCH 1977

House Bill 2

Mr. Chairman and members of the committee, I will try not to get to long winded with this. You and I are well acquainted with this but I don't know about the three other members. I don't know how much time was spent looking at this but I will try to be brief about it and if there are any questions why maybe that would be the best way to handle the thing.

To begin with the purpose of the bill, I think it is stated just about as well as they can state it, and the purpose of the act as a matter of fact I'm kinda proud of that, I wrote that one myself word for word; the reason for the bill in the first place is because there is quite a number of young people in my district came to me and complained about the problem they are having obtaining a place to build a home. The price of land, land is scarce and the price is so outrageously high that by the time they figure out a way to come by the land there was nothing left or any way they could build house on it. I went back and checked the map that the state had been using since the disposing of their land for residential purposes and that is by auction. They surveyed the land into lots and auctioned it off at public auctions and then the high bidder could buy it with 10% down, 10 years to pay, 7% interest and this seemed like this was the proper way to do it. The problem is that the people who were buying the land were buying it not merely for a place to build a home on, they were buying it for speculation and I have no quarrel with the speculators, there is nothing illegal or immoral about it, but what they were doing because they had enough money they could afford to do that, because the land was scarce and the opportunity available and spare money available, the people that were buying the land were not the people who really needed it. As I said from

Statehood the state has disposed of the land mainly for the purpose of providing revenue. The first year of the Statehood, I didn't object to that because the state did need the money but since the advent of the North slope oil I don't think the few dollars the state get from selling it's land and ending up in the hands of speculators is the best and highest use for that land. So to try to solve this problem I drew on my own experience, when I came to Alaska 31 years ago, the Federal Government had a home sight program available. Under the terms of that act a person could get up to five (5) acres of land by occupying it and building a habitable dwelling. You can find these words, as best as I could remember them, in the language of this bill. Then for the price of the survey you were given patent of the land free and clear. As I said the first home I ever had in this state was one of those home site. I'm not saying that I couldn't have made it without it but in those days it was a great help to me. But at the time the help did mean something to me and I appreciate it very much and I have a great belief in the idea of this program. So what I was trying to do here at State level was to duplicate that so if you go through this bill, you will find a lot of language, as I said to the best that I could remember from that act. To the provisions of this bill you are required to live in the State three years and then when the state has land available you apply for a permit. The permit costs you $10.00 and then if you are fortunate enough to get one of the lots you live on it and build a habitable dwelling of course and you live in the house atleast seven (7) months out of the year for three (3) consecutive years and at that time the State will give you the patent to the land for the price of the survey. I suppose everybody has a different idea in his own mind about how this thing should work but I envision that it would work no differently

than it does now and that the State would go out to the proper location, we will give them their choice, and will survey the lot and then make them available to the public. There is one thing in this provision here that you will notice, I'll touch on it lightly because I'm sure that Commissioner Martin here I would assume that he is probably going to testify on the Governor's home ~~type~~ site bill and there is a great difference but there is one thing that I would like to call to your attention that is in the provision of this bill that I think is most important and what I consider the guts of this thing and that is the provisions that says, "at any time when there are more applicants than there are lots available (page 2) or if several applicants apply and qualify for the same home site, priority in award of an entry shall ~~shall be on the basis of length of residence in the State.~~ The puppose be on the basis of length of residence in the State. The puppose of that Mr. Chairman is to go back to what I was saying in the beginning and that was to make land available to young Alaskan citizens who were not fortunate enough to have the money to do otherwise. I envision that when this happens that there will always be the case that there will be more people applying for lots then there are lots available and so it seems to me that it would be only fair to give a preferance to those people who live in Alaska the longest. To give you an example so as to be more specific about it, the people who I was trying to reach in the first place, lets say a young Alaskan born and raised in this country that is 25 or 26 years old and is not fortunate enough to have the financial status enough to buy a lot and build a home. If you give them preference based on length of residence obviously a youngster that has lived here 25 years compared to a somebody twice his age who has only lived here ten (10) years, the young guy is going to have the advantage and I think that this

is only fair. For myself I wouldn't have one of them if you gave it to me,I had one and I know how much sweat, blood and tears it takes to make a home out of one of those things the hard way, the way I did it. So I wouldn't want one but I would think to me that this is the most important part of the whole bill and is one that I feel real strongly about. I couln't think of any other way that I could reach the people that I was trying to reach other than with an example. Again drawing from my own experience if you get a peice of land even if you don't have much money, you can get a peice of land to start with and you can build enough of a house to move into and stop paying rent and start buying boards and nails with the money you paid for rent eventually you can build a nice home. I know because I did it and there is nothing in this that I consider a give away it is simply giving a chance to some type person that might not be able to do it other wise. I think with that Mr. Chairman, I think you can well imagine I can go on for hours on this, I have had lots of practice on it and I will be glad to answer any questions on this. Are there any questions on this from the Committee? Mr. Snider questions.

Mr. Freeman on the resident requirement (I can't understand the rest of this question on the tape, all mumbled).

Mr. Freeman: When I started this bill I never spent more time or effort on anything or peice for the Legislature in my life. I've worked on this for a long time by myself, when I went as far as I could I called in man from the Division of Lands and explained to him and explained to him what I was trying to do. I asked him to go over it with me and work with me and make any suggestions that he might have, which he did. Then when I finished that I went to the Director of Legislative Affairs and told him I would like to have somebody back a bill for me and I did not want just any bill

drafter, I wanted somebody that could read what I proposed to do and believe in it and would work with me. That after some time was granted they came up with the right man and we went over angle we could think of and this is one of the things that we touched on. The attorney that worked on it said he could see no reason and he named (I can't remember all of them) numerous cases in our State law, longevity bonus for old timers is one of them where they use the length of residence. I don't have any fears for it.

Hearing on ???

Commissioner Martin: Mr. Chairman, thank you very much. I do have some objections on this bill. I think I might say three things about this bill to begin with. I'm really speaking about all the bills (can't understand the rest of this sentance). HB 2, HB 6, HB 247

Mr. Martin was then reminded that they were only taking testimony on House Bill 2 today.

Mr. Martin: I'm afraid my testimony is really cast in terms of comparing it with our own, I hope that will be acceptable to the Committee.

First of all, I think we should say the work that the administration owes a great deal to Mr. Freeman's idea and we really share that idea. We think that it is important to make land available to people who need land and we think there is a very serious problem in this State in availability and pricing of land, particularly in certain areas. We also think that there is something that is just inherent in living in Alaska that gives people reason and cause to expect land to be available and available on a reasonable basis. I think we start in exactly the same place that Mr. Freeman does and being frustrated with the situation as it is and trying to find ways to get around that. As you know, administration opposed this legi-

slation last year and will oppose it again this year as presently structured but it doesn't come from any difference of what it is basically after regards to this overall land program. I think there are some things that the committee might well know about our approach in this legislation which is very important. One is, I think and Mr. Freeman has done this extrodinarily well o.. this bill, to recognize that one bill or program can't meet all needs of the State for land availability. I think that in his own bill as well as in the bill that has been proposed by the administration we have attempted to carve out a singular purpose. One of the reasons that the Administration ultimately opposed the bill last year as it moved through Legislative process is that the single purpose ~~of Mr. Freeman~~ proposed and the single purpose that we think might be entered by this bill got distorted and miltiplied and expanded and we tried to do to much with a single peice of legislation. What we are going to need ultimately is actually a whole range of programs that answere different kinds of needs. We are going to need programs that enable this State to retain certain lands and state ownership for such things as mineral development, timber development, recreation and other ~~things~~ purposes. We are going to need programs by which we lease land for such things as agricultural development, grazing for special uses and the way the programs will actually dispose of land for residential purposes, recreational purposes, or for other reasons in industrial development. We went into a range of programs (I think I said th before to this Committee) and I think I am going to have to ask not just the State but the other land owners that own land in this State to participate in that program. We are going to have to ask the Federal Government local government, and we are going to have to ask private land owners, and native corporations to make their lands available just as we asked the State to do it. We are going to be submitting an analysis

to this committee we hope within the next month or so which describes the land availability situation in this State. I think one of the things that we are going to see from that is that the State is not itself in possession of lands in certain areas which is capable of meeting certain needs due to the way that the fire land selection has been made, due to the way rules and inheritant Alaskan Native Land Settlement Act. A good deal of land left available in this State or is owned in this State for certain purposes is in the hands of either the Federal government, native corporation or if it is in the hands of the State, it University mental health and school trust wing rather than simple State Public domain so that we are going to have to look at who owns the land before we decide on uses. Again I just want to reiterate that I think Mr. Freeman has done something that we very much approve of and that is that he focused his bill on a certain prupose and has identified a specific reason and drafted a bill to get there . We basically have drafted the administration bill that we think is a better version of the same idea to go to the needs that he articulates and that is the need to make land available to people who need land to build on. It's not a recreational cabin bill, its not a homestead bill, it's not a bill that intentions to do a wide range of things. It;s a bill to make land available ~~to make land available~~ to people to build on. Now our view points, ~~our~~ are somewhat different from Mr. Freeman's, has a number of differences in it and I would like to point to those differences now to indicate to you how we think we would reach the same result Mr. Freeman would but would do so in a way which would be totally more satisfactory for the future.

First of all we would convey in our bill only residential development rights. Mr. Freeman apparently desires to convey full fee titles and we would object to that protion of the bill. First of

all what the bill does, is it intends to convey land to people to build homes, in other words, by passing the bill to Legislature would be identifing a need and then disigning a program to meet that need. But in less time then was limited we believe the two things are going to happen fairly rapidily under this bill that are undesirable if that is what the Legilsature is surely trying to do. One is, once title is conveyed there may not be any reason to believe that the land will stay in residential use, yet the program would have been created and the land would have been conveyed sc as to allow residential use to occur. Second thing we think will happen, the land will be the subject of speculation and in virtually every situation in this State where there is land scarcity that scarcity is due less to the simple availibility of the land then it is to the cost of the land. Two exception to that bill and I think Mr. Freeman knows it, are Ketchikan and Sitka where there is a true scarcity of land. In most cases the scarcity is only a function of price rather than a function of simple land not being on the market. In fact the place where there is the most land on the market is a place where the price speculation and price inflation has been worse, namely the (can't understand rest of sentance).

The second major difference from (incidentally I should just add to this, the Legislature has already looked very seriously at this idea of limiting titles when it is conveyed as a vehicle for limited inseculation only. Last year they passed a bill for agricultural title that I think is one of the most progressive and inovated things we have done for years in this State. I think we should look at that same concept when we convey title under this bill. It will hold taxes down so people will take it, it will mean that the use won't be changed and I think ultimately it will ~~mena~~ mean

that there won't be speculation.

Second major difference in our approach from Mr. Freeman's is that we would limit the people who are eligible to get land under our bill to people who don't otherwise own land. Now Mr. Freeman makes, what I think is a fairly good case for individuals owning land in the State of Alaska, but I must say that I think that if we're after the sort of individual that Mr. Freeman is talking about the Alaskan who is here and wants a peice of land to live on and build on then it seems to me that we should address people who don't otherwise own land. I see nothing in Mr. Freemen bill that would prevent a 55 year resident of Alaska who is a bank president from holding to simply contracting to have somebody to build a house on a peice that he ~~whimed~~ had won. We believed that what we are doing is trying to reach atleast 50% of Alaskan who don't own land rather than to provide a second peice of land for someone who may already own it. Again, it distorts the purpose for bill and it allows people to essentially get second homes and what you are really creating here is a recreational hom site bill rather than a bill that is suppose to make land available to people to build a house on so we think we run a great risk in this bill in creating basically land welfare, just giving Alaska land away. I think that their justification for that but the greatest justification for it is to do so in a system that makes that land available to people who just don't own land. I understand that that was controversial last year but I think that I would object to the program very strongly that simply gives State land away to people who already own land or are building somewhere else and simply picking up another peice of land and are doing so simply because they live here in the state longer than someone else. I might say that I also disagree with Mr. Freeman, I understand very much his desire to help as he has described to me personally as well as to

this committee, an individual who has lived here 27 years in this State and is a young man and wants land. I will leave it to the common judgement of this committee whether or not if there are two or three or four hundred homesites available each year in this state whether or not a person who has lived here 27 years is going to get any of that land or whether its going to be someone who is 55 or 60 years old who owns another piece of land. It seems to me that we ought to target the program and limit it to what we actually want to do. Still another difference is and it is in the same regard is that we would replace Mr. Freeman's system with a lottery system where there is to much demand for available homesites. The legislature will have the capability under this bill to decide how big this program is going to be because basically it is creating an administrative costs and giving away land so the size of the program can be directly determined by the bugetary commitment that the legislature wants to make. We propose our program to be small and to grow over the years if it works. I think that basically Mr. Freeman will accept that kind of growth pattern but we believe that no matter how large the program is within a reasonable bounds there will be more people asking for homesites than there are homesites available. We would prefer a lottery system to resolve those differences rather than (interference on tape, can't understand up to this sentance) or seek one from the administration through the department of law on this matter. I am not prepared to offer one today but my indications are that constitutional problems are inherent in this consept and if you want the bill to succeed I don't think we should put a time bomb in it that might make it legally assailable because of a durational residency requirement. Now again I leave it to your judgement as to whether or not you think that the program will reward the individual that has been suggested or whether it will infact reward

other people by trying to determine who gets land based on who has lived here the longest. I don't want to dwell on it but I could tell you that our figures, we'll be submitting these to you, show that the idea of attempting to ask the division of Land or another State agency to judicate how long Alaskans have been here is an administrative nightmare. It would ask for some extremely difficult choices to be made and would cost substantially more as we see it depending on the size of the program to decide which people have been here the longest. Quite frankly i think we would see in too many cases litigation over who it is that has lived here the longest. I can think of both arguements that are easy to resolve and ones that hard to resolve but in any case I think we face some real problems both in terms of litigation and terms of constitutionality of requirements and in terms of the cost by inposing a test which is basically one which requires an awfully tough judgement called by the division of Land. On the other hand we believe a lottery system has a certain aspect of equity, it is easy to establish and administer, there is very little question about who wins and it doesn't require the additional administrative costs. Another very significant difference between the approach Mr. Freeman has taken and the one that Govenor Hammond has authorized is that we require local government participation approval before any of these homesite subdivisions are put on the block. Mr. Freeman required the consultation occur and he apparently indicates in his bill where local, it's really not addressed from the bill but basically it seems to operate on the theory that the local government will not impose control on such subdivisions. The fact of the matter is that local governments are highly likely to impose control in the area of water, sewer and roads that are simply local requirements that can't be overcome. What we require in our bill is that the

local government must approve of these subdivisions and that in order for any local government requirements of subdivisions not to apply rather than simply overruling them or attempting to overrule them with State law we require they be waived by local government. We think that is a concept that shouldn't be lost. I think that this committee will probably get very much the same sort of testimony from local government. Those are rea differences that we think are important and there are a couple other differences that I want to mention briefly to the committee. One is we think that one of the great ??? of the open entry program and it's not a difference but a similarity between the two programs, was that the open entry program basically simply opened the land in that any directions for administration or any guidelines. We think both Mr. Freeman's bill and the State's bill are well founded in the sense that they require prior decision making by the State and prior subdivision prior to putting this land on the market. But we think that in spite of this there could very well be problems with a program like this that we should monitor closely. The way we have proposed our program is to have it start small, grow to a size which within three (3) or four (4) years would put 200 or 300 sites on the block every year and then to put a sunset provision in the bill itself so that future legislators do not have to face unpleasant political tasks of having to appeal the program that didn't work if in fact that is the case. If it works and is as popular as we hope it might be then the legislature will simply have to re-enact the program as it is. We think that putting a sunset provision on it is important. There is one error in our bill that I would point out and that is that the eligibility age in Mr. Freeman's bill is 18 and our is 19. Ours should be 18. We believe that we have some additional flexibility in our bill in that the occupancy requirements for each

year Mr. Freeman requires seven (7) months for each of three (3) years and we require a period of 21 months during a period of three (3) years. We simply think that some people may want to rather than living out there every summer during the good weather may want to go for extended periods of time where they build and not live at all on the land during the first year while they are maybe working or putting together finances and I think that the flexibility is a good idea. There are some other differences that are important. Now turning very briefly to the fisical note I think we have supplied a very thorough fisical note on this bill and will be supplying a fisical note agenda that deals with Mr. Freeman's bill at aearly time. Basically speaking we believe that the bills are, is you assume that the size of the program would be comparable, that is building up from an initial first year effort of 64 settled area lots and 10 remote lots up to a level in three (3) years of 192 settled area lcts and 30 remote area lots. We think the costs are reasonably similar start with about $104,000 the first year. Mr. Freeman's bill would add because of the length of residency test and the judication desires substantially to that costs. As we see it it would be from 40,000 to 60,000 a year and I will be supplying those figures to the committee. I guess in closing Mr. Chairman, before taking any questions I would like to say this. We think that the idea of this bill is a ggod one and we think that even in it's best form it has problems and is some what marginally acceptable but it does respond to a very important public need. If the same thing happens to this bill as happened to the one last year, if it gets destorted in purpose and gets ornaments attached to it, I can tell you that my own recommendations will that the bill is vetoed. I think it has potential to be one of the very fine part of an over-all program if the bill is reasonably limited and is put together in

in a form which is workable and administrable but I hope the committee will take a close look at some of the ideas that we have attempted to put forward in our version of this bill which are acceptable before acting on other bills. I am dissapointed to hear that you are not considering our bill today Mr. Chairman, we think that it is well worth considering and that we have put a considerable amount of time in on it to try to develop an acceptable way to make this concept work. Thank you.

Unable tc understand this part of the tape, volumn to low on your tape.

(I don't know who is talking)

Commissioner we are going down two different paths trying to stay up with you. In reference to the title in your testimony, you said that Mr. Freeman's bill is pretitled and the Governor's bill gave something else.

Commissioner: Yes. A limited title, a residential title which would permit exactly the purpose of the bill, that is to own the land, it is a ????, it would for instance own the land, have title to the land but only for residential purposes. It would mean that the land then couldn't be subdivided later or turned to other purposes including industrial purposes, or comercial purposes but would remain within the purpose for which it was conveyed.

Question: Let me point out something, in my parochial way of thinking when you are giving somebody some land to be their land yet you're tieing a string on it and saying that seven (7) or eight (8) years from now if the road is rerouted or if circumstances change that in fact the people they own slightly over 80,000 square feet (can't understand the rest of this line up to here) but they can't use this for their own purpose. Here again I am going down two roads, I think

the thing is to give land to people yet we are tieing a string on it as if the people are prudent enough to use the land as they see fit. Answer: Mr. Mayor, I agree but I think what we are doing is talking about two different programs. I agree, I think that there are many occasions where you want to convey land to people with full feet title to exactly the kind of freedom that you say but I'm not certain that you want to do that as a part of the program which is created for the specific purpose that Mr. Freeman sets out here. For instance, this State already has a very solid program for doing just that. A cituation in which land can be put on the market and be sold at at a fair market value and have people pay a fair market value for it but as I understand the purpose of this legislation is to put land in the hands of the people who then need to build a place to live. Let me take the middle case if I may to tellwhat I mean, kind of a half way case between your road and what may happen. Let's assume the land goes up and again as Mr. Freeman admits,we are largely looking at settled areas and to make land available to people so they can build. Let's say that just one or two people out of this subdivision, not because there is a road but because they simply see that they can get more for their land back. Say I'm going to convert my land to commercial use or I'm going to convert it to some other use, but the rest of the people there got their land under this program in the faith and the belief that they were going to be part of the residential area where they could build and do that. It seems to me that the Legislature by passing this bill is saying, " we want people to have land in a low cost to build residency homes. If the program you really want is to give land to people to do anything they want with then I think we are talking about a different program, although I agree completely with your objective.

Question: Let me ask you then, if we went along with the other bill aren't we in fact legislating zoning which my constituents in Fairbanks area are up in arms about between the second and third class borough.
Answer: I don't think you are actually zoning it becausealtimately for one of these subdivisions to be put in it would have to be approved by the local government according to our bill but not Mr. Freeman's anyway. It seems to me that you are legislating a more serious problem for the local areas by simply saying the Division of Land will go out and locate this land where ever they want after consulting with the Borough but not requiring their approval Mr. Bennett. You are doing something far worse than zoning for them you are simply inflicting a State government action on them without any ability on their part to approve it.
Question: I shook a lot of hands and talked to alot of people last summer and last fall, I would hate to say how many thousands, in the Fairbanks area there were at least 20,000 to 30,000 over a period of weeks and when the subject of land came up and it most always did, one of the things that they were really upset about was ~~one of the~~ in Mr. Freeman's bill earlier and was tagged on the homestead bill was primarily that a young couple who had in fact entered mortgage though they were great young people trying to do their thing entered into the mortgage buying a piece of ground not realizing that this was coming up and by virtue of bought a piece of ground and were in the process of paying off this piece of ground, they are totally disqualified for the (call it theivery if you want but thats kind of bizarre because they spend more money on gas, oil and maintenance commuting back and forth (tape faded out, can't understand).
This was one of the biggest hangups that in fact people who spent their money, what they had felt was prudently and wisely and not

down in the bars on 2nd Street, were in fact being penalized by this very program and only the shiftless people who in fact had not tempted to put down their taxes in our States are the one that are eligible. Please explain this as I don't understand it.

Answer: I understand and I don't say that the case that you make out of this is an unsympathetic one but it seems to me that other side of that case is the one that I raised. That is it seems to me that there would be no reason under the bill as presently structures HP2 that a real estate developer who has been here in this State all his life and is 47 years old couldn't get a piece of land ~~because it had~~ a house built on it and then sell it.

Question: In the real world doesn't that always happen no matter what we are doing there is a percentage (tape fades out, can't understand).

Answer: I guess I goofed that but I don't think that it minimizes the point. It seems to me what you really have to decide is the purpose in the program. If the purpose of the program is to allow people who have lived here a long time to get land for free from the State, that is one thing but if your purpose is to help people who can't other wise get land then I think the best group to define that is people who don't own it. I would not agree I guess with your characterization of people who don't own land in this State are as you say people who and I think implying that ther're not particularly valuable people because they haven't "put down tap roots". I think there are a good many people in this State who don't own land who are extraordinarily fine people who simply have not been able to meet the incredibly high costs of land in this State. What we have proposed here and these are excellant people, just as good as the young couple who made the mortgage down payment, my feelings is that by defining that group you have really your best opportunity to answer a need without unduly opening the program up to what I think both you and I

would both agree is abuse.

Mr. Bennett: On the converse side of your agreement, I fully agree with you but I think what you are doing is the fact that you are making first rate citizens out of those who are not and while those in fact and I am not putting values on which group is actually better, but what you have done is took one group and put them in second choice and the other group in first choice and I don't think that that is constitutionally correct.

Mr. Martin: I guess our difference is this,I'm sympathetic and you are sympathetic to your proposals, I'm just not sure that this is the program to do it. For instance, we have looked at this question speculation and said that the worst speculation, the worst inflation of land prices are the places where the greatest amount of land is avialable. Other words where (can't understand rest of sentance). What we are looking for is a program which will make land available and we think it is fine to make it available not at a free cost but at a low cost, we think it is fine to make it available , let's say, at a market value cost but to do so under terms and this is the basics for our limited title idea, by which speculation won't occur. I guess I'm with you on the idea that you should be able to do anything you want to with your land but allowing people, for instance, who have agricultural land in the valley to do anything they want with it has resulted basically in a lost of virtually all of the agricultural land potential land in that area. I don't look at limiting titles so much as the problem of ruining the basic human rights of an individual as helping to protect them from the speculation of the high taxes that have driven so many people out of that area. They are balancing values but I think we really have to begin look in this State at a way to reduce speculation and reduce the chang f land out of the use which you and I might agree is the principal use of the land. In this

case, it's residential land. I understand the balance but I think we are now at a point where speculation of high taxes are forcing many people out of uses that we might agree are valuable to the land. (Volumn to low on your tape, can't understand)

I do have information on the bill, I have introduced the bill which is identical to Mr. Freeman bill, the only exception is the residency requirement and the acreage. My bill is House Bill 6. to which it says that a person has to be a minimum of five (5) years in the State in order to be qualified for five (5) acres and I do some information for some changes on this bill. I will more than happy to Xerox some copies for the committee.

HB

18

C S

Joby Gross
(586-3126)
parties, clean, cook
assist in serving

2/23

head cook

AGO 122794

Just to call to your attention that in fact, wolf has attacked man. Wolves, because of their excessive number in the Interior, are a problem. The Dept. of Fish and Game has not solved the problem, mainly because of outside political pressures, as well as insufficient staff to police the perimeter of our towns and villages.

PATIENT ENCOUNTER FORM

Name _____ (last) _____ (first) _____ (initial) _____ Camp Five Mile

EMPLOYER _____ WORKMEN'S COMP. NUMBER _____ DATE 14 Nov 05 TIME: 1530

BIRTHDATE _____ ALLERGIES NKA SOCIAL SECURITY NO. _____

CAUSE: Patient was getting under the tent when the wolf under the vehicle was bitten on the end of the nose by a young wolf.

T.	
P.	
R.	
B.P.	

CAUSE: Wolf Bite End of Nose previously had medicine present on it

ASSESSMENT: Wolfbite

Medications	Time/Date Given

TREATMENT: Area wiped off with Peroxide cleaned with water Patient just had T.A. Pitts, Shelf

_____ Field Medical Technician

MEDICAL RECORDS RELEASE

After evaluation of my medical condition the attending physician is authorized to release my medical records to the Bechtel Medical Department. This release also includes records and information concerning hospitalization pertaining to this illness/injury.

Signed _____ Witness _____

ATTENDING PHYSICIAN'S REPORT (See reverse side for instructions) Date 11-17-05

Historical Findings: Patient was bitten on nose by wolf

Physical Findings: Bite of nose

Diagnosis: Bite of nose

Treatment: Area cleaned with peroxide

Restrictions and Disposition: Return to work

Patient May Return to Work: _____

Signed _____ M.D.

Attest: _____ (last) _____ (first)

Date: 11-17-05

PATIENT ENCOUNTER FORM

Name _____ (last) (first) (initial) Camp Oldsmar

EMPLOYER _____ WORKMEN'S COMP. NUMBER _____ DATE 11-4-75 TIME: 1615

BIRTHDATE _____ ALLERGIES None SOCIAL SECURITY NO. _____

T.	
P.	
R.	
B.P.	

Subjective S: C/o being bitten by a wolf. Rt wrist - needs to report it.

Objective O: abrasion Rt wrist skin not broken.

Assessment A: as above

Plan P: Dip Tetanus Booster - stat pen

Medications	Time/Date Given

E Brown MX Field Medical Technician

MEDICAL RECORDS RELEASE

After evaluation of my medical condition the attending physician is authorized to release my medical records to the Dental Medical Department. This release also includes records and information concerning hospitalization pertaining to this illness/injury.

Signed _____ Witness _____

EXAMINING PHYSICIAN'S REPORT *(See reverse side for instructions)* Date _____

Positive Historical Findings: _____

Positive Physical Findings: _____

Diagnosis: _____

Treatment: _____

Further Recommendations and Disposition: _____

Date Patient May Return to Work: _____

White - Agent's Medical Department
Yellow - Attending Physician
Pink - Company Medical Record

Signed _____ M.D.

Address: _____ (City) (State)

HD-14

S-4 Item S39-36-6213

S 1000 74 #1 NAME

c/c Wolf Lake at Am. Mt. was
1835 (2) shooting off an Empress and a elk
came up behind deer and injured
him as the elk jumped and returned
on his way
(2) The Damaged Deer displayed mid autumn
pasture Horns velvet have to the
Removage of damage
Fitness Test
(1) Wolf Lite
(3) 1. Extreme weak + will a glimpse
2. Missing chin
3 Keep with adopts bones

HB 18 am

IN THE HOUSE BY SWANSON

HOUSE BILL NO. 18 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the management of wolves; and providing for an effective date."

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

* Section 1. AS 16.05 is amended by adding a new section to read:

Sec. 16.05.784. MANAGEMENT OF WOLVES. (a) Notwithstanding the authority of the Board of Game in sec. 255 of this chapter,

(1) nothing prohibits a person from taking a wolf [~~at any time~~] in any game management unit or subunit by any means except the use of poison, if the person holds a valid [resident] hunting license;

(2) upon taking a wolf, any person, whether resident or nonresident, shall notify, within 30 days, the appropriate person in the division of fish and wildlife protection of the Department of Public Safety as designated by the Legislative Council Commissioner; the notification shall specify, but not be limited to, the date of taking, the location of taking, and the sex of the animal; the division of fish and wildlife protection shall compile a record of all notifications under this paragraph and submit it to the Legislative Council and the Department of Fish and Game at least once every six months.

(b) The Legislative Council shall review the record submitted under (a) of this section and advise the legislature within 10 days of the beginning of each regular session on whether to repeal or retain this section.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

HB 331

HB 18

HB 20

HB 260 r. 2 - Barge

HB 261 - r. 2

HB 262 - r. 2

HB 263 - r. 2

HB 249 - State Fin

HB 250 - Resources Fin

HB 251 - Nat Res & Fin

HB 252 - Res. Fin

HB 253 - Res. Fin.

HB 254 - r. 2

HB 255 - Fin

HB 256 - r. 2

HB 257 - r. 2

HB 258 - Fin

HB 259 - r. 2

Nabob 7 Bills r.

BILL ANALYSIS

ASSIGNMENT DATE_____

UNASSIGNED_____

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Fish and Game	Rep. Swanson	HB-18

DEPARTMENT POSITION

The Department is opposed to this legislation

DIVISION DIRECTOR(S)	DATE	COMMISSIONER	DATE
R.A. Rausch	1/31/77	James W. Brooks	1/31/77

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☐ POSITION APPROVED ☐ POSITION DISAPPROVED

BY DATE

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING)

none

(2) a. ORGANIZATIONAL SUPPORT FOR BILL

unknown

(2) b. ORGANIZATIONAL OPPOSITION TO BILL

unknown

(3) PROGRAM EFFECTS OF BILL

This bill would eliminate effective management of wolves by removing all authority regulating their take from the Board of Game and the department. Effective management would also be hampered by the transfer of management authority, compiling harvest reports, to the Department of Public Safety.

(4) FISCAL IMPACT: ☒ NONE ☐ FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

none

(6) COMMENTS: The enactment of this bill would make it impossible to assure perpetuation of the wolf in Alaska and would seem to be in violation of Article VIII, Section 4 of the State Constitution which requires that "...resources belonging to the State shall be utilized, developed and maintained on the sustained yield principle, subject to preferences among beneficial uses." While it is true that the state has embarked on wolf control programs in selected portions of the state, it is equally true that there are a number of places in the state where the wolf population level dictates closed seasons during portions of the year and a careful limitation of methods and means employed in taking them.

One provision of this bill violates Federal Public Law 92-159 in that it would waive the prohibition on taking of wolves with the aid of aircraft except under a permit issued by the state. Proposed Section 16.05.784(a)(2), which sets up a system for reporting wolves taken, should more appropriately direct persons taking wolves to report to the Department of Fish and Game. This bill, if enacted, would seriously detract from any cohesive systems management program. The authority for managing wolves is now vested with the Board of Game,

features of management superior to existing programs.

Marcy Tampson

Bia OCS interia Dept

group from alaska land and waters

alaska should have a voice in

OCS land and oct

cartel sea.

Reaa comming in

Sup REAA. on School construction

in REAA. 18th of feb in afternoon

B.I.A. REAA areas are Conserned

lack of funds in schools have to buy blankets

Bia dont have to go to schools if

they dont want to | managing Bids

PTL HUMAN LIFE SH WILL ALLUDEE

Alaska State Legislature

House

JUNEAU ALASKA

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

MEMORANDUM 21 February 1977

When HB 18 was taken up in this Committee on 1 February 1977 the following suggestions were made for amendments.

1. Line 12 thru line 14 delete and add, " (1) nothing prohibits a person who holds a valid hunting license from taking a wolf in any game management unit or subunit by any means except

(A) the use of poison; or

(B) the taking of a wolf from an aircraft, unless the taking is authorized under permit issued by the commissioner;

2. Line 18, delete "Legislative Council" and replace with "Commissioner"

A motion is necessary to adopt a Committee Substitute to incorporate these amendments.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

Jeanne
for your info -
in all files
under
HB 18

MEMORANDUM February 3, 1977

SUBJECT: Comments on HB 18 and HB 20

TO: Representative Alvin Osterback

FROM: Joel F. [illegible]nett J.F.B.
Legislat[illegible] Counsel

You have asked me to comment on the bill analysis done by the Department of Fish and Game on HB 18 and HB 20, both by Representative Swanson.

HB 18 seeks to institute wolf control by allowing private persons full license to hunt, at any time, by any means. The Department of Fish and Game objected to this on two grounds: (1) that it violated article VIII, secion 4; and (2) that it violated federal law (P.L. 92-159). The "General Authority" provision of Alaska Constitution, article VIII, section 2, empowers that legislature to provide for the "utilization, development and conservation of all natural resources..." In section 4 it further specifies that this shall be done on the sustained yield principle, subject to preferences among beneficial uses." I find no clear violation of article VIII, section 4. HB 18 is merely a legislative scheme for the management of wolves, presumably having biological as well as public policy justification. As evidence of concern for the potential overharvest of wolves, a notification procedure was established. At the beginning of each year the legislature will evaluate the number of animals taken and where, and determine whether a proper balance of wolves has been attained.

Furthermore, in reviewing the minutes of the Constitional Convention (Part 4) on article VIII, section 4, I find no clear-cut interpretation or helpful elaboration of the sustained yield concept. It was intentionally loosely defined. The Secretary of the committee on Resources discusses it briefly on P.2451 as follows:

> "...in our reference to sustained yield, we have in mind no narrow definition of "sustained yield, "as is used, for example, in forestry, but the broad premise that insofar as possible a principle

> of sustained yield shall be used with respect to administration of those resources which are susceptible of sustained yield, and where it is desirable. For example, predators would not be maintained on a sustained yield basis...." and on P.2457: "For fish, for wild life, and for some other replenishable resources, such as huckleberries, as an example, it is difficult or even impossible to measure accurately the factors by which a calculated sustained yield will be determined. Yet, the term "sustained yield principle" is used in connection with the management of such resources. When so used in this article, it denotes conscious application insofar as practicable, of principles of management intended to sustain the yield of the resource being managed."

(2) The second objection to HB 18 is well founded and will require an amendment that prohibits taking of wolves by means of aircraft. Although resisted by the U.S. Attorney General on legal grounds, an amendment to the Fish and Wildlife Act of 1956 (P.L. 92-159) imposed a federal criminal penalty of $5,000 or 1 year imprisonment for the offense. This, of course, subjects those taking wolves from aircraft under HB 18 to federal prosecution, regardless of state law.

HB 20 clearly removes a management function from the Department of Fish and Game. Without judging the merits of such a policy, it must be concluded that it is within the authority of the legislature to do so. Under article III, section 22:

> "...exective and administrative departments and agencies of the state government and their respective functions, powers and duties shall be allocated by law among and within not more than twenty principal departments..."

What authority the legislature grants under law it can take away. By the passage of an Act such as HB 20, it is presumed that management guidelines and data were fully considered and that the legislature has acted in the best interest of the state, with attention to the dictates of article VIII, sections 1-7 of the Alaska Constitution. There is no apparent violation of the sustained yield principle in HB 20. Presumably, the intent of the bill is to restore moose to their former levels, at numbers compatible with other species. It could be argued that the bill further's sustained yield by producing more moose for the "utilization, development, and conservation of all natural resources...for the maximum benefit of the people." (article VIII, section 2).

In addition, the "sustained yield" and "wildlife...reserved to the people for common use, phrases in the Alaska Consti-

tution are not necessarily synonomous with "harvest" - "use" may reasonably be interpreted as availability for recreational viewing, photography or scientific study. "Sustained yield" in the sense of "harvest" may give way to preferences for certain non-consumptive uses under a reasonable interpretation of article VIII, section 4. I might add that the legislature recognizes other legitimate "uses" of wildlife when it creates state parks, and game sanctuaries, not oriented to hunting. Chapter 219 SLA 1975 further illustrates this expanded use concept, in the preamble to creation of the Department's wildlife photography concept:

> "...encourage other necessary public uses of wildlife in addition to their legitimate harvest."

The fact that HB 20 goes against the current local option, antlerless scheme, and effectively takes a portion of the management authority from the board of game may or may not be poor policy but it violates no constitutional law.

I hope this will be of some assistance to the committee.

JFB:smh

803(b) (42 U.S.C. 296b(b))[83] is amended by striking out "Surgeon General's" and inserting in lieu thereof "Secretary's". Section 841 (a) (42 U.S.C. 298(a))[84] is amended by striking out "Surgeon General" and inserting in lieu thereof "Secretary (or his delegate)".

Approved November 18, 1971.

FISH AND WILDLIFE—SHOOTING FROM AIRCRAFT

For Legislative History of Act, see p. 1735

PUBLIC LAW 92-159; 85 STAT. 480

[H. R. 5060]

An Act to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

The Fish and Wildlife Act of 1956 is amended by adding at the end thereof the following new section:

"Sec. 13. (a) Any person who—

"(1) while airborne in an aircraft shoots or attempts to shoot for the purpose of capturing or killing any bird, fish, or other animal; or

"(2) uses an aircraft to harass any bird, fish, or other animal; or

"(3) knowingly participates in using an aircraft for any purpose referred to in paragraph (1) or (2);

shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"(b)(1) This section shall not apply to any person if such person is employed by, or is an authorized agent of or is operating under a license or permit of, any State or the United States to administer or protect or aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops, and each such person so operating under a license or permit shall report to the applicable issuing authority each calendar quarter the number and type of animals so taken.

"(2) In any case in which a State, or any agency thereof, issues a permit referred to in paragraph (1) of this subsection, it shall file with the Secretary of the Interior an annual report containing such information as the Secretary shall prescribe, including but not limited to—

"(A) the name and address of each person to whom a permit was issued;

"(B) a description of the animals authorized to be taken thereunder, the number of animals authorized to be taken, and a description of the area from which the animals are authorized to be taken;

83. 42 U.S.C.A. § 296b(b).
84. 42 U.S.C.A. § 298(a).

"(C) the number and type of animals taken by such person to whom a permit was issued; and

"(D) the reason for issuing the permit.

"(c) As used in this section, the term 'aircraft' means any contrivance used for flight in the air.".

Sec. 2. (a) Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1429)[85] is amended by inserting "(a)" immediately after "Sec. 609." and by adding at the end thereof the following new subsection:

"VIOLATION OF CERTAIN LAWS

"(b) The Administrator, in his discretion, may issue an order amending, modifying, suspending, or revoking any airman certificate upon conviction of the holder of such certificate of any violation of subsection (a) of section 13 of the Fish and Wildlife Act of 1956, regarding the use or operation of an aircraft.".

(b)(1) Immediately after the section heading of such section 609, insert the following:

"PROCEDURE"

(2) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 609. Amendment, suspension, and revocation of certification."

is amended by adding the following:

"(a) Procedure.

"(b) Violation of certain laws.".

Sec. 3. The amendments made by the first section of this Act shall take effect as of the thirtieth day after the date of enactment of such section; except that, in any case in which a State is not authorized to issue any permit referred to in the amendments made by such first section, such amendments shall take effect in any such State as of the thirtieth day after the expiration of the next regular session of the legislature of such State which begins on or after the date of enactment of this Act.

Approved November 18, 1971.

MILITARY CONSTRUCTION APPROPRIATION ACT, 1972

PUBLIC LAW 92-160; 85 STAT. 482

[H. R. 11418]

An Act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1972, for military

85. 49 U.S.C.A. § 1429(a), (b).

IN THE HOUSE BY SWANSON

HOUSE BILL NO. 18

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the management of wolves; and providing for an effective date."

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

* Section 1. AS 16.05 is amended by adding a new section to read:

Sec. 16.05.784. MANAGEMENT OF WOLVES. (a) Notwithstanding the authority of the Board of Game in sec. 255 of this chapter,

(1) nothing prohibits a person from taking a wolf [~~at any time~~] in any game management unit or subunit by any means except the use of poison, if the person holds a valid [~~resident~~] hunting license;

(2) upon taking a wolf, any person, whether resident or nonresident, shall notify, within 30 days, the appropriate person in the division of fish and wildlife protection of the Department of Public Safety as designated by the ~~Legislative Council~~ Commissioner; the notification shall specify, but not be limited to, the date of taking, the location of taking, and the sex of the animal; the division of fish and wildlife protection shall compile a record of all notifications under this paragraph and submit it to the Legislative Council and the Department of Fish and Game at least once every six months.

(b) The Legislative Council shall review the record submitted under (a) of this section and advise the legislature within 10 days of the beginning of each regular session on whether to repeal or retain this section.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

BILL ANALYSIS

ASSIGNMENT DATE_____

UNASSIGNED_____

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Fish and Game	Rep. Swanson	HB-18

DEPARTMENT POSITION

The Department is opposed to this legislation

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
R.A. Rausch	1/31/77	James W. Brooks	1/31/77

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☐ POSITION APPROVED ☐ POSITION DISAPPROVED

BY DATE

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING)

none

(2) a. ORGANIZATIONAL SUPPORT FOR BILL

unknown

(2) b. ORGANIZATIONAL OPPOSITION TO BILL

unknown

(3) PROGRAM EFFECTS OF BILL

This bill would eliminate effective management of wolves by removing all authority regulating their take from the Board of Game and the department. Effective management would also be hampered by the transfer of management authority, compiling harvest reports, to the Department of Public Safety.

(4) FISCAL IMPACT: ☒ NONE ☐ FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

none

(6) COMMENTS: The enactment of this bill would make it impossible to assure perpetuation of the wolf in Alaska and would seem to be in violation of Article VIII, Section 4 of the State Constitution which requires that "...resources belonging to the State shall be utilized, developed and maintained on the sustained yield principle, subject to preferences among beneficial uses." While it is true that the state has embarked on wolf control programs in selected portions of the state, it is equally true that there are a number of places in the state where the wolf population level dictates closed seasons during portions of the year and a careful limitation of methods and means employed in taking them.

One provision of this bill violates Federal Public Law 92-159 in that it would waive the prohibition on taking of wolves with the aid of aircraft except under a permit issued by the state. Proposed Section 16.05.784(a)(2), which sets up a system for reporting wolves taken, should more appropriately direct persons taking wolves to report to the Department of Fish and Game. This bill, if enacted, would seriously detract from any cohesive systems

features of management superior to existing programs.

STATE OF ALASKA
DEPARTMENT OF FISH AND GAME
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

SUBPORT BUILDING — JUNEAU 99801

FEB 02 1977

January 28, 1977

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

Dear Mr. Malone:

Transmitted herewith is a report on the status of the predator control program in District 2, submitted in compliance with the direction of the Legislature (FY 77 Operating and Capital Budget, Natural Resources, p. 132).

Sincerely,

James W. Brooks
Commissioner

cc: Chairman, Senate Finance Committee
Chairman, House Finance Committee
Mike Whitehead, Office of the Governor

STATUS OF WOLF PROGRAM IN GMU 3

The 1976 session of the Alaska Legislature appropriated $50,000 to the Alaska Department of Fish and Game for the reduction of wolf populations in the vicinity of Petersburg and Wrangell (Election District 2). The need for this program was documented in the attached presentation by the Region I game staff to the Board of Game on March 22, 1976.

Deer populations declined steadily in the Petersburg-Wrangell area from 1965 through 1972, primarily as a result of severe winters. Since 1972, winter conditions have not been a major factor, but deer numbers continued to decline through 1975 in areas where wolves are present, leading managers to believe that wolves were the primary limiting factor during this period.

Deer populations throughout Units 1B and 3 are presently below acceptable hunting levels. The southern portion of Mitkof, Wrangell and Etolin Islands presently show a slight improvement since 1975 but on Kupreanof and Kuiu Islands it is difficult to locate evidence of deer.

Wolf populations have also declined since 1975. Surveys in March 1976 indicated approximately 38 wolves on Kupreanof, Mitkof, Wrangell and Etolin Islands; current estimate for the same area is 20. No wolves have been taken in GMU 3 since March 1976.

Although wolf populations have declined, even the few present have a significant impact on the low deer populations. We are attempting to further reduce the wolf population and maintain them at low level until deer populations increase.

The present program consists of hiring three local trappers to concentrate trapping efforts on Mitkof, Kupreanof, Wrangell and Etolin Islands. We also have authority for aerial hunting from helicopters but to date here has not been sufficient snow cover for tracking.

Trapping efforts, begun in early January, have been delayed somewhat by unusually warm weather, but efforts are currently being made on these islands. To date, only 2 wolves have been taken by department trappers in Election District 2, but we anticipate success to rise in February and March.

With wolf numbers fairly low to begin with, removal efforts will cost more per wolf caught than would be the case when populations are high. However, it must also be realized that removal of a few wolves now may do more good in restoring deer herds than removal of a much larger number when both wolves and deer were more abundant.

The program has been discussed with Advisory Committees and residents of Petersburg, Wrangell and Kake. In spite of poor success, local citizens feel the program is justified and consider the techniques and efforts acceptable. The low status of deer is presently the most important game management concern of the residents of GMU 3.

Expenditures through January will be approximately $13,000. Of this, over $5,300 is for temporary hires; $4,900 for traps, fuel and groceries, $2,600 for vessel rental and aircraft support and $200 for miscellaneous items. Anticipated expenditures through April will be about $8,000 per month for trapping, leaving a balance of $10,000 for aerial hunting and reconnaissance if weather conditions permit.

A DEER AND WOLF MANAGEMENT PROGRAM IN UNITS 1(B) and 3

Board of Game Meeting - Anchorage, March 22, 1976

Introduction

The current deer population in Unit 3 is at the lowest level that it has been since at least the early 1940's. The present wolf population is apparently able to impede the normal recovery of the depressed deer population. The Department of Fish and Game is proposing a program to reduce wolf predation on deer until they have recovered sufficiently to allow their use by both humans and predators. Concurrently we would obtain additional information on predator-prey relationships that would be useful in managing wildlife resources.

Deer have historically been the major big game species used by hunting residents of this unit (primarily from Petersburg, Kake and Wrangell). In recent years deer populations have declined drastically within Unit 3 so that in 1975 the hunting season was closed entirely and local residents have repeatedly requested that the wolf population be reduced to remove some of the predation pressure on the deer population. Winter weather conditions is considered the primary limiting factor causing the initial declines but when deer populations have reached a low level, predation by wolves becomes significant - prolonging or preventing deer recovery or even further reducing the population. We recognize

that given sufficient time the deer population would recover but the time that apparently will be required is not acceptable to the residents who want to enjoy good hunting returns nor to those of us involved in the management of the wildlife resources.

Historical Information

Deer populations have fluctuated many times during the past throughout Region I, but to our knowledge, populations in Unit 3 are now lower than at any time since the early 1940's. There have been periods when Unit 3 had the highest deer population within the region. Deer were abundant in Unit 3 from 1956 through 1964. From 1965 through 1968 the area experienced a series of colder-than-average winters resulting in a steady decline in deer numbers. This decline was climaxed by the most severe winter in recent history in 1968-69 and another severe winter in 1971-72. Since 1972, winters have been relatively mild but deer populations have not responded. Weather has apparently not been a major limiting factor since 1972.

Harvest data provide good indications of deer abundance. From 1960 throughout 1966 Petersburg and Wrangell hunters usually took over 2000 deer, primarily from Unit 3, and the average number of deer taken per hunter was usually over two deer with a high of 3.5 deer for Petersburg hunters in 1961 (Table 1). From 1967 through 1971 there was a reduction in numbers of deer taken, the average dropped below two deer per hunter and in 1972,73, and 74 less than five

Table 1. Estimates of deer harvest and hunter success, by Petersburg and Wrangell residents, Unit 3 total deer harvest and deer seasons and bag limits.

	By residents of Petersburg		By residents of Wrangell				
Year	Harvest	Deer/ Hunter	Harvest	Deer/ Hunter	Unit 3 Total Deer Harvest	Season	Bag limit
1960	1320	2.4	920	2.5	3350	8/20-12/15	4 deer
1961	1922	3.5	785	2.2	3700	8/01-11/30	4 deer
1962	1180	2.0	860	2.0	2310	8/01-12/15	4 deer
1963	1160	2.1	820	2.4	2750	8/01-12/31	4 deer
1964	1400	2.3	670	2.1	2490	8/01-12/31	4 deer
1965	1260	1.8	420	1.5	1890	8/01-12/31	4 deer
1966	1730	2.4	570	1.4	2710	8/01-12/31	4 deer
1967	1030	1.3	590	1.4	2230	8/01-12/31	4 deer
1968	1090	1.4	520	1.3	1990	8/01-12/15	4 deer
1969	310	0.5	490	0.6	800	8/01-12/15	4[a]
1970	300	1.4	140	0.4	350	8/01-12/15	4[a]
1971	506	0.8	130	0.4	190	8/01-11/30	3[b]
1972	132	0.3	89	0.3	60	8/01-11/30	2
1973	442	1.1	124	0.6	50	9/01-11/30	1
1974	335	0.9	116	0.6	40	9/01-11/30	1
1975	NO OPEN SEASON						

a 2 antlered deer on Mitkof Island
b 2 antlered deer on Mitkof, Wrangell, Etolin and Woronkofski Island

percent of deer killed by Petersburg and Wrangell residents were taken within Unit 3. From 1960 through 1968 the bag limit was four deer of either sex with the season generally from August 1 through December 31. From 1969 through 1972 the bag limit was reduced to two antlered deer in parts of Unit 3 and in 1973 and 1974 was further reduced to only one antlered deer. In 1975 Unit 3 was closed to deer hunting. In spite of all the hunting restrictions and subsequent reduced harvest, deer populations continued to decline. This decline continued during years when winters were mild and deer survival should have been good.

The northern portion of Kupreanof Island has historically been one of the major deer wintering areas in Unit 3. When deer were abundant there were so many tracks that it was impossible to determine numbers. On March 2, 1976, not a single deer track was observed on a foot transect in this area.

Wolves

Wolves have always been present within Units 1(B) and 3 in varying abundance. Wolf populations normally follow deer trends, but there is usually a lag of several years before wolf populations begin to decrease after a deer low. Wolf bounty and sealing records provide some idea of wolf abundance. As bounties are still paid in Units 1, 2, and 3, there is more incentive to submit wolves for sealing and records may be more accurate than for non-bounty units. From 1963 through 1971, an average of 44 wolves were taken

annually from Unit 3 with highs of 82 in 1967-68, and 72 in 1969-70. In 1974-75, only 11 wolves were taken and in 1975-76, 11 have been taken to date. There is no question that wolf populations are now lower in Unit 3 than during the 1960's. The deer population is so low however, that the ratio of wolves to deer is unacceptably high.

When deer were plentiful almost every wolf stomach or scat examined contained deer. In a study within Unit 3 in 1958, 125 of 131 scats examined contained deer remains. During the first five years after wolves were introduced to Coronation Island, of 499 scats collected, 450 contained deer. When deer become scarce, wolves utilize other food sources which has happened in Unit 3. In 1975-76, of nine wolf stomachs and scats examined, only two contained deer remains.

Adjacent Areas in Unit 4

The northern portion of Unit 3 and the southern portion of Admiralty Island (Unit 4) are separated by a water body only 15 miles in width. In a recent survey of a six-mile segment of beach on Admiralty Island, 69 deer were observed. In over 11 hours of aerial survey time covering hundreds of miles of Kupreanof and Mitkof Islands in Unit 3, no deer were observed. Winter conditions are normally more severe on Admiralty Island than in Unit 3. More deer were lost per unit area on Admiralty Island in the late 1960's than in Unit 3. Range conditions are presently much better in Unit 3 than in Unit 4 and Unit 3 has a greater potential for

producing deer than Unit 4. Hunting pressure is higher on Admiralty than in most of Unit 3. In the past, there have been times when deer were more abundant in Unit 3 than in Unit 4. Deer populations on Admiralty have recovered from the severe winters of 1968-1969 and 1970-1971, however, in Unit 3 they have not shown any signs of recovery. A major difference between the two areas is wolves which are present in Unit 3 but absent in Unit 4. Similarily during a foot survey in July 1975 the deer populations on six small islands in Unit 3 without wolves were higher than adjacent areas which did support wolves.

Many game biologists consider predation a natural factor which can contribute to healthy prey populations. In recent years, however, almost every investigator of predator-prey relationships has determined that given certain conditions, predators can reduce prey species below acceptable levels. This has happened in Unit 3 as it has gone from one of the best deer areas in Region I to a level so low that no hunting is allowed.

Recent Surveys

During February and early March, 1976, aerial surveys were flown in Unit 3 to evaluate the deer and wolf population status. Most of these surveys were flown shortly after snow storms so that tracking conditions were good to excellent. Surveys were concentrated on Wrangell, Etolin, Mitkof and Kupreanof Islands as these were the areas most intensively

hunted by Petersburg, Kake and Wrangell residents. Both fixed-wing aircraft and helicopters (11.0 hrs. fixed-wing and 7.5 hrs. helicopter) were used. Generally a fixed-wing aircraft was used initially and location of tracks were marked on a map. A helicopter was then used to land near any tracks that could not be identified with certainty from the fixed-wing. The following number of different sets of wolf and deer tracks were observed on each island.

	Deer Tracks	Wolf Tracks	Hr's. Flying
Mitkof Island	6	6	4.3
Kupreanof Island	2	10	6.9
Wrangell Island	0	10	3.4
Etolin Island	0	12	3.9
TOTALS	8	38	18.5

It is significant that there were more observations of wolf tracks than deer tracks.

In addition to the aerial surveys, nine transects were walked on locations of Mitkof and Kupreanof Islands which have supported some of the highest deer populations in the past. These transects extended from the beach inland approximately on-half mile. With existing snow conditions, they transversed the majority of usable winter range. On these nine transects, only two deer tracks were observed. Wolf tracks were present (4 separate tracks) on three transects. On similar transects in Unit 4, hundreds of deer tracks can be observed. During beach counts utilizing boats within the survey areas, no deer have been observed. On a boat survey around Wrangell Island, stopping at several locations, the

only deer tracks observed were on Blake Island (6 tracks). Blake Island normally does not support a wolf population.

Present Program

We have contracted most trappers in Unit 3 and are collecting specimen material from wolves that are being taken by local trappers and hunters, however, trapping pressure is light and spotty because of the low wolf population. To obtain additional specimen material from areas not presently being hunted or trapped we have recently employed two trappers, one from Wrangell and one from Petersburg. Materials obtained from any wolves taken will be valuable in further documenting the deer-wolf situation in Unit 3 and will add to our knowledge of predator-prey relationships. Trapping is not a very effective method of taking wolves when the population is low, however.

Proposed Program

The basic objective is to expedite the recovery of the deer population to a level that will allow their use by both humans and wolves. To accomplish this, the Department of Fish and Game considers it necessary to reduce the current wolf population as much as possible on certain islands and maintain it at a lower level until the deer population recovers. Wolves commonly move from island to island in Unit 3 and from the mainland in Unit 1B to the islands. Efforts to maintain lowered wolf populations would be concentrated on those islands that were traditionally the most popular

islands for deer hunting. Based on our surveys, our estimate of the wolf population on these islands is:

	Estimated Population
Mitkof Island	6
Kupreanof Island	10
Wrangell Island	10
Etolin Island	12

In addition, recent surveys have shown that approximately 11 wolves are present within the Stikine River drainage (below the Canadian Boundary). These wolves can cross both to Wrangell and Mitkof Islands. Efforts to maintain a desired wolf population on Mitkof and Wrangell Islands would be ineffective unless comparable measures were initiated on the Stikine River.

Presently hunting and trapping are the only available options for taking wolves and these seem to be ineffective in reducing the wolf population to a level to allow a normal recovery of the deer in Unit 3. We request the Board of Game to authorize Department personnel to use helicopters to take those wolves that hunters or trappers do not take to maintain the wolf population at the desired level until the deer population recovers. We recognize that the expense involved in a large systematic aerial hunting program in Southeastern Alaska would be unjustified. However during regular activities in the past, Department personnel could have taken wolves from helicopters and this is the authority we are now requesting. It would be a useful tool in our overall program to re-establish deer and wolf population levels.

similar to those that were present in the 1960's. The general public from Unit 3 and the Petersburg and Wrangell advisory Committees support this concept.

Summary

Deer populations in Unit 3 are presently extremely low. We believe there is adequate evidence to demonstrate that predation by wolves is presently the major limiting factor. We recommend that most wolves be removed from Mitkof, Kupreanof, Wrangell and Etolin Islands in Unit 3 and on the Stikine River in Unit 1(B) this year and that the wolf populations be maintained at that level until deer populations recover. We request authority to use helicopters to take wolves on an opportunity basis. The extremely low deer population in Unit 3 has caused a loss of public confidence in the Department's game management programs. We wish to not only correct this situation, but to be allowed to manage game in the best interest of the resource and the user. We recognize the State and National implications but hold that such game management measures to be consistent with the best public interests and professional game management standards.

Feb. 1, 1977

AMENDMENT

OFFERED IN THE HOUSE: BY: Resources Committee

To: _____ HOUSE BILL No. 18

SENATE BILL No. _____

PAGE: 1 LINE: 12
" 14
" 15

Line 12 delete "at any time)

Line 14 delete "resident"

Line 18 delete "Legislative Council"
and insert "Commissioner"

by:
Rick Ehrion
adopted by
Resources
on 2/22/77

Put amend forms Cheek 34-06-

IN THE HOUSE BY SWANSON

HOUSE BILL NO. 18

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the management of wolves; and providing for an effective date."

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

* Section 1. AS 16.05 is amended by adding a new section to read:

Sec. 16.05.784. MANAGEMENT OF WOLVES. (a) Notwithstanding the authority of the Board of Game in sec. 255 of this chapter,

(1) nothing prohibits a person from taking a wolf [at any time] out in any game management unit or subunit by any means except the use of poison, if the person holds a valid [resident] hunting license;

(2) upon taking a wolf, any person, whether resident or nonresident, shall notify, within 30 days, the appropriate person in the division of fish and wildlife protection of the Department of Public Safety as designated by the [Legislative Council] Commissioner out, the notification shall specify, but not be limited to, the date of taking, the location of taking, and the sex of the animal; the division of fish and wildlife protection shall compile a record of all notifications under this paragraph and submit it to the Legislative Council and the Department of Fish and Game at least once every six months.

(b) The Legislative Council shall review the record submitted under (a) of this section and advise the legislature within 10 days of the beginning of each regular session on whether to repeal or retain this section.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

#

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER / SUBPORT BUILDING
JUNEAU 99801

February 9, 1977

The Honorable Alvin Osterback, Chairman
House Resource Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

Re: Request for information on wolf harvest and cost to state of wolf control, Unit 20A

HB 18

I have attached statewide wolf harvest information for the year 1976.

The cost figure for the wolf control effort in game management Unit 20A follows:

Helicopter Charter	$16,759.00
Estimated line item 100, 200, 300 & 400 costs	$ 8,000.00
	$24,759.00

Total wolves taken - 66

Sale of 50 wolf skins @$275+ per skin	(13,789)
Remaining skins held by Div. of Admin.	(4,000) Est.
Net cost to state of central operations	6,970

The average net cost per wolf killed equals approximately $106.00.

HB 20

During questions on House Bill 20 Representative Urion requested information on the 1976 harvest of moose in Unit 16. The projected harvest follows:

16B 215 Bulls and 135 females - 350
16A 80 Bulls and 40 females - 120

Total 470

If you should require additional information, please contact me.

Sincerely,

Robert A. Rausch, Director
Division of Game

cc: Commissioner Brooks

B.G.D.I.F. Code C-5 - Harvest

Alaska Wolf Harvest
1959 - 1974

SPECIES: Wolf

x Bounty Records ** From Aerial Permits & Bounty Records

*** Mandatory Sealing

	YEAR														
	x	x	x	x	x	x	x*	x	x	x	**	**	***	***	***
Unit	59-60	60-61	61-62	62-63	63-64	64-65	65-66	66-67	67-68	68-69	69-70	70-71	71-72	72-73	73-74
1			67	23	36	36	17	24	53	41	53	67	97	35	50
2			12	43	53	57	50	66	78	113	83	59	42	29	15
3			18	26	37	27	52	40	82	15	72	38	57	24	27
5					1	4	7	3	6	8	2	10	2	5	2
6					1	1	5	0	0	0	1	0	0	3	6
7	----------						Closed								1
9			4	9	16	44	27	51	24	22	26	7	24	24	31
10	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-
11			8	21	24	30	117	70	40	7	10	23	56	48	28
12		1	8	-	17	24	47	38	57	31	123	14	94	64	37
13							64	31	120	1	41	91	111	80	75
14				3	8	11	19	30	17	1	1	8	12	16	8
15	----------						Closed								1
16				5	21	37	84	36	66	6	2	21	40	13	13
17				15	14	1	18	26	24	15	3	13	28	20	20
18	0	0	2	2	0	0	0	1	3	0	0	0	4	0	2
19	1	1	12	34	53	57	110	147	17	18	21	42	95	59	39
20	24	49	90	95	237	267	262	366	265	134	256	141	249	296	304
21	11	14	75	132	43	33	187	189	105	26	32	32	93	48	102
22	-	-	-	6	0	4	11	15	28	6	7	2	11	5	7
23	18	20	71	23	41	35	47	164	177	134	80	4	70	83	40
24	5	47	12	85	19	45	67	219	276	58	35	23	129	100	60
25	32	62	82	86	50	25	59	59	145	61	34	36	121	47	56
26	117	63	45	37	49	59	41	102	83	67	47	0	0	71	46
Unk	3	0	15	4	0	3	1	2	45	0	-	4	0	41	-
Total	211	257	605	675	713	800	1292	1679	1711	764	929	635	1335	1071	970

SPECIES: Wolf

x Bounty Records ** From Aerial Permits & Bounty Records
*** Mandatory Sealing

	YEAR	
Unit	*** 74-75	*** 75-76
1	62	65
2	10	44
3	11	24
5	9	11
6	4	7
7	1	9
9	52	27
10	1	0
11	34	18
12	40	40
13	103	110
14	24	19
15	5	12
16	41	34
17	111	47
18	4	3
19	63	82
20	291	335
21	37	77
22	21	2
23	47	144
24	65	45
25	48	49
26	6	34
Unk	--	5
Total	1090	1243

1/ Records for these three years are incomplete because of the transition from statewide bounties to a mandatory sealing provision..

NANA REGIONAL CORPORATION, INC.

POST OFFICE BOX 49 / KOTZEBUE, ALASKA 99752 / TELEPHONE (907) 442-3301

February 3, 1977

NANA-77-A054

Leslie E. (Red) Swanson
State Representative
Alaska State Legislature
Juneau, Alaska 99811

Dear Representative Swanson:

I am responding to your letter requesting comments on House Bill No. 18 and House Bill No. 20 introduced by yourself. The former relates to funding and the latter to the taking of anterless moose.

Unfortunately we do not feel that NANA can support these bills at this time. It seems to us that you are attempting to legislate game management. One of the reasons that we have a Fish & Game Department is to manage our wildlife resources. To attempt to manage it by the legislation is to take away the very flexability that is needed in order to assure good management of wildlife resources.

We understand the intent of what you are trying to do and do not disagree necessarily with the programs you have outlined. However we have very strong feelings that these programs should be initiated by the Department of Fish & Game and not by the Legislature.

Thank you for giving us the opportunity to comment. We'd be glad to discuss the bills with you at anytime.

Sincerely yours,

NANA REGIONAL CORPORATION, INC.

John Shively

John Shively
Vice President, Operations

JS/ar
cc: Leo Schaeffer, Jr.
Frank Ferguson
Al Osterback
Kay Poland
James Brooks

Fleh. AK
1-29-77

Committee on Resources.

I urge you to recommend House Bills no. 18 - & no 20. — for passage - with the strongest emphasis.

I have lived in Alaska 35 years - and have hunted widely - until the last 4 years - when I considered the game too scarce to jeopardize it by my taking any game.

I have skilled a lot more moose than I can ever share - but they I want to feed a lot of kids - (not my own) - and I never wasted any meat -

The ignoramuses in game management would go broke as cattle farmers - or ranchers - in two years — any farm boy of 12 years of age - knows that you protect all cows & big calves - killing or selling only mature bulls — and that you prevent all predation!

America gained 9 million population from 1970 - to 1975 - & they forecast another 21 million in the next 20 years. And we need predators?

Somebody is mixed up - & it is the game management outfits.

Let them go as they are - and the only game we will have - will be in

Goas!

Why don't you take a page from the Scandinavians - They harvest more by the 10's of thousands every year. Predators are eliminated —

Thank you

Joe Vogler
Box 7
Talkeetna
99707

Here is to the same kind of hunting for the young that I have enjoyed!

HB

20

CS HB 157

CS

AGO 122795

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

M E M O R A N D U M February 3, 1977

SUBJECT: Comments on HB 18 and HB 20

TO: Representative Alvin Osterback

FROM: Joel F. Bennett J.F.B.
Legislative Counsel

You have asked me to comment on the bill analysis done by the Department of Fish and Game on HB 18 and HB 20, both by Representative Swanson.

HB 18 seeks to institute wolf control by allowing private persons full license to hunt, at any time, by any means. The Department of Fish and Game objected to this on two grounds: (1) that it violated article VIII, secion 4; and (2) that it violated federal law (P.L. 92-159). The "General Authority" provision of Alaska Constitution, article VIII, section 2, empowers that legislature to provide for the "utilization, development and conservation of all natural resources..." In section 4 it further specifies that this shall be done on the sustained yield principle, subject to preferences among beneficial uses." I find no clear violation of article VIII, section 4. HB 18 is merely a legislative scheme for the management of wolves, presumably having biological as well as public policy justification. As evidence of concern for the potential overharvest of wolves, a notification procedure was established. At the beginning of each year the legislature will evaluate the number of animals taken and where, and determine whether a proper balance of wolves has been attained.

Furthermore, in reviewing the minutes of the Constitional Convention (Part 4) on article VIII, section 4, I find no clear-cut interpretation or helpful elaboration of the sustained yield concept. It was intentionally loosely defined. The Secretary of the committee on Resources discusses it briefly on P.2451 as follows:

> "...in our reference to sustained yield, we have in mind no narrow definition of "sustained yield, "as is used, for example, in forestry, but the broad premise that insofar as possible a principle

> of sustained yield shall be used with respect to administration of those resources which are susceptible of sustained yield, and where it is desirable. For example, predators would not be maintained on a sustained yield basis...." and on P.2457: "For fish, for wild life, and for some other replenishable resources, such as huckleberries, as an example, it is difficult or even impossible to measure accurately the factors by which a calculated sustained yield will be determined. Yet, the term "sustained yield principle" is used in connection with the management of such resources. When so used in this article, it denotes conscious application insofar as practicable, of principles of management intended to sustain the yield of the resource being managed."

(2) The second objection to HB 18 is well founded and will require an amendment that prohibits taking of wolves by means of aircraft. Although resisted by the U.S. Attorney General on legal grounds, an amendment to the Fish and Wildlife Act of 1956 (P.L. 92-159) imposed a federal criminal penalty of $5,000 or 1 year imprisonment for the offense. This, of course, subjects those taking wolves from aircraft under HB 18 to federal prosecution, regardless of state law.

HB 20 clearly removes a management function from the Department of Fish and Game. Without judging the merits of such a policy, it must be concluded that it is within the authority of the legislature to do so. Under article III, section 22:

> "...exective and administrative departments and agencies of the state government and their respective functions, powers and duties shall be allocated by law among and within not more than twenty principal departments..."

What authority the legislature grants under law it can take away. By the passage of an Act such as HB 20, it is presumed that management guidelines and data were fully considered and that the legislature has acted in the best interest of the state, with attention to the dictates of article VIII, sections 1-7 of the Alaska Constitution. There is no apparent violation of the sustained yield principle in HB 20. Presumably, the intent of the bill is to restore moose to their former levels, at numbers compatible with other species. It could be argued that the bill further's sustained yield by producing more moose for the "utilization, development, and conservation of all natural resources...for the maximum benefit of the people.". (article VIII, section 2).

In addition, the "sustained yield" and "wildlife...reserv to the people for common use, phrases in the Alaska Const.

tution are not necessarily synonomous with "harvest" - "use" may reasonably be interpreted as availability for recreational viewing, photography or scientific study. "Sustained yield" in the sense of "harvest" may give way to preferences for certain non-consumptive uses under a reasonable interpretation of article VIII, section 4. I might add that the legislature recognizes other legitimate "uses" of wildlife when it creates state parks, and game sanctuaries, not oriented to hunting. Chapter 219 SLA 1975 further illustrates this expanded use concept, in the preamble to creation of the Department's wildlife photography concept:

> "...encourage other necessary public uses of wildlife in addition to their legitimate harvest."

The fact that HB 20 goes against the current local option, antlerless scheme, and effectively takes a portion of the management authority from the board of game may or may not be poor policy but it violates no constitutional law.

I hope this will be of some assistance to the committee.

JFB:smh

803(b) (42 U.S.C. 296b'b))[83] is amended by striking out "Surgeon General's" and inserting in lieu thereof "Secretary's". Section 841 (a) (42 U.S.C. 298(a))[84] is amended by striking out "Surgeon General" and inserting in lieu thereof "Secretary (or his delegate)".

Approved November 18, 1971.

FISH AND WILDLIFE—SHOOTING FROM AIRCRAFT

For Legislative History of Act, see p. 1735

PUBLIC LAW 92-159; 85 STAT. 480

[H. R. 5060]

An Act to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

The Fish and Wildlife Act of 1956 is amended by adding at the end thereof the following new section:

"Sec. 13. (a) Any person who—

"(1) while airborne in an aircraft shoots or attempts to shoot for the purpose of capturing or killing any bird, fish, or other animal; or

"(2) uses an aircraft to harass any bird, fish, or other animal; or

"(3) knowingly participates in using an aircraft for any purpose referred to in paragraph (1) or (2);

shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"(b)(1) This section shall not apply to any person if such person is employed by, or is an authorized agent of or is operating under a license or permit of, any State or the United States to administer or protect or aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops, and each such person so operating under a license or permit shall report to the applicable issuing authority each calendar quarter the number and type of animals so taken.

"(2) In any case in which a State, or any agency thereof, issues a permit referred to in paragraph (1) of this subsection, it shall file with the Secretary of the Interior an annual report containing such information as the Secretary shall prescribe, including but not limited to—

"(A) the name and address of each person to whom a permit was issued;

"(B) a description of the animals authorized to be taken thereunder, the number of animals authorized to be taken, and a description of the area from which the animals are authorized to be taken;

83. 42 U.S.C.A. § 296b(b).
84. 42 U.S.C.A. § 298(a).

"(C) the number and type of animals taken by such person to whom a permit was issued; and

"(D) the reason for issuing the permit.

"(c) As used in this section, the term 'aircraft' means any contrivance used for flight in the air.".

Sec. 2. (a) Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1429)[85] is amended by inserting "(a)" immediately after "Sec. 609." and by adding at the end thereof the following new subsection:

"VIOLATION OF CERTAIN LAWS

"(b) The Administrator, in his discretion, may issue an order amending, modifying, suspending, or revoking any airman certificate upon conviction of the holder of such certificate of any violation of subsection (a) of section 13 of the Fish and Wildlife Act of 1956, regarding the use or operation of an aircraft.".

(b)(1) Immediately after the section heading of such section 609, insert the following:

"PROCEDURE"

(2) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 609. Amendment, suspension, and revocation of certification."

is amended by adding the following:

"(a) Procedure.

"(b) Violation of certain laws.".

Sec. 3. The amendments made by the first section of this Act shall take effect as of the thirtieth day after the date of enactment of such section; except that, in any case in which a State is not authorized to issue any permit referred to in the amendments made by such first section, such amendments shall take effect in any such State as of the thirtieth day after the expiration of the next regular session of the legislature of such State which begins on or after the date of enactment of this Act.

Approved November 18, 1971.

MILITARY CONSTRUCTION APPROPRIATION ACT, 1972

PUBLIC LAW 92-160; 85 STAT. 482

[H. R. 11418]

An Act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1972, for military

85. 49 U.S.C.A. § 1429(a), (b).

For an Act entitled: "An Act prohibiting the taking of antlerless moose."

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

* Section 1. AS 16.05.780 is repealed and re-enacted to read:

Sec. 16.05.780. TAKING OF ANTLERLESS MOOSE PROHIBITED. The taking of antlerless moose at any time in any game management unit or subunit is prohibited.

We the following Alaskans concur with Representatives Don Bennett and Red Dunbar on this bill

Jeannie D. Snyder	916 Glenn St. Fairbanks Alaska
(LeRoy Rich)	3795 Geist St. Colby Ak.
	102 "B" St #6 Fairbanks AK
	6½ Mile Badger Rd Fbks, Ak
C. A. Hayes	1067 Lakeview Terrace - Fairbanks, Ak
J. M. Ruckman	2535 Dale Rd - Fairbanks -
	#409 NORTHWARD BLDG, Fairbanks
John N. Bethune	1607 21st Ave FAIRBANKS AK.
Frank Brumgaar	1010 Evergreen Fairbanks AK
	1902 MARYANN FBKS. AK.
	1320 6th Ave FBKs AK.
	3033 Richardson DR FBKS. AK
J. Thomas Meyn	7 Mi. Old Richardson SR. Box 60343 Fbks, Ak.
	10 miles steese FAIRBANKS AK.
David Copeland	1M. NELSON RD. NORTH POLE P.O. BOX 60398
	425 B St. FBK.
	101 OAK DRIVE FBKS ALASKA

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act prohibiting the taking of antlerless moose."

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

* Section 1. AS 16.05.780 is repealed and re-enacted to read:

Sec. 16.05.780. TAKING OF ANTLERLESS MOOSE PROHIBITED. The taking of antlerless moose at any time in any game management unit or subunit is prohibited.

We the following Alaskans Concur With Representatives Don Bennett and Red Lewanson on this bill.

Fred D Legore	327 Antoinette St	Fairbanks Alaska
Harold L Fuller	2117 Juneau St	Fairbanks, Alaska
Paul Kachuck	2095-A JACK ST.	Fairbanks, Alaska.
Tom Hoffman	2113 JACK ST.	Fbks, Ak.
James A Hart	2¼ M. E Hurst Rd.	Fairbanks Alaska
Walter O. Turner	6½ mile Badger Rd.	Fairbanks Alaska
Ray Seybold	516 Lanfell	FAIRBANKS AK.
Allen Fleming	304 Badger Street	Fairbanks, Ak
Lee Richards	963 Stewart St.	Fairbanks Ak.
Duane J Anderson	501 Ketchikan	Fbk.
H. E. Woods	Box 594	FBKS.
Dave Knight	Box 60654	FBKS.
Art Matuzza	1378 th	FBKS.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

SUBPORT BUILDING
JUNEAU 99801

February 9, 1977

The Honorable Alvin Osterback, Chairman
House Resource Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

Re: Request for information on wolf harvest and cost to state of wolf control, Unit 20A

HB 18

I have attached statewide wolf harvest information for the year 1976.

The cost figure for the wolf control effort in game management Unit 20A follows:

Helicopter Charter	$16,759.00
Estimated line item 100, 200, 300 & 400 costs	$ 8,000.00
	$24,759.00

Total wolves taken - 66

Sale of 50 wolf skins @$275+ per skin	(13,789)
Remaining skins held by Div. of Admin.	(4,000) Est.
Net cost to state of central operations	6,970

The average net cost per wolf killed equals approximately $106.00.

HB 20

During questions on House Bill 20 Representative Urion requested information on the 1976 harvest of moose in Unit 16. The projected harvest follows:

16B	215 Bulls and 135 females	350
16A	80 Bulls and 40 females	120
	Total	470

If you should require additional information, please contact me.

Sincerely,

Robert A. Rausch, Director
Division of Game

cc: Commissioner Brooks

SPECIES: Wolf

x Bounty Records ** From Aerial Permits & Bounty Records
*** Mandatory Sealing

	YEAR														
Unit	x 59-60	x 60-61	x 61-62	x 62-63	x 63-64	x 64-65	x* 65-66	x 66-67	x 67-68	x 68-69	** 69-70	** 70-71	*** 71-72	*** 72-73	*** 73-74
1			67	23	36	36	17	24	53	41	53	67	97	35	50
2			12	43	53	57	50	66	78	113	83	59	42	29	15
3			18	26	37	27	52	40	82	15	72	38	57	24	27
5					1	4	7	3	6	8	2	10	2	5	2
6					1	1	5	0	0	0	1	0	0	3	3
7	----------	----------	----------	----------	----------	----------	Closed	----------	----------	----------	----------	----------	----------	----------	1
9			4	9	16	44	27	51	24	22	26	7	24	24	31
10	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-
11			8	21	24	30	117	70	40	7	10	23	56	48	28
12		1	8	-	17	24	47	38	57	31	123	14	94	64	37
13							64	31	120	1	41	91	111	80	75
14				3	8	11	19	30	17	1	1	8	12	16	8
15	----------	----------	----------	----------	----------	----------	Closed	----------	----------	----------	----------	----------	----------	----------	1
16				5	21	37	84	36	66	6	2	21	40	13	13
17				15	14	1	18	26	24	15	3	13	28	20	20
18	0	0	2	2	0	0	0	1	3	0	0	0	4	0	2
19	1	1	12	34	53	57	110	147	17	18	21	42	95	59	39
20	24	49	90	95	237	267	262	366	265	134	256	141	249	296	304
21	11	14	75	132	43	33	187	189	105	26	32	32	93	48	102
22	-	-	-	6	0	4	11	15	28	6	7	2	11	5	7
23	18	20	71	23	41	35	47	164	177	134	80	4	70	83	40
24	5	47	12	85	12	45	67	219	276	58	35	23	129	100	60
25	32	62	82	86	50	25	59	59	145	61	34	36	121	47	56
26	117	63	45	37	49	59	41	102	83	67	47	0	0	71	46
Unk	3	0	15	4	0	3	1	2	45	0	-	4	0	41	-
Total	211	257	605	675	713	800	1292	1679	1711	764	929	635	1335	1071	970

SPECIES: Wolf

x Bounty Records ** From Aerial Permits & Bounty Records

*** Mandatory Sealing

	YEAR	
Unit	*** 74-75	*** 75-76
1	62	65
2	10	44
3	11	24
5	9	11
6	4	7
7	1	9
9	52	27
10	1	0
11	34	18
12	40	40
13	103	110
14	24	19
15	5	12
16	41	34
17	111	47
18	4	3
19	63	82
20	291	335
21	37	77
22	21	2
23	47	144
24	65	45
25	48	49
26	6	34
Unk	--	5
Total	1090	1243

1/ Records for these three years are incomplete because of the transition from statewide bounties to a mandatory sealing provision..

BILL ANALYSIS

ASSIGNMENT DATE_____

UNASSIGNED_____

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Fish and Game	Rep. Swanson	HB 20

DEPARTMENT POSITION

The Department of Fish and Game opposes HB 20

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
Robert A. Rausch	1/31/77	James W. Brooks	1/31/77

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☐ POSITION APPROVED ☐ POSITION DISAPPROVED

BY: DATE:

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING)

none

(2) a. ORGANIZATIONAL SUPPORT FOR BILL

unknown

(2) b. ORGANIZATIONAL OPPOSITION TO BILL

unknown

(3) PROGRAM EFFECTS OF BILL

The bill would place an additional drain on alternate food species in rural areas, e.g., caribou, sheep and goats. Further, it would prohibit presently legal, local option antlerless moose hunts and it would prohibit moose manageme programs designed to maintain moose populations in optimum balance with available nge.

(4) FISCAL IMPACT: ☒ NONE ☐ FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

none

(6) COMMENTS: The enactment of this bill, prohibiting the taking of antlerless moose at any time in any game management unit, would appear to violate Article VIII, Section 4 of the State Constitution which requires that "...resources belonging to the State shall be utilized, developed and maintained on the sustained yield principle, subject to preferences among beneficial uses." A continuous closure on a species such as moose could hardly qualify as sustained yield of beneficial uses. At present the authority for establishing antlerless moose seasons is vested with the Board of Game and they are limited by a complex system which requires that the department recommend such a season and that the advisory committee(s) for a game management unit or a subunit favorably recommend on the department's proposal. The present system provides an indepth review of such proposals by the public and the board. There are relatively few antlerless moose seasons in the State of Alaska at this time and all of them have the support of the appropriate advisory committees if such exist. The proposals that will be before the Board of Game at the next meeting, March 1977, will all have been favorably considered by the appropriate advisory committees. Imposition of this bill would seriously detract from a progressive systems management

HB

40

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

P.O. Box 1628, Juneau, AK 99802

File HB 40 / in Out of Comittee

1510

January 25, 1977

The Honorable Alvin Osterback
Chairman House Resources
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

This responds to your request for a statement on forestry activities at the State level. The Forest Service strongly supports measures which will strengthen the professional forestry staff and organization of State governments so that professional forestry expertise can better serve the needs of people in the management of forests and related resources. With the imminent acquisition of the full 103.4 million acres of land provided by the Statehood Act and approximately 44 million acres transferring to Native ownership, such measures are timely.

The State forestry staff is already charged with responsibility for protecting State and private lands from fire, insect, and disease attack. A statewide organization able to meet these demands needs the equipment, experienced managers, and training to provide this support. It needs the cooperation of local communities to provide the manpower during periods of extreme fire hazard, and it must be able to react rapidly to minimize delays in meeting these demands. A trained statewide organization can effectively handle such situations.

Our present State forestry organization is beginning the major task of fielding fire protection forces to protect Alaskan life and property with the gradual phase out of the Bureau of Land Management protection contract. Experience in firefighting and organization of a cadre of district personnel capable of leading temporary firefighters is of paramount importance for making the operation function.

In the area of management, the renewable resources of forest and rangelands include timber production, fish and wildlife habitat, recreational opportunities, wilderness experiences, and watersheds. Minerals management is also related to these resources. The State Forestry organization, working through cooperative Federal-State programs, can provide technical, and in some cases financial, assistance to establish, protect, manage, and use forest and related resources.

The Forest Service works closely with the State Forestry organization of the States and Territories. The National Association of State Foresters is an organization with substantial leadership in promoting sound forest practices on all non-Federal lands. We would encourage the State to examine the opportunities to strengthen its organization to meet the rapidly expanding challenge of its forests. The National Association of State Foresters and individual State organizations have demonstrated the merits of sound forest management practices. A number of States have established forest practice laws and regulation. Their experience could be very helpful in your efforts.

In summary, we believe Alaska now needs a strong State forestry organization operating at a level of government that reflects the emerging importance of this resource activity. Additionally, a comprehensive State forestry program is needed that focuses not only on State lands but is also designed to provide forestry assistance of all kinds to Alaska's new landowners. Numerous federal grant programs exist requiring some state matching funds that are specifically directed to this purpose. The State Forester needs authority and a mandate to participate in these programs.

Many bush communities, wanting to develop sound managment programs for their lands, are now requesting forestry and land managment assistance. With a strong forestry organization and program the state can be responsive to their citizens needs. We believe it very important that any forestry legislation considered this session address these concerns.

Sincerely,

John A. Sandor

JOHN A. SANDOR
Regional Forester

gave copy to Sally Smith, Kenai

Alaska Rural Development Council

INCREASED AWARENESS • IMPROVED COMMUNICATION
BROADENED UNDERSTANDING • COORDINATED ASSISTANCE

2221 E. Northern Lights Blvd., Suite 129, Anchorage, AK 99504

MEMBERSHIP

US DEPT AGRICULTURE
- Secretary's Program Rep
- Agric Research Svc
- Agric Stabilization & Conservation Svc
- Coop Extension Svc
- Coop State Research Svc
- Farmers Home Adm
- Food & Nutrition Svc
- Forest Service
- Soil Conservation Svc

US DEPT ARMY
- Corps of Engineers

US DEPT COMMERCE
- Anch District Office
- National Marine Fisheries Svc

US DEPT HEALTH, EDUCATION & WELFARE
- Alaska Liaison
- Alaska Area Native Health Svc

US DEPT HOUSING & URBAN DEV
- Regional Director

US DEPT INTERIOR
- Regional Rep
- Alaska Power Adm
- Bureau of Indian Affairs
- Bureau of Land Mgmt
- Bureau of Mines
- Fish & Wildlife Svc
- National Park Svc

ENVIRONMENTAL PROTECTION AGENCY

FEDERAL ENERGY ADM

ALASKA, STATE OF
- OFFICE OF THE GOVERNOR
  - Division Policy Dev & Planning
- DEPT COMMERCE & ECONOMIC DEVELOPMENT
- DEPT COMMUNITY & REGIONAL AFFAIRS
  - Div of Community Planning
- DEPT EDUCATION
  - Div of Educational Svc
- DEPT ENVIRONMENTAL CONSERVATION
- DEPT HEALTH & SOCIAL SVC
  - Div of Public Health
- DEPT HIGHWAYS
- DEPT LABOR
- DEPT NATURAL RESOURCES
  - Div of Agriculture
  - Div of Lands
- FEDERAL-STATE LAND USE PLANNING COMMISSION

UNIVERSITY OF ALASKA
- Arctic Env Info & Data Center
- Coop Extension Svc
- Geophysical Inst
- Inst Agricultural Sciences
- Inst Arctic Biology
- Inst Marine Science
- School of Ag & Land Resources Mgmt
- School of Management
- Sea Grant Program
- School of Mineral Industry

ALASKA FEDERATION OF NATIVES, INC.

ALASKA METHODIST UNIV

ALASKA NATIVE FOUNDATION

ALASKA VILLAGE ELECTRIC COOP

BERING STRAITS NATIVE ASSN

COMMUNITY ENTERPRISE DEV CORP

FAIRBANKS NORTH STAR BOROUGH

FAIRBANKS TVA DEV, INC

RURAL CAP

SEALASKA CORP

YUKON-KUSKOKWIM HEALTH CORP

January 20, 1977

Mr. Alvin Osterback
Chairman, House Resources Committee
Alaska State Legislature
Pouch A
Juneau, Alaska 99811

Dear Mr. Osterback:

The enclosed Resolution regarding establishment of a State Division of Forestry was adopted today in Anchorage, during a regular quarterly meeting of this Council.

The Resolution specifically relates to House Bill No. 40 which proposes to create a Division of Forestry within the Department of Natural Resources. We believe the valuable forest land resources on the State and private lands of Alaska need increased professional attention under a stronger State Forester's organization than now exists.

Establishment of a Division of Forestry would help to accomplish this by elevating the existing resource management of forested lands from a Section of Forestry within the Division of Land and Water Management in the Department of Natural Resources, to a higher level of management and authority.

Forest land management is a type of agricultural use, and it affects State-wide development of rural areas in which our Council is specifically concerned. We join with other organizations and groups in the State in support of establishing a State Division of Forestry.

Sincerely,

Ted Freeman

Ted Freeman
Chairman
Alaska Rural Development Council

enclosure

CHAIRMAN—Ted Freeman, Soil Conservation Service, 204 East Fifth Ave., Rm. 217, Anchorage, AK 99501.
VICE-CHAIRMAN—Pete Probasco, Cooperative Extension Service, 3211 Providence Ave., Anchorage, AK 99504.
EXECUTIVE SECRETARY—James Matthews, Cooperative Extension Service, University of Alaska, Fairbanks, AK 99701.

January 20, 1977
Anchorage, Alaska

ALASKA RURAL DEVELOPMENT COUNCIL

RESOLUTION

To support legislation for establishing a State Division of Forestry within the Department of Natural Resources

WHEREAS, the State of Alaska is in the process of selecting 103.4 million acres of land under the Statehood Act, and Native Corporations are in the process of selecting 43 million acres of land under the Alaska Native Claims Settlement Act, and

WHEREAS, State selection lands now comprise a significant portion, approximately 6 million acres, or 25% of the commercial forest lands of Alaska, with significant additional acreage of similar value to be selected in the near future, and

WHEREAS, Native Corporation lands now comprise approximately 15 million acres of forest land containing high value renewable resources, and

WHEREAS, the forest resource industry has a high expansion potential on both State and private lands which will contribute significantly to State and local economy in rural areas of Alaska, and

WHEREAS, strong State leadership is essential to provide professional forest land management and protection against wildland fire, insect, and disease losses for all State and private lands, and at the same time enhance and sustain high resource values consistent with other high environmental values, and

WHEREAS, House Bill No. 40 has been introduced in the First Session of the Tenth Legislature of the State of Alaska, to create a Division of Forestry within the Department of Natural Resources, and

WHEREAS, a State Division of Forestry should develop increased professional capability to not only more effectively manage State forested lands under its jurisdiction, but also to more effectively deliver technical assistance to new Native Corporation and other private landowners at a critical time in development and management of their lands, and

WHEREAS, a State Division of Forestry should also stimulate increased federal financial assistance, and related federal assistance through regular U.S.D.A. agency programs, such as extension forestry education, and through cooperative state and federal programs of forest fire control, forest management, and forest insect and disease management,

NOW THEREFORE BE IT RESOLVED, the Alaska Rural Development Council supports legislative action such as House Bill No. 40 to create a

State Division of Forestry and strengthening of professional forestry leadership and authority within the State Forester's organization, and

BE IT FURTHER RESOLVED, that copies of this Resolution be sent to Jay S. Hammond, Governor of Alaska; Guy R. Martin, Commissioner, Alaska Department of Natural Resources; and the House Resources Committee and Senate Resources Committees of the Alaska State Legislature.

COOK INLET CHAPTER
JUNEAU CHAPTER
KETCHIKAN CHAPTER
YUKON RIVER CHAPTER
SITKA CHAPTER

SOCIETY OF AMERICAN FORESTERS

Alaska Section

HB 40

March 1, 1977

The Honorable Alvin Osterback
Chairman, House Resources Committee
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

This is in regard to H.B. No. 40 "An Act Creating a Division of Forestry within the Department of Natural Resources...".

The Alaska Section of the Society of American Foresters views H.B. No. as a companion bill to S.B. No. 59 which is an Act relating to forest practices. We favor the establishment of a Division of Forestry. However, we are concerned that the bill does not speak to the establishment of the position of a professionally qualified State Forester. We believe this is essential to provide the professionalism and leadership needed to the conduct and promotion of a sound forestry program within the State of Alaska.

For your additional information and use, we have enclosed a copy of the Society's evaluation of S.B. No. 59 and our letter to Senator Kay ~~Ploand~~ POLAND which essentially reiterates our position.

We would be pleased to assist you in any way in the development of H.B. No. 40.

Sincerely,

Joseph Zylinski

Forestry Practices Act Committee
Joseph Zylinski, Chairman, P.O. Box 1305, Juneau, Ak 99802
Michael S. Leach
Frank Price
Robert Janes

Enclosure

COOK INLET CHAPTER
JUNEAU CHAPTER
KETCHIKAN CHAPTER
YUKON RIVER CHAPTER
SITKA CHAPTER

SOCIETY OF AMERICAN FORESTERS

Alaska Section

February 11, 1977

The Honorable Kay Poland
Chairman, Senate Resources Committee
Alaska State Senate
Capitol Building
Juneau, Alaska 99811

Dear Senator Poland:

The Alaska Section of the Society of American Foresters has had a continuing interest in proposed Forest Practices legislation for the State of Alaska. The Alaska Section represents over 200 professional foresters and is a part of a National organization consisting of over 20,000 professional foresters.

The Society of American Foresters does not advocate that States should enact laws which regulate forest practices. This is for each State to decide, based on its needs in terms of environmental protection and forest land productivity which are likely to vary from State to State. Nevertheless, we are concerned that if a Forest Practices Act is enacted in a given State, it be a competent law. To this end, the Society has established "criteria for a competent State Practices Act", a copy of which is enclosed.

In 1976, we tested S.B. No. 563 against the Society criteria, but unfortunately, only one of our recommendations was incorporated into S.B. No. 59. We have again tested S. B. No. 59 against this same criteria. We sincerely hope that our enclosed analysis and recommendations will be helpful and useful to you and your Committee in developing a competent forest practices act for the State of Alaska.

We recognize the importance of the proposed legislation, especially in view of the fact that more than one-third of the entire State of Alaska of 141,000,000 acres are classified as forest land. Of this amount, 18,650,000 acres are in the coastal western hemlock timber type, with 1,187,000 acres in State ownership and 1,340,000 acres in Native land ownership. The remaining 122,350,000 acres are spruce-hardwood timber types in the Interior, with 27,089,000 acres in State ownership and 16,190,000 acres in Native land ownership.

This means 32.5% or nearly one-third of Alaska's forested lands are now in State and private land ownership. Subsequent State and Native selections will substantially add to this acreage.

Please advise if we can be of additional service. We would be happy to work with you on developing specific language, definitions or other aspects as you consider appropriate.

Sincerely,

Joseph Zylinski

Forest Practices Act Committee, Alaska Section, SAF
Joseph Zylinski, Chairman
Michael S. Leach
Frank Price
Robert Janes

Enclosure

TESTING SENATE BILL 59

AGAINST SOCIETY OF AMERICAN FORESTERS

CRITERIA FOR A COMPETENT STATE

FOREST PRACTICE ACT

PREPARED BY JUNEAU CHAPTER

SOCIETY OF AMERICAN FORESTERS

FEBRUARY 10, 1977

1. "A Forest Practices Act should encourage the application of scientific knowledge and forest management principles in order that society can obtain the largest net sum of benefits from forest lands. Such an Act should reflect full consideration of both its social and private costs and benefits."

Since the Act designates the Commissioner of the Department of Natural Resources as the person responsible to administer the Act, there is no assurance that scientific and forest management principles will be applied. It is recommended that the State Forester play a more prominent role in administering the Act to assure a sound professional approach He should be specifically named in the Act and his responsibilities clearly defined.

To be really effective a Division of Forestry should be established with the State Forester as Director. The Act then would be administered by this Division.

2. "A Forest Practices Act should insure the productivity of forest lands and protect the environment, including air and water quality."

Review of this Act indicates that this criteria is adequately covered. Although air pollution is not specifically mentioned, it is assumed that air pollution is included in the review by other agencies, i.e. Department of Environmental Conservation.

3. "State-initiated regulation of forest practices is perferable to regulation initiated by federal and local governments. A Forest Practices Act should recognize regional forest variations within a state's boundaries."

Section 41.17.060 (b) provides "the Commissioner may establish regions, districts, or other subdivisions of forest land within the state in which different regulations apply to reflect varying conditions throughout the state."

It appears that this criteria is fully met by S.B. 59.

4. "A Forest Practices Act should be coordinated and in compliance with related regulatory programs in order to minimize jurisdictional conflicts and administrative costs. Such an Act should be consistent with public forestry research, education, technical assistance and financial incentive programs."

This Act does not specifically provide for acknowledgment that compliance with the Act constitutes compliance with State Federal water quality standards, including non-point pollution. This feature should be integrated into the notification system. Review without objection by other state agencies affected should constitute compliance.

Section 41.17.020 (b) provides for the designation and operation of experimental forests; (c) establishing cooperative forestry programs and extension service programs; (d) establishing and maintaining forest tree nurseries.

There is no provision for forestry education or financial incentive programs. These features should be made a part of the cooperative forestry and extension service programs. Funds would have to be made available for the incentive program.

5. "A Forest Practices Act should clearly define the forest land to be covered under the Act as well as any standards and terms applied with respect to forest practices, air and water quality and soil erosion. A Forest Practices Act should use terminology which is generally accepted by the professions concerned."

Section 41.17.030 establishes exemptions to the provisions of the Act. Subsection (b)(1) indicates that a tract less than 160 acres does not fall under the provisions of the Act. While we believe certain operations are so small as to cause little concern to the citizens of the State, we recognize that a timber harvest of 160 acres at the mouth of certain streams or adjacent to certain estuarine areas could have substantial effects on offsite users if timber harvesting is conducted improperly. As with most resource management policies we find it difficult to establish an acreage limit where impacts are a matter of general public concern. However. we believe this is an administrative detail best left to professionals to prescribe on a case to case basis. We would prefer that the Board, along with the State Forester, establish guidelines that are based on a combination of resource factors including, but not limited to, acreage.

The definitions in Section 41.17.950 are a credit to this bill. Definitions specified are close to meeting SAF criteria No. 5. Improvement of some definitions is needed. We would be more than willing to coordinate this section with the various professions involved and recommend appropriate language.

6. "A Forest Practices Act should establish procedures and guidelines for the development and adoption of regulations, but make no attempt to specify the regulations themselves."

We believe the proposed bill generally meets this criteria and have only one suggestion. The suggestions is that Section 41.17.060 provide for procedures (probably) a subsection (14) should be added) aimed at establishing regulations for maintaining State water quality standards and protecting the environment of aquatic and offsite fisheries resources commensurate with economic values represented.

7. "A Forest Practices Act should allow a forest landowner latitude in applying professional forestry expertise and forest management principles. Administrative requirements for forest landowners and operators should not be unduly burdensome."

We find the bill reaches far beyond our criteria in this respect and from a number of different aspects. In essence we believe the provisions of the Bill are unduly burdensome and deprive forest landowners of land resource value and operational latitude without any form of compensation for this taking of basic rights. For instance:

1. Subsection 41.17.040 (b) provides equal regulations for State, municipal, and private land. Item (1) under this subsection (p.4) places the burden of proof on the landowner. While this may be appropriate for State or municipal forest lands, it is not appropriate as a basis for depriving a private landowner of economic values that exist on his own land. The burden of proof should be on the administering agency.

2. Item (3) under this subsection (p.4) requires administration of forest land with respect to production levels of timber products to allow reasonable consideration for marketing conditions. We submit that there is little likelihood that State officials will have access to sufficient data on an individual land owners marketing conditions to warrant any regulation on this account. Even if sufficient trend data for forest products operations at large within a district are available to the State, there can be little justification in regulating any individual landowner's harvest plan since that individual's market opportunities simply are not the concern of the State. This is another illustration of the need to consider regulation of private forest land separately from State or municipal lands.

3. Item (5) under this subsection (p.4) requires the maintenance of scenery in or adjacent to areas important to the tourism and recreation industry. Again, such an imposition on a private landowner is questionable while it can be mandated for State or municipal lands.

4. Section 41.17.050 requires that this Act shall be administered so as to protect forest land from "depletion", "overharvesting", "unsatisfactory forest management", etc. In our view such objectives, while perhaps appropriate for public lands, are not entirely applicable to all private lands in Alaska.

This Section also requires that the State conduct periodic inventories of timber on lands subject to the Act. While we agree that the State needs such authority, there is little reason to require it as a State function. The nationwide Forest Survey of the Forest Service has traditionally provided such service to states and to private and other forest landowners as well as to the various federal agencies.

Section 41.17.060 (d) is an improvement over old S.B. No. 563. This approaches a one-stop-shopping service that will benefit the operator and reduce the amount of work and frustration needed to wade through an unfamiliar bureaucratic requirements. This Section needs to be worded in such a manner to imply that approval of the plan also carries with it a certification that it meets with State air and water quality standards and grants all necessary permits, such as: tideland or other land and water use or occupancy.

Section 41.17.070, subsection (b) provides a "notification" procedure as contrasted to a permit process. We endorse this concept as being more efficient and less burdensome on the private landowner. We believe this notification should reflect an operator's "planned" operation rather than a proposal.

It is noted that up to a total of at least 85 days is provided for the State to make up its mind on each timber harvest plan. While this may be appropriate for public land activities, it is unduly burdensome and debilitating with respect to planned activities on private lands.

Under subsection (d) (3) (p.8) any other agency of the State may trigger a 20 day delay in a crucial operation. Again, we emphasize the importance of eliminating unduly burdensome requirements.

Under subsections (c) and (g) the State must ask for comment on each harvesting plan from both State agencies and by the citizenry through newspaper invitation. This is an open invitation to delays in legitimate plans of a private economic entity. We believe the needed agency coordination should be developed with a Forest Practices Board during the promulgation of regulations and any private landowner's plan or actual operation conducted in compliance with these State regulations should not be postponed or denied.

We endorse subsection (i) of this section.

Subsection (j) limits State approval of deviations from approved plans. Approval is contingent upon consultation with other affected State agencies. We believe a strong professional head of the Forestry Agency can provide an appropriate and expeditious decision on such matters without violating valid concerns of other agencies and without delaying a crucial decision to an operator.

Section 41.17.080 adopts the attitude that chemicals are not a bonafide attribute of productive forest management. The burden of proof is put on the landowner to prove no adverse consequences. We believe the State's policy should be the other way around, i.e. any application of chemicals for forestry purposes which is lawful is acceptable unless evidence in the hands of the State Forestry Agency shows otherwise. To do otherwise is to deprive a landowner of the opportunity to profit by modern day forest practices.

8. "Where boards, commissions or advisory bodies are used, their composition should represent the broad public interest with at least a majority of the membership being knowledgeable and experienced in the scientific management of forest resources."

A major weakness of the bill is that it creates weakness in the administering agency. First, there is no recognition that a strong Forestry Agency is needed to achieve competent and beneficial regulation of forest practices. A demonstratably effective arrangement for achieving such a goal is to provide for a professional State Forester to administer the Act and a Forest Practices Board to promulgate those necessary procedures or

regulations which can't be efficiently established through the legislative process. Forest practices in the State of Oregon have been, over the years, notably more advanced than other west coast states and without the forest practice legislative upheavals experienced in sister states. Oregon has long operated under the State Forester-Forest Practices Board approach.

Next is the problem of gaining support for a forest practices act from forest landowners or forestry experienced residents of the State when the Act will be administered by an appointee subject to change with each new State administration. Forestry programs and regulations must have more continuity and stability to be successful.

Our suggestions for solving this dilemma is to establish a board and a State Forester or Director, perhaps along the lines outlined in the EPA model Forest Practices Act. An additional suggestion varying from the EPA model is that a majority of the board members be knowledgeable and experienced in the scientific management of forest resources. Such a board should include at least one member from the Forest Products Industry and one from an Alaskan Native Corporation.

Recognizing that the question of establishing a strong and professional forestry agency is a major philosophical difference between the Administration and the Society, we wish to point out that the Alaska Section of the Society has been a leader, possibly the first, in advocating that it is timely for Alaska to adopt forest practices legislation. We will not support legislation that is not competent in the forest practices field.

9. "The development of forest practice regulations should be accomplished with due consideration of the knowledge and opinions of forest landowners, timber operators, forestry and related professionals and the public, and should take into account regional forest variations and disparities in land ownership patterns. Public hearings are necessary to achieve these purposes.

It appears that SB No. 59 meets this criteria. However, we recommend emphasis on technical assistance and incentive programs rather than on regulation of activities.

10. "Using appropriate State administrative procedures, forest practice regulations should be adopted by a State forestry agency or board with responsibility for interagency coordination. Forest practice regulations should rest upon scientific knowledge and professionally recognized forest management principles. The regulations should be administered and enforced by a single state agency with adequate staffing and forestry expertise."

The bill fails to provide for a state forestry agency or a board with responsibility for interagency coordination. All powers are vested in the Commissioner who may delegate authority to his subordinate employees or units within the Department of Natural Resources to the extent he considers advisable. This does not guarantee that regulations would be

administered and enforced by an entity within the Department with either adequate staffing, forestry expertise, and funding.

The conversion of nearly 150 million acres of federal land to state and private ownership will occur in the near future. This will involve many millions of acres of forest land. It is reasonable to assume that the Commissioner could satisfactorily perform all of the administrative and regulatory functions as described in SB No. 59 without delegation. The very scope of other activities and responsibilities vested within his Department would necessitate delegation.

The Governor, in transmitting essentially this same bill to the previous Legislature, indicated a desire to administer and regulate forest practices on state and private lands within existing structures and personnel resources of the Department to avoid the creation of a new bureaucracy and to keep government regulation at a minimum. We subscribe to that philosophy. However, we contend that the existing structure, personnel, and professional resources of the Department are insufficient to perform satisfactorily the state and private forestry workload presently existent within the State without even considering the 150 million acres moving from federal to State and private status.

While the Governor's motives are admirable, we believe that the imposition of an additional sizable workload upon an existing skeletal capability would be a disservice to the State, its forest and related resources and a derogation of the stated findings and purposes of SB No. 59.

In this regard, we urge the identification of a State Forester established within and heading a Division of Forestry. In addition, funding and professional forestry manpower needed by the State Forester to administer and enforce a Forest Practice Act need to be recognized and provided for in SB No. 59.

11. "A Forest Practices Act should provide for effective administration and enforcement, with adequate provisions for due process, to achieve the objectives and purposes of the Act. Administrative and enforcement procedures should be efficient and expeditious. Provisions should also be included for the use of continuing education, information and training programs to implement regulations adopted under the Act. Forest management operations conducted in accordance with adopted forest practice regulations should be considered to have met the requirements of laws pertaining to soil sedimentation and air and water quality."

Senate Bill No. 59 contains a considerable amount of administrative and regulatory detail. We believe the Bill should provide for these features in broad terms. The development of details should be left to the State Forester who would work with the various publics in a series of scheduled and well-advertised public meetings. Resultant administrative and regulatory details developed within that medium would be substantially more palatable, relevant, and acceptable.

The Bill should provide for the use of continuing education, information,

and training programs designed to implement regulations adopted under the Act. The State Forester should play a key role in this activity.

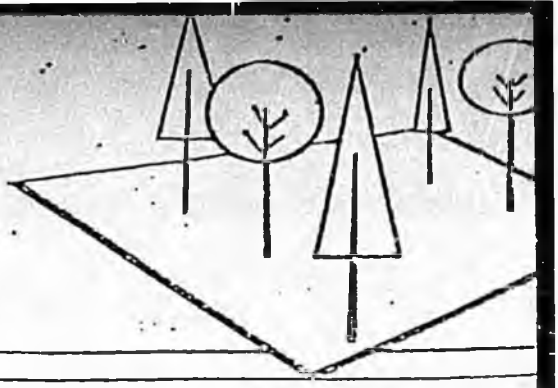
These features would go a long way toward developing public acceptance of a Forest Practices Act.

12. "A Forest Practices Act should not preclude the legitimate conversion of forest land to other uses."

Senate Bill No. 59 appears to meet this criteria.

General Comment

Section 41.17.040 (c) (3) states that "...all resources and values are of equal priority;...." This is inconsistant with the definition for multiple use contained in Section 41.17.950. We concur with the definition of multiple use and that consideration in any activity must be given to the relative value of the various resources.



SOCIETY OF AMERICAN FORESTERS

CRITERIA FOR A COMPETENT STATE FOREST PRACTICES ACT*

The Society of American Foresters (SAF) has prepared its "Criteria for a Competent State Forest Practices Act" to aid legislators and other groups considering the development or adoption of legislation to regulate forest practices. The paragraphs below are provided as an introduction and should be read carefully so that the "Criteria" can be considered in its proper perspective.

Controversy over the regulation of forest practices in the United States has reached national proportions in three periods prior to the current debate, namely 1910-1911, 1923-1924 and 1938-1952. The sources of these earlier controversies were widespread public concern over future timber supplies, poor timber harvesting practices and wildfire, and the consequent damage in terms of soil erosion and sedimentation of watercourses.

The present focus on state forest practice legislation is a result of the recent sharp increase in public concern over the quality of life in the United States. This change has caused Federal enactment of several far-reaching environmental laws, many of which apply to water quality, to include the Federal Water Pollution Control Act Amendments of 1972. This law is the basis for the Environmental Protection Agency development of a "Suggested State Forest Practices Act" in late 1974.

There has been and remains a concomitant concern for the potential and actual productivity of the forest lands in the United States. When some activities related to forest land management are improperly performed, accelerated soil erosion can result in a significant reduction in water quality and the capacity of the land to produce vegetation. In addition to man-caused siltation of watercourses, other forms of water pollution can result. Certainly, occurrences of this kind ought to be discouraged or at least kept within acceptable limits. This can be done through various education, training and financial incentive programs. Activities which diminish a forest's capacity to grow trees can also be discouraged or prevented through regulation by states or other authority. For this purpose regulation might be useful, and in some cases, necessary.

If the forest management activities involving soil disturbance are properly performed, water quality and the potential productivity of forest soil can be maintained. In fact, certain forest management practices can increase tree growth and provide for wildlife habitat and recreational opportunities substantially beyond the natural limitations of many forest lands. These practices ought to be encouraged, and can be through various education and incentive programs. However, the efficacy of legal coercion in the form of regulation of forest practices is questionable so far as encouraging intensive forest management. The bulk of experience indicates that regulation is better employed to enforce minimum performance standards. Expectations to achieve anything more appear unwarranted.

*A statement approved by the Society of American Foresters [illegible] 1975

The Society of American Foresters does not advocate that states should enact laws which regulate forest practices. This is for each state to decide based on its needs in terms of environmental protection and forest land productivity which are likely to vary from state to state. Nevertheless, SAF is concerned that if a Forest Practices Act is enacted in a given state, it be a competent law. To this end SAF undertook the task of developing its "Criteria for a Competent State Forest Practices Act" set forth below.

There are twelve criteria. In some cases it was found necessary to either expand on a given criterion or to address a current issue. These are the purposes of the short paragraphs which follow some of the criteria.

SAF is prepared to elaborate, where necessary, upon any of the following "Criteria" and to assist in discussions or deliberations regarding the regulation of forest practices.

Criteria for a Competent State Forest Practices Act

1. A Forest Practices Act should encourage the application of scientific knowledge and forest management principles in order that society can obtain the largest net sum of benefits from forest lands. Such an Act should reflect full consideration of both its social and private costs and benefits.

2. A Forest Practices Act should insure the productivity of forest lands and protect the environment, including air and water quality.

3. State-initiated regulation of forest practices is preferable to regulation initiated by federal and local governments. A Forest Practices Act should recognize regional forest variations within a state's boundaries.

One of the principal arguments for state regulation of forest practices is the immense variability of forest types within the boundaries of most states. A regular practice of states which have forest practices acts is to divide the state in two or more forest districts. Subsequently, separate forest practice regulations are developed for each forest district. This procedure is quite defensible.

4. A Forest Practices Act should be coordinated and in compliance with related regulatory programs in order to minimize jurisdictional conflicts and administrative costs. Such an Act should be consistent with public forestry research, education, technical assistance and financial incentive programs.

If a Forest Practices Act becomes law in a state, it would be but one part of a body of laws, regulations and programs relating to forest resources. Efforts to integrate elements of a Forest Practices Act with other existing laws, regulations and programs should be encouraged. Duplications in agency jurisdictions should be minimized.

5. A Forest Practices Act should clearly define the forest land to be covered under the Act as well as any standards and terms applied with respect to forest practices, air and water quality and soil erosion. A Forest Practices Act should use terminology which is generally accepted by the professions concerned.

Because a Forest Practices Act deals directly with scientific phenomena, to clarify the Act's purposes and scope technical terminology should be employed where appropriate, and standards and terms should be operationally defined.

6. A Forest Practices Act should establish procedures and guidelines for the development and adoption of regulations, but make no attempt to specify the regulations themselves.

Forests are inherently heterogeneous. Furthermore, scientific knowledge of forests and forest management techniques is rapidly evolving. Therefore, a Forest Practices Act would be best designed if it prescribed the procedures by which forest practice regulations are developed and implemented rather than speci the regulations themselves.

Where a Forest Practices Act provides for reforestation, specific stocking standards should evolve from the same process used to develop forest practice regulations.

7. A Forest Practices Act should allow a forest landowner latitude in applyin professional forestry expertise and forest management principles. Administrative requirements for forest landowners and operators should not be unduly burdensome.

A Forest Practices Act could so encumber a forest landowner with its requirements that he would forego opportunities to sell his timber, and hence, would have little inducement to manage his land for timber production. In such cases, timber supplies will be adversely affected. There will also be a misallocation of resources if, as a result, intensive timber management techniques are applied to lands which are relatively less suited for timber production.

8. Where boards, commissions or advisory bodies are used, their composition should represent the broad public interest with at least a majority of the membership being knowledgeable and experienced in the scientific management of forest resources.

A widely accepted arrangement for developing forest practice regulations is through an appointed board or commission. If this arrangement is employed, at least a majority of the board's members should be selected on the basis of their education, knowledge and experience in the scientific management of forest resources. Together the board members should be broadly representative of the public interest in forest resources, to include the interests of private forest landowners and timber operators.

9. The development of forest practice regulations should be accomplished with due consideration of the knowledge and opinions of forest landowners, timber operators, forestry and related professionals and the public, and should take into account regional forest variations and disparities in land ownership patterns. Public hearings are necessary to achieve these purposes.

10. Using appropriate state administrative procedures, forest practice regulations should be adopted by a state forestry agency or board with responsibility for interagency coordination. Forest practice regulations should rest upon scientific knowledge and professionally recognized forest management principles. The regulations should be administered and enforced by a single state agency with adequate staffing and forestry expertise.

11. A Forest Practices Act should provide for effective administration and enforcement, with adequate provisions for due process, to achieve the objectives and purposes of the Act. Administrative and enforcement procedures should be efficient and expeditious. Provisions should also be included for the use of continuin education, information and training programs to implement regulations adopted under the Act. Forest management operations conducted in accordance with adopted forest practice regulations should be considered to have met the requirements of laws pertaining to soil sedimentation and air and water quality.

Two methods by which an administrative agency may be advised of an intended timber harvesting operation are by a so-called "notification scheme" and by a system requiring state approval prior to the commencement of timber harvesting. Under a notification scheme, the forest landowner, timber owner, or timber operator notifies the administering agency of his intent to harvest and the location of the harvesting site, together with other pertinent information. Under the "prior approval" system, the forest landowner, timber owner or timber operator submits an explicit statement, application or plan stating his intentions and must await approval by the administering state agency. To date there is no evidence which of these schemes ultimately results in a greater degree of environmental protection or more productive forest land. However, the costs of a prior approval system appear to be inherently greater than those of a notification scheme, all other things being equal. Therefore, a notification scheme should be given preferential consideration.

Instruments which have been effective in enforcing forest practice regulations include: (1) informal conferences, (2) notices to comply, (3) "stop work orders," and ultimately, (4) agency authority to take corrective action at the violator's expense where environmental damage has occurred or is imminent. It should be recognized that the effectiveness of these instruments does not preclude the existence or the possible development of other effective means for enforcement.

12. *A Forest Practices Act should not preclude the legitimate conversion of forest land to other uses.*

A Forest Practices Act which would prevent a forest landowner from converting his land to uses other than timber production would severely infringe upon his property rights. Nevertheless, the landowner's legal right to such conversion should not become a means for evading the provisions of a Forest Practices Act.

ABOUT THE SOCIETY

The Society of American Foresters, with over 19,000 members, is the national organization representing all segments of the forestry profession of the United States including public and private practitioners, researchers, administrators, educators, and forestry students.

Objectives of the Society are: To advance the science, technology, education, and practice of professional forestry in America, and to use the knowledge and skills of the profession to benefit society.

Gifford Pinchot and six other pioneer foresters established the Society in 1900.

Members subscribe to a strict code of professional ethics. The Society is the accreditation authority for professional forestry education in the U.S. It publishes the *Journal of Forestry* and *Forest Science*.

SOCIETY OF AMERICAN FORESTERS

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Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

M E M O R A N D U M 4 March 1977

SUBJECT: Forest Resources & Practices

TO: House Resources Committee Members

FROM: Alvin Osterback, Chairman
House Resources Committee

Comments on SB 59 An Act relating to forest practices

Comments on SB 59 An Act relating to forest resources and practices are filed in your drawer under SB 59 etc. Although that bill is in the Senate Resources Committee at this time, these comments are relative to HB 40 also.

Alvin Osterback

STATEMENT MADE TO ALASKA HOUSE OF REPRESENTATIVES
RESOURCES COMMITTEE

MARCH 2, 1977
HOUSE BILL 40

"AN ACT CREATING A DIVISION OF FORESTRY WITHIN THE DEPARTMENT OF NATURAL RESOURCES; AND PROVIDING FOR AN EFFECTIVE DATE."

MISTER CHAIRMAN, MY NAME IS PETER HUBERTH, I AM GENERAL MANAGER OF THE FOREST PRODUCTS DIVISION OF THE SEALASKA CORPORATION, THE NATIVE REGIONAL CORPORATION FOR SOUTHEAST ALASKA.

UPON CONVEYANCE OF OUR LANDS, WHICH WILL BE SELECTED FROM WITHIN THE TONGASS NATIONAL FOREST, SEALASKA CORPORATION WILL UNDOUBTEDLY HAVE THE LARGEST COMMERCIAL PRIVATELY OWNED FOREST INVENTORY IN THE STATE OF ALASKA. WITH RECEIPT OF SUCH A SIGNIFICANT RESOURCE COMES THE RESPONSIBILITY FOR WISE USE AND MANAGEMENT WHICH OUR CORPORATION FULLY ACCEPTS AND INTENDS TO IMPLEMENT. THE ALASKA NATIVES HAVE ALWAYS BEEN WISE USERS OF NATURAL RESOURCES AND WE IN SEALASKA FULLY INTEND TO CONTINUE THAT TRADITION.

ADDITIONALLY, IT IS MY OBSERVATION FROM DISCUSSIONS WITH NATIVES FROM OTHER REGIONAL AND FROM MANY VILLAGE CORPORATIONS

THAT CONCERN FOR PROPER USE OF NATURAL RESOURCES IS A TRADITION WHICH HAS NOT BEEN LOST.

WITH THIS AS BACKGROUND, WE HAVE REVIEWED HOUSE BILL 40 AND WISH TO OFFER COMMENTS TO YOU AND THE MEMBERS OF YOUR COMMITTEE IN ORDER TO ASSIST YOU IN ASSURING THAT RESPONSIBLE AND EQUITABLE FOREST REGULATIONS ARE IMPLEMENTED IN A TIMELY FASHION SO AS TO REASSURE THE STATE THAT PRIVATE FOREST LANDS WILL BE WISELY MANAGED.

WITH THIS GENERAL INFORMATION AS BACKGROUND, I WISH TO COMMENT ON HOUSE BILL 40 ON BEHALF OF MY CORPORATION. WE HAVE REVIEWED THE PROPOSED LEGISLATION AND AGREE WITH THE CONCEPTS WHICH HAVE BEEN INCLUDED THEREIN. BASED ON ANALYSES OF FOREST PRACTICE LAWS IN THE THREE STATES WHICH BORDER ON THE PACIFIC IN THE LOWER '48, WE FEEL THAT THE SPONSORS OF THIS LEGISLATION HAVE DONE A VERY COMMENDABLE JOB OF INSURING THAT THERE ARE BROAD ARTICLES CONTAINED IN THE ACT WHICH WILL PROVIDE FOR THE RESPONSIBLE DEVELOPMENT OF THE COMMERCIAL FORESTS ON STATE, MUNICIPAL GOVERNMENT, AND PRIVATE LANDS.

OF PRIME IMPORTANCE TO THE FOREST LANDOWNER AND USER IS THAT THERE BE A STRONG DIVISION OF FORESTRY WITHIN THE DEPARTMENT OF NATURAL RESOURCES. SUCH A DIVISION MUST BE AT A SUFFICIENTLY

HIGH LEVEL TO ALLOW THE STATE FORESTER TO BE ABLE TO SET POLICY AND MAKE DECISIONS INVOLVING THE ADMINISTRATION OF REGULATIONS AND THE MANAGEMENT OF FOREST LANDS. THEREFORE, THE STATE FORESTER WILL BE AN INDIVIDUAL WHO REPORTS DIRECTLY TO THE COMMISSIONER OF THE DEPARTMENT OF NATURAL RESOURCES AND WILL HAVE A BACKGROUND WHICH INCLUDES A FORMAL EDUCATION AND SIGNIFICANT EXPERIENCE IN FOREST MANAGEMENT. TO DILUTE THE ADMINISTRATION OF FOREST RESOURCES AND PRACTICES IN ANY WAY OTHER THAN JUST DESCRIBED PLACES A SIGNIFICANT BURDEN ON THE FOREST LANDOWNER AND DENIES TO THE CITIZENS OF THE STATE THE TYPE OF RESPONSIBLE IMPLEMENTATION OF FOREST REGULATIONS WHICH EVERYBODY DESERVES.

IN REFERENCE TO SEC. 38.05.041. DIVISION OF FORESTRY. SEALASKA CORPORATION ENDORSES THE 12 DUTIES AND FUNCTIONS RELATING TO THE MANAGEMENT OF FORESTS WITHIN THE STATE. IT IS FELT THAT A STATE FORESTER WHO HAS THE APPROPRIATE EDUCATION AND EXPERIENCE IN THE FIELD OF FOREST MANAGEMENT WILL BE ABLE TO TAKE RESPONSIBILITY FOR THE FUNCTIONS LISTED AND PROMULGATE REGULATIONS WHICH WILL PROVIDE APPROPRIATE INCENTIVES FOR THE PRIVATE LANDOWNER TO IMPLEMENT RESPONSIBLE FOREST PRACTICES.

WE WOULD HOPE THAT SUCH FOREST PRACTICES AND TIMBER MANAGEMENT REGULATIONS WHICH MIGHT BE PROMULGATED AT A LATER DATE WOULD TAKE INTO CONSIDERATION THE ECONOMIC NEEDS OF THE PRIVATE

LANDOWNER. THIS IS LARGELY DUE TO THE VERY HIGH COSTS OF UNDERTAKING FOREST PRACTICE OPERATIONS IN OUR STATE COMPARED TO THE LOWER '48.

ASSUMING THAT THERE WILL BE AT A LATER DATE SOME REGULATIONS INVOLVING A DEFINITION OF COMMERCIAL FORESTS AND FOREST LANDS, WE WOULD HOPE THAT SUCH REGULATIONS WOULD STILL ALLOW THE INDIVIDUAL COMMERCIAL FOREST LANDOWNER TO HAVE THE OPPORTUNITY TO SPEED UP HIS HARVEST SCHEDULE IF MARKETS AND PERSONAL ECONOMIC NEEDS ARE CRITICAL TO HIM. EVEN IN SOUTHEAST ALASKA, WHERE A NATIVE VILLAGE CORPORATION MAY OWN MORE THAN 20,000 ACRES OF COMMERCIAL FOREST RESOURCE, THERE WOULD PROBABLY BE ONLY SIX SEPERATE TIMES DURING A FOREST ROTATION IN WHICH A COMMERCIAL LOGGER WOULD BE BROUGHT IN TO OPERATE ON HIS LANDS. THIS IS DUE TO THE LARGE AMOUNT OF VOLUME WHICH MUST BE MOVED FAIRLY RAPIDLY IN ORDER TO UNDERWRITE THE VERY HIGH COSTS OF MOVING TO A NEW OPERATION AND SETTING UP THE NECESSARY SOCIAL AND INDUSTRIAL INFRASTRUCTURE FOR ITS SUPPORT.

WHILE THERE ARE FOREST PRACTICES ACTS EXISTING WHICH PROTECT AGAINST "OVER-HARVESTING" AND UNSATISFACTORY FOREST MANAGEMENT, ETC., THESE ARE VERY DIFFICULT TERMS TO DEFINE. IT MIGHT BE BETTER FOR SUBSEQUENT REGULATIONS TO LEAVE THESE TERMS ALONE, BUT THEN ASSURE THAT COMMERCIAL FOREST LANDS ARE PROPERLY REFORESTED AND STOCKED AFTER HARVESTING.

THERE IS A CONSIDERABLE RANGE OF COMMERCIAL FOREST TYPES IN THE STATE OF ALASKA INCLUDING OLD-GROWTH, VERY LARGE TREES IN THE PANHANDLE AND CHUGACH, TO RELATIVELY SMALL ASPEN AND SPRUCE IN THE INTERIOR. THEREFORE WE WOULD ENCOURAGE THE DIVISION OF FORESTRY TO UNDERTAKE A REGIONALIZATION PROGRAM WHICH WOULD ALLOW FOR REGIONS OF SIMILAR FOREST TYPES AND COVER WITH THE ATTENDENT PROBLEMS OF MANAGEMENT IN EACH REGION.

ADDITIONALLY, A NOTIFICATION PROCESS INSTEAD OF AN APPLICATION IN ORDER TO UNDERTAKE VARIOUS FOREST PRACTICES IS OF REAL BENEFIT TO ALL OF THE CITIZENS IN THE STATE BECAUSE IT REDUCES TIMBER HARVEST AND SILVICULTURAL COSTS TO THE INDIVIDUAL PRIVATE LANDOWNER THEREBY PROVIDING MORE FUNDS WHICH CAN BE OF ECONOMIC BENEFIT TO THE STATE. IT WOULD BE MORE EFFICIENT FOR ALL PARTIES IF THE NOTIFICATION PROCESS OPERATED SIMILARLY TO A "ONE STOP" PERMIT SYSTEM. THE STATE FORESTER WOULD CIRCULATE THE NOTIFICATION TO ALL INTERESTED STATE AGENCIES SO THAT THOSE CONCERNED COULD MONITOR LAND MANAGEMENT ACTIVITIES UNDERTAKEN BY AN OPERATOR.

ASSUMING THERE IS A REASONABLE BODY OF REGULATIONS PROMULGATED AT A LATER DATE, THE PRIVATE LANDOWNER SHOULD BE ABLE TO VARY HIS FOREST PRACTICES ASSUMING THAT HE STAYS WITHIN THE REGULATIONS AND GUIDELINES FOR HIS REGION.

FINALLY WHERE ALLEGED VIOLATIONS ARE DISCOVERED BY EMPLOYEES OF THE STATE FORESTRY DIVISION, THERE SHOULD BE A PROVISION FOR THE OPERATOR TO IMMEDIATELY CORRECT THE SITUATION IF HE AGREES WITH THE REPRESENTATIVE OF THE STATE FORESTER. IF THE OPERATOR DOES NOT AGREE, THEN THERE SHOULD BE AN EQUITABLE HEARING PROCESS IN THE REGULATIONS WHICH INCLUDES THE FACT THAT (1) THE HEARING OFFICER WILL HAVE A FORESTRY BACKGROUND IN ORDER TO BE ABLE TO PROPERLY ASSESS THE ALLEGED VIOLATION, (2) THE PROCEDURES OF ANY SUCH HEARING WILL INCLUDE THE FACT THAT THE OPERATOR DOES NOT HAVE TO HAVE A LAWYER PRESENT IN ORDER TO FULLY PRESENT HIS CASE, AND (3) THE HEARING WILL TAKE PLACE AS CLOSE TO THE AREA OF OPERATION AS POSSIBLE AND IN MANY CASES AT THE ACTUAL SITE IN ORDER FOR THE HEARING OFFICER TO MAKE HIS OWN INDEPENDENT ASSESSMENT OF THE ALLEGED VIOLATION. ADDITIONALLY, THE HEARING SHOULD TAKE PLACE IN A TIMEFRAME WHICH IS VERY CLOSE TO THE DISCOVERY OF THE ALLEGED VIOLATION.

ALTHOUGH NOT DIRECTLY GERMAIN TO THE SECTIONS IN THE ACT, I WOULD LIKE TO COMMENT ON SOME PROVISIONS IN SENATE BILL 59. THESE PROVISIONS ARE ESPECIALLY ONEROUS TO THE PRIVATE FOREST LANDOWNER AND YOU MAY HAVE THEM CALLED TO YOUR ATTENTION, AT A LATER DATE.

SENATE BILL 59 (IN SEC. 41.17.040(B)(5)) PROVIDES THAT THE PRIVATE LANDOWNER MUST MANAGE HIS FOREST RESOURCE IN A MANNER WHICH WILL NOT DETRACT FROM SCENIC AND AESTHETIC QUALITY IN OR ADJACENT TO AREAS WHERE THERE IS OR COULD BE SIGNIFICANT IMPORTANCE TO TOURISM. WE VIEW SUCH A PROVISION WITH A HIGH DEGREE OF CONSTERNATION. THE STANDARD DENIES TO THE RESPONSIBLE FOREST MANAGER THE RIGHT TO IMPLEMENT PROPER SILVICULTURAL PRACTICES TO ENHANCE THE FOREST RESOURCE. ADDITIONALLY, ITS' LAMENTABLE LACK OF SPECIFICITY PLACES THE DEPARTMENT OF NATURAL RESOURCES AND THE PRIVATE LANDOWNER IN AN UNTENABLE AREA OF INTERPRETATION.

OF SIGNIFICANT IMPORTANCE TO THE CITIZENS OF THE STATE AND THE FOREST LANDOWNER IS THAT AN EQUITABLE HEARING PROCESS BE IMPLEMENTED WHICH ALLOWS THE REVIEW OF ALLEGED VIOLATIONS BY INDEPENDENT HEARING EXAMINERS WHO ARE QUALIFIED WITHIN THE FORESTRY FIELD. SENATE BILL 59 PROVIDES FOR THE COMMISSIONER TO APPOINT A STATE EMPLOYEE AS HEARING OFFICER AND THE COMMISSIONER DETERMINES THE HEARING PROCEDURES. IF MISUSED, SUCH A SITUATION COULD LEAD TO HAVING THE ALLEGED VIOLATOR BEING PLACED IN A VERY UNEQUAL SITUATION. WITH APPROPRIATE INPUT FROM INTERESTED PARTIES, A STATE FORESTER CAN SET EQUITABLE PROCEDURES FOR THE HEARING OF ALLEGED VIOLATIONS AND CAN ASSURE THE ALLEGED VIOLATOR THAT THE STATE IS SYMPATHETIC TO HIS SITUATION AND YET IS PROPERLY

DISCHARGING ITS RESPONSIBILITIES TO ALL OF THE CITIZENS IN THE STATE. NATURALLY, SHOULD THE ALLEGED VIOLATOR FEEL THAT THE HEARING PROCESS WAS NOT SUFFICIENTLY FAIR TO HIM, THEN HE WOULD HAVE RECOURSE TO APPEALS AND JUDICIAL REVIEW.

SEALASKA CORPORATION HAS OTHER CONCERNS ABOUT SOME LINE ITEMS CONTAINED IN SENATE BILL 59, AND WE WILL BE HAPPY TO MAKE THEM AVAILABLE TO YOU SHOULD YOUR COMMITTEE CONSIDER A BILL SIMILAR TO IT AT A LATER DATE.

I CONSIDER HOUSE BILL 40 TO BE A LOGICAL PIECE OF LEGISLATION WHICH WILL PROVIDE FOR THE ORGANIZATION OF A STATE FORESTRY DIVISION WITH THE SUBSEQUENT PROMULGATION OF RESPONSIBLE FOREST REGULATIONS WHICH PROVIDE FOR THE COMMERCIAL FOREST LANDS THROUGHOUT THE STATE AND YET MINIMIZE THE COMPLEXITY OF SUCH REGULATIONS IN ORDER TO MEET THE NEEDS OF INDIVIDUAL REGIONS AND COMMERCIAL FOREST LANDOWNERS.

IT WILL BE VERY IMPORTANT THAT THE HOUSE ACT IN A FORCEFUL MANNER TO INSURE THAT THIS PIECE OF LEGISLATION PREVAILS AND IS OFFERED TO THE GOVERNOR FOR HIS APPROVAL.

THANK YOU FOR ALLOWING ME TO APPEAR BEFORE YOU AND I WILL BE GLAD TO ANSWER ANY QUESTIONS WHICH YOU OR THE MEMBERS OF YOUR COMMITTEE MAY HAVE.

I THANK YOU MISTER CHAIRMAN.

Alaska State Legislature

House

JUNEAU ALASKA

HOUSE RESOURCES COMMITTEE

8 MARCH 1977

AGENDA

Call Meeting to Order.

Bill Under Consideration:

HB 40 Dvsn. of Forestry - Within D.N.R.

Discussion, Questions.

Adjournment.

Terry Gardiner - Citizen

Introduced: 1/12/77
Referred: Resources and Finance

BY GARDINER, ELIASON AND FREEMAN

IN THE HOUSE

HOUSE BILL NO. 40

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act creating a division of forestry within the Department of Natural Resources; and providing for an effective date."

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

* Section 1. AS 44.37 is amended by adding a new section to read:

ARTICLE 4. DIVISION OF FORESTRY.

Sec. 44.37.200. DIVISION OF FORESTRY. There is created in the Department of Natural Resources the division of forestry.

* Sec. 2. AS 38.05 is amended by adding new sections to read:

Sec. 38.05.041. DIVISION OF FORESTRY. The division of forestry shall perform all duties and functions relating to management of the state forests which were performed by the division of lands before the effective date of this Act, including but not limited to

(1) the disposal of timber and materials under secs. 110 -120 of this chapter;

(2) the state program for the protection of forested land under AS 41.15;

(3) the dissemination of public information regarding forest practices and timber management;

(4) the adoption of regulations in accordance with the Administrative Procedure Act (AS 44.62) necessary to implement secs. 41 - 43 of this chapter;

(5) a system of regular inspection of timber sales by state foresters;

(6) the establishment of sound forest practices necessary to ensure the continuous growing and harvesting of commercial forest tree species and the protection of the soil, air, fish and wildlife, and water resources;

(7) administering AS 45.50.210 - 45.50.325 relating to log brands;

(8) the maintenance of necessary records and files regarding timber management;

(9) the selection and employment of personnel which the director considers necessary for the proper operations of the division;

(10) coordination and cooperation with federal agencies in the development of national forest management plans;

(11) cooperation with the Joint Federal-State Land Use Planning Commission;

(12) performance of administrative duties and functions, delegation of duties, and execution of the administrative powers similar to other divisions within state departments.

Sec. 38.05.043. TIMBER OPERATION OR FOREST PRACTICES REGULATIONS. Regulations that provide guidelines for the conduct of timber operations shall be used as standards by persons harvesting timber resources and shall include, but not be limited to, measures for fire prevention and control, soil erosion control, water quality and watershed control, flood control, stocking, protection against timber operations which unnecessarily destroy young timber growth or timber productivity of the soil, prevention and control of damage by forest insects, pests and disease. In developing these regulations, the division shall solicit and consider recommendations from

(1) the Department of Fish and Game, relating to the protection of fish and wildlife;

(2) the Department of Environmental Conservation, relating to air and water quality and waste disposal;

(3) the division of policy development and planning, relating to land use planning; and

(4) other public and private interested sources, including representatives of the forest products industry and timber owners and operators.

* Sec. 3. Regulations, rules, orders or other Acts in effect with respect to forest management and practices covered under this Act shall continue in full force and effect until amended, repealed, modified or rescinded as the director of the division of forestry determines in accordance with law. Existing contracts made by a department, division or agency transferred to and under the jurisdiction of the division of forestry under this Act shall continue in full force and effect until amended, repealed, modified or rescinded as the director of the division of forestry determines in accordance with law.

* Sec. 4. This Act takes effect July 1, 1977.

Area

Sec. 41.17.070 – State employee.

(SB 59

Consider later –

Call (SEA/ASKA)

DNR 4

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL / POUCH K – STATE CAPITOL
JUNEAU 99811

November 5, 1976

M E M O R A N D U M

TO: The Honorable Jay S. Hammond
Governor

FROM: Avrum M. Gross
Attorney General

RE: Attached bill on forest resources and practices
Our File No. J-77-001-77

Attached is a bill (a slightly revised version of last legislature's SB 563) which has been requested and reviewed by numerous agencies, although the lead agency is the Department of Natural Resources. A few relatively minor modifications of last year's bill have been worked out with Alaska Lumber and Pulp Company and the Alaska Loggers Association.

We have spent considerable time soliciting the comments of interested organizations on this subject, and made numerous changes to reflect their recommendations before introduction of the bill last year. We will continue to work with these organizations up to and during the upcoming session to obtain consensus on this legislation if possible.

A draft transmittal letter to the legislature, explaining the bill, is attached.

AMG:md:JH

D R A F T

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill which relates to state forest resources and practices. This bill has been extensively reviewed by various state agencies and interested organizations, including representatives of the forest products industry; it contains provisions responding to concerns expressed by them.

In addition to Alaska's incomparable mineral wealth, the forest land and water resources of Alaska are among the most valuable natural resources of the state. This land not only holds timber resources which are vital to the economic well-being of the state and the numerous businesses and activities dependent on timber, but the land is also important as the habitat for fish and wildlife, as collection areas for our water resources, and as places for people to fish, hunt, or simply find peace with themselves.

The purpose of this bill is to provide, with a minimum of new bureaucracy, the essentials necessary to foster the longevity of Alaska's forest products industries while concurrently benefiting from all other forest values along the way. This can be done only through adopting some controls over forest practices, but the controls in the bill have intentionally been kept to a minimum.

The focus of the bill throughout is to create new authority only where gaps exist in present authority, and specifically to avoid the creation of a new bureaucracy to deal with forest practices. Furthermore, the authority to be exercised over private forest land, which is treated distinctly from state forest land, emphasizes only a few basic objectives. Our intention is, above all, to keep government regulation at the basic minimum necessary to do the job.

Instead of creating a new entity to deal with forest practices, responsibility is housed in the Department of Natural Resources which, with its experience in land administration, is the most logical choice. The commissioner would administer the Act, with full powers of delegation to existing structures and personnel resources within the department. This will provide for implementation of the Act with a minimum of disruption and expense and without significant inconvenience to the affected public.

Not all timber harvest activities in the state are subject to regulation. Certain activities are exempted. For example, with regard to private and municipal forest land, only commercial forest land, as defined by the Act, is covered. In addition, unconnected small tracts of 160 acres or less under single ownership are excluded from the provisions of the bill to avoid regulation of activities which have minimal impact. The commissioner

also may exempt certain types of operations of forest land from regulation regardless of where they occur, if unnecessary to achieve the objectives of the legislation.

Fostering a continuous supply of timber is another objective, and, here, no complex or restrictive system of allowable cuts or production limits is imposed. Rather, the commissioner is simply charged with reporting to the legislature at two-year intervals on his administration of the Act; his report must demonstrate his plan for insuring a long-term sustained yield of timber.

As to utilization of timber in a manner compatible with other resource values, this bill does not copy the approach used in several other states of incorporating highly detailed forest practice restrictions and codes. Instead, the commissioner is authorized to adopt regulations governing forest practices with respect to subject matter areas that are common in forest practices legislation. He is guided by certain regulatory and administrative standards which are flexible enough to encourage practicality without sacrificing the objectives of the legislation. Most important, these guiding standards distinguish private forest land (which may not be available for general public use) from state and municipal forest land (which will normally be open to the public), and designate the objectives that are appropriate for each. For example, forest administration on public forest

land must be based on the principle of multiple use of all of the resources and values, and encourages recognition of all resources and values. On the other hand, since private forest land owners may elect to concentrate on particular uses and exclude others, their land is not subject to the multiple use directive.

Timber harvesting will be taking place across the state. Some of this harvesting will be covered by the policies of the bill and the regulations issued under it. Consequently, there must be some means of assuring that those regulations are complied with and that the objectives of the bill are reached. Two different systems have been used in other states. The notification system merely requires a timber harvester to notify the state that he intends to operate on forest land; no advance approval is necessary. The advantage of the notification system is that it is simple and administratively inexpensive (at least the process itself is). The disadvantages are that the government may be largely unaware of what is happening in particular projects and violations may escape notice. In addition, the timber harvester has little or no contact with the administrative authority, leading to the likelihood of misunderstandings and a large number of inadvertent violations. Other states use varying degrees of a prior-approval system. In some cases, highly detailed plans approaching impact-statement detail are required; in addition, they may have to be prepared by a licensed forester. The benefits of this system

include a much greater familiarity with operations taking place around the state, the opportunity to identify undesirable aspects of operations before any damage occurs, and the chance to work out differences with the operator before the project is initiated. On the negative side, the prior-approval system can be highly expensive, onerous to the operator, and may lead to extensive delays.

This bill uses neither system exclusively; rather, it incorporates the positive and eliminates the negative aspects of each. Before operating, the timber harvester must submit a brief description of the proposed project. It is to be reviewed during a relatively brief time by the commissioner (with input from affected agencies) for consistency with the applicable policies and regulations, and approved or conditioned to insure that consistency. Only if substantial problems appear would more detailed plans be required, and these would apply only to the particular problem area rather than to the entire project. To protect against bureaucratic footdragging, there is a statutory maximum time which the commissioner may use for review and approval, and there are no exceptions. There is also a statutory directive that paperwork be kept to a minimum to prevent inconvenience to the operator. This approach will require only that amount of information and participation from the operator necessary to provide the commissioner with familiarity as to the nature of forest development operations and to identify in advance serious problems.

Finally, in the event of a violation, the bill uses an administrative fine system (with full due process guarantees) rather than criminal penalties. Criteria are set out for establishing the amount of the fine. Judicial review of the administrative fine is provided.

I am convinced that this bill is well suited to Alaska and will greatly benefit the natural resources and general well-being of the state. I urge your favorable consideration.

Sincerely,

Jay S. Hammond
Governor

HB

54

Alaska State Legislature

House

JUNEAU ALASKA

Memo to: Rep. Alvin Osterback, Chairman
House Resources Committee

Date: February 7, 1977

From: Rep. Sally Smith, Chairman
Subcommittee on Parks, Lands, Timber

The Subcommittee on Parks, Timber and Lands met at noon with Ted Smith and Jack Roderick of the Dept. of Natural Resources to discuss:

HB 54-------Administration of State Lands
HB 114------Fire Suppression Fund
HB 115------Appropriation for Fire Suppression Fund

Attached are copies of information received on these subjects--Note some are quite old. The subcommittee recommends that the bills be given the attention of the complete Resource Committee to receive testimony from Mr. Smith.

Sincerely,

Sally Smith, Chairman

Mike Miller

Dick Eliason

STATE of ALASKA

MEMORANDUM

M-TIMBER SALES

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LANDS

TO: ROGER LEWIS
Legislative Liaison

THRU: DALE P. TUBBS DPT
Deputy Director

DATE : February 9, 1975

FROM: L. A. DUTTON
Management Forester
State Forester's Office

SUBJECT: House Bill No. ~~SB~~ 54

Forestry and Water Resources had proposed amendments to As 38.05.115 to be included in this bill. One of these, and the most important to Forestry, was an amendment to sub-sec. (b) of this statute. The proposed amendment which would facilitate the processing of contracts for minor amounts of timber or materials has been entirely omitted from HB ~~SB~~ 54.

Section 115(b) presently provides:

> "Negotiated sales for timber or materials not exceeding a value of $250 are exempt from the provisions of AS.34.15.150."

Sec. 115(b) as proposed for amendment would read:

> "Negotiated sales [FOR TIMBER OR MATERIALS] not exceeding 50M.b.m. [A VALUE OF $250] or the equivalent other measure of timber or more than $500 of materials are exempt from the provisions of AS 34.15.150.

The problem with AS 38.05.115(b) as presently written is that $250 does not buy anywhere near the amount of timber or materials today that it did seven years ago. Consequently, we do not have many sales for $250 and Sec. 115(b) is not accomplishing what it was intended to do; i.e.; reduce the burdensome, inconvenient, and impractical necessity of having simple contracts for the sale of minor amounts of timber or materials acknowledged as required by AS.34.15.150.

A volume rather than a value limitation applicable to timber is used in the proposed amendment, as this conforms to the volume limitation for negotiated sales in Sec. 115(a). Also, this will make the statute less dated with regard to timber, so that future amendments of this nature should not be necessary.

Please forward a copy of this memorandum through the appropriate channels with a request that the amendment be incorporated in HB 54. Otherwise, please let us know why AS 38.05.115(b) should not be thus amended.

Statute as it will read following amendment:

HB 4

Sec. 38.05.115. Limitations and conditions of sale. (a) The commissioner, upon recommendation of the director, shall determine the timber and other materials to be sold, and the limitations, conditions, and terms of sale. The limitations, conditions, and terms shall include the utilization, development, and maintenance of the sustained yield principle, subject to preference among other beneficial uses. The director may negotiate sales of timber or materials without advertisement and on the limitations, conditions, and terms which he considers are in the best interests of the state, subject to the approval of the commissioner. However, not more than 500,000 board feet [M.B.M.] or the equivalent of timber or more than 25,000 ~~50,000~~ cubic yards [$2,500] of materials may be sold by nonadvertised, negotiated sale to the same purchaser within a one year period.

(b) Negotiated sales [FOR TIMBER OR MATERIALS] not exceeding 50,000 board feet [A VALUE OF $250] or the equivalent of timber or 1000 cubic yards of materials are exempt from the provisions of AS 34.15.150.

Justification for amendment:

The amendment is proposed, because due to inflation the volume of material that can be purchased for $2,500 today is far less than could have been purchased in 1969. For the same reason, the $250 limit on the exemption from AS 34.15.150 (notorizing contracts) is now impractical. It is felt that a volume rather than a dollar limitation will be more practical, make the statute less dated, and make future amendments of this nature unnecessary.

[illegible] OF AS [illegible].115

[illegible]:

HOUSE BILL NO. 54 by the Rules Committee by Request of the Governor, entitled: HB 54

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

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

"January 14, 1977

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill relating to the administration of state land. This bill makes three changes in the Alaska Land Act (AS 38.05):

1. It eliminates the requirement in AS 38.05.050 that land sales be held in the recording district where the property sold is located because recording district boundaries have been modified with the result that some districts do not include a site appropriate or convenient for the holding of a sale of land located in the district. In other cases, it is possible that a sale site in an adjacent recording district may be closer to the property for sale than any possible site in the same district.

2. The bill also adjusts the maximum amount of materials which may be sold by non-advertised, negotiated sale under AS 38.05.115(a). The measure of the maximum amount of materials which may be sold in this manner is changed from dollar value ($5,000) to volume (25,000 cubic yards) to be consistent with the volume measure of timber in the same section, to adopt the standard industry measurement, and to provide for a more flexible measurement in the face of rising prices and inflation.

3. In AS 38.05.115(b), the bill also adjusts in the same manner and for the same reasons, measures of the maximum amounts of timber and material which may be sold by negotiated sale without notarization as required by AS 34.15.150. This maximum is changed from dollar value ($500) to board feet (50 M.B.M.) for timber and cubic yards (2,500 cubic yards) for gravel.

Sincerely,

Jay S. Hammond
Governor"

STATE of ALASKA

HB 114, 115

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LANDS

TO: Guy R. Martin
Commissioner

THRU: Michael C. T. Smith
Director

DATE : November 3, 1975

FROM: George K. Hollett
State Forester

SUBJECT: Fire Suppression Fund

One of the items that will have to be resolved before we start in the fire suppression business on the Kenai Peninsula next summer is where does the out-of-pocket money come from to pay our bills. As long as we use State crews and equipment, there is no problem as they are funded in our budget. The problem will be in paying the individuals we hire and the equipment owner that may be needed at times to supplement our crews. No money has been included in our budget for this unknown. All our previous bills have been to BLM and have been paid up to a year or so after they expended the funds. When we hire an individual, he is going to want his pay within a short period of time after the fire.

The amount of money needed for out-of-pocket fire suppression costs is really an unknown. If we were to look at the last five years' costs on the Kenai, we find the following:

Year	Acres Burned	Cost	# Fires
1970	2875	$354,424.39	33
1971	1	1,454.84	5
1972	205	11,145.65	11
1973	47	14,687.20	20
1974	40	24,036.16	13
Total	3168	$405,747.24	102

This then gives us an average cost of $81,149.45, which you can see does not come close to any of the years. These figures are not a true picture of what the out-of-pocket cost will be as a good bit of these costs will be covered by State crews and equipment.

The same thing shows up when we look at the fire suppression costs for all State and private lands.

Year	Costs
1970	$1,451,445.63
1971	1,384,955.70
1972	99,646.79
1973	235,907.31
1974	389,537.49

I am not sure what is the best way to handle the situation, but do feel that there should be some way to have money available on a non-expiring basis. This way everyone who has to be involved with the money from payor to payee knows there is money available.

I would like to suggest that the idea of having a "Fire Suppression Fund" be established by the Legislature be looked into. I can see where it could be worked out somewhat similar to the Disaster Relief Fund (copy attached). Since the fire law A.S. 41.15 refers to the Commissioner, it would then be natural to tie the operation of the suppression fund there also.

Since we are really dealing with an unknown figure at this time, I would suggest we ask for an initial funding of $50,000.00. This would give us some protection for our job on the Kenai Peninsula. It would mean we would have to come in each year as we take over different areas of the State for subsequent financing. This may be easier than asking for a large amount at first. I would be most happy to work with someone on the wording of such a fund and also the amount, if you feel it is worthwhile.

If we do not go the fund route, it will then be necessary to ask for a supplemental to the FY 76 budget to be assured there are funds available to make payments. Since the fire season starts in May, it would be best to have about $20,000.00 in case we do have any trouble. I am not sure what code something like this would go under since they appear to have removed the 800 code. If there is something like the old 800 code, I would say that is where it belongs as we pay both salaries and equipment rental from the funds.

Let me know if there is any more information I can put together or any way I can help.

Attachment

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILLS NO. 114 & 115
Title Fire Suppression Fund
Requested by Office of the Governor Date 1/18/77

II. FISCAL DETAIL
Agency Affected Department of Natural Resources
Program Category Affected Division of Lands
Budget Request Unit(s) Affected

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		750.0	566.8	595.2	624.9	
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		750.0	566.8	595.2	624.9	

FUNDING (Thousands of Dollars)

GENERAL FUND		750.0	566.8	595.2	624.9	
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		0	0	0	0	
PART TIME		0	0	0	0	
TEMPORARY		0	0	0	0	

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
The requested legislation establishes a Fire Suppression Fund and appropriates from the General Fund monies sufficient to initiate the Fund and maintain it in future years at a level adequate to meet anticipated costs of annual fire fighting activities. The Fire Suppression Fund is a reserve from which fire fighting expenses will be paid; it is not a planned expenditure. Future annual inputs from the General Fund to the Fire Suppression Fund are difficult to predict, however, from 1970 through 1975 State outlays for fire suppression have ranged from $1.2 million to $99,646, averaging approximately $539,055. Creation of a Fire Suppression Fund will enable prompt payment of fire fighting costs. With increasing State ownership of land, and responsibility for fire protection, the base cost can be expected to rise, even aside from inflation. Previously these payments have been met through supplemental or annual appropriations and have been subject to the delays implicit in that process.

IV. DATE _____ PREPARED BY George Hollett
AGENCY Division of Lands
PHONE _____ Guy Martin 1/19/77

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

BRIEFING

Bureau of Land Management - State of Alaska Fire Control Contract

February 4, 1977

BACKGROUND

With realization of Alaska statehood in 1959, BLM entered a contract with the State to protect State lands from wildfire. This was an interim measure to protect State resources until the State established its own fire control capability.

In 1971, after considerable dialogue, serious contract disengagement proposals were discussed with Mr. Charles Herbert, Commissioner, Department of Natural Resources. These proposals called for BLM disengagement in the Cook Inlet - Kenai Peninsula areas by 1975.

In 1972, BLM disengaged from the lands in Southeast Alaska. The Cook Inlet disengagement plan was reiterated this same year by letter to Governor William Egan.

In 1973, Governor William Egan informed BLM, by letter, that he had directed the Department of Natural Resources to review the problem and prepare a detailed program for building a State organization.

In a 1975 letter, Governor Jay Hammond was briefed on BLM's disengagement plans.

By contract amendment dated June 17, 1976, the State removed 21,206,381 acres of land from BLM contract protection. The State established a fire control organization to fight fire on the Kenai Peninsula and the Chugach State Park. This amendment also eliminated all protection on approximately 10,500,000 acres of burnable resources on State lands in western Alaska. During the 1976 fire season, problems were identified with the "let burn" decision on this 10.5 million acres. Since time did not allow a formal contract adjustment, BLM agreed by memorandum to protect these acres on a fire by fire basis despite contract deletion and lack of associated presuppression monies.

Also in 1976, a formal plan of BLM disengagement from lands bounded by the Alaska Range, Talkeetna Mountains, Chugach Mountains, and Kenai Mountains was presented to the State. More specifically, this area includes the Kenai Peninsula, Anchorage Bowl, and the Mat-Su Valley.

This brief chronology brings us to the present. Three situations require attention:

1. 10.5 million acres of unprotected State land in western Alaska.

2. BLM's planned disengagement from the Mat-Su area.

3. Contract rewrite to optimize the contract dollar and optimize protection on BLM and State lands.

One last comment is made. BLM can contractually protect State lands only as long as mutual agency benefit is realized. In other words, BLM cannot sell its fire control services unless it realized reciprocal benefits such as the State protecting portions of BLM land. The opportunity exists for a contract incorporating this concept.

BLM has responsibility lands in locations where the State is major land holder. The features of these locations include people/property density, road accessibility, and compact area. Fire attack can be accomplished with vehicular pumper trucks and some helicopter support.

The State has responsibility lands in locations where BLM is the major responsible land administrator. The features of these locations include limited people/property density, no road access, and vast area. Fire attack can only be accomplished utilizing major aircraft involvement. Annually, BLM must obligate 3.0 million dollars to acquire contract aircraft. This cost is exclusive of flying time.

The point is made that no technical organizational duplication will exist if the State elects to focus fire protection in the population/property density areas and BLM focus its protection in the vast roadless areas. Mutual benefit is realized and the resulting fire control organizations are complementary.

The briefing will describe the current contractual situation and offer a new contract approach to better solve our mutual fire control problem.

SIGNIFICANT FIRE CONTROL CONTRACT PROVISIONS

(STATE OF ALASKA-BUREAU OF LAND MANAGEMENT)

1. On lands contracted to either party by the other, there is a $0.0474 per acre presuppression charge.

2. On contracted lands all suppression costs incurred are directly reimbursable.

3. An administrative charge on a sliding scale is added to reimbursable suppression costs. This charge is applied on the total annual bill.

Amount of Bill	Rate	Maximum Amount
First $ 250,000	25%	$ 62,500
Next $ 250,000	20%	$ 50,000
Next $ 500,000	15%	$ 75,000
Next $1,000,000	10%	$100,000
Over $2,000,000	5%	N/A

4. Bills by each party offset each other annually.

5. The presuppression bill is due and payable each September 1 for the following fiscal year (October 1 through September 30).

6. The advanced suppression bill is due and payable September 1 for the current calendar year (75 percent of the last 5 year average reimbursable suppression bills).

7. The suppression bill is due and payable each September 1 for the year previous to the two most current calendar years (the advanced suppression payment applies to this bill).

8. Presently the State protects 372,194 acres of BLM responsibility lands at a presuppression cost of $17,642.

9. Presently BLM protects 14,115,468 acres of State responsibility lands at a presuppression cost of $669,073.

10. The State advanced suppression bill for CY 1977 is $295,447.

11. During the 5 year period 1971 - 1975, the lowest actual State suppression bill was $99,647 and the highest actual bill was $1,240,740.

- - - - - For the remainder of this presentation we will only consider contract change opportunities in the southwestern quarter of Alaska - - - - -

CHANGES FROM PRESENT TO RECOMMENDED CONTRACT

1. Kenai Peninsula. No change. As a note of interest, BLM has suppression base at Soldotna for protection of the Kenai Moose Range.

2. Chugach. Presently the State protects 8,432 acres of BLM responsibility land in the Eagle River area. Recommended contract would add the 6,000 acre Eklutna Power Withdrawal Area to this State protection. The State has in-place capability.

3. Bristol Bay. No change. No protection needed since no fire history.

4. Kodiak Island. No change. Each agency protects its own land.

5. Taylor Mountain. Realign contract protection to the area with fire history (north one-third). Due to negligible fire incidence in the south two-thirds, BLM would react to assistance requests without contract presuppression monies.

6. Iditarod. Total State area would change from no protection to protection by BLM.

7. Poorman. Total State area would change from no protection to protection by BLM.

8. Farewell. No change. No protection needed since no fire history. Fires near the west boundary on State land would be normally attacked by BLM as they threaten BLM responsibility lands. No presuppression monies necessary.

9. Kokrine Hills. Total State area would change from no protection to protection by BLM.

10. Haines Skagway. No change.

11. Mat-Su. State would assume protection of its own lands (4,920,396 acres). Additionally, the State would contract protect 697,473 acres of BLM land located adjacent to the Alaska Range.

Note that irrespective of this particular proposal, BLM will discontinue contract protection on the SE quarter of Mat-Su in CY 1977. This quarter experiences 85 percent of the ignitions in Mat-Su. This particular disengagement is in consonance with planning, discussions, and correspondence between BLM State Director, Curt McVee, and Governors Jay Hammond and William Egan.

PRESENT CONTRACT TERMS

Area	BLM Land Protected By State		State Land Protected by BLM		Burnable Area Not Being Protected		
	Acres	5 Year Average No. of Fires	Acres	5 Year Average No. of Fires	Acres	5 Year Average No. of Fires	Land Owner
1. Kenai Peninsula	258,762	1.0	0	N/A	0	N/A	N/A
2. Chugach	8,432	2.0	0	N/A	0	N/A	N/A
3. Bristol Bay	0	N/A	0	N/A	1,612,800	0	State
4. Kodiak Island	0	N/A	0	N/A	0	N/A	N/A
5. Taylor Mountain	0	N/A	4,772,711	0.8	4,608,306	1.2	State
6. Iditarod	0	N/A	0	N/A	1,385,605	3.6	State
7. Poorman	0	N/A	0	N/A	3,658,621	8.0	State
8. Farewell	0	N/A	0	N/A	1,961,644	1.2	State
9. Kokrine Hills	0	N/A	0	N/A	875,520	1.2	State
10. Haines-Skagway	105,000	0	0	N/A	0	N/A	N/A
11. Mat-Su	0	N/A	4,920,396	47.6	0	N/A	N/A
Total	372,194	3.0	9,693,107	48.4	14,102,496	15.2	----

Net presuppression cost: (9,693,107 - 372,194) 0.0474 = $ 441,811.

RECOMMENDED CONTRACT TERMS

Area	BLM Land Protected By State		State Land Protected By BLM		Burnable Area Not Being Protected		
	Acres	5 Year Average No. of Fires	Acres	5 Year Average No. of Fires	Acres	5 Year Average No. of Fires	Land Owner
1. Kenai Peninsula	258,762	1.0	0	N/A	0	N/A	N/A
2. Chugach	14,432	2.0	0	N/A	0	N/A	N/A
3. Bristol Bay	0	N/A	0	N/A	1,612,800	0	State
4. Kodiak Island	0	N/A	0	N/A	0	N/A	N/A
5. Taylor Mountain	0	N/A	3,068,883	1.4	6,312,134	0.6	State
6. Iditarod	0	N/A	1,385,605	3.6	0	N/A	N/A
7. Poorman	0	N/A	3,658,621	8.0	0	N/A	N/A
8. Farewell	0	N/A	0	N/A	1,961,644	1.2	State
9. Kokrine Hills	0	N/A	875,520	1.2	0	N/A	N/A
10. Haines-Skagway	105,000	0	0	N/A	0	N/A	N/A
11. Mat-Su	697,473	0.4	0	N/A	0	N/A	N/A
Total	1,075,667	3.4	8,988,629	14.2	9,886,578	0.6	---

Net presuppression cost: (8,988,629 - 1,075,667) 0.0474 = $ 375,074.

Conclusions

If the discussed or similar contract change is acceptable, the following products will be realized:

1. All BLM and State lands will receive protection from wildfire either contractually or cooperatively.

2. State lands which presently receive no contract protection will be reduced from 14.1 million acres to 9.9 million acres.

3. The 9.9 million acres will be relocated on the basis of low fire occurrence (15.2 fires annually to 0.6 fires annually). On these lands BLM will react to assistance requests from the State without contract presuppression monies.

4. The State will provide protection to the whole Mat-Su valley (4.9 million acres State land and 0.7 million acres BLM land). This impact is minimal, since in 1977, BLM will disengage from the State contract area containing 85 percent of the Mat-Su fire load.

5. State contract dollar will be placed in areas having highest occurrence.

6. In this southwestern quarter of Alaska, State presuppression monies to BLM will be reduced from $442,000 to $375,000.

7. The State would develop a tanker truck fire control organization while BLM would continue operation of an aerial fire control organization. Organizations are complementary. This type State development is commensurate with its projected fire control engagement in the Fairbanks, Delta, and Glenallen areas.

We are jointly engaged in rewriting our mutual protection contract to update provisions. Likewise we must jointly address our operating policies, procedures, and field organizations for the 1977 fire season. An early decision on State protection position would allow smooth transition into this fire season.

HB
56

SB 141
2 PM - Friday
Feb 25th

APPENDIX A

Proposed Amendments to HB 56

PROPOSAL #1 An amendment of lines 7-10 of page 2:

(d) if mining business operations not subject to sec. .010 of this chapter are conducted in two or more places within the state by one person, those operations may, at the person's option, be considered as one mining business, and the tax shall be computed upon the net proceeds of all those mining business of operations.

PROPOSAL #2 An amendment of the last sentence on page 1:

The tax exemption granted to new mining business operations does not apply to the business of mining sand and gravel.

An amendment of the first sentence on page 2:

The Department of Natural Resources shall certify to the department the date upon which production began from the mining business operation, and the department shall issue a certificate of exemption to the applicant after this certification.

PROPOSAL #3 An amendment of line 2 of page 3:

167 of the Internal Revenue Code (26 U.S.C. 167);

PROPOSAL #4: An amendment of lines 3 and 4 of page 3:

(7) amortization of exploration and mining development costs not included in (6) of this section;

PROPOSAL #5 An amendment to insert a new line after line 9 of page 3:

(9) net operating losses as set out in sec. 172 of the Internal Revenue Code (26 U.S.C. 172).

PROPOSAL #6 An amendment of the sentence beginning on line 27 of page 3:

Gross receipts include the actual amount received during the year for the sale of minerals or materials whether or not the minerals or materials were actually extracted during that year.

An amendment of the subsection beginning on line 2 of page 4:

(b) If the minerals or materials are sold or transferred at a price other than the true market price, as when a wholly owned subsidiary transfers or sells the mineral or material to its parent at a price less

than market value, gross receipts are the true market price or average market price per ton or other measurable unit of the mineral or material multiplied by the total units of the mineral or material sold or transferred during the year.

An amendment of lines 24-28 on page 8:

(9) "minerals means asbestos, coal, sulphur, iron ore, lead, zinc, mercury, tin, chromite, bauxite, copper, gold, silver, platinum, potash and other valuable metals or ores except oil, gas and materials;

(10) "materials" means sand, gravel, building material and top soil

PROPOSAL #7 An amendment of line 29 of page 4:

make returns for the person engaged in the mining business [, OR THE

PROPOSAL #8 An amendment of lines 9-22 of page 8:

(7) "business of mining"

(A) means a business operation for the extraction of minerals from the earth or water of the state operated by a person

(i) who owns and operates, works, or develops a mineral property, whether or not that property is currently producing a marketable product;

(ii) who leases a mineral property and operates the mineral property, whether or not the mineral property is producing a marketable product;

(iii) who leases a mineral property and pays royalties, rents or other payments to the owner of the property;

(iv) who has an interest in a lease, concession, joint venture, or other agreement for the exploration or development, or extraction of a mineral property if royalties, rents, or other payments are to be paid for that interest;

(B) does not include a natural person who undertakes only discovery work required to be done in prospecting for or locating any mining claims, or annual assessment work, or work required in the obtaining of title to mining property from the United States, or required by the laws of the United States or of this state in order to hold possessory title to any mining claim;

Bear Creek Mining Company

Spokane Office

TESTIMONY BEFORE HOUSE NATURAL RESOURCES COMMITTEE

Juneau, Alaska - March 4, 1977

Mr. Chairman, members of the Committee, my name is Russell C. Babcock, Jr., and I am Exploration District Manager, Bear Creek Mining Company, Spokane, Washington. I am in charge of my company's exploration efforts in Alaska, as well as the northwest states, and have been involved in Alaskan work since 1962. Bear Creek Mining Company is, of course, the exploration subsidiary of Kennecott Copper Corporation, an active producer and explorer in Alaska for many years.

I appeared before this Committee on April 8, 1976 and testified in favor of revision of the Mining License Tax as it now exists. I would now like to re-submit that testimony for Bear Creek Mining Company. You will find that, among other things, it requests inclusion of net operating loss carry forward and elimination of the restriction of deductions to the taxable year.* Bear Creek Mining Company is strongly in favor of a stable, reasonable tax policy for the state of Alaska. We believe there is a mineral industry in Alaska's future, and that with responsible treatment from both business and Government it can be a beneficial corporate citizen of the state.

Thank you.

* We would like to add to those 1976 comments our ~~des~~ recognition of the need to add "smelting" to Subsection 15-A-3 of the simplification and benefit of a flat-rate royalty of 5% of the net proceeds.

BOX 9, DISHMAN BRANCH • 7821 EAST SPRAGUE AVENUE • SPOKANE, WASHINGTON 99213 • PHONE: 509-924-2600 • TWX: 510-773-1821

Bear Creek Mining Company

Spokane Office

TESTIMONY BEFORE HOUSE NATURAL RESOURCES COMMITTEE

Juneau, Alaska - April 8, 1976

Mr. Chairman, Members of the Committee, my name is Russell Babcock, and I am Exploration District Manager, Bear Creek Mining Company, Spokane, Washington. I have the jurisdictional responsibility for my company's exploration efforts in Alaska and the northwest states, and have personally been involved in programs within the state intermittently since 1962. The exploration efforts of Bear Creek cover the period beginning in 1956, and prior to this our parent company, Kennecott Copper Corporation, was an active producer and explorer.

At present, Bear Creek is seriously considering the development of copper and copper-zinc-silver deposits in the Ambler District near Kobuk on the south flank of the Brooks Range. We are also exploring other parts of Alaska, and are encouraged by the unexplored nature of what we see and the favorable geologic setting. We feel that additional mineral deposits can be discovered in Alaska.

It is clear that the costs of development and production in Alaska will be significantly higher than in the mining states of the west, and it is clear that real dollar incentives will be required to start a viable, long-lived Alaskan mining industry. On the other hand, mining is one of the very few industries which might be developed in rural Alaska, and which might lift the burden of supporting rural populations from the shoulders of the state and federal governments. Incentives such as infrastructure support, for roads, railroads, ports and communication, funded by both state and federal agencies, or federal tax credits for Alaskan development or production income, would have a more far-reaching and significant impact on the economics of a new mine in Alaska than minor variations in the current special tax structure. These types of incentives have been responsible for the dramatic progress in rural Canada over the last decade or so.

In principle, Bear Creek would like to see its operations taxed on the same basis as other industries or businesses, without special loadings or special taxes. At the present time, Alaska has a special tax on mining, the 7% Mining License Tax on net income. The proposed revisions of this tax, as presented here today in House Bill 878, will result in a clearer, more agreeably interpreted tax law, and, because the 7% rate is retained, will promote a feeling of stability concerning mineral taxation in Alaska which will have a positive effect on decisions to explore for minerals and develop mines in Alaska.

Additional taxes would be a strong disencentive, not only for development of new mines but for the exploration necessary to make new discoveries. Reduction of special taxes would be accepted as recognition that a mining industry would be a welcome and contributory state citizen, that the State of Alaska was willing to work with industry to derive some benefit from its presently untapped, unproductive mineral resources.

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The revised Mining License Tax, HB 878, with its implied stability, is a step in the right direction. To further clarify its language, to provide conformity with federal tax law, and to yield legislation acceptable and workable in our view, Bear Creek respectfully submits some changes as shown on the attached copies of pages 2 and 3 of HR 878 (points were explained).

We feel the addition of these elements will enhance the legislation in clarifying its intent and smoothing out the tax burden it would otherwise impose in the startup years of a new operation or during periods of fluctuating market conditions which are inevitable in the industry. A stable, viable, long-lived mining industry will provide the maximum benefit to both the state and the industry.

I thank you for this opportunity to work with you and your committee to this end.

sand and gravel. The Department of Natural Resources shall certify to the department the date upon which production began from the mining business operation, and the department shall issue a certificate of exemption to the applicant after this certification. A person must apply for an exemption certificate in the first year of production from the mining business operation in order to qualify for the exemption under this section.

(d) If mining business operations are conducted in two or more places within the state by one person, those operations may be at the person's option considered as one mining business, and the tax shall be computed upon the net proceeds of all those mining business operations.

* Sec. 2. AS 43.65 is amended by adding new sections to read:

Sec. 43.65.015. NET PROCEEDS. (a) In this chapter, "net proceeds" means the total gross receipts from the mining business less the following deductions:

(1) all expenses incurred directly in the extraction of minerals in the state;

(2) all expenses incurred in transporting the minerals from the point of extraction to any further processing plant where only necessary treatment processes are applied to obtain a commercially marketable product;

(3) all expenses directly related to the production, refining, crushing, screening or other necessary process incurred to make a commercially marketable product;

(4) the actual selling expenses incurred in marketing the product;

(5) all expenses incurred in transporting the marketable product to a buyer;

(6) depreciation of the mining business equipment, works,

plant and facilities used directly in the extraction, transportation and processing phases of the mining business, in accordance with sec. 167 of the Internal Revenue Code (26 U.S.C. sec. 167);

(7) amortization of exploration and mining development costs not included in (6) of this subsection;

(8) an allowance for depletion on a cost or percentage basis at the rates set out in secs. 611--614 of the Internal Revenue Code as amended (26 U.S.C. secs. 611--614) except that the allowance for depletion may not exceed 50 per cent of the taxpayer's net proceeds calculated before the allowance for depletion.

(9) net operating losses as set out in the Internal Revenue Code

(b) If the taxpayer has expenses within the state other than those specified in (a) of this section, such as general overhead expenses, relating to the business of mining or to the business of mining and other business activities, the deductions shall be apportioned in the ratio which the direct expenses of the mining business within the state under (a) of this section bear to the total direct expenses of all business activities of that taxpayer in the state.

(c) Except for wages paid during temporary travel out of the state by an employee who is domiciled in the state, the deductions allowed in (a) and (b) of this section do not include wages or other payments for services not performed in the state.

(d) If a person is engaged in the business of mining and the only receipts from the business are royalties, the net proceeds of the mining business are the royalties received less the depletion allowance under sec. 15(a)(8) of this chapter.

Sec. 43.65.017. GROSS RECEIPTS. (a) In this chapter, "gross receipts" means all revenue received, including royalties, rental payments, and all other compensation from the business of mining. Gross receipts include the actual amount received during the year for the

Introduced: 1/14/77
Referred: Resources and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 56

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Mining License Tax; and providing for an effective date."

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

* Section 1. AS 43.65.010 is repealed and re-enacted to read:

Sec. 43.65.010. MINING LICENSE AND TAX. (a) For the privilege of engaging in the business of mining in the state, a person shall first apply for and obtain a license from the department. The license fee is $25, which must accompany the application for a license.

(b) There is also levied an annual license tax on each person engaging in the business of mining in the state computed on the net proceeds of the taxpayer from the mining business. The license tax shall be computed according to the following table:

If the net proceeds are:	Then the tax is:
Over $40,000 but not over $100,000	3 per cent of the excess over $50,000
Over $100,000 but not over [illegible]	$1,500 plus 5 per cent of the excess over $100,000
Over $[illegible]	~~$2,800 plus 7 per cent of the excess over $100,000~~

(c) Upon application and receipt of an exemption certificate, a new mining business operation is exempt from the license tax levied by this chapter for three and one-half years after production from the mining business operation begins. The tax exemption granted to new mining business operations does not apply to the business of mining

the department the date upon which production began from the mining business operation, and the department shall issue a certificate of exemption to the applicant after this certification. A person must apply for an exemption certificate in the first year of production from the mining business operation in order to qualify for the exemption under this section.

(d) If mining business operations are conducted in two or more places within the state by one person, those operations are considered as one mining business, and the tax shall be computed upon the net proceeds of all those mining business operations.

* Sec. 2. AS 43.65 is amended by adding new sections to read:

Sec. 43.65.015. NET PROCEEDS. (a) In this chapter, "net proceeds" means the total gross receipts from the mining business less the following deductions incurred during the taxable year:

(1) all expenses incurred directly in the extraction of minerals in the state;

(2) all expenses incurred in transporting the minerals from the point of extraction to any further processing plant where only necessary treatment processes are applied to obtain a commercially marketable product;

(3) all expenses directly related to the production, refining, crushing, screening or other necessary process incurred to make a commercially marketable product;

(4) the actual selling expenses incurred in marketing the product;

(5) all expenses incurred in transporting the marketable product to a buyer;

(6) depreciation of the mining business equipment, works, plant and facilities used directly in the extraction, transportation

and processing phases of the mining business, in accordance with sec. 167 of the Internal Revenue Code (26 U.S.C. sec. 1976);

(7) amortization of mining development costs not included in (6) of this subsection;

(8) an allowance for depletion on a cost or percentage basis at the rates set out in secs. 611 - 614 of the Internal Revenue Code as amended (26 U.S.C. secs. 611 - 614) except that the allowance for depletion may not exceed 50 per cent of the taxpayer's net proceeds calculated before the allowance for depletion.

(b) If the taxpayer has expenses within the state other than those specified in (a) of this section, such as general overhead expenses, relating to the business of mining or to the business of mining and other business activities, the deductions shall be apportioned in the ratio which the direct expenses of the mining business within the state under (a) of this section bear to the total direct expenses of all business activities of that taxpayer in the state.

(c) Except for wages paid during temporary travel out of the state by an employee who is domiciled in the state, the deductions allowed in (a) and (b) of this section do not include wages or other payments for services not performed in the state.

(d) If a person is engaged in the business of mining and the only receipts from the business are royalties, the net proceeds of the mining business are the royalties received less the depletion allowance under sec. 15(a)(8) of this chapter.

Sec. 43.65.017. GROSS RECEIPTS. (a) In this chapter, "gross receipts" means all revenue received, including royalties, rental payments, and all other compensation from the business of mining. Gross receipts include the actual amount received during the cyar for the sale of minerals whether or not the minerals were actually extracted

during that year.

(b) If minerals are sold or transferred at a price other than the true market price, such as when a wholly owned subsidiary transfers or sells the mineral to its parent at a price less than market value, gross receipts are the true market price or average market price per ton or other measurable unit of the mineral multiplied by the total units of the mineral sold or transferred during the year.

(c) Gross receipts from the business of mining sand and gravel include:

(1) receipts from the sale to customers directly from the pit or mine;

(2) receipts from the sale to customers at their place of business or their business site, including receipts relating to the delivery of the sand and gravel; and

(3) the average market value of sand and gravel from intercompany transfers of the minerals calculated immediately before the transfer, including intercompany transfers of sand and gravel to a ready-mix or concrete plant.

* Sec. 3. AS 43.65.020 is amended to read:

Sec. 43.65.020. TAXPAYER'S DUTIES. (a) A person subject to tax under this chapter shall make a return stating specifically the items of gross receipts [INCOME] from the business [PROPERTY], including royalty received and the deductions [AND CREDITS] allowed by this chapter, and other information for carrying out this chapter which the department [DEPARTMENT OF REVENUE] prescribes. The return shall show the mining license number and shall be signed by the taxpayer or his authorized agent, under penalty of perjury. If receivers, trustees, or assigns are operating the mining [PROPERTY OR] business, they shall make returns for the person engaged in the mining business [, OR THE

RECIPIENT OF ROYALTY IN CONNECTION WITH MINING PROPERTY]. The tax due on the basis of the returns shall be collected in the same manner as if collected from the person of whose business they have custody and control.

(b) A return made on the basis of the calendar year shall be filed [MADE] before March 15 [MAY 1] of the next year. A return made on the basis of a fiscal year shall be filed [MADE] before the fifteenth [FIRST] day of the third [FIFTH] month of the next fiscal year.

(c) The department [DEPARTMENT OF REVENUE] may grant a reasonable extension of time for filing returns, under regulations adopted [PRESCRIBED] by it. Except in the case of a taxpayer going abroad, no extension may be granted [MADE] for more than six months.

(d) A [TAXPAYER'S] return shall be filed with [MADE TO] the department [DEPARTMENT OF REVENUE AT JUNEAU] using the same tax year as the person uses in filing his federal income tax return. [A TAXPAYER SHALL MAKE HIS RETURN EITHER ON A CALENDAR YEAR OR FISCAL YEAR BASIS, IN CONFORMANCE WITH THE BASIS USED IN MAKING HIS RETURN FOR FEDERAL INCOME TAX PURPOSES.]

(e) The total amount of tax imposed by this chapter shall be paid on or before the due date of the tax return required under this section [THE 30TH DAY OF APRIL OF THE NEXT CALENDAR YEAR, OR, IF THE RETURN IS MADE ON THE BASIS OF THE FISCAL YEAR, THEN ON THE LAST DAY OF THE FOURTH MONTH OF THE NEXT FISCAL YEAR].

(f) [EVERY PERSON PROSECUTING OR ATTEMPTING TO PROSECUTE OR ENGAGING IN THE BUSINESS OF MINING IN THE STATE SHALL COMPLY WITH THE DEPARTMENT'S REGULATIONS AND SHALL KEEP SUCH RECORDS, GIVE SUCH STATEMENTS UNDER OATH, AND MAKE SUCH RETURNS AS THE DEPARTMENT OF REVENUE PRESCRIBES.]

(g) When the department considers it necessary, it may require a

person, by notice served upon him, to make a return, give statements under oath, or keep records as it considers sufficient to show whether or not the person is liable <u>for the</u> [TO] tax under this chapter. If a person fails to file a return at the time prescribed by law or regulation, or makes, wilfully or otherwise, a false or fraudulent return, the department shall make the return from its own knowledge and from such information as it can obtain [THROUGH TESTIMONY OR OTHERWISE]. A return so made and subscribed by the department is prima facie good and sufficient for all legal purposes.

* Sec. 4. AS 43.65.030 is amended to read:

Sec. 43.65.030. APPLICATION FOR RENEWALS. <u>A person engaged in the business of mining shall apply</u> [APPLICATION] for a renewal of a mining license <u>each year</u> [SHALL BE MADE] before <u>the 30th day of the first month of the person's tax year</u> [MAY 1 OF EACH YEAR].

* Sec. 5. AS 43.65 is amended by adding a new section to read:

Sec. 43.65.051. PENALTIES AND INTEREST. (a) If part of a deficiency in the tax is due to fraud with intent to evade the tax, then 50 per cent of the total amount of the deficiency, in addition to the deficiency, shall be assessed and collected. If this penalty is assessed, then the penalty in AS 43.05.220 does not apply.

(b) A person who is required under this chapter to pay the tax, make a return, keep records, or supply information who wilfully fails to pay the tax, make the return, keep the records, or supply the information, at the time required by law or regulations, is, in addition to other penalties provided by this chapter, guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both.

(c) In this section, "person" includes an officer or employee of

a corporation or a member or employee of a partnership who is under duty to perform the act in respect to which the violation occurs.

(d) A person who wilfully attempts to evade the tax imposed by this chapter is, in addition to other penalties provided by this chapter, guilty of a felony and, upon conviction, shall be fined not more than $5,000, or imprisoned for not more than five years, or both.

(e) A person who wilfully makes and subscribes a return, statement, or other document required under this chapter which contains or is verified by a written declaration that it is made under the penalties of perjury which he does not believe to be true and correct as to every material matter is, in addition to other penalties provided by this chapter, guilty of a felony and, upon conviction, shall be fined not more than $5,000, or imprisoned for not more than three years, or both.

(f) A person who wilfully or knowingly aids, procures, or counsels the preparation or presentation in connection with any matter arising under this chapter of a return, affidavit, claim or other document, which is fraudulent or is false as to any material matter is guilty of a felony whether or not the falsity or fraud is with the knowledge or consent of the person required to present the return, affidavit, claim, or document, and, upon conviction, shall be fined not more than $5,000, or imprisoned for not more than three years, or both.

(g) A person who wilfully delivers or discloses to the department under this chapter any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter shall be fined not more than $1,000, or imprisoned for not more than one year, or both.

* Sec. 6. AS 43.65.060(4) is amended to read:

(4) "new mining business operation [OPERATIONS]" means a mining operation [OPERATIONS] which began production after January 1, 1953, and which has not acquired the ownership or property of another mining business which has previously received an exemption certificate under sec. 10 of this chapter [OR WHICH HAVE NOT BEEN LIABLE TO PAY A MINING LICENSE TAX UNDER THIS CHAPTER ON NET INCOME SINCE JANUARY 1, 1948];

* Sec. 7. AS 43.65.060 is amended by adding new paragraphs to read:

(7) "business of mining" means a business operation for the extraction of minerals from the earth or water of the state , operated by a person

(A) who (i) owns and operates, (ii) works, or (iii) develops a mineral property, whether or not that property is currently producing a marketable product;

(B) who leases a mineral property and operates that property, whether or not it is producing a marketable product;

(C) who leases a mineral property and pays royalties, rents or other payments to the owner of the property; or

(D) who has an interest in a lease, concession, joint venture, or other agreement for the exploration or development, or extraction of a mineral property if royalties, rents, or other payments are to be paid for that interest;

(8) "department" means the Department of Revenue;

(9) "minerals" means asbestos, coal, sulphur, iron ore, lead, zinc. mercury, tin, chromite, bauxite, copper, gold, siver, platinum, potash, clay, stone, sand, gravel, and other valuable metals, ores and marketable earth or stone but not including oil and gas.

* Sec. 8. AS 43.65.050 and 43.65.060(1) - (3) are repealed.

* Sec. 9. This Act is retroactive to January 1, 1977.

* Sec. 10. This Act takes effect immediately in accordance with AS 01.-10.070(c).

STATE
of ALASKA

MEMORANDUM

TO: Debbie Behr
Legislative Affairs Agency
5th Floor, Capitol Building

DATE : February 7, 1977

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT: House Bill No. 56

House Bill No. 56, which is a major revision of the Mining License Tax Bill, was introduced late in the last Legislative session as House Bill 878. This Bill is identical to the original HB 878, except for some changes which reflect legislation that was enacted by the 1976 Legislature.

Early in the 1975 Legislative session, Governor Hammond introduced a Mineral Severance Tax Bill which generated violent opposition from the mining industry. The Governor agreed to withdraw that Bill if the representatives of the mining industry would meet with the Department of Revenue personnel in an effort to rewrite the current law so that it would be in more understandable and enforceable terms. The Department held hearings in the fall of 1975, receiving a very substantial amount of input from the mining industry. The result of those hearings, along with written input we received from interested parties, was HB 878, which was introduced in the Legislature. The basic thrust of that Bill was to clarify the many sections of the original Act which were extremely vague and in some cases impossible to understand. With this law, the mining industry would be able to clearly understand the methods of calculating net proceeds from their operations in the State of Alaska and computing the tax thereon. By having a well defined law which would not need to be amended in the future, it was hoped that this would create a stable taxation environment in the State and would encourage additional mining development.

It is anticipated that there will be no additional revenue generated or lost through the passage of this legislation.

GLJ:mh

Inspiration Development Company
P.O. BOX 1320
CLAYPOOL, ARIZONA 85532

February 10, 1977

Ms. Sally Smith
Alaska State Representative
Pouch V
Juneau, AK 99811

Dear Ms. Smith:

We appreciate your concern for our interest in mining in Alaska and your transmittal of a copy of H.B. No. 56 entitled "An Act Relating to the Alaska Mining License Tax; and providing for an effective date," which was introduced 1/14/77.

In Sec. 1, (b), I recommend a flat rate of 5% (no more) on the net proceeds derived from mining in the State of Alaska.

In Sec. 1, (d), I think it would be best to tax each operation separately and not to consider mining business operations conducted in two or more places as one mining business.

A further provision should be included for a mining business to carry forward net operating losses.

A further provision should be included for deduction of wages and payments for services performed out-of-state, where these are directly related to in-state operations.

We appreciate your consideration of this matter.

Sincerely yours,

John G. Kuhn

John G. Kuhn
Vice President
INSPIRATION DEVELOPMENT COMPANY

JGK/HWO/am
cc: Alaska Mining Association
Northwest Mining Association

U.S.BORAX
A MEMBER OF THE RTZ GROUP

February 18, 1977

The Honorable Sally Smith
Alaska State Representative
Pouch V
Juneau, Alaska 99811

Dear Ms. Smith:

Thank you for your letter of February 15, 1977 advising me of the schedule of the House Resources Committee for the next three weeks. Your thoughtfulness is greatly appreciated.

I am sorry that I have not had a chance to respond to your letter of January 24, 1977 regarding HB-56 (Mining License Tax). U.S.BORAX's application for a permit to construct a road to our Quartz Hill molybdenum prospect near Ketchikan is in the draft E.I.S. review process and this has required a good part of my time. In this regard, I have enclosed for your information a copy of my letter to the Ketchikan Chamber of Commerce of February 15, 1977 requesting their support, as well as copy of a statement I made at their annual awards banquet meeting February 8.

In regard to the proposed amendments to the Mining License Tax, we do have some comments and we will get a letter off to you next week.

Sincerely yours,

Eugene D. Smith
Assistant Manager
Environmental Affairs

EDS:MC
Encls.

cc: Mr. E. D. Lemon
Mr. J. E. Stephens

USBORAX
A MEMBER OF THE RTZ GROUP

February 15, 1977

Mr. Reinhart Klein, President
Ketchikan Chamber of Commerce
Mary Frances Towers
Ketchikan, Alaska 99901

Dear Mr. Klein:

In follow up of our appearance at the Ketchikan Chamber of Commerce Meeting on February 8, we are writing to ask for your support for our application to the Forest Service for a special use permit to construct a primitive type access road to our Quartz Hill mineral property. As you know, we have agreed to the Boca de Quadra-Keta River route selected by the Forest Service. The road is required to conduct development drilling and bulk sampling to obtain data for use in completion of necessary engineering and feasibility studies. These studies will include an evaluation of all possible environmental impacts of a future mine development in this area and the action necessary to avoid or minimize adverse impacts.

We believe the question of surface access can be put into perspective by considering the answers to the following questions:

1. Is U.S.BORAX entitled to access?

   Yes, the Forest Service acknowledged the property interest we have acquired and acknowledges that we have a right to access.

2. Should U.S.BORAX be given road access or should it be limited to helicopter access?

   We believe we are entitled to road access because helicopter access alone is not a reasonable means of access. Total dependence on helicopters would subject the project to cost and operating risks (safety and financial) that would probably prohibit the capital investment necessary to see this project through feasibility (the evaluation upon which the decision to develop will be made).

UNITED STATES BORAX & CHEMICAL CORPORATION • 3075 WILSHIRE BOULEVARD • LOS ANGELES, CALIFORNIA 90010 • (213) 381-5311
MAIL ADDRESS: P. O. BOX 75128, SANFORD STATION, LOS ANGELES, CALIFORNIA 90075

3. Would road access cause prohibitive environmental damage?

   We believe it would not and we believe the Draft Environmental Impact demonstrates that it would not. The impact statement concludes that the adverse environmental impact of the Keta Road on fish habitat is inconsequential insofar as sediment, flow, or rearing and spawning area changes are concerned (see Page 15 of D.E.I.S.).

4. Will the bulk sampling cause a significant environmental impact?

   Again, we believe the D.E.I.S. demonstrates that it would not. The bulk sampling is a comparatively minor type operation involving about 5 to 10 acres and the removal of 25,000 to 60,000 tons of rock by underground workings from which samples will be taken and removed for metallurgical tests. Such a quantity of rock would constitute a 10-foot high pile covering only two and a half acres with very little, if any, visual impact.

   We would like to point out that the decision as to the type of access allowed (helicopter or road) does not alter the bulk sampling program other than to introduce additional costs and risks if helicopter is selected. Environmental impacts of the bulk sampling program will be the same by either means of access.

5. Will the construction of the road prohibit that area of the mainland lying south of the Granite Fjords Wilderness Study Area from being designated wilderness?

   We believe that it would, but we also believe that the mineral discovered to date at Quartz Hill should have already eliminated such an area from wilderness consideration.

6. Will the activity at Quartz Hill have any effect on the wilderness study or classification of Granite Fjords?

   No, the work area cannot be seen from the North and there will be no visual or noise impacts in the area designated as Granite Fjords Wilderness Study Area.

We believe the question is: Will mineral resource development or wilderness be the best use for this area considering the potential extent and value of

mineralization against wilderness values such as scenic enjoyment and potential use or wilderness? Road access to Quartz Hill is critical to its development but such a road and such development will be in conflict with the proposed Misty Fjords Wilderness Area. Will it be in the best public interest to exclude mining from this area or to reduce the size of demands for wilderness?

We believe the right of road access is a matter of major importance to any development on National Forest land and denial of road access to Quartz Hill could adversely affect any future mineral exploration in the Tongass.

We hope you share our opinions and will submit your views on this matter in writing to the Forest Service on or before March 6, 1977.

Please write to: J. S. Watson, Forest Supervisor
Ketchikan Area Tongass National Forest
P. O. Box 2278
Ketchikan, Alaska 99901

Your participation could be very important to the final decision on this land use.

Very truly yours,

E. D. Smith

E. D. Smith
Assistant to the
Manager of Environmental Affairs

EDS/mw

STATEMENT TO BE MADE TO CHAMBER OF COMMERCE

KETCHIKAN, ALASKA - FEBRUARY 8, 1977

MANY OF YOU KNOW THAT IN MARCH OF LAST YEAR, U.S.BORAX ANNOUNCED ITS DISCOVERY AT QUARTZ HILL. THIS ANNOUNCEMENT WAS PROMPTED BY OUR APPLICATION TO THE U.S. FOREST SERVICE FOR AN ACCESS ROAD TO OUR CLAIMS WHICH ARE LOCATED IN THE TONGASS NATIONAL FOREST. OUR QUARTZ HILL PROJECT, AS BOB KISTLER HAS EXPLAINED, IS STILL IN THE EXPLORATION STAGE AND WILL BE FOR PROBABLY TWO MORE YEARS. THE RESULTS OF OUR EXPLORATION TO DATE ARE VERY ENCOURAGING BUT CONSIDERABLE WORK IS REQUIRED TO DETERMINE WHETHER WE HAVE A MINE.

I WOULD LIKE TO EMPHASIZE THAT THE EXPLORATION AND DEVELOPMENT OF A MINERAL DEPOSIT OF THE TYPE AT QUARTZ HILL, REMOTELY LOCATED AND SUBJECT TO THE WEATHER CONDITIONS OF THE AREA, IS A LONG TERM, HIGH COST AND HIGH RISK VENTURE THAT WILL REQUIRE THE EFFORTS OF MANY PEOPLE, SOPHISTICATED TECHNOLOGY, TIME, A GREAT DEAL OF MONEY AND THE COURAGE TO TAKE THE RISK. IT WILL ALSO REQUIRE THE COOPERATION AND ASSISTANCE OF MANY PEOPLE AND GOVERNMENTAL AGENCIES.

AS WE HAVE STATED, WE ARE STILL IN THE EXPLORATION PHASE OF THIS VENTURE. WE HAVE TALKED ABOUT THE POTENTIAL VALUE OF THE PROPERTY AND GENERALLY THE ASPECTS OF ITS POSSIBLE FUTURE DEVELOPMENT BECAUSE EVERYONE HAS ASKED THESE QUESTIONS. UNFORTUNATELY, SOME PEOPLE HAVE HAD THE OPINION THAT WE ARE FARTHER ALONG WITH THE PROJECT THAN WE ARE, AND SOME PEOPLE MAY HAVE EVEN THOUGHT WE WERE READY TO COMMENCE OPERATIONS OF A SIZE AND SCOPE THAT WOULD CREATE A MAJOR IMPACT ON THE AREA, BOTH ECONOMICALLY AND ENVIRONMENTALLY. WE ARE NOT THAT FAR ALONG AND WE HOPE THE DRAFT ENVIRONMENTAL IMPACT STATEMENT AND OUR MEETINGS HERE IN KETCHIKAN WILL PUT OUR PROJECT IN PROPER PERSPECTIVE; THAT IS, AN EXPLORATION PROJECT WITH PROMISING POTENTIAL TO WHICH WE PROPOSE TO CONSTRUCT A PRIMITIVE TYPE ACCESS ROAD.

THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS) EXPLAINS THAT THE STATEMENT WAS PREPARED ON THE ROAD ACCESS AND ALTERNATIVES ONLY AND NOT THE MINE NOR ANY OF THE SUPPORT FACILITIES OTHER THAN BULK SAMPLING (p.2). IT EXPLAINS THAT THE IMPACTS OF THE MINE ARE NOT INCLUDED IN THE STATEMENT BECAUSE THE SIZE, METHODS OF MINING AND MILLING, EXACT LOCATION, AND EXTENT OF THE OREBODY HAVE NOT AS YET BEEN DETERMINED (p.2). IT IS ACKNOWLEDGED BY THE FOREST SERVICE THAT FUTURE DEVELOPMENT WILL CREATE

IMPACTS NOT ASSESSED IN THE STATEMENT BUT THEY CANNOT BE EVALUATED BASED ON PRESENTLY KNOWN DATA (p.2). I WOULD LIKE TO ADD THAT THE ACTION BEING REQUESTED IS TO ALLOW US TO REASONABLY PURSUE THE EXPLORATION OF THE PROJECT AND TO GATHER ALL THE ENGINEERING AND ENVIRONMENTAL DATA REQUIRED TO EVALUATE ALL ASPECTS OF THE PROJECT. WE BELIEVE THIS IS A RESPONSIBLE REQUEST THAT SHOULD BE GIVEN RESPONSIBLE CONSIDERATION.

THE DEIS EXPLAINS THAT U.S.BORAX HAS PROPOSED TO CONSTRUCT A 14-FOOT WIDE PRIMITIVE (p.27) AND TEMPORARY (p.33) MINING EXPLORATION ROAD FROM TIDEWATER TO THE MINING CLAIMS WHICH IT HAS LOCATED ON A DISCOVERY OF MOLYBDENUM DISULFIDE WE CALL "QUARTZ HILL". U.S.BORAX'S PURPOSE FOR CONSTRUCTING SUCH A ROAD IS TWOFOLD. WE WANT SURFACE ACCESS FROM AN OCEAN DOCK FOR EQUIPMENT, MACHINERY, ETC. NECESSARY TO CONDUCT DEVELOPMENT DRILLING,AND THE COLLECTION AND REMOVAL OF A BULK SAMPLE. SUCH SURFACE ACCESS ALSO IS CRITICAL TO THE COMMITMENT OF CORPORATE FUNDS TO THIS PROJECT. WE EXPECT TO SPEND $5 TO $6 MILLION OVER THE NEXT THREE YEARS (THIS DOES NOT INCLUDE THE ROAD) AND WITHOUT SURFACE ACCESS IT WILL BE DIFFICULT, IF NOT IMPOSSIBLE, TO JUSTIFY SUCH EXPENDITURES.

DEFERMENT OF AN ACCESS ROAD ALSO WOULD PLACE AN UNREASONABLE DELAY AND COST BURDEN ON THE PROJECT. NEITHER THE ROAD NOR ANY CONSTRUCTION COULD COMMENCE UNTIL THE COMPLETE

PROJECT HAD GONE THROUGH PRELIMINARY ENGINEERING, AN ENVIRONMENTAL IMPACT STATEMENT (EIS) AND APPROVAL OF ALL PERMITS. SUCH A PROCESS COULD REQUIRE ONE TO TWO YEARS AND WOULD SUBJECT THE PROJECT TO AN UNREASONABLE COST BURDEN.

THE DEIS, IN CONSIDERING THE PROPOSED ACCESS ROAD, ESTIMATES THE ENVIRONMENTAL IMPACT OF SUCH AN ACCESS ROAD AND EXPLORES THE ALTERNATE METHODS BY WHICH THE PROPOSED ACTION MIGHT BE ACCOMPLISHED. THE DEIS ALSO ESTIMATES THE SOCIO-ECONOMIC IMPACT OF THE ACTION OR DENIAL OF THE ACTION. AS MANY OF YOU KNOW, THE ALTERNATES WHICH HAVE BEEN CONSIDERED ARE:

(A) SEVERAL ACCESS ROAD ROUTES, THE PRINCIPAL ONES BEING THE KETA AND THE BEAVER ROUTES

(B) HELICOPTER ACCESS

(C) AERIAL CABLEWAY ACCESS

(D) WILDERNESS

(E) NO ACTION

THE DECISION AS TO THE ACTION ALLOWED RESTS WITH THE FOREST SERVICE. IN MAKING ITS DECISION, IT MUST CONSIDER:

(A) THE PROPERTY RIGHTS U.S.BORAX HAS ACQUIRED BY ITS DISCOVERY AND LOCATION OF THE SUBJECT MINING CLAIMS IN ACCORDANCE WITH THE MINING LAW OF 1872 (p.1,38).

(B) THE ORGANIC ACT OF 1897 FROM WHICH THE AUTHORITY AND REGULATIONS OF THE FOREST SERVICE ARE DERIVED (p.1).

(C) THE MINING AND MINERALS POLICY ACT OF 1970 WHICH DECLARES IN PART THAT IT IS THE CONTINUING POLICY OF THE FEDERAL GOVERNMENT IN THE NATIONAL INTEREST TO FOSTER AND ENCOURAGE PRIVATE ENTERPRISE IN THE ORDERLY AND ECONOMIC DEVELOPMENT OF DOMESTIC MINERAL RESOURCES, RESERVES, AND RECLAMATION OF METALS AND MINERALS TO HELP ASSURE SATISFACTION OF INDUSTRIAL SECURITY AND ENVIRONMENTAL NEEDS (p.1).

(D) THE OPINION AND WISHES OF THE PEOPLE.

IN REGARD TO THE PROPERTY RIGHTS WE HAVE ACQUIRED AT QUARTZ HILL BY THE LOCATION OF MINING CLAIMS, WE WOULD LIKE TO EXPLAIN THAT THE RIGHT OF A QUALIFIED PARTY TO ACQUIRE A POSSESSORY INTEREST IN MINERALS OF VALUE FOUND AND LOCATED IN ACCORDANCE WITH FEDERAL AND STATE STATUTES IS WELL RECOGNIZED LAW. THE FOREST SERVICE ACKNOWLEDGES THE STATUTORY RIGHTS GRANTED BY THE MINING LAW OF 1872, INCLUDING THE RIGHT OF THE PROSPECTOR AND MINER TO ENTER UPON THE NATIONAL FORESTS FOR THE EXPRESS PURPOSE OF PROSPECTING AND MINING (p.1,38). THE FOREST SERVICE CLAIMS THE RIGHT TO REGULATE ACCESS BUT THEY ACKNOWLEDGE THAT SUCH REGULATION CANNOT BE UNREASONABLY RESTRICTIVE OR EXCESSIVELY BURDEN-

SOME (p.1,38). IT IS OUR OPINION THAT THEY MAY HAVE THE RIGHT TO REGULATE ACCESS BUT THEY CANNOT DENY ACCESS OR LIMIT IT TO SUCH A MEANS OR SUCH A ROUTE AS TO PROHIBIT DEVELOPMENT AND OPERATION OF A MINING PROPERTY.

THE MINING AND MINERALS POLICY ACT WAS PASSED IN 1970 IN RECOGNITION OF THE IMPORTANCE OF A SOUND AND RELIABLE DOMESTIC MINERALS INDUSTRY. THE WISDOM AND FORESIGHT OF THIS ACT WAS SUBSTANTIATED IN THE SECRETARY OF INTERIOR'S FIRST ANNUAL REPORT ON THE STATE OF THE DOMESTIC MINING, MINERALS AND MINERAL RECLAMATION INDUSTRIES IN 1972. WE BELIEVE U.S.BORAX'S PROPOSED ACTION IS IN KEEPING WITH THIS POLICY AS IT WILL PROVIDE ACCESS TO A LARGE SUPPLY OF POTENTIAL MOLYBDENUM ORE THAT COULD ENHANCE THE ECONOMIC WELL-BEING AND SECURITY OF ALASKA AND THIS NATION.

IN REGARD TO THE OPINION AND WISHES OF THE PEOPLE, WE SUGGEST THAT YOU CONSIDER THE PROPOSED ACTIONS (ALTERNATES) SET FORTH IN THE DEIS AND THE RECOMMENDATIONS OF THE FOREST SERVICE,AND WE URGE YOU TO SUBMIT YOUR COMMENTS TO THE FOREST SERVICE IN WRITING ON OR BEFORE MARCH 6, 1977. PUBLIC INPUT IS ONE OF THE PURPOSES OF THE DEIS AND WE BELIEVE YOUR COMMENTS COULD HAVE AN IMPORTANT INFLUENCE ON THE OUTCOME. WE ALSO

WANT TO REMIND YOU THAT ONLY THE WRITTEN COMMENTS RECEIVED BY THE FOREST SERVICE DURING THE 60-DAY COMMENT PERIOD CAN BE CONSIDERED AS PART OF THE FINAL EIS.

THOSE OF YOU WHO HAVE REVIEWED THE DEIS KNOW THAT THE FOREST SERVICE SELECTED THE KETA ROUTE BASED ON THE DETERMINATION THAT THIS ROUTE WOULD HAVE THE LEAST ADVERSE EFFECT ON THE ENVIRONMENT (p.5). THIS IS THE ROAD ROUTE THAT STARTS AT THE HEAD OF BOCA DE QUADRA AND PROCEEDS TO THE CLAIM AREA BY WAY OF THE KETA RIVER AND WHAT WE CALL HILL CREEK. U.S.BORAX ACCEPTS THE RECOMMENDATIONS OF THE FOREST SERVICE BASED ON THE PRESENTLY KNOWN DATA CONSIDERED BY THE DEIS. WE HAVE SOME CONCERN WITH THIS ROUTE AND IN PARTICULAR THE SNOW AVALANCHE PROBLEM (p.75). WE PLAN TO COMMENT ON THIS PROBLEM AND OTHER ASPECTS OF THE DEIS BUT WE WILL NOT DISAGREE WITH SAID SELECTION OF THE KETA ROUTE.

WE WISH TO EMPHASIZE THAT THE DEIS COVERS A PRIMITIVE AND TEMPORARY ROAD FOR THE PURPOSE OF CONDUCTING DEVELOPMENT DRILLING AND BULK SAMPLING. IT WILL BE CONSTRUCTED SO THAT IT CAN BE OBLITERATED AND RECLAIMED TO CAUSE THE LEAST ENVIRONMENTAL IMPACT SHOULD IT HAVE TO BE ABANDONED.

WE BELIEVE THE ROAD, THE DEVELOPMENT DRILLING AND THE BULK SAMPLING WILL HAVE MINOR IF NOT INSIGNIFICANT IMPACT ON THE PROJECT AREA. WE KNOW THAT FISH AND FISH HABITAT ARE OF PRIME CONCERN AND THIS CONSIDERATION INFLUENCED THE SELECTION OF THE KETA ROUTE. THE DEIS EXPRESSES THE VIEW THAT IN LIGHT OF THE NATURAL IMPACT WHICH OCCURS IN THE KETA, IT IS BELIEVED THAT THE IMPACT OF THE KETA ROAD ON FISH HABITAT IS INCONSEQUENTIAL INSOFAR AS SEDIMENT, FLOW OR REARING AND SPAWNING AREA CHANGES ARE CONCERNED.(p.15).

IN REGARD TO CHEMICAL TOXICITY FROM MINERAL EXPLORATION AND SAMPLING, THE BULK SAMPLING WILL EXPOSE AN ESTIMATED 25,000 TO 60,000 TONS OF CRUSHED ROCK TO SURFACE WATERS. SUCH WATERS WILL BE COLLECTED, MONITORED AND TREATED AS NECESSARY BEFORE DISCHARGE TO THE SURFACE WATER SYSTEM OF THE AREA. WE EXPECT LITTLE IF ANY TREATMENT WILL BE NECESSARY OTHER THAN THE COLLECTION OF THAT SEDIMENT THAT MIGHT ENTER COLLECTION PONDS. MOLYBDENITE AND THOSE MOLYBDENUM MINERALS THAT MAY OCCUR IN THE PROJECT AREA ARE RELATIVELY INSOLUBLE IN THE CHEMICAL ENVIRONMENT OF THE PROJECT AREA. THE CHEMICAL ENVIRONMENT OF THE AREA WOULD CAUSE THOSE SOLUBLE MOLYBDENUM COMPOUNDS THAT MIGHT OCCUR AS A RESULT OF OXIDATION, TO FORM INSOLUBLE COMPOUNDS WITHIN A SHORT DISTANCE OF THEIR POINT OF ORIGIN.

WE BELIEVE, AND WE BELIEVE THE DEIS CONCLUDES, THAT THE POTENTIAL RESOURCE BENEFITS OF OUR PROPOSED ACTION, AN ACCESS ROAD TO QUARTZ HILL, FAR OUTWEIGHS THE TEMPORARY IMPACT ON THE ENVIRONMENT OF OUR PROPOSED ACTION. THE REAL VALUE OF OUR DEPOSIT IS NOT KNOWN TO US AT THIS TIME NOR CAN WE JUDGE OR ESTIMATE THE IMPACT OF THE ULTIMATE DEVELOPMENT AND OPERATION OF THE PROPERTY SHOULD THIS OCCUR. THEREFORE, WE BELIEVE WE ARE TAKING A RESPONSIBLE POSITION WHEN WE REQUEST ACCESS TO MAKE THE TESTS AND GATHER THE INFORMATION NECESSARY TO DETERMINE FEASIBILITY AND THE IMPACTS OF DEVELOPMENT BEFORE PROCEEDING WITH ANYTHING MORE THAN A PRIMITIVE ROAD.

I WANT TO EMPHASIZE IN CLOSING THAT IF U.S.BORAX DEVELOPS AND OPERATES THE QUARTZ HILL PROPERTY, IT WILL DO SO IN A MANNER THAT MEETS ALL ITS RESPONSIBILITIES. WE DESIRE TO DO A GOOD JOB AND MEET OUR CORPORATE OBLIGATIONS AS WELL AS OUR RESPONSIBILITIES TO THE ENVIRONMENTAL AND PUBLIC AFFAIRS OF THE ENTIRE COMMUNITY.

EDS

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER / POUCH D — JUNEAU 99811

February 23, 1977

File in HB 156 & HB 56

Honorable Alvin Osterback
Chairman
House Resources Committee
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Osterback:

Thank you for your letter of February 14, informing us of your upcoming meetings on HB 156 and HB 56.

This department has no testimony to present to the committee on either bill. Rather, we would support the positions of the departments of Natural Resources and Revenue since they are more directly involved with these matters.

Yours truly,

H. Phillip Hubbard
Commissioner

Alaska State Legislature

House

JUNEAU ALASKA

Memo to: Rep. Alvin Osterback, Chairman
House Resources Committee

Date: February 14, 1977

From: Rep. Sally Smith, Chairman
Subcommittee on Parks, Timber and Lands

The Subcommittee on Parks, Timber and Lands met this afternoon to discuss:

HB 73--------Keystone Canyon State Park.
This bill was referred to the Committee as a whole for their discussion.

HB 56--------Mining Taxation
This bill was referred to the committee as a whole for full hearings.

HJR 15-------Geological and Geographical data in offshore areas
This Resolution was given a Do Pass recommendation from the Subcommittee to the Committee.

Sincerely,

Sally

Sally Smith, Chairman
Subcommittee on Parks, Timber, Lands

Mike Miller

Dick Eliason

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

14 February 1977

C. C. Hawley, Executive Director
Alaska Miners Association, Inc.
SRA Box 78D
Anchorage, AK 99507

Dear Mr. Hawley.

We have scheduled HB 56 relating to Alaska Mining License Tax on Friday, 4 March 1977. I hope that you can get some input to us by that time.

I realize that this is prior to mid-March time you asked for and I hope that it does not inconvenience you.

As we are trying to get all legislation through in a 100 day session, we are trying to get bills through the Committee as fast as possible.

We would be pleased to have someone here representing your organization on that date, for testimony.

Thank you for your cooperation.

Sincerely,

Alvin Osterback Jr

Alvin Osterback, Chairman
House Resources Committee

cc: J. P. Tangen, Juneau

AO:jn

C.C. Hawley
Executive Director
SRA Box 78D
Anchorage, Alaska 99507
(907) 344-5354

ALASKA MINERS ASSOCIATION, INC.

January 31, 1977

2/17/77 letter answered Jeanne Please return

Write Ethan of meeting

The Honorable Alvin Osterback
Chairman, Resource Committee
House of Representatives
Pouch V
Juneau, AK 99811

Dear Mr. Osterback:

The Alaska Miners Association would like to respond on HB-56 introduced at the request of the Governor. However, because of two or three pressing matters, we would like to delay formal response until mid-March. Could this be worked into your hearings schedule?

The association will consider HB-56 and other possibilities at a special meeting in Anchorage February 23-24, and will have a definite position at that time.

Sincerely,

C. C. Hawley

ams
cc All AMA Branch Chairmen
Russ Babcock, NWMA

Carl Wilson John Tues at 3:30 p.m. AMA Talk about bill on land

James A. Hamilton
President

Carl Heflinger
Vice President

Irene Ryan
Secretary Treasurer

Branch Chairmen

Anchorage
Howard Grey
715 L Street No. 8
Anchorage, AK 99501

Sitka
Gordon Whitcomb
P.O. Box 990
Sitka, AK 99835

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J.P. Tangen
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Juneau, AK 99802

Fairbanks
Ernest Wolff
P.O. Box 80989
Fairbanks, AK 99701

Ketchikan
Keldon Adams
Box A 28
Ward Cove, AK 99928

1101 Barnette St.
FAIRBANKS, ALASKA 99701

DOUGLAS B. COLP
CONSULTING MINING ENGINEER
TELEPHONE: (907) 456-7002

February 9, 1977.

Ms. Sally Smith,
Alaska State Legislature,
House of Representatives,
Pouch V,
Juneau, Alaska, 99811.

Dear Sally:

Thank you for your February 3 letter and the copy of House Bill No. 56, which is "An Act relating to the Alaska Mining License Tax".

At this late date, I doubt that my comments will serve any purpose, but will pass on a little input anyway.

Last year we had a battle with HB 878, which I believe was finally held in committee.

As far as the small miner is concerned, HB 56 will not hurt them too much as most small miners do not have net proceeds in excess of $40,000. For the big mining company though, HB 56 adds another 7% tax.

At the present time no significant mining exists in Alaska. The principal reason why no new mines are being developed is the high taxes. Mining companies must pay:

a. 48% U.S. Corporate Tax
b. 9.4% Alaska Corporate Tax
c. 7% Mining License Tax
64.4% Taxes - Total

This is the highest rate of taxation for any state in the Union. It is almost an impossibility for any company to bring in a major mine, considering this terrific tax handicap.

In order to bring in major mines, incentives should be considered. I notice HB 56 does allow for a 3-1/2 year mining License Tax exemption. This is a start in the right direction. I think the 3-1/2 year Tax exemption period should be increased to 5 years and the computation of the tax as shown on page 1 should be reduced considerably, so that Alaska does not have the highest rate of taxation for any state in the United States. Our operating costs in Alaska are more than twice as high as in the contiguous 48 States. We apparently can do very little in order to reduce our operating costs but we can certainly reduce our tax rates which may provide the encouragement for large companies to attempt to bring in major mines.

Sincerely,

Doug

Douglas B. Colp.

DBC:msc

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

February 7, 1977

SUBJECT: Analysis of HB 56 Relating to the Alaska Mining License Tax (W.O.# 3267)

TO: The Honorable Sarah Smith

FROM: George Utermohle
Research Analyst

In response to your request for an analysis of HB 56 as introduced by the Governor, we have compiled the attached report. Attached to the report are the fiscal notes for HB 878 and CSHB 878.

We were not able to complete a comparison of the different tax rates imposed by other states, which are discussed in Part C, because we could not develop a system which would fairly evaluate the different taxing strategies. We will send this information to you when we have developed an unbiased method of comparison.

GU:mo
Attachment

A CURSORY ANALYSIS OF HB 56 RELATING TO THE ALASKA MINING LICENSE TAX

Taxation of Mineral Production in Alaska

A. General Description of Existing Tax

B. General Description of HB 56

C. Occupation Taxes or Net Proceeds Taxes Levied on the Mining Industry in Other States

D. Incidence of the Alaska Mining License Tax

E. Reconciling HB 56 with CSHB 878

Appendices:

Appendix A Proposed Amendments to HB 56

Appendix B Comparison of "Alaska Mining License Tax" with Similar Law in Other Western States

Taxation of Mineral Production in Alaska

Alaska has imposed a tax upon mining activities in the state under the provisions of the Mining License Tax (AS 43.65) since 1949. The provisions of the mining license tax have changed only slightly since that time.

A. General Description of Existing Tax

The Alaska Mining License Tax is an occupations tax levied upon the net proceeds from mineral production. The net proceeds from mineral production are the gross income less deductions for depreciation, taxes, general expenses, and overhead attributable to the expense of operating the mine and the ordinary treatment processes. The depletion allowance, federal income taxes, and the Alaska Mining License Tax itself are not deductible from the gross income. The depletion allowance is, however, deducted from the net proceeds to determine the taxable income provided that the depletion allowance shall not exceed 50% of the net income. The depletion allowance is calculated as a percentage of the gross income minus the rents and royalties paid.

The percentage depletion rates established for the Alaska Mining License Tax are:

Coal	10%
Metal mines, fluorspar, flake graphite vermiculite, beryl, feldspar, mica talc, lepidolite, spodumene, varite, ball and sagger clay, or rock asphalt, and potash mines or deposits	15%
Sulphur mines or deposits	23%

All new mining operations, except the mining of sand and gravel, are exempt from taxation for the first three and one-half years of production. The income from all mining operations owned by one person must be aggregated for the purposes of determing the tax.

Oil and gas extraction and production are not subject to the Mining License Tax.

Persons who hold royalty-only interests in mining activities taxed by the Mining License Tax are considered to be engaged in mining for the purposes of this act. If a person receives only royalty income, those royalties are considered to be net proceeds. The only deductions allowed from royalty-only income is the mineral depletion allowance.

The Mining License Tax does not exempt the mining industry from any local or state ad valorem or other taxes, except for the Alaska Business License Tax (AS 43.70.110(1)).

The Mining License Tax is computed on taxable income according to the following schedule:

TAXABLE INCOME	TAX RATE SCHEDULE	TAX PAYABLE
$0 - $40,000	0	0
$40,000 - $50,000	3%	$1,200 - $1,500
$50,000 - $100,000	$1,500 plus 5% of amount over $50,000	$1,500 - $4,000
over $100,000	$4,000 plus 7% of amount over $100,000	$4,000 -

Any person who engages in the business of mining in Alaska is required, prior to May 1 of each year, to apply for and obtain a license. No fee is required for the license. An annual Mining License Tax return is required of all persons engaged in mining. The return is due together with any required tax payment on or before the last day of the fourth month following the close of the fiscal year.

Failure to pay all the tax which is due will result in the assessment of a penalty. If the failure to pay the full tax is due to negligence, the penalty is five percent of the deficiency. If the failure to pay the full tax is the result of an attempt to defraud, the penalty is 50% of the deficiency, as well as, any applicable criminal penalties.

B. General Description of HB 56, Relating to the Alaska Mining License and Tax

*Section 1.

All persons engaging in the mining business will be required to obtain a mining license for which the fee is $25. This requirement subjects those involved in the mining business to a license fee equivalent to that paid by businesses subject to the Alaska Business License Act.

The annual license tax levied on those engaged in the mining business is amended by changing the tax rate. The tax would be computed on net proceeds according to the following schedule:

TAXABLE INCOME	TAX RATE SCHEDULE	TAX PAYABLE
$0 - 40,000	0	0
$40,000 - $50,000	3% of amount over $40,000	$0 - 300
$50,000 - $100,000	$300 plus 5% of amount over $50,000	$300 - $2,800
over $100,000	$2,800 plus 7% of amount over $100,000	$2,800 -

These changes would mean a significant tax savings for small scale mining businesses while giving only a slight decrease to mining businesses with high taxable incomes. For example, under existing law a mining business with $50,000 of taxable income would pay a tax of $1,500 while under HB 56 this same business would pay only $300. This is a savings of $1,200. All mining businesses in the state with a taxable income of over $40,000 will receive this same savings of $1,200. This savings is due to the exemption of the first $40,000 of taxable income from liability to the mining license tax.

The exemption of a new mining business, except the mining of sand and gravel, from the mining license tax for the first three and one-half years of operation is continued. The only change is that a certificate of exemption must be requested during the first year of operation.

Mining operations in more than one location by one person must be considered as one operation for the determination of taxable income.

*Section 2

"Net proceeds" which is the basis for the assessment of the license tax is defined as the total gross receipts from mining less deductions for extraction expenses, transportation expenses, processing expenses,

marketing expenses, depreciation of equipment, plants, and facilities, amortization of development costs and the depletion allowance. The total deduction for the depletion allowance shall not exceed 50% of the taxpayers net proceeds. The depletion allowance will no longer be set forth in state law. In the future, the depletion allowance will conform with the rates set by the federal government (26 U.S.C. secs. 611-614). The depletion rates which would apply under the adoption of the Internal Revenue Code are:

sulphur and uranium, fluorspar, graphite, talc, ores of antimony, cobalt, lead, manganese, molybdenum, nickel, platinum, tin, titanium, tungsten and zinc	22%
gold, silver, copper and iron ore	15%
rock asphalt, vermiculite, barite, feldspar, potash, ball and sagger clay	14%
coal, lignite	10%

These new depletion allowances would result in a lower depletion rate for only sulphur which under existing law has a depletion rate of 23%. The remaining mineral resources would either have an increased depletion allowance or would remain the same. Those minerals which would have notably higher depletion rates under HB 56 are fluorspar, graphite, antimony, colbalt, lead, manganese, molybdenum, nickel, platinum, tin, titanium, tungsten, and zinc.

A deduction from the gross proceeds of the business is also allowed for the overhead costs associated with the mining business but which are not specifically stated in HB 56. Out of state travel by employees on mining business is also an allowable deduction.

Royalty-only interests in mining activities are subject to the mining license tax. The taxable income from royalties is the royalty income less the depletion allowance. This provision is unchanged from existing law.

"Gross receipts" are defined as all forms of income or compensation derived from the mining business. The value of minerals sold at less than market value by a wholly-owned subsidary to its parent company are assessed at their full market value for tne purposes of determining the gross receipts for tax purposes. The gross receipts from the mining of sand and gravel are defined as the receipts from the sale of sand and gravel at the mine or delivered to the customer or the average market value of sand and gravel from intercompany transfers at concrete or ready-mix plants.

*Section 3

This section of HB 56 generally makes changes in style by inserting "receipts" for "income", "business" for "property", "department" for "Department of Revenue" in portions of the existing law. The substantive changes made in existing law are:

1. the filing date for tax returns is the 15th day of the third month following the calendar year or fiscal year depending upon the tax year which the mining business used in filing its federal income tax return.

2. the total amount of the tax must be paid on or before the due date for the tax return.

*Section 4

Application for renewal of a mining license must be made during the first 30 days of the person's tax year. This changes the requirement that the renewal application be received by May 1 of each year.

*Section 5

A number of additional illegal acts by those responsible for preparation and submission of true and accurate tax returns to the Department of Revenue are included in HB 56. The illegal actions which are covered in existing law are:

1. willful failure to pay a tax, make a return, keep records or supply information as prescribed by law or regulation is a misdemeanor. HB 56 amends this provision by deleting the requirement that a person found to be in violation of this law is liable for the costs of prosecution.

2. willful making and subscription of a return or other document required by the mining license tax law which known to be false shall make a person guilty of a felony upon conviction.

The new provision of HB 56 makes it illegal to:

1. willfully attempt to evade the mining license tax;

2. willfully aids or counsels the preparation of a fraudulent return, affidavit, or other document;

3. willfully deliver to the department any return, statement, or other document which is known to be false.

The failure to fully pay the tax as levied by this law results in an assessed penalty equal to 50% of the deficient amount in addition to the deficient amount.

*Sections 6, 7, and 8

The business of mining is defined in such a manner that anyone who owns, operates, or develops a mineral property, anyone who leases and operates a mining property, or anyone who has an interest in a lease or other agreement for exploration development or extraction of a mineral property is required to obtain a mining license. Many persons who previously had not been required to obtain a license will now have to have one, such as exploration companies and mineral leaseholders who are not producing a product. All those subject to the mining license tax will be exempt from the business license tax.

The definition of "new mining business operation" has been rewritten so that only new mining operations at a undeveloped mining site will be eligible for the three and one-half year tax exemption. The exemption will not be available for mining companies which acquire mining properties which have previously received a tax exemption. The "ordinary treatment processes" which are allowed as deductions from the gross income of a mining business are not changed by HB 56. The exemption of oil and gas production from the mining license tax remains unchanged.

C. Occupation Taxes or Net Proceeds Taxes Levied on the Mining Industry in Other States

Idaho, Montana, and Utah, as well as Alaska, have placed a separate occupation tax (license tax) upon the mining industry. The State of Washington subjects extractive industries, as mining and logging, to its general business and occupation tax. Nevada has placed a "net proceeds" tax, similar to Alaska's Mining License Tax, upon the mining industry but it is usually referred to as a property tax rather than as an occupation tax.

The Alaska Mining License Tax is compared with the taxes in the other states in Appendix B.

It is evident from Appendix B that states may pursue one of two strategies for occupation taxes. A state may adopt either the gross income without any deductions as the tax base and set the tax rate very low, or the net income (gross income less deductions) as the tax base and set the tax rate much higher. The differences between the tax strategies of the states make any comparison of the revenue production potential very subjective.

Of those states listed in Appendix B which used the net income as the tax base, Alaska has the highest tax rate. However, without a complete understanding of the deductions by each state, further comparisons are very speculative.

D. Incidence of the Alaska Mining License Tax

The incidence of the Alaska Mining License Tax[1] was discussed by Peat, Marwick, Mitchell and Co. in its report to the Department of Revenue, "Review of the Alaska Tax Structure". The discussion of the incidence of the license tax from that report is quoted below:

> It is difficult to assess who carries the burden of the tax. It is imposed upon net income of the person's mining operations in Alaska after allowance for percentage depletion. In this respect the tax is based upon the ability to pay concept. Where the output is sold in a market where prices are established beyond the control of the Alaskan producer, it can be said that the investor bears the tax in the form of reduced profits, i.e., return on investment. Where the output is produced solely for local market (coal for example) the tax may largely be passed along to the consumer. If the consumer is the Federal Government, the tax then is mostly exported and borne by non-residents of the state. A satisfactory means of determining the shift of taxes has not yet been developed, but we believe that it is reasonable to conclude that the minor amount of mining severance taxes collected by the state to date has been substantially borne out of profits, therefore by the investor.

[1] *The incidence of a tax describes who ultimately pays the tax in question.*

E. Reconciling HB 56 with CSHB 878

HB 56, relating to the Alaska Mining License Tax, is in essence the same bill that the Governor introduced last session (HB 878). In drafting HB 56 the Governor chose to disregard the amendments made to his previous bill by the House Resources Committee and which were contained in CSHB 878. The differences between HB 56 and CSHB 878 are outlined below:

*Section 1

I. HB 56 does not contain an amendment which permits a mining business operation to chose whether or not operations conducted at two or more places shall be considered as one mining business provided that none of the mining operations are covered by a valid exemption certificate.

--If the committee wishes to amend HB 56 to include this amendment, proposed language is included as proposal #1 of Appendix A.

II. HB 56 contains a clerical error at the bottom of page one. The last sentence on the page is not completed on the top of page two. The sentence should read as shown in proposal #2.

*Section 2

I. HB 56 contains a typographical error on line 2 of page 3. The line should read as shown in proposal #3.

II. HB 56 does not contain an amendment made to the previous bill which permits the deduction of amortized exploration costs as a deduction from the gross receipts of the mining business.

--If the committee wishes to adopt this amendment, the proposed language is shown in proposal #4.

III. HB 56 does not contain an amendment made to the previous bill which permits the taxpayer to deduct "net operating losses" from the gross receipts in a manner which conforms with the federal Internal Revenue Code. This amendement permits a taxpayer to apply a net operating loss as a deduction against the gross receipts for the three years prior and the five years following the year in which the loss is incurred.

--If the committee wishes to adopt this amendment, the proposed language is included in proposal #5.

IV. HB 56 does not contain an amendment made in the previous bill which added the phrase "or materials" after "minerals" each time it occurred in line 29 on page 3 or line 6 on page 4. This amendment would seem unnecessary as long as the definition for minerals included sand, gravel, stone, and soil.

--If the committee wishes to include the phrase "or materials" following "minerals", the proposed language for the necessary amendments is included in proposal #6.

*Section 3

I. HB 56 contains a technical drafting error on line 29 of page 4. The word "business" should be underlined as it is an insertion of new language into existing law. The correct form is shown in proposal #7.

*Section 7

I. HB 56 does not include an amendment made to CSHB 878 which exempted prospectors from the law. This provision was intended to exempt the casual prospector from the mining license and the mining license tax.

--If the committee wishes to exempt the casual prospector from this law, proposed language is given in proposal #8.

APPENDIX A

Proposed Amendments to HB 56

PROPOSAL #1 An amendment of lines 7-10 of page 2:

(d) if mining business operations not subject to sec. .010 of this chapter are conducted in two or more places within the state by one person, those operations may, at the person's option, be considered as one mining business, and the tax shall be computed upon the net proceeds of all those mining business of operations.

PROPOSAL #2 An amendment of the last sentence on page 1:

The tax exemption granted to new mining business operations does not apply to the business of mining sand and gravel.

An amendment of the first sentence on page 2:

The Department of Natural Resources shall certify to the department the date upon which production began from the mining business operation, and the department shall issue a certificate of exemption to the applicant after this certification.

PROPOSAL #3 An amendment of line 2 of page 3:

167 of the Internal Revenue Code (26 U.S.C. 167);

PROPOSAL #4: An amendment of lines 3 and 4 of page 3:

(7) amortization of exploration and mining development costs not included in (6) of this section;

PROPOSAL #5 An amendment to insert a new line after line 9 of page 3:

(9) net operating losses as set out in sec. 172 of the Internal Revenue Code (26 U.S.C. 172).

PROPOSAL #6 An amendment of the sentence beginning on line 27 of page 3:

Gross receipts include the actual amount received during the year for the sale of minerals or materials whether or not the minerals or materials were actually extracted during that year.

An amendment of the subsection beginning on line 2 of page 4:

(b) If the minerals or materials are sold or transferred at a price other than the true market price, as when a wholly owned subsidiary transfers or sells the mineral or material to its parent at a price less

than market value, gross receipts are the true market price or average market price per ton or other measurable unit of the mineral or material multiplied by the total units of the mineral or material sold or transferred during the year.

An amendment of lines 24-28 on page 8:

(9) "minerals means asbestos, coal, sulphur, iron ore, lead, zinc, mercury, tin, chromite, bauxite, copper, gold, silver, platinum, potash and other valuable metals or ores except oil, gas and materials;

(10) "materials" means sand, gravel, building material and top soil

PROPOSAL #7 An amendment of line 29 of page 4:

make returns for the person engaged in <u>the</u> mining <u>business</u> [, OR THE

PROPOSAL #8 An amendment of lines 9-22 of page 8:

(7) "business of mining"

(A) means a business operation for the extraction of minerals from the earth or water of the state operated by a person

(i) who owns and operates, works, or develops a mineral property, whether or not that property is currently producing a marketable product;

(ii) who leases a mineral property and operates the mineral property, whether or not the mineral property is producing a marketable product;

(iii) who leases a mineral property and pays royalties, rents or other payments to the owner of the property;

(iv) who has an interest in a lease, concession, joint venture, or other agreement for the exploration or development, or extraction of a mineral property if royalties, rents, or other payments are to be paid for that interest;

(B) does not include a natural person who undertakes only discovery work required to be done in prospecting for or locating any mining claims, or annual assessment work, or work required in the obtaining of title to mining property from the United States, or required by the laws of the United States or of this state in order to hold possessory title to any mining claim;

APPENDIX B

Comparison of "Alaska Mining License Tax" With Similar Laws in Other Western States

	Alaska [1]	Idaho [2]	Montana [3]	Utah [4]	Washington [5]	Nevada [6]
LICENSE FEE	$0	$0	$1	$0	$0	Not Applicable
LICENSE TAX						
Tax Base	Gross income less deductions (net income)	Gross income less deductions (net income)	Gross income	Gross income less deductions (net income)	Gross income	Gross income less deductions (net income)
Deductions						
Extraction Costs	Yes	Yes	No	Yes	No	Yes
Processing Costs	Yes	Yes	No	Yes	No	Yes
Transportation Costs	Yes	Yes	No	Yes	No	Yes
Marketing Costs	Yes	Yes	No	Yes	No	Yes
Development Costs	Yes	Yes	No	Yes	No	Yes
Exploration Costs	Yes	?	No	No	No	Yes
Depreciation	Yes	No	No	No	No	Yes
Royalties	Yes	No	No	No	No	Yes
Net Operating Loss	No	No	No	Yes	No	No
Depletion Allowance	Yes	Yes	No	No	No	No

APPENDIX B (Continued)

	Alaska [1]	Idaho [2]	Montana [3]	Utah [4]	Washington [5]	Nevada [6]
TAX RATE	$40,000-$50,000 3% $50,000-$100,000 $1,200 plus 5% of excess over $5,000 Over $100,000 $4,000 plus 7% of excess over $100,000	2%	Under $100,000 .15% Over $100,000 .575% Over 250,000 .860% Over 400,000 1.150% Over 500,000 1.438%	1% First $50,000 gross value is exempt	.44%	Ad valorem property tax rate for county
EXEMPTION FOR PROSPECTORS	Mining License tax is generally not applicable to prospectors	No	Yes	No	N/A	No

1 *Mining License Tax (AS 43.65.010-.060)*

2 *License Tax (I.C.A. 47.1201-.1208)*

3 *Metalliferous Mines License Tax (R.C.M. 84.2001-.2016)*

4 *Mining Occupation Tax (U.C.A. 59.5.66-.85)*

5 *Business and Occupation Tax (R.C.W. 82.04.010-.900)*

6 *Net Proceeds Tax on Mines (N.R.S. 362.100-.240)*

STATE OF ALASKA

FISCAL NOTE

Second Session - Ninth Legislature

I. REQUEST

Bill No. House Bill No. 878

Title: An Act relating to the Alaska Mining License Tax

Requested by: House Resources & Finance Committee Date: March 22, 1976

Return Date Requested:

Agency: Revenue Program: Audit

II. FISCAL DETAIL

Budget Request Unit(s) Affected: N/A

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	None	None	None	None	None	None

B. FUNDING: (Thousands of dollars)

	GENERAL FUND	None	None	None	None	None	None
	FEDERAL FUNDS						
	OTHER						

C. POSITIONS: None

PERMANENT/TEMPORARY	/	/	/	/	/	/
MAN MONTHS (P./T.)	/	/	/	/	/	/

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

N/A

IV. ATTACHMENTS See attached memo to R. D. Stevenson dated March 31, 1976.

V. DATE: 3-31-76 PREPARED BY: Gary Clark

Director, Audit Division Gary L. Jenkins

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

H/S 50

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465-3701

House Resource Committee

FRED BROWN ALVIN OSTERBACK DICK ELIASON LEO RHODE
MIKE HERSHBERGER LESLIE (RED) SWANSON JAMES HUNTINGTON

April 12, 1976

To: Hugh Malone
House Finance Committee

From: Guy Van Doren
Staff Assistant-House Resources Committee

Subject: HB 878 - An Act Relating to the Alaska Mining Tax

The original bill was worked out jointly between the Dept. of Revenue and representatives of the mining industry. The bill makes several modifications to the current Mining License Act, mainly in the area of clarifying who is taxable, what activities are taxable, and how taxable proceeds for purposes of computing the tax are arrived at.

The legislation will not cost the State of Alaska additional dollars for administration nor will it immediately generate additional dollars for the state since there is an extremely small number of mines operating in the State of Alaska.

The Committee Substitute reflects the concerns of the industry in testimony before the Committee, and clarifies the definition of minerals by taking out specific minerals and making the definition cover all minerals not specifically excluded. The Committee also added a definition of "materials" in order that there would be no confusion. The reason the word topsoil was used was because of "rare earth", which is highly valuable. Building materials were included under materials because of the use of rock, slate, sandstone, etc. for construction.

Changes other than those mentioned above are found on Page 2 Sec (d) which allows more than one mining operation by a single company, to be considered one mining business.

Page 3, Line 9. This adds "net operating costs set out in the Internal Revenue Code, as amended" Industry had requested this as an added deduction from gross receipts.

Page 4. Where the word "minerals" appeared in the original bill, the word "materials" was added due to the addition of the material definition section. Presently, the largest amount of tax is derived from the removal of sand and gravel.

Page 10 Sec. B, was added to exclude the casual propsector, as opposed to an actual mining operation or business.

In summary, the bill will make significant strides in clarifying how this tax is applied but does not change the basic mode of taxation and is a good example of cooperation between the Legislature, Administration and the industry.

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE
Second Session - Ninth Legislature

I. REQUEST
Bill No. Committee Substitute for House Bill No. 878
Title: an Act relating to the Alaska Mining License Tax
Requested by: House Finance Committee Date: April 13, 1976
Return Date Requested:
Agency: Revenue Program: Audit

II. FISCAL DETAIL
Budget Request Unit(s) Affected: None

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	None	None	None	None	None	None

B. FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						

C. POSITIONS: N/A

PERMANENT/TEMPORARY	/	/	/	/	/	/
MAN MONTHS (P./T.)	/	/	/	/	/	/

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

N/A

IV. ATTACHMENTS See memorandum dated April 21, 1976 to R. D. Stevenson

V. DATE: April 21, 1976 PREPARED BY: Gary Gustafson

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

H/S 50

MEMORANDUM State of Alaska

TO: R. D. Stevenson
Special Assistant

DATE: April 21, 1976

FILE NO:

TELEPHONE NO:

FROM: Gary L. Jen
Director
Audit Division

SUBJECT: CS for House Bill 878

The Committee Substitute for House Bill 878 made two basic changes to the original bill. First of all, it provided that taxpayers may elect to report all mining operations in the State as one mining business or may treat each separate mine as an individual mining business. The effect of this provision would be to multiply the amount of net proceeds which would be exempt from tax for an individual company. For example, if a company had three mines in the State, they would be able to have up to $120,000 per year not subject to taxation. That would mean a revenue loss of $4,200 each year to the State of Alaska for that company. The total revenue loss would depend on how many companies have multiple mining operations in the State.

The reasoning behind allowing $40,000 in net proceeds to be tax exempt was that there are many small mines in the State who we agreed should be encouraged to pursue marginal mining operations generating a limited amount of income. This amendment is in direct opposition of the principal by allowing multiple exemptions to larger companies.

Second, the Committee Substitute would allow the deduction of a net operating loss as provided for in the Internal Revenue Code. Apparently this provision was added to provide an additional incentive for mining operations to come into the State. It should be remembered that we have already provided an incentive for the mining industry in the form of a 3 1/2 year period beginning at the time of production, during which a company would be tax exempt on a new mine. To provide yet additional incentives such as the net operating loss carryforward is showing very obvious favoritism where none is needed or justified. None of the other licensing laws in the State of Alaska have any tax exempt or other incentive provisions.

I feel the State of Alaska is being more than generous in allowing the 3 1/2 year exemption from taxation and that no additional incentives are needed. The lack of major mining operations in the State is totally unrelated to the lack of incentives in our mining license law.

GLJ:lc

Alaska State Legislature

House

JUNEAU ALASKA

Memo to: All Committee Members, House Resource Committee

From: Office of Sally Smith

Date: Feb. 11, 1977

Re: Various Communications on HB 56

The Dept. of Revenue (John Messenger) and Dept. of Natural Resources, as well as Mike Whitehead of the Governors Office have been contacted several times for input on HB 56. We finally received the memo of January 19 from Art Peterson.

So far, this is the only official communique from the Administration, except for explicit comments from John Messenger that, with the exception of obvious typos and omissions, HB 56 is to stand as presented.

STATE of ALASKA

MEMORANDUM

FROM: AL OSTERBACK (JN)

TO: The Honorable Al Osterback
Alaska State Representative
Chairman
House Resources Committee
Alaska State Legislature

DATE: January 19, 1977

FROM: Avrum M. Gross
Attorney General

SUBJECT: HB 56 (mining license tax)
Our File No. J-77-014-77

By: Arthur H. Peterson
Assistant Attorney General
Department of Law

Two errors in this bill have come to our attention:

1. The mag card machine dropped the following line at the top of page 2: "sand and gravel. The Department of Natural Resources shall certify to". Thus, the last sentence on page one and the first sentence on page 2 should read: "The tax exemption granted to new mining business operations does not apply to the business of mining sand and gravel. The Department of Natural Resources shall certify to the department the date upon which production began from the mining business operation, and the department shall issue a certificate of exemption to the applicant after this certification."

2. On page 2, line 28, "eyar" should read "year". This, too, is a strange error in that on the last draft of the bill, before it was put in final form, that word is correctly typed.

We would appreciate your making these corrections as you work with the bill. Thank you.

AHP:md

cc: John C. Doyle
Executive Director
Legislative Affairs Agency

John R. Messenger
Deputy Commissioner - Taxation
Department of Revenue

Frances Ulmer
Legislative Assistant
Office of the Governor

Original sponsor: Rules Committee by request of the Governor

Offered: 4/12/76
Referred: Finance

IN THE HOUSE BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 878

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska mining li e tax; and providing for an effective date."

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

* Section 1. AS 43.65.010 is repealed and re-enacted to read:

Sec. 43.65.010 MINING LICENSE AND TAX. (a) For the privilege of engaging in the business of mining in the state, a person shall first apply and obtain a license from the department. The license fee is $25, which must accompany the application for a license.

(b) There is also levied an annual license tax on each person engaging in the business of mining in the state computed on the net proceeds of the taxpayer from the mining business. The license tax shall be computed according to the following table:

If the net proceeds are:	Then the tax is:
over $40,000 but not over $50,000	3 per cent of the excess over $40,000
over $50,000 but not over $100,000	$300 plus 5 per cent of the excess over $50,000
over $100,000	$2,800 plus 7 per cent of the excess over $100,000

(c) Upon application and receipt of an exemption certificate, a new mining business operation is exempt from the license tax levied by this chapter for three and one-half years after production from the mining business operation begins. The tax exemption granted to new mining business operations does not apply to the business of mining sand

and gravel. The Department of Natural Resources shall certify to the department the date upon which production began from the mining business operation, and the department shall issue a certificate of exemption to the applicant after this certification. A person must apply for an exemption certificate in the first year of production from the mining business operation in order to qualify for the exemption under this section.

(d) If mining business operations not subject to sec. 10(c) of this chapter are conducted in two or more places in the state by one person, those operations may, at the person's option, be considered as one mining business, and the tax shall be computed upon the net proceeds of all those mining business operations.

* Sec. 2. AS 43.65 is amended by adding new sections to read:

Sec. 43.65.015. NET PROCEEDS. (a) In this chapter, "net proceeds" means the total gross receipts from the mining business less the following deductions incurred during the taxable year:

(1) all expenses incurred directly in the extraction of minerals in the state;

(2) all expenses incurred in transporting the minerals from the point of extraction to any further processing plant where only necessary treatment processes are applied to obtain a commercially marketable product;

(3) all expenses directly related to the production, refining, crushing, screening or other necessary process incurred to make a commercially marketable product;

(4) the actual selling expenses incurred in marketing the product;

(5) all expenses incurred in transporting the marketable product to a buyer;

(6) depreciation of the mining business equipment, works, plant and facilities used directly in the extraction, transportation and processing phases of the mining business, in accordance with sec. 167 of the Internal Revenue Code as amended (26 U.S.C. sec. 167);

(7) amortization of [put in 54 exploration and] mining development costs not included in (6) of this subsection;

(8) an allowance for depletion on a cost or percentage basis at the rates set out in secs. 611 - 614 of the Internal Revenue Code as amended (26 U.S.C. secs. 611 - 614) except that the allowance for depletion may not exceed 50 per cent of the taxpayer's net proceeds calculated before the allowance for depletion;

[(9) net operating losses as set out in the Internal Revenue Code as amended.]

(b) If the taxpayer has expenses in the state other than those specified in (a) of this section, such as general overhead expenses, relating to the business of mining or to the business of mining and other business activities, the deductions shall be apportioned in the ratio which the direct expenses of the mining business in the state under (a) of this section bear to the total direct expenses of all business activities of that taxpayer in the state.

(c) Except for wages paid during temporary travel out of the state by an employee who is domiciled in the state, the deductions allowed in (a) and (b) of this section do not include wages or other payments for services not performed in the state.

(d) If a person is engaged in the business of mining and the only receipts from the business are royalties, the net proceeds of the mining business are the royalties received less the depletion allowance under sec. 15(a)(8) of this chapter.

Sec. 43.65.017. GROSS RECEIPTS. (a) In this chapter, "gross

receipts" means all revenue received, including royalties, rental payments, and all other compensation from the business of mining. Gross receipts include the actual amount received during the year for the sale of minerals [or materials] whether or not the minerals or materials were actually extracted during that year.

(b) If minerals or materials are sold or transferred at a price other than the true market price, such as when a wholly owned subsidiary transfers or sells the mineral [or material] to its parent at a price less than market value, gross receipts are the true market price or average market price per ton or other measurable unit of the mineral [or material] multiplied by the total units of the mineral [or material] sold or transferred during the year.

(c) Gross receipts from the business of mining sand and gravel include

(1) receipts from the sale to customers directly from the pit or mine;

(2) receipts from the sale to customers at their place of business or their business site, including receipts relating to the delivery of the sand and gravel; and

(3) the average market value of sand and gravel from intercompany transfers of the minerals calculated immediately before the transfer, including intercompany transfers of sand and gravel to a ready-mix or concrete plant.

* Sec. 3. AS 43.65.020 is amended to read:

Sec. 43.65.020. TAXPAYER'S DUTIES. (a). A person subject to tax under this chapter shall make a return stating specifically the items of gross <u>receipts</u> [INCOME] from the <u>business</u> [PROPERTY], including royalty received and the deductions [AND CREDITS] allowed by this chapter, and other information for carrying out this chapter which the <u>department</u>

[DEPARTMENT OF REVENUE] prescribes. The return shall show the mining license number and shall be signed by the taxpayer or his authorized agent, under penalty of perjury. If receivers, trustees, or assigns are operating the mining [PROPERTY OR] business, they shall make returns for the person engaged in the mining business [, OR THE RECIPIENT OF ROYALTY IN CONNECTION WITH MINING PROPERTY]. The tax due on the basis of the returns shall be collected in the same manner as if collected from the person of whose business they have custody and control.

(b) A return made on the basis of the calender year shall be filed [MADE] before March 15 [MAY 1] of the next year. A return made on the basis of a fiscal year shall be filed [MADE] before the 15th [FIRST] day of the third [FIFTH] month of the next fiscal year.

(c) The department [DEPARTMENT OF REVENUE] may grant a reasonable extension of time for filing returns, under regulations adopted [PRESCRIBED] by it. Except in the case of a taxpayer going abroad, no extension may be granted [MADE] for more than six months.

(d) A [TAXPAYER'S] return shall be filed with [MADE TO] the department using the same tax year as the person uses in filing his federal income tax return [DEPARTMENT OF REVENUE AT JUNEAU. A TAXPAYER SHALL MAKE HIS RETURN EITHER ON A CALENDER YEAR OR FISCAL YEAR BASIS, IN CONFORMANCE WITH THE BASIS USED IN MAKING HIS RETURN FOR FEDERAL INCOME TAX PURPOSES].

(e) The total amount of tax imposed by this chapter shall be paid on or before the due date of the tax return required under this section [THE 30TH DAY OF APRIL OF THE NEXT CALENDER YEAR, OR IF THE RETURN IS MADE ON THE BASIS OF THE FISCAL YEAR, THEN ON THE LAST DAY OF THE FOURTH MONTH OF THE NEXT FISCAL YEAR.

(f) EVERY PERSON PROSECUTING OR ATTEMPTING TO PROSECUTE OR ENGAGING IN THE BUSINESS OF MINING IN THE STATE SHALL COMPLY WITH THE

DEPARTMENT'S REGULATIONS AND SHALL KEEP SUCH RECORDS, GIVE SUCH STATEMENTS UNDER OATH, AND MAKE SUCH RETURNS AS THE DEPARTMENT OF REVENUE PRESCRIBES].

(g) When the department considers it necessary, it may require a person, by notice served upon him, to make a return, give statements under oath, or keep records as it considers sufficient to show whether or not the person is liable for the [TO] tax under this chapter. If a person fails to file a return at the time prescribed by law or regulation, or makes, wilfully or otherwise, a false or fraudulent return, the department shall make the return from its own knowledge and from such information as it can obtain [THROUGH TESTIMONY OR OTHERWISE]. A return so made and subscribed by the department is prima facie good and sufficient for all legal purposes.

* Sec. 4. AS 43.65.030 is amended to read:

Sec. 43.65.030. APPLICATION FOR RENEWALS. A person engaged in the business of mining shall apply [APPLICATION] for a renewal of a mining license each year [SHALL BE MADE] before the 30th day of the first month of the person's tax year [MAY 1 OF EACH YEAR].

* Sec. 5. AS 43.65.040 is [repealed and re-enacted] to read:

[Sec. 43.65.040. LIMITATION. The department shall review returns and assess any additional tax due under this chapter within three years of the due date of the return or the date that the return was filed, whichever is later. If a return has not been filed the tax may be assessed at any time.]

* Sec. 6. AS 43.65.050 is amended to read:

Sec. 43.65.050. [VIOLATIONS AND] PENALTIES AND INTEREST. (a) In case of failure to obtain a license or file a return [REQUIRED BY THIS CHAPTER] within the time prescribed by this chapter, or to pay the full amount of the tax due on the return or a deficiency of the tax as

determined by the department [LAW OR PRESCRIBED BY THE DEPARTMENT ACCORDING TO LAW], unless it is shown that the failure is due to reasonable cause and not due to wilful neglect, five per cent is added for each 30 days or fraction of 30 days during which the failure continues, but not exceeding 25 per cent in the aggregate. The amount [SO] added to the tax shall be collected at the same time, in the same manner, and as a part of the tax. If the tax is paid before discovery of the neglect, the amount added shall be collected in the same manner as the tax.

[(b) IF PART OF A DEFICIENCY IN THE TAX IS DUE TO NEGLIGENCE OR INTENTIONAL DISREGARD OF REGULATIONS, BUT WITHOUT INTENT TO DEFRAUD, FIVE PER CENT OF THE TOTAL AMOUNT OF THE DEFICIENCY, IN ADDITION TO THE DEFICIENCY, SHALL BE ASSESSED, COLLECTED, AND PAID IN THE SAME MANNER AS IF IT WERE A DEFICIENCY, EXCEPT THAT (d) OF THIS SECTION IS NOT APPLICABLE.]

(c) If part of a deficiency in the tax is due to fraud with intent to evade the tax, then 50 per cent of the total amount of the deficiency, in addition to the deficiency, shall be assessed and collected. If this penalty is assessed, then the penalty in (a) of this section does not apply.

(d) When the tax levied by this chapter becomes delinquent, it bears interest at the rate of eight per cent a year. The tax is delinquent if it is not paid on its due date. [INTEREST UPON THE AMOUNT DETERMINED AS A DEFICIENCY IN THE TAX SHALL BE ASSESSED AT THE SAME TIME AS THE DEFICIENCY, AND PAID UPON NOTICE AND DEMAND BY THE DEPARTMENT. THE INTEREST SHALL BE COLLECTED AS A PART OF THE TAX, AT THE RATE OF SIX PER CENT A YEAR FROM THE TIME PRESCRIBED FOR PAYMENT OF THE TAX TO THE DATE THE DEFICIENCY IS PAID.]

(e) The tax levied or accruing under this chapter and the penalties

and interest on the tax are a lien prior, paramount, and superior to all other liens, mortgages, hypothecations, conveyances, and assignments, upon all the real and personal property of the person liable for them, and upon the real and personal property used with the permission of the owner in carrying on the business of mining. This lien is [SHALL] not [BE CONSIDERED] exclusive of other civil or criminal remedies provided by law for the recovery of license taxes.

(f) A person who is required under this chapter to pay the [A] tax, make a return, keep records, or supply information [FOR THE COMPUTATION, ASSESSMENT, OR COLLECTION OF THE TAX IMPOSED BY THIS CHAPTER], who wilfully fails to pay the tax, make the return, keep the records, or supply the information, at the time required by law or regulations, is, in addition to other penalties provided by this chapter [LAW], guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both [, TOGETHER WITH THE COST OF PROSECUTION].

[(g) A PERSON WHO WILFULLY MAKES AND SIGNS A RETURN WHICH HE DOES NOT BELIEVE TO BE TRUE AND CORRECT AS TO EVERY MATERIAL MATTER IS GUILTY OF A FELONY, AND UPON CONVICTION IS SUBJECT TO THE PENALTIES PRESCRIBED FOR PERJURY UNDER THE LAWS OF THE STATE.]

(h) In this section "person" includes an officer or employee of a corporation or a member or employee of a partnership who is under duty to perform the act in respect to which the violation occurs.

(i) A person who wilfully attempts to evade the tax imposed by this chapter is, in addition to other penalties provided by this chapter, guilty of a felony and, upon conviction, is punishable by a fine of not more than $5,000, or by imprisonment for not more than five years, or by both.

(j) A person who wilfully makes and subscribes a return, statement,

or other document required under this chapter which contains or is verified by a written declaration that it is made under the penalties of perjury which he does not believe to be true and correct as to every material matter is, in addition to other penalties provided by this chapter, guilty of a felony and, upon conviction, is punishable by a fine of not more than $5,000, or by imprisonment for not more than three years, or by both.

(k) A person who wilfully or knowingly aids, procures, or counsels the preparation or presentation in connection with any matter arising under this chapter of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter is guilty of a felony whether or not the falsity or fraud is with the knowledge or consent of the person required to present the return, affidavit, claim, or document, and, upon conviction, is punishable by a fine of not more than $5,000, or by imprisonment for not more than three years, or by both.

(l) A person who wilfully delivers or discloses to the department under this chapter any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter is, upon conviction, punishable by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both.

* Sec. 7. AS 43.65.060(4) is amended to read:

(4) "new mining business operation [OPERATIONS]" means a mining operation [OPERATIONS] which began production after January 1, 1953, and which has not acquired the ownership or property of another mining business which has previously received an exemption certificate under sec. 10 of this chapter [OR WHICH HAVE NOT BEEN LIABLE TO PAY A MINING LICENSE TAX UNDER THIS CHAPTER ON NET INCOME SINCE JANUARY 1, 1948];

* Sec. 8. AS 43.65.060 is amended by adding new paragraphs to read:

(7) "minerals" means all locatable and leasable minerals except sand, gravel, oil, gas, building materials and topsoil;

(8) "materials" includes sand, gravel, building material and topsoil;

(9) "business of mining"

(A) means a business operation for the extraction of minerals from the earth or water of the state, operated by a person

(i) who owns and operates, works, or develops a mineral property, whether or not that property is currently producing a marketable product;

(ii) who leases a mineral property and operates the mineral property, whether or not the mineral property is producing a marketable product;

(iii) who leases a mineral property and pays royalties, rents or other payments to the owner of the property;

(iv) who has an interest in a lease, concession, joint venture, or other agreement for the exploration or development, or extraction of a mineral property if royalties, rents, or other payments are to be paid for that interest;

(B) does not include a prospector who explores for new mineral deposits, stakes a claim, performs the required assessment work to keep it in good standing, and holds it for possible development by others;

(10) "department" means the Department of Revenue.

* Sec. 9. AS 43.65.060(1) - (3) are repealed.

* Sec. 10. This Act is retroactive to January 1, 1976.

* Sec. 11. This Act takes effect immediately in accordance with AS 01.10.070(c).

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January 12, 1976

Honorable Sterling Gallagher
Commissioner of Revenue
State of Alaska
Pouch S
Juneau, AK 99801

Dear Commissioner Gallagher:

Thank you for sending me the transcript of the November tax hearings, and the copy of the proposed revisions to the Alaska mining license tax.

At the conclusion of the tax hearings last November, you stated that as Commissioner you would recommend revisions in the existing mining license tax that would correct some of its technical deficiencies, but would not make substantive changes.

However, contrary to that statement, the proposed revisions have one very major substantive change that is a discouragement to mining investment in Alaska: you allow depreciation at a maximum rate of only 10%, which means for many types of mining equipment the period of depreciation exceeds the useful life of the equipment. The mine operator would thus be forced to carry on his books equipment that had been worn out and discarded while simultaneously capitalizing new replacement equipment.

This is not fair to the taxpayer, and is particularly unsensible for a State that should be trying to encourage investment in order to develop a tax base. At the least, the State tax treatment of depreciation should be no more severe than the Federal tax code.

As many knowledgeable people tried to explain in the hearings of November, 1975, if this State wants a mining industry to help provide a tax base, then it should offer incentives, such as accelerated depreciation, fast write-offs of investments, and investment tax credits. You have done the reverse with your proposed depreciation limit of 10%, and since the proposed revisions differ substantially from what you told industry representatives they would, you have again called into question the credibility of the State administration.

This poor old world never needed mutual trust more than it does now, and the only way mutual trust can be established is for people to do what they say they are going to do.

I have enclosed a copy of an article from the September 1975 issue of Mining Engineering to provide information on the severe problems facing those who would finance new mines. Notice, as I testified in November, that stockholder's equity in constant dollars has declined 7.4% since 1965. The mining industry faces an unprecedented liquidity crisis. In the face of these obstacles, compounded by the terrible costs in Alaska, if you folks want a mining tax base up here, you should offer incentives, rather than putting new tax obstacles in the road.

Right now, with fishing and timber in a state of disaster, the people of Southeast Alaska could expect some relief from unemployment if we had decent tax laws that encouraged exploration and development of the tremendous mineral potential of Southeast Alaska.

Respectfully submitted,

Jeff Knaebel

JK/dc
Encl: Mining Engineering Article
cc: Don Sherwood
Chuck Hawley
Bill Waugaman
Phil Holdsworth
Hank Eyrich
Russ Babcock

Eugene Guccione, Senior Technical Editor

Mine Financing: A Worsening Problem

It took the Roman Emperors almost 150 years—from Nero to Marcus Aurelius—to double the money supply, which they achieved by reducing the silver content of the denarius by almost 50%. It took the American government only 10 years, from 1965 to 1974, to double the money supply (M2), while "... it took the world at large only three to four years to double the international liquidity," notes G. Carl Wiegand, professor of economics at Southern Illinois University.

Today's paradox is that, though there's more money in circulation than ever before, everybody is short of cash (or "illiquid")—particularly industries like mining, which are extremely capital intensive. Why is it so difficult, for instance, to finance a new mining project?

Academically speaking, *other things being equal*, a doubling in the money supply will merely double everybody's income as well as the price of everything and, in effect, nothing will have changed. In the real world, however, things don't behave in that neat a fashion—as proved by the record of the past 10 years.

Since 1965, the US dollar has lost more than 50% of its purchasing power. So, to stay even—never mind expansion or growth—the mining industry's net income (i.e., after-tax earnings before dividends) should have *at least* doubled. Has it?

Well, let's look, for example, at the US primary metal industries which include most of the biggest mining companies in the nation. Their net income, which the companies report in *current* dollars, shows a 123% increase—from $2.35 billion in 1965 to $5.24 billion in 1974. However, since a "current" dollar of 1974 vintage will not buy the same amount of goods and services that it bought in 1965, the industry's net income translated in *constant* 1965 dollars (meaning: after discounting for inflation) has increased by 43.8% since 1965 (see Table 1). So far, so good. But it's not the whole story.

Table 1—Primary Metal Industries' Net Income (billion $)

Year	In Current $	In Constant 1965 $
1965	2.35	2.35
1966	2.75	2.65
1967	2.25	2.11
1968	2.35	2.11
1969	2.62	2.24
1970	2.00	1.62
1971	1.45	1.12
1972	1.72	1.20
1973	3.07	2.10
1974	5.24	3.38
1965-74 % Change	+123%	+43.8%

Sources: US Federal Trade Commission; US Dept. of Commerce; Ramesh Malhotra; MINING ENGINEERING.

Since dividends have to be paid to stockholders, let's now have a look at the industry's cumulative retained earnings, which is the true measure of what's left to corporations to replace obsolescent facilities, expand existing ones, and build new ones. In current dollars, cumulative retained earnings have increased by 56.7% since 1965; but after discounting for inflation, the real increase has been 1.33% *in ten years* (see Table 2).

Well, what about stockholders? Table 3 shows the picture: in current dollars, stockholders' equity has increased by 43.5%; in constant dollars, however, it has actually *decreased* by 7.4%. Not surprisingly, investors have stayed away from the stock market, i.e., away from equity.

Table 2—Primary Metal Industries' Cumulative Retained Earnings (billion $)

Year	In Current $	In Constant 1965 $
1965	15.0	15.0
1966	15.5	15.0
1967	16.0	15.0
1968	17.5	15.7
1969	18.0	15.4
1970	18.5	15.0
1971	18.0	14.0
1972	19.3	14.5
1973	21.0	15.0
1974	23.5	15.2
1965-74 % Change	+56.7%	+1.33%

Sources: US Federal Trade Commission; US Dept. of Commerce; Ramesh Malhotra; MINING ENGINEERING.

Unable to raise capital via the equity route, and unable to finance growth and expansion from internally generated funds (an impossible task when cumulative retained earnings are growing at an annual rate of less than 0.13%), the industry has gone into debt financing.

As reported by my good friend Ramesh Malhotra (of the Mineral Economics Group, Illinois State Geological Survey), "... the total long-term debt of the primary metal industries rose from $5901 million in 1965 to $12,986 million in 1974," while "... total liabilities rose from $13,337 million in 1965 to $30,984 million in 1974, thus pushing the ratio of total liabilities to stockholders' equity from 0.58 to 0.91 in the 10-year period."

Table 3—Primary Metal Industries' Stockholders' Equity (billion $)

Year	In Current $	In Constant 1965 $
1965	23.0	23.0
1966	24.0	23.2
1967	25.8	24.2
1968	27.0	24.3
1969	28.0	24.0
1970	28.2	22.9
1971	27.8	21.6
1972	29.8	22.2
1973	31.0	22.1
1974	33.0	21.3
1965-74 % Change	+43.5%	−7.4%

Sources: US Federal Trade Commission; US Dept. of Commerce; Ramesh Malhotra; MINING ENGINEERING.

Today, 10 years older and deeper in debt, the industry faces an unprecedented liquidity crisis. Where will the capital for new mines come from? Every feature article in this issue deals with the various aspects of this problem and offers many valuable suggestions. Investment capital, however, can ultimately come from only one source: the savings of individuals and corporations. But with Big Government taking an increasingly larger share of people's earnings—government's take as a percentage of the national income has risen from 27.7% in 1950 to 44% in 1974—saving money is correspondingly more difficult. Besides, who wants to save during double-digit inflation?

Continued on page 22

What might help the mining industry, as several spokesmen are now advocating, would be: 1) A higher minerals depletion allowance and faster tax-depreciation deductions that would enable the recovery of the *real* replacement cost of plants and equipment rather than the historical cost; 2) An immediate write-off for pollution control equipment in the year the costs are incurred. Since the rationale for depreciation is to recover expenditures out *of* earnings, it is grotesque to depreciate equipment that generates *no* earnings. The cost of that hardware should be written off immediately; 3) A higher and *permanent* investment tax credit; and 4) The elimination of double taxation on corporate profits because the taxing of income when earned by the corporation and again when received by shareholders in the form of dividends has the twofold effect of scaring investors away from equity and pushing companies into debt financing.

Actually, even if all these tax revisions were made, the next Congress would probably unmake them because, as President Ford once said: "A government that can give you everything is a government that can take everything from you." Besides, a sound monetary system and a non-confiscatory tax system, while being *necessary* conditions for a healthy economy, are not *sufficient* by themselves. Unless Americans are free to create, produce, and trade values, the best currency and the most equitable tax system in the universe won't do much good. Freedom comes first: what's urgently needed is a massive program of deregulating and decontrolling industry. One can't produce with one's hands tied. We may survive double-digit inflation and even greater taxation; but unless we regain our freedom to produce, the American economy will reach the terminal stage.

NORTHWEST MINING ASSOCIATION

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Technology, Battelle-Northwest
Keith Whiting, Consultant

January 30, 1976

Sterling Gallagher, Commissioner
Department of Revenue
11th Floor, State Office Building
Pouch S
Juneau, Alaska 99811

Dear Commissioner Gallagher:

We have reviewed the draft Mining License Tax recently received from your department. We appreciate the efforts you have taken to incorporate the suggestions made by industry at the November hearings, and the fact that the revisions very accurately reflect the decisions made at those meetings.

Two major points still remain to be ironed out to reflect a total agreement, however. In the matter of depreciation, 10% per year is unacceptable in that most equipment has a life much shorter than ten years. Recapitalization of equipment is a continuous operation with replacements being made in three years in some cases. It would appear that conformity with Federal law would be reasonable, and we suggest that Sec. 43.65.015(6) concludes: "...operation, at rates provided in the Internal Revenue Code." A second major point is the treatment of net operating losses, and we suggest again that conformity with federal law is reasonable. We recommend a subsection (8) be added to Sec. 43.65.015, as follows: "Net operating losses with a five-year carry forward as provided in the Internal Revenue Code."

A minor change is recommended for Sec. 43.65.010 (b-2) to effect clarity, as follows: "...The exemption certificate must be applied for in the year the mine first reaches commercial production to qualify for the three and one-half year exemption. A mine will be considered to be in commercial production when it has a net operating income. Another change in Sec. 43.65.010 (c) is recommended to insure that aggregation does not eliminate possible incentives produced by the three and one-half year tax holiday. We recommend the first line of Sec. 43.65.010 (c) read "Where mining operations subject to the tax levied by this chapter are conducted in two or more places by one...". Sec. 43.65.015 (a-7) should read "Amortization of the exploration and mining costs not included in (6)." to insure that it is clear that exploration costs can be amortized, as discussed.

We hope these comments will be incorporated in any bills drafted for this session of the Alaska legislature. The ensuing legislation, if enacted, would provide a real incentive for the mining industry by demonstrating an interest on the part of the state in maintaining a healthy economic climate. We hope this interest is reflected in other tax legislation being proposed by the State of Alaska at this time -- special taxes on any industry or group of individuals should be minimized if a truly democratic way of life is to be preserved.

Thank you.

Sincerely,

R. C. Babcock, Jr.
Chairman
Alaska Taxation Committee

RCB/bb

cc: H. T. Eyrich, President
Northwest Mining Association

The Department of Revenue held hearings on the Administration's proposed Mineral Severance Tax (SB 294) in Anchorage on November 6 and 7. The meeting was opened by Commissioner Sterling Gallagher who acknowledged that SB 294 was not a good piece of legislation. He asked those attending to indicate what form of taxation would be acceptable to the mining industry.

Twenty-five formal presentations were made by the mining industry, Native corporations, and service industry spokesmen. Some of the major points presented by the mining industry were:

1. A U.S. Bureau of Mines study has shown that the cost of producing a pound of copper from a large, lowgrade deposit in Alaska would be twice that of a similar mining operation in Arizona.

2. Present taxes on metal mining are already higher than in most other states - and higher than those imposed on other industries in Alaska.

3. The metal mining industry in Alaska is practically non-existent, with only two operations presently paying a tax under the Mining License Tax - one a coal mine.

4. The mineral exploration effort by the industry is the major contributor to the tax base, presently spending $15 million annually of which 87% remains in the state. The present nature and location of the work done and expenditures made is such that this industry has no significant impact upon those services normally provided at Alaska taxpayers' expense.

5. The history of the industry has shown that most new modern mines are found in isolated areas. The industry, itself, has traditionally built their own communities, schools, and even churches at these isolated sites - and provided employment in those areas where the unemployment rate is highest.

6. It is estimated that in terms of 1975 dollars at least $132 million have been expended in Alaska for metallic minerals exploration from the time the Kennecott Mine closed in 1938 to the present. This effort and expenditure has resulted in not one substantial orebody being brought into production. This gives an indication of the magnitude of exploration risk, and the tough economic conditions facing the prospective mining industry in Alaska.

7. Several nation-wide and international company representatives predicted exploration budget reductions or cancellations for Alaska, should the economic climate be worsened by increased taxation such as that proposed in SB 294.

8. It was suggested that what this almost non-existent Alaskan industry needed was tax incentives, rater than disincentives. These incentives might take the form of - (a) a more flexible cost recovery allowance, (b) accelerated depreciation, (c) an investment credit for exploration expenditures, and (d) repeal of the present Mining License Tax. This latter tax is, in effect, a tax on a tax as individuals and corporations engaged in this industry pay their income tax as well. Certainly the threat of new taxes would drive away explcration - hence a reduction in state tax revenue, increased unemployment, and a worsening of the state's deficit. This would be irresponsible on the part of government.

The State presented its position that - (a) the present Mining License Tax is ambiguous, (b) the state spends about $3,200 for services per year for each person on a payroll, and (c) the state is interested in broadening its tax base.

Following a lengthy panel discussion an apparent industry-state concensus was developed on the following points:

1. SB 294 should be formally withdrawn by the state administration.

2. New incentives should be discussed, whether or not they may be obtainable thru the legislature at this time.

3. The present Mining License Tax should be improved to more clearly define who should be taxed, and what is allowable for deductions.

4. The 3½-year tax holiday for new operations, and allowance for depletion should remain a part of the tax provisions.

5. Revision of the Mining License Tax should be pursued in the legislature, but only to tidy up language.

6. Legislative intent should be expressed in the form of a policy statement on long-term economic (tax) stability for the industry.

The Department of Revenue is presently redrafting the Mining License Tax and will circulate it early in December for further comments. They intend to have a revised bill ready for introduction in January.

Reported by -

Phil R. Holdsworth

Phil R. Holdsworth

Alaska State Legislature

House

JUNEAU ALASKA

Date: February 1, 1977 (approx.)

Memo to: Resource Committee Members

From: Office of Sally Smith

Re: Office conversation with Vance Thornsberry of Inspiration Mining relating to HB 56

Vance stated that his company and he himself would like a mining tax bill, but changes are necessary in HB 56 as it stands now.

1. The tax rate should be a straight 5%, not the sliding scale with all of the qualifications

2. Mining companies should be able to carry forward net operating losses because it helps to smooth out the peak years. For instance, 1972 was a peak year for copper, but it followed a series of very bad years.

Mr. Thornsberry will try to be present to present testimony to the Committee when HB 56 is heard.

"January 14, 1977

HB 56

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill relating to the Alaska mining license tax.

This bill amends the mining license tax law in several respects to achieve a more effective taxing system than we presently have in Alaska.

The bill would impose the tax on the net proceeds of a mining business. It would be calculated using the total gross receipts from the business less certain specified direct expenses of mining. The bill also insures that all mining businesses would be subject to the tax regardless of the form of business or the nature of the operation. The bill also clarifies several ambiguous areas of the present law which serve as loopholes for some mining businesses. In addition, the bill expands and strengthens tax penalties.

Sincerely,

Jay S. Hammond
Governor "

HB 57

HOUSE BILL NO. 57 by the Rules Committee by Request of the Governor, entitled:

"An Act relating to risk management and loss prevention in state government; and providing for an effective date."

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

"January 14, 1977

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

Dear Mr. Speaker:

C. C. HAWLEY AND ASSOCIATES, INC.
STAR ROUTE A, BOX 78-D • ANCHORAGE, ALASKA 99507 • (907) 344-6114

May 14, 1976

RECEIVED
MAY 19 A.M.
INMC-JUNEAU

Mr. Sterling Gallagher, Commissioner
Department of Revenue
Pouch SA
Juneau, AK 99811

Dear Sterling:

Phil Holdsworth has advised me that the Department of Revenue will likely oppose carryover of net operating loss in HB878, if it does show up at more committee hearings. I would like you to consider this carefully, and take it up at the cabinet level to see if your stand can be modified.

I realize that effectively we were given a choice between a three-and-a-half year Mining License Tax free period, or carryover, but we also did not have much real choice in the matter. Our argument is that the two things are not at all equivalent. The three-and-a-half year period allows you to recover some capital costs prior to the special tax. The net operating loss provision helps you ride over periods of low metal prices. At present about only five of fifteen major low-grade copper mines in the United States are operating profitably. This condition has held for about two years and, although there is an upswing in copper profitability, this thing happens time and time again. There is a vast difference in the profitability of the mining industry now, as against the time when the original Mining License Tax was passed. This additional concession would be an incentive, but would not cut into revenues paid the state during long stable periods of profit.

I am also requesting you consider this carefully because of the split within the mining ranks. The Alaska Miners Association (a majority anyway) is still with you on 878, but, as you are aware, we have a broad split, and the Northwest Mining Association has come out against 878 in majority, even though some companies--especially Kennecott--are strongly behind 878. It will be much easier for us to stay in this middle ground, if the state can make some concessions.

I don't think you will argue with us that Alaska is just an expensive place to operate, including taxes. But small concessions made now on rates or schedules will mean mining revenues will start to appear sooner than if maximum tax rates go in effect.

Sincerely,

C. C. Hawley

ams
cc Phil Holdsworth
Governor Hammond
Mike Whitehead
Don Harris
Tony Motley
Bill Mote - NWMA
Russ Babcock

Inspiration Development Company
P.O. BOX 1320
CLAYPOOL, ARIZONA 85532

February 10, 1977

Ms. Sally Smith
Alaska State Representative
Pouch V
Juneau, AK 99811

Dear Ms. Smith:

We appreciate your concern for our interest in mining in Alaska and your transmittal of a copy of H.B. No. 56 entitled "An Act Relating to the Alaska Mining License Tax; and providing for an effective date," which was introduced 1/14/77.

In Sec. 1, (b), I recommend a flat rate of 5% (no more) on the net proceeds derived from mining in the State of Alaska.

In Sec. 1, (d), I think it would be best to tax each operation separately and not to consider mining business operations conducted in two or more places as one mining business.

A further provision should be included for a mining business to carry forward net operating losses.

A further provision should be included for deduction of wages and payments for services performed out-of-state, where these are directly related to in-state operations.

We appreciate your consideration of this matter.

Sincerely yours,

John G. Kuhn

John G. Kuhn
Vice President
INSPIRATION DEVELOPMENT COMPANY

JGK/HWO/am
cc: Alaska Mining Association
Northwest Mining Association

HB

68

1-19-77

BALD EAGLE PARK

HB 68

"Haines residents very opposed

NO ACTION

per Mike Miller

University of Alaska
Statewide System of Higher Education
Fairbanks, Alaska 99701

March 11, 1977

The Honorable Alvin Osterback
Chairman, House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Alvin:

Attached is the University of Alaska's position on House Bill 68.

If you should desire a representative of the University to appear before your Committee regarding HB 68, please let me know.

Sincerely,

Charles O. Ferguson
President

COF/djh
Attachment

UNIVERSITY OF ALASKA

Position Paper on HB 68
March 11, 1977

HOUSE BILL 68
"An Act Creating the Bald Eagle Council Grounds State Park"

The University of Alaska would like to draw your attention to a conflict of State interest in the land involved with the proposed bill.

On January 24, 1956 as recorded in the Clear List #7, and on May 14, 1957 contained in Clear List #8, 846.30 acres of this proposed park were designated Trust Lands to be held for income production to support higher education in the then Territory, now State of Alaska. We believe that the courts have been clear that any use of trust land must be accompanied by appropriate payment into the Permanent Fund for such use. At the time the same area was declared critical habitat, we drew the same information to the attention of the committee. Further check will reveal a similar situation is in existence in the same area with Mental Health lands. Both of these land situations predate statehood.

The University of Alaska hereby requests that this bill be held in committee until such time that the defects in handling of the Trust Status of the lands can be properly spoken to. Further, the closing of this area to miners/entry is noted and we would draw the committee's attention to the long-term State lease for iron ore held by U.S. Steel within one mile and three-quarters of the proposed boundary of the area. The University requests consideration on this matter to resolve anticipated administrative or legal problems prior to action, hoping to avoid creating, through premature action, a situation requiring extensive after-the-fact negotiation, litigation, added legislative action, etc. We recommend that further consideration of the details of the bill be made.

HB

77

AGO 122800

Yours truly,
Mike Turner, Jr.
(Mrs.)

BILL ANALYSIS

ASSIGNMENT DATE 1-22

UNASSIGNED

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Fish and Game	Haugen	HB 71

DEPARTMENT POSITION

Oppose

DIVISION DIRECTOR Neil L. Rosier DATE

COMMISSIONER James A. Brooks DATE 2/5/77

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☒ POSITION APPROVED ☐ POSITION DISAPPROVED

BY: DATE 2-3

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING)

(2) a. ORGANIZATIONAL SUPPORT FOR BILL:

(2) b. ORGANIZATIONAL OPPOSITION TO BILL:

PROGRAM EFFECTS OF BILL

More than one hundred thousand shellfish pots are in use in Alaska's shellfish and bottomfish fisheries. In the Bering Sea king crab fishery alone, an estimated 35,000 pots were used during the 1976 season. Pots vary in design and durability between fisheries. Not all pots degrade at the same rate. To require that all pots have a biodegradable seam or panel would put an unreasonable burden on the fishermen of the state.

We applaud the objectives of this bill but believe its enactment would be detrimental.

(4) FISCAL IMPACT: ☒ NONE ☐ FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

(6) COMMENTS:

Biodegradable pots are currently required by Board of Fisheries regulation in the Southeastern Alaska bottomfish fishery. This requirement was adopted by the Board in December 1975 on an experimental basis to be expanded to other fisheries if it proved successful. In April 1976, the Board adopted regulations requiring that after July 1, 1978, all king crab and tanner crab pots have a mechanism which will destroy their fish catching and holding ability within a six-month period if they are lost or abandoned. The intent of these regulations was to encourage the department and fishermen to experiment with methods which will insure that lost pots do not continue to fish without unnecessarily restricting fishermen to use of a biodegradable panel. Since regulations are currently in existence which provide the means of dealing with the problem addressed by this bill, there is no need for this legislation to be enacted.

RESOLUTION NO.

ALASKA BOARD OF FISHERIES

WHEREAS the Alaska Board of Fisheries recognizes the socio-economic advantages of pot limits in certain areas and urges the Fish and Wildlife Protection Division of the Department of Public Safety to enforce it to the best of its abilities.

FURTHERMORE, Mr. Ole Harder's proposal to individually mark crab pot buoys may be applicable in some king crab fisheries of the state while in other major production areas new refinements may be necessary to implement it on a reasonable cost-benefit basis.

THEREFORE BE IT RESOLVED, that the Alaska Board of Fisheries urges the legislature to explore the possibilities of funding a comprehensive program that would incorporate a realistic and enforceable approach to this pot limit problem.

Gordon Jensen

Gordon Jensen, Chairman
Alaska Board of Fisheries

Adopted: March 31, 1977
Vote: 7/0

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS for SENATE BILL 196
Title Regulation of Shellfish Pots & Buoys Used In Taking King Crab
Requested by POLAND Date 4/13/77

II. FISCAL DETAIL
Agency Affected Department of Fish and Game
Program Category Affected NRMEC
Budget Request Unit(s) Affected Commercial Fisheries

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES	0	12.7	12.7	12.7	12.7	12.7
200 TRAVEL	0	0	0	0	0	
300 CONTRACTUAL	0	7.3	7.3	7.3	7.3	7.3
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	20.0	20.0	20.0	20.0	20.0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	20.0	20.0	20.0	20.0	20.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify)	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	12.7	12.7	12.7	12.7	12.7

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

See attached.

GERERAL FUNDS TO BE OFFSET BY PROGRAM RECEIPTS.

IV. DATE 4/19/77 PREPARED BY Robin Glauthier Robin Glauthier
AGENCY Commercial Fisheries
PHONE 465-4210

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

33-001 (Rev. 10/76)

ANALYSIS: CS for SB 196, Regulation of Shellfish pots

Passage of for SB 196 will require positive identification of shellfish pots and buoys used in taking King Crab by means of individually numbered registration tags designating year of issuance which are to be issued with each license and permanently affixed to each pot.

A reliable manufacturer estimates that a tag suitable for this use can be produced for approximately $.20 each. Approximately 280 vessels will be affected by the requirement to identify shell fish pots (Sec 16.05.632). The pot limit is 75 pots that can be fished per vessel in regulated areas. Lost gear and replacement pots average approximately 25% of the total shellfish pots. Therefore, approximately 26,250 tags will be needed at a cost of approximately $5,250.00. Shipping, postage, and other handling charges would amount to approximately $2,000.00.

Personal services to administer tag issuance and maintain records will be necessary for six months per year at Homer, Kodiak, Juneau, and Petersburg. This requirement will be satisfied by four temporary Clerk III's, totaling 12 man-months per year at a total cost of $12,721.00.

Registration tags could be issued for a fee of $.75 per tag to offset General Funds.

TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 71

Title An Act relating to the use of biodegradable shellfish pots

Requested by Osterback Date 2-14-77

II. FISCAL DETAIL

Agency Affected Fish and Game

Program Category Affected NRMEC

Budget Request Unit(s) Affected Commercial Fish

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS, CLAIMS, ETC.	0					
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER (Specify)	0					

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

No fiscal impact.

IV. DATE 2-22-77 PREPARED BY: [signature]

AGENCY Fish and Game

PHONE 465-4210

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

AMENDMENT

OFFERED IN THE HOUSE: BY: House Resources

To: _____ HOUSE BILL No. 71

SENATE BILL No. _____

PAGE: 1 LINE: ~~#~~ 12 & 22

Delete - August 1, 1977

Insert - July 1, 1978

HB

73

Sally Smith
arranged
hearing
in
Valdez

AGO 122801

TESTIMONY OF RUSSELL W. CAHILL
DIRECTOR - ALASKA STATE PARKS
ON
H.B. 73
FEBRUARY 15, 1977
ALASKA HOUSE OF RESPRESENTATIVES RESOURCES COMMITTEE

Mr. Chairman, committee members, thank you for the opportunity to comment on the Keystone Canyon State Park proposal.

In 1969, the Legislature instructed the State Department of Natural Resources to study the Thompson Pass - Keystone Canyon area, which was known at the time as one of the great scenic wonders of Alaska. A study was done and a proposal, which had great support, was developed. The proposal had so much support that the City of Valdez once had imprinted on its municipal stationary, "City of Valdez, Home of Keystone Canyon State Park."

Since that time, a lot of water has gone under the proverbial bridge. The trans-Alaska Pipeline has been drivern through this State, over Thompson Pass and down to the sea at Valdez Harbor. This park proposal has been placed on the back burner. The El Paso Gas line versus the Arctic Gas proposal seems the big issue in resources now. El Paso's "all Alaska" line would diverge from the trans-Alaska Pipeline Corridor here and run through the wilderness to Port Gravina down here (indicate on map). A potential road route connecting Cordova with the rest of Alaska by road would come up here (indicate on map). Development is booming in the area.

I drafted this legislation and Commissioner Martin and I asked the Governor to send it over as an administration bill. We did so because we believe strongly that this area should be set aside as a scenic park. Set aside to encourage recreation and tourism as a part of the array of resource uses in the Copper Basin - Valdez area: to balance. if you will, some of the heavily

development oriented resource use which this area is experiencing in it's period of rapid growth.

My staff has provided you with briefing papers which give the nuts and bolts of this proposal. In addition, we have held two meetings in Valdez, and have discussed this proposal in Anchorage, Fairbanks, and Juneau at public meetings. The general consensus of feelings at the meetings in Fairbanks, Anchorage, and Juneau was favorable toward the bill. In Valdez, as you can see by the questionnaire, the community was in basic opposition.

To meet some of the needs expressed by the people of Valdez and their government, I have for your perusal, a proposed substitute for H.B. 73 , which would remove from the park proposal approximately 4,000 acres of potential development land in the Lowe River Valley. The proposed substitute also contains the following stronger language regarding utility and road corridors:

> The commissioner must, upon review of an approved environmental impact statement, issue a permit authorizing a right-of-way or corridor for a utility or transportation project within the boundaries of the Keystone Canyon State Park when there is no other feasible alternative.

I am hopeful that these changes will make this proposed legislation more acceptable to the people of Valdez and to this committee.

There is another argument against this bill which I will try to deal with at this time. That is a general argument which shows up frequently in the Alaskan media. Because this is my first appearance before you this session I beg your indulgence for a short time to allow me to deal with the overall picture of State Parks in Alaska.

Why set aside State Parks when the federal government is proposing more than 100 million acres for the National Parks, Forests and Wildlife Refuge systems? First, where are these federal parks? 75 per cent of them are more than 100 miles from Alaskan communities of 1,000 or more people. The State Parks, existing and proposed, are all within those 100 miles of such communities.

Second, how much do Alaskans have to say about management on the systems? On the Federal Systems, almost nothing. The laws and regulations are very nearly holy-writ. Promulgated in and enforced from Washington, D.C. One cannot hunt or trap on those lands, and many recreational pursuits are limited. Conversely on State Park lands, the laws and regulations are made in Alaska by Alaskans responsive to an Alaskan public. In 80 per cent of the State Park System, hunting and trapping is permitted. Snow-machines are permitted in many areas, and visitation is encouraged. More than twice as many people visit the State Parks as visit the National Parks in Alaska. We operate five times the number of campsites and serve a more local recreation clientele.

The last reason, and I think the best, is that if we, in Alaska, are going to talk about balanced resource use, then we can't talk out of both sides of our mouths. Our 102½ million acres should have a rational and reasonable distribution among resource uses. One of those is scenic and recreation protection and use. All of the existing State Parks make up 1.6 per cent of the State's land entitlement. Adding all proposed State Parks to the system would still leave the percentage under 4 per cent. That's 4 per cent of the land to be set aside for <u>our</u> people to use for active recreation pursuits. Certainly if we can drive

two highways and two pipelines through Thompson Pass and the Keystone Canyon, we can afford to pay our dues to the re-creation of the human spirit by setting aside this magnificient area as a State Park.

Ladies and gentlemen, if we are to go to Washington, D.C. and talk to Congress about a rational plan for Federal lands in Alaska, let us do the right thing with our lands so that we can hold our heads high and talk from a position of the strength of our convictions. Thank you.

2/8/77

[redacted]

[redacted]

[redacted]

[redacted]

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act creating the Keystone Canyon State Park."

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

* Section 1. AS 41.20 is amended by adding new sections to read:

ARTICLE 14. KEYSTONE CANYON STATE PARK.

Sec. 41.20.460. DECLARATION OF PURPOSE. The purpose of secs. 460 - 475 of this chapter is to establish the state-owned and state-acquired land and water described in sec. 465 of this chapter as Keystone Canyon State Park. The primary purpose in creating the park is to protect and develop the area's recreational and scenic resources. The land and water described in sec. 465 of this chapter are closed to multiple purpose use in conformity with AS 38.05.300 and are dedicated as a special purpose site in accordance with art. VIII, sec. 7, of the Constitution of the State of Alaska.

Sec. 41.20.465. DESIGNATED LAND AND WATER RESTRICTED TO USE AS A STATE PARK. The state-owned and state-acquired land and water lying within the following parcel comprising 330,000 acres more or less, are

designated as the Keystone Canyon State Park: beginning at the NW corner, Section 6, T9S, R4W, C.R.M.; thence easterly to the SW corner of Section 32, T8S, R4W, C.R.M.; thence northerly to the NW corner of Section 8, T7S, R4W, C.R.M.; thence easterly to the NE corner of Section 9, T7S, R2W, C.R.M.; thence southerly to the SE corner of Section 21, T7S, R2W, C.R.M.; thence easterly to the NE corner of Section 26, T7S, R1W, C.R.M.; thence southerly to the SE corner of Section 35, T8S, R1W, C.R.M.; thence westerly to the SW corner of Section 32, T8S, R1W, C.R.M.; thence southerly to the SE corner of Section 7, T9S, R1W, C.R.M.; thence westerly to the SW corner of Section 12, T9S, R2W, C.R.M.; thence southerly to the SE corner of Section 14, T9S, R2W, C.R.M.; thence westerly to the SW corner of Section 14, T9S, R2W, C.R.M.; thence southerly to the SE corner of Section 27, T10S, R2W, C.R.M.; thence westerly to the SW corner of Section 27, T10S, R2W, C.R.M.; thence southerly to the SE corner of Section 33, T10S, R2W, C.R.M.; thence westerly to the SW corner of Section 33, T10S, R2W, C.R.M.; thence southerly to the SE corner of Section 8, T11S, R2W, C.R.M.; thence westerly to the SW corner of Section 8, T11S, R2W, C.R.M.; thence southerly to the SE corner of Section 19, T11S, R2W, C.R.M.; thence westerly to the intersection of the south line of Section 21, T11S, R4W, C.R.M. with the north boundary of the Chugach National Forest; thence northwesterly along that boundary line to the intersection with the west line of Section 30, T10S, R5W, C.R.M.; thence northerly to the NW corner of Section

30, T9S, R5W, C.R.M.; thence easterly to the NE corner of said section 30; then southerly to the E 1/4 corner of said section 30; thence easterly along the east-west 1/4 line of section 29, T9S, R5W C.R.M. to the E 1/4 corner of said section 29; thence southerly to the SE corner of said section 29; thence easterly to the NE corner of section 33, T9S, R5W, CRM; thence southerly to the N 1/16 corner of said section 33; thence easterly along the N 1/16 line of section 34, T9S, R5W, CRM, to the N 1/16 corner of the E section line of said section 34; thence southerly to the SW corner of section 35, T9S, R5W, CRM; thence easterly to the SE corner of said section 35; thence northerly to the N 1/16 corner of section 25, T9S, R5W, CRM; thence easterly along N 1/16 lines of said section 25 and sections 29 and 30, T9S, R4W, CRM, to the N 1/16 corner on the eastern section line of section 29, T9S, R4W, CRM; thence northerly to the NE corner of said section 29; thence westerly to the intersection with the northern right-of-way limit of the Richardson Highway; thence westerly along said right-of-way limit to the intersection with the west section line of section 23, T9S, R5W, CRM; thence northerly to the NW corner of said section 23; thence easterly to the NE corner of section 24, T9S, R5W, CRM; thence northerly NW corner of section 6, T9S, R4W, CRM; this corner being the true point of beginning. All bearing courses for this description follow section lines, either surveyed or protracted, except where otherwise stated.

Sec. 41.20.470. DESIGNATION OF MANAGEMENT RESPONSIBILITY. The land and water described in sec. 465 of this chapter are assigned to the Department of Natural Resources for control, development, and maintenance as a state park. The Department of Fish and Game is responsible for the management of fish and wildlife resources in the Keystone Canyon State

Park and shall consult with the Department of Natural Resources before the adoption of regulations concerning fish and wildlife management. The maintenance of public roads and highways within the area is the responsibility of the Department of Highways, and the cost of the maintenance are to be borne by Department of Highways funds. Park regulations apply to a highway right-of-way.

Sec. 41.20.475. INCOMPATIBLE USE PROHIBITED. (a) The land and water described in sec. 465 of this chapter are closed to mineral entry.

(b) The commissioner shall designate by regulation incompatible uses within the boundaries of the Keystone Canyon State Park in accordance with sec. 460 of this chapter and those incompatible uses designated are prohibited or restricted, as provided by regulation.

(c) The commissioner must, upon review of an approved environmental impact statement, issue a permit authorizing a right-of-way or corridor for a utility or transportation project within the boundaries of the Keystone Canyon State Park when there is no other feasible alternative.

Analysis of Public Information

Sessions Conducted by the Alaska

Division of Parks on the Proposed

KEYSTONE CANYON STATE PARK

(House Bill 73)

Meetings Conducted In:

- Fairbanks: 6 January 1977
- Anchorage: 13 January 1977
- Juneau: 17 January 1977
- Valdez: 27 January 1977

Prepared By:

Planning Section
Division of Parks
619 Warehouse Drive, Suite 210
Anchorage, Alaska 99501

1. COMMENT/QUESTION: Exclude private lands at Mile 12 of Richardson Highway. (Anchorage, Valdez.)

   DISCUSSION: Future land needs of Valdez warrant exclusion of some lands from proposed park in the vicinity of private parcels near Mile 12, Richardson Highway.

   RESPONSE: Proposed redescription of boundary in Lowe River to exclude 4,000 acres of developable land.

2. COMMENT/QUESTION: Would a right-of-way for power transmission lines in the park be a compatible use? (Anchorage.)

   DISCUSSION: Yes, if the commissioner of Natural Resources determines that such a project is in the best interests of the state.

   RESPONSE: The proposed legislation contains the following: "The commissioner may, upon review of an approved environmental impact statement, issue a permit authorizing the construction of a utility or transportation project within the boundaries of Keystone Canyon State Park when he determines that construction to be in the best interest of the state.

3. COMMENT/QUESTION: Shouldn't such a large land tract have a mineral survey before making it a park? (Anchorage.)

   DISCUSSION: The proposal covers what's generally known as "Valdez Group Rock", which is associated with low mineral potential except for some gold associated with quartz veins.

   RESPONSE: General mapping has occurred. Area has been prospected by company teams and individuals. Less than 10 mining claims are known to exist in the area, which are allowed to operate under existing mining law.

4. COMMENT/QUESTION: What's your policy on possible concession developments in this area? (Fairbanks.)

   DISCUSSION: Concessions are allowed in state park areas if their development is compatible with park values and user demands. Concession contracts are negotiated under competitive bid procedures.

   RESPONSE: Proposals for concession development invited for review at any time, but must be awarded on a competitive basis.

5. COMMENT/QUESTION: Are there trails in area? (Fairbanks.)

   RESPONSE: A few unmaintained trails exist.

6. COMMENT/QUESTION: Developments - specifically trails - will encourage more use of area and thereby hurt hunting opportunities. (Fairbanks.)

   DISCUSSION: Better access to unroaded or trailed areas can increase hunting pressure. Trails offer increased recreational opportunities while helping to disperse people over a larger area.

   RESPONSE: Some recreational development will take place. It is the responsibility of the Department of Fish and Game to prevent over-harvest of game animals.

7. COMMENT/QUESTION: Isn't the area too rugged for building trails? (Fairbanks.)

   DISCUSSION: Keystone Canyon State Park is a very rugged, glaciated mountain area with several river and creek valleys of moderate gradient.

   RESPONSE: Trails could be constructed in much of the area, including Brown Creek Valley, Sheep Creek Valley, Heiden Canyon, Ptarmigan Creek, and the Tsina River Valley.

8. COMMENT/QUESTION: What's the Division of Parks policy towards commercial uses originating outside of the park, crossing through, or using the park - such as kayak trips? (Fairbanks.)

   DISCUSSION: Such uses are allowed if impacts on both the park and other users is minimal.

   RESPONSE: Most uses are allowed if not damaging to the park environment or irritating to other visitors.

9. COMMENT/QUESTION: How much will it cost to operate this park? (Fairbanks.)

   DISCUSSION: Operations staff, equipment, space rental, and construction of recreation facilities broken down. This, of course, depends on legislative authorization.

   RESPONSE:

	Operation	Construction
1978	88.9	12.5
1979	75.8	300.0
1980	83.6	300.0

10. COMMENT/QUESTION: Why make this area a state park? (Fairbanks.)

DISCUSSION: Scenic beauty, accessibility, minimum resource conflicts involving timber, minerals, oil and gas, and agriculture and developable lands.

RESPONSE: The State Constitution and Alaska Statutes Title 38 and 41 mandate the establishment of an Alaska State Park System and the Keystone Canyon area is immensely qualified for such status.

11. COMMENT/QUESTION: Didn't the bill fail last year? (Juneau.)

DISCUSSION: The Keystone Canyon State Park - introduced last year by a legislator - never reached a floor vote in the House and the Senate.

RESPONSE: Bill did not become law in the 9th State Legislature and has been submitted this year by Governor Hammond.

12. COMMENT/QUESTION: Would the Division of Parks zone private lar , within the park boundary? (Valdez.)

DISCUSSION: Efforts will be made to preserve the scenic quality of the park. There is very little private land within the park. It is our policy to work with local government for zoning ordinances prior to taking any state zoning action.

RESPONSE: The possibility of the Division of Parks zoning private lands within the park exists at a later day.

13. COMMENT/QUESTION: Which way is information flowing between the public and the Division of Parks? (Valdez.)

RESPONSE: Both directions, but the public meetings are for the primary purpose of receiving public comment.

14. COMMENT/QUESTION: The proposed Keystone Canyon State Park is too large. (Valdez.)

DISCUSSION: The proposed park covers 330,000 acres, mostly very steep mountainous country and glaciers.

RESPONSE: Size of park may be reduced by excluding developable lands on lower portion of Lowe River.

15. COMMENT/QUESTION: Why such a large park? Suggest a series of small roadside waysides and wilderness trails. (Valdez.)

DISCUSSION: The boundary of the proposed park has been drawn to include an optimum amount of highly scenic mountain country, primarily following hydrographic boundaries.

RESPONSE: The possibility of small roadside waysides and wilderness trails will not provide long-term assurance that lands around the waysides and trails will be protected from uses incompatible to public recreation and scenic protection.

16. COMMENT/QUESTION: Exclude 6,000 acres along Lowe River to the east of Keystone Canyon, in the vicinity of Sheep and Wortmans Creek, for development. (Valdez.)

DISCUSSION: The proposed park contains minimal development sites for campgrounds, picnic areas, visitor centers, etc. The forested area along the Lowe River in the vicinity of Sheep and Wortmans Creek provides interesting contrast to the rocky high country which constitutes 80 percent of the park.

RESPONSE: Park boundary will retain this area.

17. COMMENT/QUESTION: Disagree with giving the Commissioner of Natural Resources the discretionary power over approving utility or transportation project within the proposed Keystone Canyon State Park (41.20.475 (c)). (Valdez.)

DISCUSSION: The Commissioner of Natural Resources presently has this power - the legislation only re-states it.

RESPONSE: Wording in legislation regarding discretionary power of commissioner to be retained.

James J. Shepherd
Star Route
Valdez, Alaska 99686
February 6, 1977

Representative Sally Smith
Pouch V
Juneau, Alaska

Dear Rep. Smith:

I would likt to make a comment on the proposed Keystone Canyon State Park. As a land owner and resident of some of the private property located within the proposed boundaries, I object to the eminent domain provisions of the park bill.

My home and land is located at milepost 18½ on the Richardson Highway, which is just about in the middle of the proposed park. I would like to be assured that my home and land is safe from public seizure (regardless of compensation) if the park bill ever becomes a reality.

Any advise or comments you could give me would be appreciated.

Sincerely,

James J. Shephard

James J. Shephard

CITY OF VALDEZ

P.O. BOX 307
PHONE: (907) 835-4313

ZIP CODE: 99686

January 31, 1977

Representative Al Osterback
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Subject: Senate Bill No. 73 - Keystone Canyon State Park

Dear Representative Osterback:

The citizens and city council of the city of Valdez, Alaska are violently opposed to the creation of the subject state park. This opposition has been expressed each time this specific park has been proposed since 1970.

Each time this proposal has been submitted, the City has taken exception to the superimposing of the park upon the city boundaries and encompassing privately owned lands. Each time the boundaries have been redrawn to conform to the City's demands. The proposal has been subsequently rejected and then reintroduced with the same old boundaries.

How many times do we have to oppose this same proposal? When is the State going to stop trying to force this park upon the City?

The Division of Parks allegedly scheduled a hearing in Valdez on January 11, 1977. No public notice was given; no contact made with City Hall and no one showed up at the hearing, not from lack of interest, but from lack of notice. Subsequently a hearing was held in Valdez on January 27, 1977, but only because a couple of Valdez citizens happened to attend the meeting scheduled in Anchorage and demanded a hearing in Valdez.

The proposal is completely unacceptable and the continued effort to sneak this legislation through is very repugnant. The State representatives, at the meeting on January 27, 1977, even failed to advise us that the bill had been introduced on January 19, 1977. The City's objections to the park are on file; however, the following is a brief summation.

1. The proposed park includes many private homes and private property.

2. Public utility corridors must be provided for, but presently are not.

3. Most of the park is inaccessible except to the most hardy and public penetration of the area is restricted to a very narrow margin along the existing road system.

4. Valdez would become the only city in the country with sole land access through a state park.

5. Economic development in Valdez is dependent upon local planning and zoning powers without restrictions imposed by the State.

The Valdez hearing response from the public and from the official statement by the Chamber of Commerce and the city of Valdez has one hundred percent against park formation.

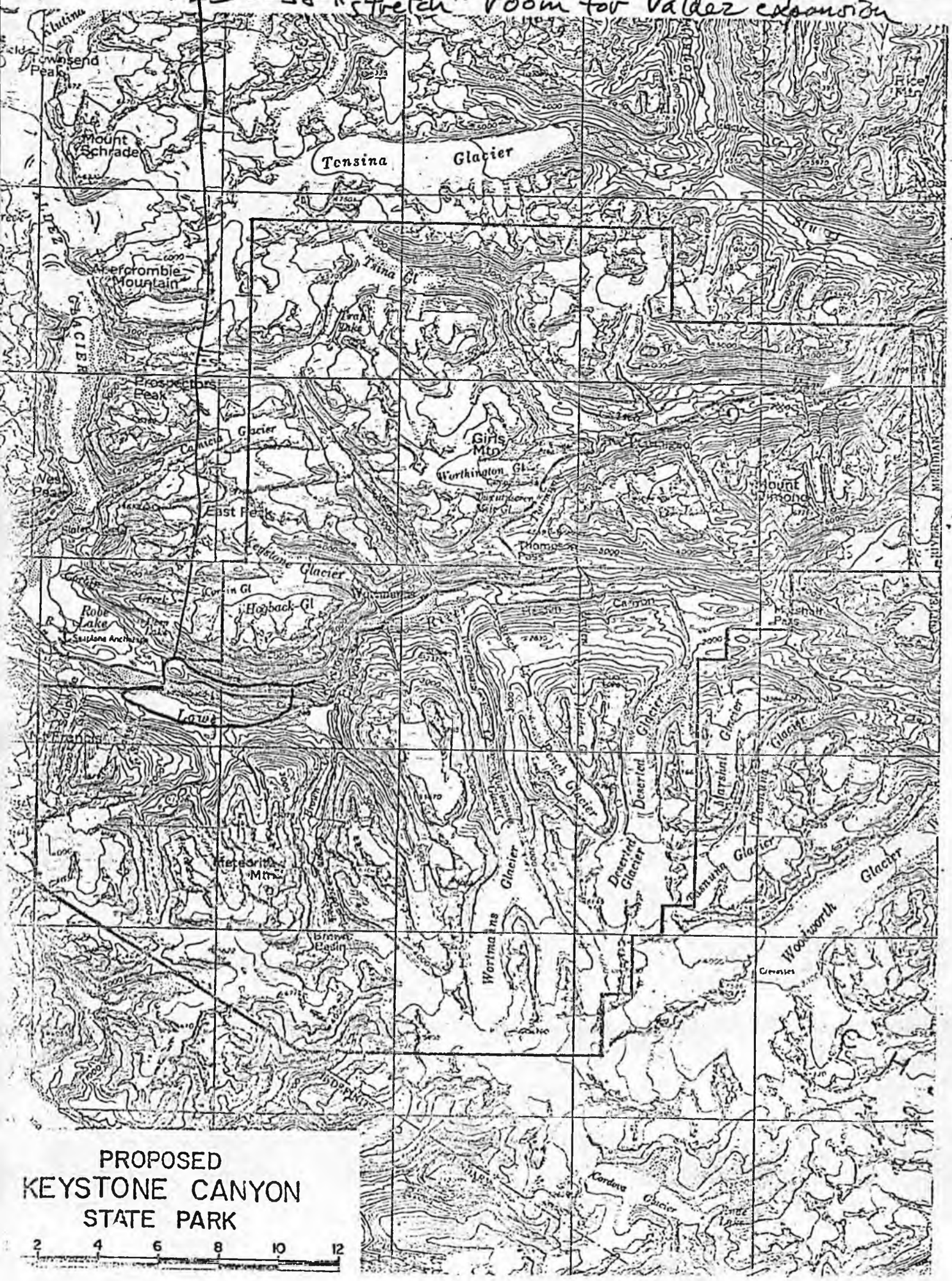
I encourage you to consider the desires of the citizens of Valdez and withdraw this bill from consideration.

Respectfully yours,

Herbert W. Lehfeldt
City Manager

HWL:ss

I suggest we pull back in here to provide "stretch" room for Valdez expansion



PROPOSED
KEYSTONE CANYON
STATE PARK

2 4 6 8 10 12

HB 13

James J. Shephard
Star Route
Valdez, Alaska 99686
Feb. 6, 1977

Representative Alvin Osterack
Pouch V
Juneau, Alaska

Dear Rep. Osterack,

I would like to make a comment on the proposed Keystone Canyon State Park. As a land owner and resident of some of the private property located within the proposed boundaries, I object to the eminent domain provisions of the park bill.

My home and land is located at milepost 18½ on the Richardson Highway which is just about in the middle of the proposed park. I would like to be assured that my home and land is safe from public seizure (regardless of compensation) if the park bill ever becomes a reality.

Any advise or comments you could give me would be appreciated.

Sincerely,
James J. Shephard
James J. Shephard

CITY OF VALDEZ
All American City 1965
P. O. BOX 307
VALDEZ, ALASKA 99686

January 18, 1977

Mr. Russell W. Cahill, Director
Division of Parks
Department of Natural Resources
323 East 4th Avenue
Anchorage, Alaska 99501

Subject: Keystone Canyon State Park

Dear Mr. Cahill:

At its regular meeting of January 17, 1977, the Valdez City Council voted unanimously to oppose the creation of the Keystone Canyon State Park as set forth by the proposed legislation to be introduced by Governor Hammond.

When the first proposal for the Keystone Canyon State Park was presented in 1970, the city council, by Resolution No. 7002, opposed the proposed boundaries and requested that provision be made to provide for a perpetual general utilities corridor through the park.

Again in 1975 the City took precisely the same position and now again in 1977 the City is forced to assume the same negative position because the state Division of Parks refuses to recognize the legal rights of the citizens of Valdez.

As a result of the City's protests in 1975, a committee substitute for House Bill No. 163 was introduced. This bill attempted to resolve the conflicts between the state proposal and the city of Valdez. While still opposed to the proposal, the City felt that this bill reflected the least of two evils.

The citizens of Valdez are not opposed to state parks per se; but we are opposed to being strangled by the imposition of rigid regulations relating to access to our city and the utilization of properties within the city. Land use patterns are a local home rule responsibility. This is and has always been recognized and honored. What other city in the whole United States has other than a local city park superimposed upon its boundaries?

If the State wishes to develop hiking trails, visitor centers, ski trails or ski runs, additional camping areas, picnic or campgrounds, the City welcomes such improvements and encourages immediate construction; however, if this is the carrot to gain acceptance of the rigid restrictions on the use of the land, then - no thank you!

CITY OF VALDEZ
All American City 1965
P. O. BOX 307
VALDEZ, ALASKA 99686

Surely these improvements can be made and enjoyed without infringing upon the local community.

Copies of this letter are being sent directly to the Governor, the Commissioner of Natural Resources, Senator Kertulla, Representative Specking and all other senators and representatives in order that there will be no misunderstanding as to Valdez's posture on this subject.

Very truly yours,

Herbert W. Lehfeldt
City Manager

HWL:ss

CITY OF VALDEZ

P.O. BOX 307
PHONE: (907) 835-4313

ZIP CODE 99686

January 31, 1977

Representative Al Osterback
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Subject: Senate Bill No. 73 - Keystone Canyon State Park

Dear Representative Osterback:

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Each time this proposal has been submitted, the City has taken exception to the superimposing of the park upon the city boundaries and encompassing privately owned lands. Each time the boundaries have been redrawn to conform to the City's demands. The proposal has been subsequently rejected and then reintroduced with the same old boundaries.

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3. Most of the park is inaccessible except to the most hardy and public penetration of the area is restricted to a very narrow margin along the existing road system.

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The Valdez hearing response from the public and from the official statement by the Chamber of Commerce and the city of Valdez has one hundred percent against park formation.

I encourage you to consider the desires of the citizens of Valdez and withdraw this bill from consideration.

Respectfully yours,

Herbert W. Lehfeldt
City Manager

HWL:ss

House of Representatives

DISTRICT 15

ADAK
AKHIOK
AKUTAN
ALITAK
ATKA
BELKOFSKI
CHIGNIK
CHIGNIK LAGOON
CHIGNIK LAKE
COLD BAY
FALSE PASS
IVANOF BAY
KARLUK
KING COVE
LARSEN BAY
NELSON LAGOON
NIKOLSKI
OLD HARBOR
PERRYVILLE
PORT LIONS
SAND POINT
SQUAW HARBOR
ST. GEORGE
ST. PAUL
UGANIK BAY
UNALASKA

February 7, 1977

Ms. Beverly Robinson
Pouch E
Valdez Vanguard
Valdez, Alaska

Dear Beverly:

House Bill 73 relating to the Keystone Canyon State Park will be before the House Resources Committee on February 15, 1977 at 1:15 p.m. in room 118, Capitol Building.

Sincerely,

Diann

Diann L. Nelson
Administrative Assistant

Valdez Vanguard
"Where the news you want to know comes first"

January 31, 1977

Alvin Osterback
Chairman
House Resources Committee
Pouch V
Juneau, Ak. 99811

Dear Sir,

I have been notified by Neal Johannsen, Chief of the Parks Dept., that the resources committee has requested a hearing concerning the proposal for a Keystone Canyon State Park.

I would like to know if, in fact, such a meeting will take place, when and where.I would appreciate recieving any information regarding the committees work on this proposal.

Sincerely,

Beverly Robinson

Pouch E • Valdez, Alaska 99686 • 835-2211

Tues.
T

Valdez Vanguard

"Where the news you want to know comes first"

Sally I. to Give to Ruth

January 31, 1977

Alvin Osterback
Chairman
House Resources Committee
Pouch V
Juneau, Ak. 99811

Dear Sir,

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Sincerely,

Beverly Robinson

Pouch E • Valdez, Alaska 99686 • 835-2211

HB

///

"An Act relating to stream surveillance for fisheries violations."

COMMITTEE REPORT

1-25-77 **HOUSE** JUDICIARY

2/10/77
Date

Mr. Speaker:

The Committee on RESOURCES has had HB 111 under consideration. A majority of the members of the Committee

☐ recommends it do pass

☐ recommends it do not pass

☐ recommends it do pass with attached amendment(s)

☐ recommends it be replaced with CS for _____ and that CS for _____ do pass

☐ (and) recommends it be referred to the _____ committee

☒ reports it back without recommendation

☐ AND attaches a report of its intent

☐ (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

Made 2nd Motion do pass | Reluctantly HB 111 DNP

HB 111 Do Pass | No-00 HB 111 DNP

| |

| Motion 2-do pass | Reluctantly HB 111 DNP |

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

Ashley recommends: needs fiscal note

_____ recommends: _____

_____ recommends: _____

_____
Chairman

H 60

BILL ANALYSIS

ASSIGNMENT DATE 2/2/77

UNASSIGNED

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Public Safety	Osterback	HB 111

DIVISION POSITION	CO-SPONSORS OR COMMITTEE SPONSORS	DATE LAST AMENDED
Oppose.	Gardiner	

DIVISION DIRECTOR Johnston DATE 2-2-77 COMMISSIONER DATE

GOVERNOR'S OFFICE USE

POSITION NOTED POSITION APPROVED POSITION DISAPPROVED

BY: DATE:

SUMMARY

(1) Related bills (similar or conflicting)

Unknown.

(2) a. Organizations sponsoring and supporting bill	(2) b. Organizations opposing bill
Unknown.	Unknown.

(3) Program effects of bill The primary effect is that it would require a substantial increase in personnel staff to perform and accomplish an identical level of service in protection of the commercial fisheries. Present program of "stake-out crews" utilizes concealment to create a deterrant to closed water fishery violations and has successfully achieved this goal. To remain visible is announcing where stream protection is being afforded and would be the most effective aid to the potential and habitual violator in unlawful fishing activity.

To adequately provide protection of anadromous spawning areas with placement of "stream guard" personnel utilizing the concept of remaining visible would require an increase of both permanent and seasonal staff to a similar level in which this concept was practiced during the early 1960's A departure from this concept became necessary due to funding restrictions and return would have an outstanding fiscal impact as well as substantial program planning changes.

(4) Fiscal impact: none Fiscal analysis attached X

(5) Amendments proposed: None.

(6) Comments: Implementation of the bill would have severe detrimental results to the fishery resources unless an approximate 400% increase in temporary man months were funded to provide stream guards for protection of salmon spawning streams. In addition to the temporary man months support funds would be necessary to provide field gear such as: tents, skiffs, outboard motors, cots, mattresses, cooking equipment, food, mooring tackle, charter funds for field servicing, outboard fuel and maintenance plus a major item, warehouse space throughout the coastal areas to accommodate winter storage of gear.

Implementation of the bill is legislating enforcement methods and provides a license to steal. It would offer the maximum advantage to theft of fish stocks by commercial fishermen that can be envisioned. Perpetuation of fish stocks would be limited to those areas where a stream guard was stationed during the spawning activity and would be directly proportional to the funding provided for temporary personnel. Southeastern Alaska alone has in excess of 2,500

(cont. on back)

FISCAL ANALYSIS

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Public Safety	Osterback	HB111
DIVISION POSITION	CO-SPONSORS OR COMMITTEE SPONSORS	DATE LAST AMENDED
Opposed.	Gardiner	
DIVISION DIRECTOR	DATE	COMMISSIONER	DATE

FISCAL EFFECTS OF BILL

(1) CHANGES IN PERSONNEL

(See attachment).

(2) CHANGES IN GOVERNOR'S PROPOSED BUDGET

(3) CAN COSTS BE ABSORBED

Costs cannot be absorbed.

(4) REVENUE/EXPENDITURE CLASSIFICATION AND FUND -- SOURCE (GENERAL FUND/BUDGET, FEDERAL FUNDS, BONDS, SPECIAL APPROPRIATIONS)

COMMENTS:

FISCAL ANALYSIS.

(Attachment)

1. CHANGES IN PERSONNEL.

To provide a minimal level of surveillance to spawning activity on a stream guard concept, temporary man months must be increased to the following level:

SOUTHEASTERN ALASKA:
Ketchikan, Craig, Wrangell, Petersburg, Sitka, and Juneau.

	60 temp. employees at 3 mo. each.
Yakutat	5 temp. employees at 3 mo. each.
Cordova	12 temp. employees at 4 mo. each.
Valdez	6 temp. employees at 3 mo. each.
Seward	10 temp. employees at 3 mo. each.
Homer	8 temp. employees at 3 mo. each.
Kodiak	32 temp. employees at 3 mo. each.
Sand Point and westward	16 man months at 3 mo each.

TOTAL TEMP. EMPLOYEES - 149 TOTAL TEMP. MAN MONTHS - 459

The following is an estimate of the costs of hiring, equipping and maintaining one stream guard for a 10 week period:

EQUIPMENT

Tent, 10 x 12 white wall		100.00
Boat, Avon S-400 Sportboat, 12' 4" (40 h.p. rated)		1,200.00
Motor, 25 h.p. Johnson, Short Shaft, Manual Start		520.00
Coleman Lantern		30.00
Coleman Stove		30.00
Foam Mattress		35.00
Tent Frame		200.00
Cooking Utensils		20.00
Gas cans, funnels, misc. gear		100.00
	Sub Total	$2,135.00
Air Charter - Minimum 6 trips including setting up camp		600.00
Food - 10 weeks at $50.00 per week		500.00
Fuel - White gas, outboard fuel		100.00
		1,200.00
Wages - 12 weeks - 37.5 straight time (hourly rate $_____)		_____
15 hours overtime/week		_____
	TOTAL	$1,301,000

This figure does not include the cost of training or the cost of maintaining the man in the field. Depending on the number of stream guards in the field, it will take one to two men to handle engine repairs, buy groceries, run errands and chauffeur.

6) Comments, Cont.

spawning streams and each should receive protection from fishery theft. It would be physically and financially impossible to thoroughly protect the areas unless the fisherman is faced with the prospect of apprehension during the violation through a means he cannot predetermine. Under the terms of the bill, absence of a visible stream guard would assure the fisherman the stream is unprotected and vulnerable.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

M E M O R A N D U M January 18, 1977

SUBJECT: Stream Surveillance Control

TO: Representative Alvin Osterback

FROM: Joel Bennett JEB
Legislative Counsel

You asked me to investigate the commercial fisheries "stake-out crew" situation within the Department of Public Safety. You said current procedure allowed violations to occur first, before arrest and apprehension, thereby allowing the waste of fisheries resources.

I have talked with Capt. Frank Sharp, Division of Fish and Wildlife Protection (under whose jurisdiction this is) and he informs me that what happened in Sand Point last summer was the exception - what usually happens is that the violators are apprehended while in the act of setting the net and they are ordered to release the fish before they are landed. Apparently in most cases, the fish are released in good shape.

He went on to say that stake-out crews, (concealed at the sites) have been the most effective enforcement tool for violations of this type since 1960. Although some stream guard crews still operate in certain situations, the state has found that there are just too many producing stream sites to cover (2500 in Southeast Alaska alone); the boats just switch to a stream around the corner in another arm of the same cove, for instance, and take their illegal catch there.

The real problem, in his opinion, is lack of funds in the budget for Fish and Game to hire adequate "temporary personnel" for stream surveillance. He said they don't even have a quarter of the personnel they used to have. Last season, about 40 people operated during the fishing season statewide in this capacity. Eleven in Southeast, six in the Aleutians and Alaska Peninsula area, and the rest elsewhere.

After hearing this, you may wish to alter your bill request. If statistics have shown concealed "stake-outs" to have been more effective than visible "stream guards", with few cases of resource loss, and if the Sand Point case was really an exception, I would suggest leaving things as they are. To be more effective, it might be better to push for a fish and game budget increase for that category of employees. You could perhaps ask that the category be made more specific, i.e. temporary stake-out guard instead of just "temporary employee".

Please consider this - if you want to get further details on the stream guard situation, call Capt. Frank Sharp, Division of Fish and Game Wildlife Protection, Department of Public Safety, in Anchorage at 272-1561.

If you still feel that legislation requiring all stream surveillance to be conducted openly and visibly is appropriate, please contact me. I will wait on further word from you.

JB:hjd

Alaska State Legislature

JUNEAU ALASKA

HOUSE RESOURCES COMMITTEE

10 February 1977

AGENDA

CALL MEETING TO ORDER.

BILLS UNDER CONSIDERATION:

HJR 12 ~~OPPOSING S. 499 & 500 AS INTRODUCED IN THE 95TH CONGRESS~~

HJR 16 INTERNATIONAL CONVENTION FOR THE HIGH SEAS FISHERIES OF THE NORTH PACIFIC OCEAN

SB 1 am RELATING TO FEES FOR VENDORS OF COMMERCIAL FISHING LICENSES

HB 111 RELATING TO STREAM SURVEILLANCE FOR FISHERIES VIOLATIONS

HB 157 RELATING TO UTILIZING WASTE HEAT FROM OIL & GAS PIPELINES

HB 158 APPROPRIATION TO THE UNIVERSITY OF ALASKA FOR DEVELOPING UTILIZATION OF WASTE HEAT FROM OIL & GAS PIPELINES

DISCUSSION, QUESTIONS.

ADJOURNMENT.

Burton

HB 121

TO: Representative Osterback

FROM: Hugh Malone

DATE: March 1, 1977

SUBJ: Summary of Incident at Sand Point

file HB 111
(out of committee)

02-001B

STATE of ALASKA

MEMORANDUM

FEB 28 1977

TO: Richard L. Burton
Commissioner
Department of Public Safety
Juneau

DATE : February 16, 1977

FROM: Col. Fred M. Woldstad
Director
Fish & Wildlife Protection
Anchorage

SUBJECT: E-76-0811/Controversial Incident - House Resources Committee.

I have taken the liberty of summarizing a rather lengthy investigation report that includes a number of statements attesting to identical information. Two seine vessels were involved and six defendants:

F/V "Andronica"

William Dushkin - Captain, Sand Point.
Carl R. Furguson - Crewmember, Sand Point.
Jack Foster, Jr. - Crewmember, Sand Point.

F/V "Norse Maid"

Carl G. Carlson, Jr. - Captain, Sand Point.
Charles G. Gundersen - Crewmember, Sand Point.
Henry P. Nielsen - Crewmember, Sand Point.

On July 23, 1976 at 10:30 a.m., a stakeout team composed of Officer Steve Case and Officer Mike Webber was placed at Bay Point by a Department of Public Safety Goose flown by Ed Fleek. They set up camp about a mile from the creek at Bay Point.

At approximately 9:30 p.m., Officer Case observed two boats heading toward Bay Point. Both boats were white in color and towing skiffs. The boats were later identified as the "Andronica" and the "Norse Maid". The two subject vessels anchored up, side by side, about 30 yards from the entrance to the lagoon at Bay Point (Nigger Head). At approximately 10:15 p.m., two skiffs left the anchored boats and entered into the lagoon. Each skiff contained two men.

Shots were fired from one skiff into the brush around the edge of the lagoon, apparently by a semi-automatic rifle. The two skiffs then returned to the "Andronica" and "Norse Maid".

At 11:00 p.m., four skiffs left the subject boats and proceeded into the waters of the lagoon at Bay Point. Officer Case moved around to where he could observe what they were doing. He observed the skiffs engaging in making two sets with their commercial type salmon seines, taking salmon from the closed waters at Bay Point. At 11:25 p.m., one skiff headed back to the anchored vessels. At midnight the other three seine skiffs followed. Officer Webber observed that two of the boats were low in the water and had what appeared to be a seine with a bulge in it alongside. At 12:45 a.m.,

Officer Case, who has commercial fished in the past, heard the hydraulics start up, as if the brailer was in operation on the subject vessels. At 3:00 a.m., the two vessels pulled anchor and left Bay Point.

On 7/24/76, the Captain of the P/V "Enforcer" was patrolling in a skiff at Settlement Point with Fish and Wildlife Aide Shaul when he observed the "Norse Maid" pull their anchors and head off toward the North.

Gunnar Hamren, the Captain of the tender "Logger", reports in his statement that the F/V "Norse Maid", Captained by Carl Carlson, Jr., got into the line behind his tender at 11:00 p.m. on 7/24/76. About midnight the "Norse Maid" pulled up alongside the Logger with approximatley 7,000 salmon on board. Carlson asked Hamren to split his load with the "Andronica", stating they had been fishing together. The crew from the "Andronica" came over and helped take the salmon off the "Norse Maid". The "Logger" was anchored in Canoe Bay.

Mrs. Bertha Jean Hamren, who made out the ADF&G Fish Tickets #393789 and #393319, in her statement relates a conversation with Carlson in which he told her that the "Andronica" and "Norse Maid" had been fishing together and he wanted to split his load with the "Andronica". The fish tickets were made out at approximately 12:30 a.m. on 7/25/76. Later that day the skipper of the "Andronica" came over and signed his fish ticket, #393789. The poundage on the fish tickets totaled 32,255; 16,127 lbs. to William Dushkin on the "Andronica" and 16,128 lbs. to the "Norse Maid", skippered by Carl Carlson, Jr. James Harrington, a crew member on the "Logger", was present when the Captain of the "Andronica" signed his fish ticket the morning of 7/25/76.

William Fishell was a Fish and Game employee sampling the catches on board the "Logger" when the subject fish were delivered. He states he remembers one boat bringing in a large number of salmon and states that without the delivery made by the "Norse Maid" figured into the daily catches, the boat average was 1,149.5 salmon per boat. The catches reflected for the "Norse Maid" and the "Andronica" were over three times the average for boats delivering to the "Logger" on the day in question.

On 7/26/76 at 12:20 p.m., the F/V "Norse Maid" was boarded soon after it moored at the fuel dock in Sand Point. Corporal Winn advised the Captain and crew of their legal rights and that they would be charged for seining in closed waters. Also on 7/26/76, Captain Sharp flew to Canoe Bay and boarded the F/V "Andronica",, advised the Captain and crew of their rights and that they would be charged for seining in closed waters. While aboard the "Andronica" Captain Sharp observed a 30 caliber carbine semi-automatic weapon with a 30 shot clip and during the conversation the owner of the weapon was identified as Jack Foster, Jr.

The six defendants were cited to the Sand Point District Court and each entered a not guilty plea requesting a jury trial. Subsequent trial in Sand Point before a jury found all six defendants not guilty. Stated cause for the not guilty verdict was that the state did not prove fish were taken by the skiffs in the stream mouth, and the jury was not advised that "take" is also defined as "attempting to take".

Two additional statements are found in the report which are pertinent to the character and honesty of the defendants involved. Both are statements of Fish and Wildlife Aide Steve Case.

"On the 4th of July, 1976, at the New England Reservoir in Sand Point, I was testing outboards and rafts when we were approached by Charles G. Gundersen on the subject of bribery and asked what our salary was and if we were getting paid enough for watching the streams. I said, "yes, we were getting paid enough". Then he approached me with an offer for $2,000.00 or $3,000.00 for turning my back while they made a couple sets in the creek. He kept saying he would make it good to me for twice the amount I'm getting paid. He said that if I would get hold of him later we would talk real business and a part of $2,000.00 or $3,000.00. Then we departed the area."

On August 29, 1976, Charles G. Gundersen approached Officer Steve Case and Officer Jim Johnston stating that if the State lost their case, he would sue for false arrest. He also advised that they better be careful or they would leave Sand Point in a pine box. Gundersen stated he was passed out drunk when the skiff from the "Norse Maid" went up into the creek. Gundersen was drunk while making the statements.

FMW:rp

HB

114

STATE of ALASKA

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LANDS

HB 114, 115

TO: Guy R. Martin
Commissioner

THRU: Michael C. T. Smith
Director

DATE : November 3, 1975

FROM: George K. Hollett
State Forester

SUBJECT: Fire Suppression Fund

One of the items that will have to be resolved before we start in the fire suppression business on the Kenai Peninsula next summer is where does the out-of-pocket money come from to pay our bills. As long as we use State crews and equipment, there is no problem as they are funded in our budget. The problem will be in paying the individuals we hire and the equipment owner that may be needed at times to supplement our crews. No money has been included in our budget for this unknown. All our previous bills have been to BLM and have been paid up to a year or so after they expended the funds. When we hire an individual, he is going to want his pay within a short period of time after the fire.

The amount of money needed for out-of-pocket fire suppression costs is really an unknown. If we were to look at the last five years' costs on the Kenai, we find the following:

Year	Acres Burned	Cost	# Fires
1970	2875	$354,424.39	33
1971	1	1,454.84	5
1972	205	11,145.65	11
1973	47	14,687.20	20
1974	40	24,036.16	13
Total	3168	$405,747.24	102

This then gives us an average cost of $81,149.45, which you can see does not come close to any of the years. These figures are not a true picture of what the out-of-pocket cost will be as a good bit of these costs will be covered by State crews and equipment.

The same thing shows up when we look at the fire suppression costs for all State and private lands.

Year	Costs
1970	$1,451,445.63
1971	1,384,955.70
1972	99,646.79
1973	235,907.31
1974	389,527.49

I am not sure what is the best way to handle the situation, but do feel that there should be some way to have money available on a non-expiring basis. This way everyone who has to be involved with the money from payor to payee knows there is money available.

I would like to suggest that the idea of having a "Fire Suppression Fund" be established by the Legislature be looked into. I can see where it could be worked out somewhat similar to the Disaster Relief Fund (copy attached). Since the fire law A.S. 41.15 refers to the Commissioner, it would then be natural to tie the operation of the suppression fund there also.

Since we are really dealing with an unknown figure at this time, I would suggest we ask for an initial funding of $50,000.00. This would give us some protection for our job on the Kenai Peninsula. It would mean we would have to come in each year as we take over different areas of the State for subsequent financing. This may be easier than asking for a large amount at first. I would be most happy to work with someone on the wording of such a fund and also the amount, if you feel it is worthwhile.

If we do not go the fund route, it will then be necessary to ask for a supplemental to the FY 76 budget to be assured there are funds available to make payments. Since the fire season starts in May, it would be best to have about $20,000.00 in case we do have any trouble. I am not sure what code something like this would go under since they appear to have removed the 800 code. If there is something like the old 800 code, I would say that is where it belongs as we pay both salaries and equipment rental from the funds.

Let me know if there is any more information I can put together or any way I can help.

Attachment

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILLS NO. 114 & 115
Title Fire Suppression Fund
Requested by Office of the Governor Date 1/18/77

II. FISCAL DETAIL
Agency Affected Department of Natural Resources
Program Category Affected Division of Lands
Budget Request Unit(s) Affected

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		750.0	566.8	595.2	624.9	
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		750.0	566.8	595.2	624.9	

FUNDING (Thousands of Dollars)

GENERAL FUND		750.0	566.8	595.2	624.9	
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		0	0	0	0	
PART TIME		0	0	0	0	
TEMPORARY		0	0	0	0	

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
The requested legislation establishes a Fire Suppression Fund and appropriates from the General Fund monies sufficient to initiate the Fund and maintain it in future years at a level adequate to meet anticipated costs of annual fire fighting activities. The Fire Suppression Fund is a reserve from which fire fighting expenses will be paid; it is not a planned expenditure. Future annual inputs from the General Fund to the Fire Suppression Fund are difficult to predict, however, from 1970 through 1975 State outlays for fire suppression have ranged from $1.2 million to $99,646, averaging approximately $539,855. Creation of a Fire Suppression Fund will enable prompt payment of fire fighting costs. With increasing State ownership of land, and responsibility for fire protection, the base cost can be expected to rise, even aside from inflation. Previously these payments have been met through supplemental or annual appropriations and have been subject to the delays implicit in that process.

IV. DATE _____ PREPARED BY George Hollett
AGENCY Division of Lands
PHONE _____ Guy Martin 1/19/77

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

BRIEFING

Bureau of Land Management - State of Alaska Fire Control Contract

February 4, 1977

BACKGROUND

With realization of Alaska statehood in 1959, BLM entered a contract with the State to protect State lands from wildfire. This was an interim measure to protect State resources until the State established its own fire control capability.

In 1971, after considerable dialogue, serious contract disengagement proposals were discussed with Mr. Charles Herbert, Commissioner, Department of Natural Resources. These proposals called for BLM disengagement in the Cook Inlet - Kenai Peninsula areas by 1975.

In 1972, BLM disengaged from the lands in Southeast Alaska. The Cook Inlet disengagement plan was reiterated this same year by letter Governor William Egan.

In 1973, Governor William Egan informed BLM, by letter, that he had directed the Department of Natural Resources to review the problem and prepare a detailed program for building a State organization.

In a 1975 letter, Governor Jay Hammond was briefed on BLM's disengagement plans.

By contract amendment dated June 17, 1976, the State removed 21,206,381 acres of land from BLM contract protection. The State established a fire control organization to fight fire on the Kenai Peninsula and the Chugach State Park. This amendment also eliminated all protection on approximately 10,500,000 acres of burnable resources on State lands in western Alaska. During the 1976 fire season, problems were identified with the "let burn" decision on this 10.5 million acres. Since time did not allow a formal contract adjustment, BLM agreed by memorandum to protect these acres on a fire by fire basis despite contract deletion and lack of associated presuppression monies.

Also in 1976, a formal plan of BLM disengagement from lands bounded by the Alaska Range, Talkeetna Mountains, Chugach Mountains, and Kenai Mountains was presented to the State. More specifically, this area includes the Kenai Peninsula, Anchorage Bowl, and the Mat-Su Valley.

This brief chronology brings us to the present. Three situations require attention:

1. 10.5 million acres of unprotected State land in western Alaska.
2. BLM's planned disengagement from the Mat-Su area.
3. Contract rewrite to optimize the contract dollar and optimize protection on BLM and State lands.

One last comment is made. BLM can contractually protect State lands only as long as mutual agency benefit is realized. In other words, BLM cannot sell its fire control services unless it realized reciprocal benefits such as the State protecting portions of BLM land. The opportunity exists for a contract incorporating this concept.

BLM has responsibility lands in locations where the State is major land holder. The features of these locations include people/property density, road accessibility, and compact area. Fire attack can be accomplished with vehicular pumper trucks and some helicopter support.

The State has responsibility lands in locations where BLM is the major responsible land administrator. The features of these locations include limited people/property density, no road access, and vast area. Fire attack can only be accomplished utilizing major aircraft involvement. Annually, BLM must obligate 3.0 million dollars to acquire contract aircraft. This cost is exclusive of flying time.

The point is made that no technical organizational duplication will exist if the State elects to focus fire protection in the population/property density areas and BLM focus its protection in the vast roadless areas. Mutual benefit is realized and the resulting fire control organizations are complementary.

The briefing will describe the current contractual situation and offer a new contract approach to better solve our mutual fire control problem.

SIGNIFICANT FIRE CONTROL CONTRACT PROVISIONS

(STATE OF ALASKA-BUREAU OF LAND MANAGEMENT)

1. On lands contracted to either party by the other, there is a $0.0474 per acre presuppression charge.

2. On contracted lands all suppression costs incurred are directly reimbursable.

3. An administrative charge on a sliding scale is added to reimbursable suppression costs. This charge is applied on the total annual bill.

Amount of Bill	Rate	Maximum Amount
First $ 250,000	25%	$ 62,500
Next $ 250,000	20%	$ 50,000
Next $ 500,000	15%	$ 75,000
Next $1,000,000	10%	$100,000
Over $2,000,000	5%	N/A

4. Bills by each party offset each other annually.

5. The presuppression bill is due and payable each September 1 for the following fiscal year (October 1 through September 30).

6. The advanced suppression bill is due and payable September 1 for the current calendar year (75 percent of the last 5 year average reimbursable suppression bills).

7. The suppression bill is due and payable each September 1 for the year previous to the two most current calendar years (the advanced suppression payment applies to this bill).

8. Presently the State protects 372,194 acres of BLM responsibility lands at a presuppression cost of $17,642.

9. Presently BLM protects 14,115,468 acres of State responsibility lands at a presuppression cost of $669,073.

10. The State advanced suppression bill for CY 1977 is $295,447.

11. During the 5 year period 1971 - 1975, the lowest actual State suppression bill was $99,647 and the highest actual bill was $1,240,740.

- - - - - For the remainder of this presentation we will only consider contract change opportunities in the southwestern quarter of Alaska - - - - -

CHANGES FROM PRESENT TO RECOMMENDED CONTRACT

1. Kenai Peninsula. No change. As a note of interest, BLM has suppression base at Soldotna for protection of the Kenai Moose Range.

2. Chugach. Presently the State protects 8,432 acres of BLM responsibility land in the Eagle River area. Recommended contract would add the 6,000 acre Eklutna Power Withdrawal Area to this State protection. The State has in-place capability.

3. Bristol Bay. No change. No protection needed since no fire history.

4. Kodiak Island. No change. Each agency protects its own land.

5. Taylor Mountain. Realign contract protection to the area with fire history (north one-third). Due to negligible fire incidence in the south two-thirds, BLM would react to assistance requests without contract presuppression monies.

6. Iditarod. Total State area would change from no protection to protection by BLM.

7. Poorman. Total State area would change from no protection to protection by BLM.

8. Farewell. No change. No protection needed since no fire history. Fires near the west boundary on State land would be normally attacked by BLM as they threaten BLM responsibility lands. No presuppression monies necessary.

9. Kokrine Hills. Total State area would change from no protection to protection by BLM.

10. Haines Skagway. No change.

11. Mat-Su. State would assume protection of its own lands (4,920,396 acres). Additionally, the State would contract protect 697,473 acres of BLM land located adjacent to the Alaska Range.

Note that irrespective of this particular proposal, BLM will discontinue contract protection on the SE quarter of Mat-Su in CY 1977. This quarter experiences 85 percent of the ignitions in Mat-Su. This particular disengagement is in consonance with planning, discussions, and correspondence between BLM State Director, Curt McVee, and Governors Jay Hammond and William Egan.

PRESENT CONTRACT TERMS

Area	BLM Land Protected By State		State Land Protected by BLM		Burnable Area Not Being Protected		
	Acres	5 Year Average No. of Fires	Acres	5 Year Average No. of Fires	Acres	5 Year Average No. of Fires	Land Owner
1. Kenai Peninsula	258,762	1.0	0	N/A	0	N/A	N/A
2. Chugach	8,432	2.0	0	N/A	0	N/A	N/A
3. Bristol Bay	0	N/A	0	N/A	1,612,800	0	State
4. Kodiak Island	0	N/A	0	N/A	0	N/A	N/A
5. Taylor Mountain	0	N/A	4,772,711	0.8	4,608,306	1.2	State
6. Iditarod	0	N/A	0	N/A	1,385,605	3.6	State
7. Poorman	0	N/A	0	N/A	3,658,621	8.0	State
8. Farewell	0	N/A	0	N/A	1,961,644	1.2	State
9. Kokrine Hills	0	N/A	0	N/A	875,520	1.2	State
10. Haines-Skagway	105,000	0	0	N/A	0	N/A	N/A
11. Mat-Su	0	N/A	4,920,396	47.6	0	N/A	N/A
Total	372,194	3.0	9,693,107	48.4	14,102,496	15.2	----

Net presuppression cost: (9,693,107 - 372,194) 0.0474 = $ 441,811.

RECOMMENDED CONTRACT TERMS

Area	BLM Land Protected By State		State Land Protected By BLM		Burnable Area Not Being Protected		
	Acres	5 Year Average No. of Fires	Acres	5 Year Average No. of Fires	Acres	5 Year Average No. of Fires	Land Owner
1. Kenai Peninsula	258,762	1.0	0	N/A	0	N/A	N/A
2. Chugach	14,432	2.0	0	N/A	0	N/A	N/A
3. Bristol Bay	0	N/A	0	N/A	1,612,800	0	State
4. Kodiak Island	0	N/A	0	N/A	0	N/A	N/A
5. Taylor Mountain	0	N/A	3,068,883	1.4	6,312,134	0.6	State
6. Iditarod	0	N/A	1,385,605	3.6	0	N/A	N/A
7. Poorman	0	N/A	3,658,621	8.0	0	N/A	N/A
8. Farewell	0	N/A	0	N/A	1,961,644	1.2	State
9. Kokrine Hills	0	N/A	875,520	1.2	0	N/A	N/A
10. Haines-Skagway	105,000	0	0	N/A	0	N/A	N/A
11. Mat-Su	697,473	0.4	0	N/A	0	N/A	N/A
Total	1,075,667	3.4	8,988,629	14.2	9,886,578	0.6	----

Net presuppression cost: (8,988,629 - 1,075,667) 0.0474 = $ 375,074.

Conclusions

If the discussed or similar contract change is acceptable, the following products will be realized:

1. All BLM and State lands will receive protection from wildfire either contractually or cooperatively.

2. State lands which presently receive no contract protection will be reduced from 14.1 million acres to 9.9 million acres.

3. The 9.9 million acres will be relocated on the basis of low fire occurrence (15.2 fires annually to 0.6 fires annually). On these lands BLM will react to assistance requests from the State without contract presuppression monies.

4. The State will provide protection to the whole Mat-Su valley (4.9 million acres State land and 0.7 million acres BLM land). This impact is minimal, since in 1977, BLM will disengage from the State contract area containing 85 percent of the Mat-Su fire load.

5. State contract dollar will be placed in areas having highest occurrence.

6. In this southwestern quarter of Alaska, State presuppression monies to BLM will be reduced from $442,000 to $375,000.

7. The State would develop a tanker truck fire control organization while BLM would continue operation of an aerial fire control organization. Organizations are complementary. This type State development is commensurate with its projected fire control engagement in the Fairbanks, Delta, and Glenallen areas.

We are jointly engaged in rewriting our mutual protection contract to update provisions. Likewise we must jointly address our operating policies, procedures, and field organizations for the 1977 fire season. An early decision on State protection position would allow smooth transition into this fire season.

HB

118

Hrd
2/28/77
3/3/77

Motion failed
to pass out
Held 1
3/3/

Out
1/31/78

AGO 122804

HEARING NOTIFICATION TO ADMINISTRATION

BILL NUMBER	LETTER DATE	INFORMED	HEARING DATE
~~HB~~ 118	phone 1/27	Rep. Eliason, Commercial Fisheries, S.Gross, Rep. Gardiner	1/31
SCR 68	phone 1/27	Sen.Ziegler, D.Nat.Res.(Conheady) AK Loggers Assoc.	1/31
HB 652	phone 1/27	Rep.Cowper, D.Nat.Res(Conheady) Commerce, Carolyn Burg	~~2/2~~ 1/31
HB 563	phone 1/27	Rep.Swanson, Pete Jeans, AK Pipeline Env.Conservation, Nat.Res. Oil&Gas P.Conheady	2/2 surveillance, comm
CSHB 573	phone 1/27	P.Jeans	2/2
HB 624	phone 1/27	Rep.Snider, D.Rev.	2/2
HB 625	phone 1/27	Rep.Anderson, Fish&Game, Nat.Res.(P.Conheady)	2/2
HJR 53	phone 1/27	Rep.Gardiner	2/2
all do above	memo 1/27	Keith Specking	1/31 // 2/2

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

AGENDA

House Resources
Rm 118 — 1:30 Today

Tuesday
31 January 31, 1978

SJR 36 - Relating to Land Allocation In the Tongass National Forest

SCR 68 - Western States Legislative Forestry Task Force

HB 652 - Appropriation for Steering Council on Alaska Land.

HB 118 - Maximum Length Salmon seine vessels

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

M E M O R A N D U M

January 31, 1978

SUBJECT: CS for HB 118

TO: House Resources Committee

FROM: Joel F. Bennett, Legislative Counsel JFB

Unfortunately, time constraints do not allow me to fully research this question, but at first glance I should point out to the committee that the enclosed bill may suffer constitutionally as special legislation (Art. II, Sec. 19, Alaska Constitution) or as a denial of equal protection of the laws (Art. I, Sec. 1, Alaska Constitution) unless there is a proper basis for the division of seine fishing into two geographical areas for purposes of limited boat lengths.

In analyzing this bill you must be able to conclude that there is a sufficient and justifiable difference in circumstances and situation, other than economics, to justifying the creation of two separate classes in this instance, and then treating them differently, to the apparent economic disadvantage of one against the other.

The general rule is that all classifications must be based upon substantial distinctions, which make one class really different than another. Is there a sound biological, safety, or other basis for this sort of distinction?

JFB:hjd

STATE OF ALASKA
JAY S. HAMMOND, GOVERNOR
DEPARTMENT OF FISH AND GAME
OFFICE OF THE COMMISSIONER
SUBPORT BUILDING – JUNEAU 99801

January 31, 1978

The Honorable Alvin Osterback
Chairman, House Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Osterback:

The Board of Fisheries wishes to reaffirm its position with regard to House Bill No. 118, relating to the maximum length of salmon seine vessels, and House Bill No. 119, relating to drum seining.

The enactment of both of these bills into law is recommended by the Board of Fisheries. This should not be construed, however, as being an endorsement by the Board that the current restriction regarding the maximum size of salmon seine vessels and the prohibition against the use of drum seines should be eliminated. Rather, it is the position of the Board that the size of salmon seine vessels and the use of drum seines are regulatory problems which should be resolved by the Board of Fisheries by means of appropriate action under the Administrative Procedure Act rather than by the Legislature by means of inflexible laws.

Should the Legislature follow the recommendation of the Board with regard to these bills, it is the intent of the Board to initially take action to maintain status quo with regard to these problems. A public hearing (or public hearings, as appropriate) will be scheduled by the Board for full consideration by the public after which the Board will adopt regulations consistent with the general welfare of the fishermen and the resource.

Sincerely,

Nick Szabo by RSA

Nick Szabo, Chairman
Alaska Board of Fisheries

Editor's note. — The repealed section derived from § 27, art. I, ch. 94, SLA 1959.

Sec. 16.05.831. Waste of salmon. (a) It is unlawful for a person to waste salmon intentionally, knowingly, or with reckless disregard for the consequences. In this section, "waste" means the failure to utilize the majority of the carcass, excluding viscera and sex parts, of salmon which are to be

(1) sold to a commercial buyer or processor;

(2) utilized for consumption by humans or domesticated animals; or

(3) utilized for scientific, educational, or display purposes.

(b) The commissioner may authorize other uses of salmon upon request if he finds that to do so would be consistent with maximum and wise use of the resource.

(c) A person who violates this section or a regulation adopted under it is punishable by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both. In addition, a person who violates this section is subject to a civil action by the state for the cost of replacing the salmon wasted. (§ 3 ch 89 SLA 1975; § 3 ch 99 SLA 1975)

Editor's note. — This section is set out as it appears in ch. 99, SLA 1975. Chapters 89 and 99, SLA 1975, are virtually identical except that ch. 99 contains a § 5, providing for an effective date of the act.

Section 1, chs. 89 and 99, SLA 1975, provides, in subsection (b): "It is the intent of sec. 3 of this Act to control the waste of salmon resources."

Sec. 16.05.835. Maximum length of salmon seine vessels. No salmon seine vessel may be longer than 50 feet, official Coast Guard register length, and 58 feet overall length except vessels that have fished for salmon with seines in waters of the state before January 1, 1962, as 50-foot, official Coast Guard register length vessels. (§ 1 ch 252 SLA 1970)

Sec. 16.05.840. Fishway required. If the commissioner considers it necessary, every dam or other obstruction built by any person across a stream frequented by salmon or other fish shall be provided by that person with a durable and efficient fishway and a device for efficient passage for downstream migrants. The fishway or device or both shall be maintained in a practical and effective manner in the place, form and capacity the commissioner approves, for which plans and specifications shall be approved by the department upon application to it. The fishway or device shall be kept open, unobstructed, and supplied with a sufficient quantity of water to admit freely the passage of fish through it. (§ 30 art I ch 94 SLA 1959)

Sec. 16.05.850. Hatchery required. If a fishway over a dam or obstruction is considered impracticable by the commissioner because of cost, the owner of the dam or obstruction, in order to compensate for the loss resulting from the dam or obstruction shall, at his option: (1)

TELEGRAM

ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

114-119

23005 PETERSBURG ALASKA 75 03-29 245P PST

PMS REPRESENTATIVE ERNEST HAUGEN

2655

JUNEAU AK "

WE URGENTLY REQUEST REPEAL OF ALASKA LIMIT LAW FOR SEINE BOATS IN STATE OF ALASKA. THIS LAW IS OBSOLETE IN VIEW OF LIMITED ENTRY LAW NOW IN EFFECT. GEAR RESTRICTIONS NOW IN EFFECT WILL CONTROL FISHING EFFORT ON SALMON AND WE NEED BIGGER AND BETTER VESSELS IN ORDER TO UTILIZE STOCKS OF FISH, OTHER THAN SALMON, TO MEET WITH GUIDELINES SET UP BY NORTH PACIFIC COUNCIL UNDER THE 200 MILE JURISDICTION.

CHRIS CHRISTENSEN, SECRETARY, PETERSBURG FISHERMENS UNION

CC REPRESENTATIVE ERNEST HAUGEN.

#

Rep. Eleason

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER / *SUBPORT BUILDING – JUNEAU 99801*

March 31, 1977

Representative Alvin Osterback
Chairman, House Resources Committee
Alaska State Legislature
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Mr. Osterback:

The Board of Fisheries has reviewed House Bill No. 118, relating to the maximum length of salmon seine vessels, and House Bill No. 119, relating to drum seining and has adopted the following position with regard to these bills.

The enactment of both of these bills into law is recommended by the Board of Fisheries. This should not be construed, however, as being an endorsement by the Board that the current restriction regarding the maximum size of salmon seine vessels and the prohibition against the use of drum seines should be eliminated. Rather, it is the position of the Board that the size of salmon seine vessels and the use of drum seines are regulatory problems which should be resolved by the Board of Fisheries by means of appropriate action under the Administrative Procedure Act rather than by the Legislature by means of inflexible laws.

Should the Legislature follow the recommendation of the Board with regard to these bills, it is the intent of the Board to initially take action to maintain status quo with regard to these problems. A public hearing (or public hearings, as appropriate) will be scheduled by the Board for full consideration by the public after which the Board will adopt regulations consistent with the general welfare of the fishermen and the resource.

Sincerely,

Gordon Jensen

Gordon Jensen, Chairman
Alaska Board of Fisheries

by J.W.B.

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 118

Title An act relating to the maximum length of salmon seine vessels

Requested by Osterback Date 2-14-77

II. FISCAL DETAIL

Agency Affected Fish and Game

Program Category Affected NRMEC

Budget Request Unit(s) Affected Commercial Fish

EXPENDITURES (Thousands of Dollars)

		FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES	0					
200	TRAVEL	0					
300	CONTRACTUAL	0					
400	COMMODITIES	0					
500	EQUIPMENT	0					
600	LAND & STRUCTURES	0					
700	GRANTS, CLAIMS, ETC.	0					
	TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0						
FEDERAL FUNDS	0						
OTHER (Specify)	0						

POSITIONS

FULL TIME	0						
PART TIME	0						
TEMPORARY	0						

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

No fiscal impact

IV. DATE 2-22-77 PREPARED BY [signature]

AGENCY Fish and Game

PHONE 465-4210

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Cordova District Fisheries Union

Headquarters: Box 939, Cordova, Alaska

February 18, 1977

Against HB118 HB119

Representative Alvin Osterback
Alaska State Legislature
Pouch V
Juneau, Alaska 99801

Dear Alvin,

Regarding House Bill ~~#118~~ "An Act relating to the maximum length of salmon seine vessels" and House Bill #119,"An act relating to purse seining". It appears that the majority of members we were able to poll in the Prince William Sound area favor retention of both the 50 ft. keel limit for Alaskan salmon seiners and the non-legal status of drum seining for Alaska.

While some might say that with the advent of limited entry there is no need to maintain a status quo regarding the efficiency of the Alaskan salmon seine fleet, we disagree. At present, with the legal types of gear and equipment, Alaskan salmon seiners are able to generate more than enough effort and efficiency to harvest far more salmon than nature has been able to produce.

Limited entry has not restricted the amount of participation in any of the salmon seining fisheries to the degree that more efficient methods of harvest are necessary.

The majority of Alaskan owned and operated salmon seining vessels are probably too small to efficiently handle drum seining equipment, thus enactment of these bills would create hardship situations regarding increased competitiveness and the necessity to procure larger boats by many Alaskan fishermen.

We cannot see at this time, any direct benefit from enactment of these bills to the majority of the Alaskan salmon seiners or the salmon fisheries of the State.

Your careful consideration and evaluation of this matter is respectfully requested. Thank you.

Sincerely,

Bob Blake

Bob Blake
Chairman

bb/mh

BILL ANALYSIS

ASSIGNMENT DATE 1/28/77

UNASSIGNED

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Fish and Game	Elíason	HB 119

DEPARTMENT POSITION

Oppose

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
Not Available		James W. Brooks	2/3/77

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☒ POSITION APPROVED ☐ POSITION DISAPPROVED

BY: DATE: 2-25

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING)

(2) a. ORGANIZATIONAL SUPPORT FOR BILL	(2) b. ORGANIZATIONAL OPPOSITION TO BILL

(3) PROGRAM EFFECTS OF BILL The use of drums or reels in the operation of purse seines will increase the fishing power and efficiency of vessels so equipped. The extent of the increased fishing power is not accurately known, estimates range from slight up to 100%. Efficiency may also result from smaller crews required to operate the gear. Two potentially serious adverse effects would be (1) management problems in controlling the fish catching ability of a fleet equipped with drums unless the vessel numbers were reduced through the limited entry program; and (2) competitive unfairness between drum seine vessels and those with conventional power blocks. If some vessels changed to drums, all would have to in an effort to remain competitive. Such change would be expensive. Presently, we have enough fishing power to harvest all salmon that can reasonable be expected to be available.

(4) FISCAL IMPACT: ☐ NONE ☐ FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

(6) COMMENTS:

On balance, we presently feel that the problems and risks of legalizing drums and reels for purse seine vessels outweigh the benefits. Nevertheless, this is a decision that the fishermen themselves should have a part in making, which will undoubtedly happen through the legislative process.

HB

121

Cost Estimates for Application Assistance To Individuals Made Eligible to Apply for Entry Permits Under the Alaska Supreme Court Decision in ISAKSON vs RICKEY

Prepared at the request of the House Resources Committee for its use in considering HB 121

Submitted by the Commercial Fisheries Entry Commission

February 17, 1977

STATE OF ALASKA
COMMERCIAL FISHERIES ENTRY COMMISSION

JAY S. HAMMOND, GOVERNOR

POUCH KB – JUNEAU 99801

February 17, 1977

The Honorable Alvin Osterback
Chairman
House Resources Committee
Room 118 Capital Bldg.
Juneau, Alaska 99811

Dear Representative Osterback:

Following your Committee's request on February 11, 1977, the Commercial Fisheries Entry Commission has prepared a total cost estimate for providing statewide application assistance to individuals made eligible to apply for entry permits under the Alaska Supreme Court decision in Isakson vs Rickey. Please note that much of the accompanying material is based on verbal cost estimates prepared over a short period of time by organizations willing to participate in this program.

The following points should also be considered:

1) Contract negotiation expenses of $630 are based on prompt action to get the assistance program moving as soon as possible. It is probable that all contracts could be negotiated by telephone and mail but this would require significantly more time.

2) The $4,000 cost estimate for advertising includes newspaper publication of a list of eligible applicants who have not applied, radio announcements if public service time is not available or inadequate, and other "outreach" that may be necessary. Newspaper ads printing the names of potential applicants for the AYK salmon fisheries in 1976 cost over $800 per publication. The actual cost for advertising will be contingent to a high degree on the applicant response as the application deadline approaches.

3) The actual cost for the Commission's employment of a temporary worker to process applications and monitor contract performance will fluctuate as a function of the number of applications received.

4) Commission cost estimates for training representatives and providing direct assistance to the people of Cook Inlet and Prince William Sound have attempted to allow for the contingencies of bad weather, travel delays and unusually extended assistance sessions.

The Commission is ready to develop and present any other information which the Committee may require.

Sincerely,

Allan Adasiak
Commissioner

ISAKSON APPLICATION ASSISTANCE

$ 630 - Commission expenses to negotiate contracts

$26,698 - Contractual agreement for application assistance:

Southeastern	- $2,740
Yakutat	- $ 208
Kodiak	- $2,000
Peninsula	- $6,000
Bristol Bay	- $9,750
Yukon-Kuskokwim	- $6,000

$ 900 - Commission expenses to conduct training sessions.

$ 2,000 - Commission expenses to provide application assistance:

Prince William Sound	- $ 500
Cook Inlet	- $1,500

$ 4,000 - Commission expenses to advertise application period.

$ 500 - Commission expenses for long distance telephone calls.

$ 300 - Commission expenses for computer time to monitor assistance programs.

$ 3,000 - Commission expense for hiring one temporary employee to process applications and clerical monitoring of assistance program.

$38,028 - TOTAL

CONTRACT NEGOTIATIONS

Schedule		Travel	Per Diem
Day 1 -	Fly Juneau to Anchorage	$79.14	
	Fly Anchorage to Dillingham	$62.39	
	(overnight Dillingham)		$49
Day 2 -	Fly Dillingham to Anchorage	$62.39	
	Fly Anchorage to Bethel	$70.87	
	(overnight Bethel)		$51
Day 3 -	Fly Bethel to Anchorage	$70.87	
	(overnight Anchorage)		$50
Day 4 -	Fly Anchorage to Juneau	$79.14	
	(arrive 1:15 pm)		$25
		$424.90	+ $175

= $599.80

ground transportation + 30.00

$629.80

CONTRACT EXPENSE ESTIMATES

Southeastern - SEACAP
P.O. Box 449
Juneau, Alaska 99802
Mr. Bill Marsh - 586-1930

All villages and towns except the Juneau vicinity. Estimated cost is $2740.

Yakutat - Cornelia Howard 784-3356(home)
P.O. Box 196 784-3257(office)
Yakutat, Alaska 99689

52 people @ $4 each = $208.

Kodiak - Kodiak Area Community Development Corp.
P.O. Box 571
Kodiak, Alaska 99615 486-3296

Wayne Marshall - he will cover the entire island for a maximum of $2,000.

Peninsula - Aleut League
833 Gambell 278-3567
Anchorage, Alaska 99501
Mrs. Mary Skaflestad

Maximum estimate is $6,000.

Bristol Bay - Bristol Bay Native Association
Dillingham, Alaska 99576
Mr. Ted Angasan 842-5257

1 person @ $2,500 + 3 people for 25 days @ $30/day = $2250, + travel - $5,000 = $9750.

Yukon Kuskokwim - Mrs. Betty Hickling
Office of the Governor
Bethel, Alaska 99559
543-2286(office), 543-2184(home)

Estimated maximum for traveling to each village and hiring an assistant is $6,000.

TRAINING SESSIONS

Schedule		Travel	Per Diem
Day 1 -	Fly Juneau to Anchorage	$79.14	
	Fly Anchorage to Dillingham	$62.39	
	(overnight Dillingham)		$49
Day 2 -	(overnight Dillingham)		$49
Day 3 -	Fly Dillingham to Anchorage	$62.39	
	(overnight Anchorage)		$50
Day 4 -	Fly Anchorage to Bethel	$70.87	
	(overnight Bethel)		$51
Day 5 -	(overnight Bethel)		$51
Day 6 -	Fly Bethel to Anchorage	$70.87	
	Fly Anchorage to Kodiak	$45.44	
	(overnight Kodiak)		$54
Day 7 -	Fly Kodiak to Anchorage	$45.44	
	Fly Anchorage to Juneau	$79.14	
	(arrive 8:50 pm)		$25
		$515.68 +	$329
		= $844.68	
	ground transportation	+ 50.00	
		$894.68	

DIRECT ASSISTANCE BY COMMISSION

Cook Inlet

ACTIVITY	TRAVEL	PER DIEM
Day 1 - Fly Juneau to Anchorage	$79.14	
(overnight Anchorage)		$50
Day 2 - (overnight Anchorage)		$50
Day 3 - Drive Anc-Eagle River-Chugiak-Palmer-Wasilla-Willow-Anchorage	$72.60	
(160 miles) (overnight Anchorage)		$50
Day 4 - Drive Anchorage-Girdwood-Moose Pass-Seward	$63.09	
(129 miles) (overnight Seward)		$54
Day 5 - Drive Seward-Soldotna-Kasilof-Kenai	$57.10	
(110 miles) (overnight Kenai)		$54
Day 6 - Drive Kenai-Ninilchik-Anchor Point-Clam Gulch-Cohoe-Homer	$54.00	
(100 miles) (overnight Homer)		$54
Day 7 - (overnight Homer)		$54
Day 8 - Drive Homer to Anchorage	$97.40	
(240 miles) (overnight Anchorage)		$50
Day 9 - Fly Anchorage to Juneau	$79.14	
(arrive 1:15 pm)		$25
miscellaneous cabfares	$30.00	
	$532.47 +	$441
subtotal	$973.47	
maximum estimate	$1,500.00	

Ground transportation costs are computed on the basis of $23 per day plus 21¢ per mile plus 10¢ per mile for gasoline.

DIRECT ASSISTANCE BY COMMISSION

Prince William Sound

ACTIVITY	TRAVEL		PER DIEM
Day 1 - Fly Juneau to Cordova (overnight Cordova)	$60.60		$58
Day 2 - (overnight Cordova)			$58
Day 3 - Fly Cordova to Valdez (overnight Valdez)	$41.00		$58
Day 4 - Fly Valdez to Cordova	$41.00		
Fly Cordova to Juneau	$60.60		
miscellaneous cabfares	$25.00		
	$228.00	+	$174
subtotal	$402.20		
maximum estimate	$500.00		

Yukon-Kuskokwim

Akiachak - 10
Akiak - 6
Alakanuk - 3
Atmautluak - 3
Bethel - 11
Chefornak - 6
Eek - 15
Emmonak - 1
Fortuna Lodge - 2
Goodnews Bay - 21
Hooper Bay 1
Kasigluk - 3
Kipnuk - 6
Kongiganak - 2
Kwethluk - 3
Kwigillingok - 3
Mt. Village - 3
Napakiak - 11
Napaskiak - 5
Nightmute - 4
Nunapitchuk - 4
Oscarville - 2
Platinum - 5
Quinhagak - 12
St. Marys - 2
Toksook Bay - 11
Tuntutuliak - 5
Tununak - 2

162 = TOTAL

28 villages

Cook Inlet

Anchorage - 136
Anchor Point - 14
Chugiak - 4
Clam Gulch - 8
Chitina - 2
Cohoe - 6
Eagle River - 3
English Bay - 1
Girdwood - 2
Halibut Cove - 2
Homer - 40
Kasilof - 10
Kenai - 66
Moose Pass - 1
N. Kenai - 1
Nimlchik - 14
Palmer 10
Port Graham - 9
Seldovia - 3
Seward - 9
Soldotna - 36
Spenard - 7
Tyonek - 5
Willow - 5

394 total

- 4 - villages, towns and cities

Bristol Bay

Aleknagik - 57
Chignik Lagoon - 3
Clarks Point - 39
Dillingham - 174
Egegik - 11
Ekwok - 24
Ilaimna - 5
Ivanof Bay - 1
King Salmon - 4
Kolganek - 34
Manokotak - 70
Naknek - 39
New Stuyahak - 38
Newhalen - 1
Nondalton - 7
Pedro Bay - 2
Pilot Point - 11
Port Heiden - 14
Portage Creek - 12
S. Naknek - 29
Stuyahak - 1
Togiak - 133
Twin Hills - 2
Ugashik - 3

714 - TOTAL

24 villages

Southeastern

Angoon - 4
Auke Bay - 4
Craig 14
Douglas - 17
Elfin Cove - 6
Gustavus - 1
Haines - 32
Hoonah - 13
Hydaburg - 10
Juneau - 108
Kake - 9
Kasaan - 1
Ketchikan - 88
Klawock - 8
Metlakatla - 20
Meyers Chuck - 4
Mt. Edgecumbe 4
Pelican - 10
Petersburg - 65
Point Baker - 16
Port Alexander - 2
Port Protection - 1
Sitka - 43
Skagway - 1
Tenakee Springs - 2
Ward Cove - 11
Wrangell - 39

533 - TOTAL

27 - towns

Peninsula - Aleutian

Atka - 1
Dutch Harbor - 1
King Cove - 9
Port Moller - 6
Sand Point - 7
Unalaska - 1
Belkofski - 2

27 - TOTAL

KODIAK

Kodiak-83
Larsen Bay-3
Old Harbor-6
Ouzinkie-5
Port Lions-2

99 TOTAL

Prince William Sound

Copper Center-5
Cordova-88
Icy Bay-1
Paxson-1
Tatitlek-4
Valdez-8

107 TOTAL

Miscellaneous

Ambler-1
Nome-2
Stebbins 1
Unalakleet-2
Clear-7
College-4
Delta Jct. 3
Fairbanks-5
Galena-1
Nenana-1
Tanana-1
Tok-1
Alexander Creek-1
Pleasant Harbor-1
Port Bailey-1
Port Williams-3
Sutton-1

36-TOTAL

BRISTOL BAY NATIVE ASSOCIATION
P. O. BOX 179
DILLINGHAM, ALASKA 99576
PHONE (907) 842-5322

January 14, 1977

Nels Anderson Jr.
Pouch V
Juneau, Alaska 99811

Dear Representative Anderson:

Last year the Limited Entry Commission signed a consent order to place persons in each village to assist applicants with Limited Entry Permit Applications. They subcontracted with BBNA to use six (6) CETA Liaison workers already enrolled and drawing salaries to perform this task. The commission contracted to provide $10,000 for travel costs and per diem and BBNA assigned limited entry assistance to their regular tasks as Field Representatives.

Legal action resulted in a new group of potential applicants, smaller in number but equally dispersed geographically as the initial group. Therefore, a need for similar assistance is required during the short period, January 15 to March 15, that will be allowed by the Commission for this new group to submit their applications.

BBNA is willing to assist again except that this year's CETA program does not have paid CETA Liaison as a part of the FY 77 program. Recruitment of new group of 6 Liaison workers, enrollment, certification, and addition to payroll would take too long, considering also time to negotiate a contract, conduct a training session, etc. Mounting a new program usually requires two months for our small staff with present workload of starting up a delayed CETA program already planned.

We propose to use 7 existing CETA village administrators in Manokotak, Togiak, Aleknagik, New Stuyahok, Pedro Bay and Chignik Lake to assist those applicants in their own villages and appeal to their village council to allow them time away from their village duties to contact other potential applicants in other neighboring villages.

Two more field representatives could be quickly recruited, enrolled, trained, paid salaries under our CETA Work Experience funds and assigned to cover villages missed because village councils could not afford the released time of their village administrators and because of the heavy scheduling of travel necessary due to the short application period.

A former CETA Liaison, Jeff Moxie, now paid under an CETA OJT contract to Legal Services has volunteered to supervise and coordinate the Limited Entry Application Assistance project, thus taking the workload of the CETA Administration.

Costs:

Estimated travel (29 villages) from last years budget reducing the number of trips to Dillingham to 12 round trips:	$4310.00
Estimated Per Diem $20.00 @ day x 30 working days x 9 workers	5400.00
TOTAL	$9710.00
In-kind wages & benefits, $927 x 1 1/2 mos. x 9	$12,515.00

Very Truly Yours,

BRISTOL BAY NATIVE ASSOCIATION

Freeman A. Roberts
Acting Executive Director

FAR/ldr

cc: Jeff Comfort, Alaska Legal Services
Office Files

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
P. O. BOX 191
DILLINGHAM, ALASKA 99576
TELEPHONE 842-3553

January 14, 1977

Commissioners
Commercial Fisheries Entry Commission
Pouch KB
Juneau, Alaska 99811

Dear Commissioners:

I have reviewed the new application form and instruction booklet to be used for entry permit applications under the Isakson decision. While the new forms are somewhat less complicated and shorter, it is my opinion that the application forms are still too sophisticated and complex for the rural village people to complete without assistance.

As you know, it was the complex nature of the original applications which brought about the Cosuk et al v. Rickey action. While I am not suggesting a similar action at this time, I do believe that some outreach into the bush is absolutely necessary.

As a result of the Cosuk settlement agreement, the Bristol Bay Native Association (BBNA) contracted with the Commission to provide outreach to the 29 villages in the Bristol Bay area. Had no such contract agreement existed, a great many rural fishermen would have been precluded from receiving entry permits, especially in light of the Commission's strong adherence to closing dates for applications. The major reason would have been that the people simply did not know how to fill out the forms.

Even despite the BBNA bush assistance, this office still has approximately 25 to 30 cases where eligible applicants failed to apply during the original application period. These people are forever barred from receiving free entry permits unless they receive some type of legislative or judicial relief. I foresee a far greater number of eligible fishermen in this same situation under the present application period if no bush outreach operations are performed.

Accordingly, I request that contract monies again be made available. The Bristol Bay Native Association upon request

will submit an appropriate proposal.

Along the same lines, I would like to state my objections to the apparent policy of having all first time 1973 or 1974 gear license holders apply during the new application period, even those applicants who timely filed applications during the original application period but were rejected because of A.S. 16.43.260(a), subsequently declared unconstitutional by Isakson. The Commission already has complete files on these individuals and need only check their records or request proof of 1973 or 1974 gear license holding from these individuals. Why do these applicants need to assume the burden of completing the entire application again?

To summarize, I respectfully request a waiver of the submission of applications for those fishermen who applied during the original application period yet were denied because of A.S. 16.43.260(a). Further, I request an outreach program be initiated as soon as possible to assist the village people of the Bristol Bay Region with their applications.

Thank you and I await your considered reply.

Sincerely yours,

ALASKA LEGAL SERVICES CORP.

Geoff Comfort

Geoff Comfort
Legal Assistant

GC:ilk

cc: Chancy Croft

Nels,Anderson, Jr., Dillingham, Ak.

Matthew Jamin, Kodiak, Alaska

Committee Substitute

Introduced: 1/26/77
Referred: Resources and Finance

IN THE HOUSE BY GUY

CS HOUSE BILL NO. 121

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Commercial Fisheries Entry Commission; and providing for an effective date."

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

* Section 1. The sum of ~~$21,000~~ $38,000 is appropriated from the general fund to the Commercial Fisheries Entry Commission for the purpose of providing the ~~necessary funds for [illegible] for the~~ limited entry application assistance ~~project assistance for the period January 15, 1977 to March 15, 1977~~.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

"drop line 13"

add after "assistance" on line 12

TO Those persons made eligible to apply for entry permits under the Alaska Supreme Court decision in Isakson v. Rickey.

Introduced: 1/26/77
Referred: Resources and Finance

IN THE HOUSE BY GUY

HOUSE BILL NO. 121

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Commercial Fisheries Entry Commission; and providing for an effective date."

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

* Section 1. The sum of ~~$89,225~~ $38,000 is appropriated from the general fund to the Commercial Fisheries Entry Commission for the purpose of providing the ~~necessary funds for~~ contracting ~~for nine~~ limited entry application assistance project ~~assistants for the period January 15, 1977 to March 15, 1977~~ to those persons made eligible to apply for entry permits under the Alaska Supreme Court decision in Isakson v. Rickey.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

RESIDENT

OVERALL TOTAL- 2123

NONRESIDENTS - 731

Bristol Bay Native Association

Aleknagik - 57
Clarks Point - 39
Dillingham - 174
Egegik - 11
Ekwok - 24
Iliamna - 5
King Salmon - 4
Levelock - 4
Manokotak - 70
Naknek - 39
New Stuyahok - 38
Newhalen - 1
Nightmute - 1
Nondalton - 7
Pedro Bay - 2
Portage Creek - 12
S. Naknek - 29
Stuyahok - 1
Togiak - 133
Twin Hills - 2
Ugashik - 3

659 - TOTAL
(21 villages)

CALISTA

Akiachak - 10
Akiak - 6
Alakanuk - 3
Atmautluak - 3
Bethel - 11
Chefornak - 6
Eek - 15
Emmonak - 1
Fortuna Ledge - 2
Goodnews Bay - 21
Hooper Bay - 1
Koliganek - 2
Kasigluk - 3
Kipnuk - 6
Koliganek - 32
Kongiganak - 2
Kwethluk - 3
Kwigillinok - 3
Mt. Village - 3
Napakiak - 11
Napaskiak - 5
Nunapitchuk - 4
Oscarville - 2
Pilot Point - 11
Platinum - 5
Quinhagak - 12
St. Marys - 2
Tooksook Bay - 11
Tuntutuliak - 5
Tununak - 2

203 - TOTAL
(30 villages)

SOUTHEASTERN

Angoon - 4
Auke Bay - 4
Craig - 14
Douglas - 17
Elfin Cove - 6
Gustavus - 1
Haines - 32
Hoonah - 13
Hydaburg - 10
Juneau - 108
Kake - 9
Kasaian - 1
Ketchikan - 88
Klawock - 8
Metlakatla - 20
Meyers Chuck - 4
Mt. Edgecumbe - 4
Pelican - 10
Petersburg - 65
Point Baker - 16
Port Alexander - 2
Port Protection - 1
Sitka - 43
Skagway - 1
Tenakee Springs - 2
Ward Cove - 11
Wrangell - 39
Yakutat - 52

579 - TOTAL

PENINSULA

Atka - 1
Chignik Lagoon - 3
Dutch Harbor - 1
King Cove - 9
Port Heiden - 4
Port Moller - 6
Sand Point - 7
Unalaska - 1
Belkofski - 2

44 - TOTAL

COOK INLET

Anchorage - 136
Anchor Point - 14
Chugak - 4
Clam Gulch - 8
Chitina - 2
Cohoe - 6
Eagle River - 3
English Bay - 1
Girdwood - 2
Halibut Cove - 2
Homer - 40
Kasilof - 10
Kenai - 66
N. Kenai - 1
Nimichik - 14
Palmer - 10
Port Graham - 9
Seldovia - 3
Seward - 9
Soldotna - 36
Spenard - 7
Tyonek - 5
Wilow - 5

393 - TOTAL

NORTON SOUND

Nome - 2
Stebbins - 1
Unalakleet - 2

5 - TOTAL

KOTZEBUE

Ambler - 1

1 - TOTAL

PRINCE WILLIAM SOUND

Copper Center - 5
Cordova - 88
Icy Bay - 1
Paxson - 1
Tatitlek - 4
Valdez - 8

107 - TOTAL

KODIAK

Kodiak - 83
Larsen Bay - 3
Old Harbor - 6
Ouzinkie - 5
Port Lions - 2

99 - TOTAL

TANANA CHIEFS

Clear - 7
College - 4
Delta Jct - 3
Fairbanks - 5
Galena - 1
Nenana - 1
Tanana - 2
Tok - 1

24 - TOTAL

Miscellaneous

Alexander Creek - 1
Ivanof Bay - 1
Moose Bay - 1
Pleasant Harbor - 1
Port Bailey - 1
Port Williams - 3
Sutton - 1

9 - TOTAL

HB

137

A REVIEW OF COMPARATIVE OIL TOXICITY AND COMPARATIVE ANIMAL SENSITIVITY

Stanley D. Rice, Jeffrey W. Short, and John F. Karinen

Northwest and Alaska Fisheries Center Auke Bay Laboratory
National Marine Fisheries Service, NOAA
P.O. Box 155, Auke Bay, AK 99821

INTRODUCTION

Laboratory bioassays have been used to describe or quantitate the ability of crude and refined oils to kill marine life. The principal objective of earlier studies was to estimate oil concentrations that were definitely lethal to marine animals, and in some cases there have been attempts to predict environmental effects on the basis of these studies. More recently, two objectives of laboratory toxicity testing have emerged. First, acute toxicity studies have been used to determine and compare the toxicities of different crude and refined oils to marine life, and the toxicities of individual components of oils. In these studies, the quantity of oil or oil component necessary to kill 50% of the standard test species exposed under a constant set of conditions (median lethal concentration, LC50) is equated to the toxicity of the oil or oil component. Secondly, acute toxicity data have been used to determine and compare the sensitivities of different species or the different life stages of a given species. The goal here has been to identify species or life stages that are especially sensitive or vulnerable to oil. Here the LC50 has been used as an index of species sensitivity.

There has been a wide variety of results from these studies, and some apparent contradictions, mainly because of the absence of standard exposure and analytical methods but also because of difficulties involving quantitation of the oil used and its instability in the test waters. The amount of oil used to prepare a test solution is invariably much more than the amount of oil that enters into the test water and the composition of oil in the test water is invariably different from the composition of the parent oil. The composition and amount of oil that enters the water column is a function of many factors, such as mixing energy and duration, temperature, and salinity. Once in the water, oil components are subject to evaporation and microbial oxidation, which can appreciably alter the composition and concentration of oil constituents with time, even at low temperatures. Analytical methods for measuring the amount of oil in the test water have only recently been widely available, and all of these methods are less than ideal.

The scope of this review is limited to studies dealing with the ability of crude and refined oils to kill marine animals. Emphasis is given to the more recent quantitative studies that were not available to earlier reviewers (Evans and Rice 1973; Moore and Dryer 1974; National Academy of Science 1975). This review covers (1) the behavior of oil in water; (2) the methodology problems associated with bioassays; (3) the comparative toxicity of oil-water mixtures, oils, and components of oils; and (4) the comparative sensitivity of different life stages and species.

BEHAVIOR OF OIL IN WATER

Bioassays involving crude or refined oils are fundamentally different from bioassays involving other substances (such as heavy metals) in one major respect. Oil bioassays attempt to evaluate the effects of a mixture of many different toxic compounds together rather than a single pure compound. There is a wide spectrum of physical and biological properties associated with these various compounds which affects the rate and amount of these compounds transported into water. Once in the water, the persistence of some of the toxic compounds in oil is influenced by a variety of processes such as biodegradation, evaporation, etc.

A basic knowledge of physical processes that affect both the transport of oil into an aqueous phase and the persistence of oil transported is essential to evaluate results of bioassay tests. In this section, we discuss some of the factors that transport oil into and out of the water column. All of these processes occur simultaneously, and the relative

importance of these processes varies from one compound or class of compound to another. Because of the complexities involved, simple bioassay methods do not work well for investigating toxic effects of oil.

Factors that Affect the Quantity of Oil Transported into Water

Oils can become associated with an aqueous phase in a variety of different ways, such as emulsion, dispersion, or accommodation (Peake and Hodgson 1966), or some of the constituent compounds of an oil may dissolve, forming a true solution. The solubility of oil compounds in water varies considerably with the class of compound and is an important factor that determines the toxicity of oil-water solutions. Some hetero compounds such as pyridine are completely miscible with water. Benzene is the most soluble aromatic hydrocarbon at about 1,800 ppm in water. The solubility of other aromatic hydrocarbons decreases with increasing degree of alkyl substitution and number of aromatic rings. Aliphatic hydrocarbons are among the least soluble hydrocarbons, with solubility decreasing sharply with increasing carbon number (McAuliffe 1966, 69).

The amount of the soluble fraction of oil that enters the water phase is mainly determined by mixing energy, mixing duration, and the viscosity of the oil. Turbulence (or mixing energy) was found to have a pronounced effect on the amount of both particulate and sub-particulate oil going into the water phase (Gordon et al 1973). In similar studies at our laboratory we have been unable to detect concentrations of 10 ppb in water 1 cm beneath a slick that is gently layered on the water surface (Taylor and Karinen, This symposium). Gentle mixing of oil in seawater for 20 hr will generate water-soluble fractions with oil concentrations in seawater from about 1 to 10 ppm (Anderson et al 1974, Rice et al 1976a). Violent mixing can produce oil concentrations in seawater in the hundreds of parts per million, with much of the oil present as dispersed droplets.

The amount of time that oil and water are mixed is as important as mixing energy in determining the quantity of oil that enters the water phase. Using gentle mixing, the amount of oil that enters the water phase steadily increases for over 30 hr (Gordon et al 1973, Anderson et al 1974, Percy and Mullin 1975, Rice et al 1976a).

The viscosity of the oil also affects the amount of oil that enters the water phase, because more mixing energy is required to mix thick, viscous crude oil. We have observed that the relatively viscous Prudhoe Bay crude oil yields WSF's that are about half the concentration of those from Cook Inlet crude oil when mixed under identical conditions (Rice et al 1976a).

There are several other less well-studied factors that affect the amount of oil entering the water phase. There is evidence that polar hydrocarbon derivatives are generated from oil by photo-oxidation (Lysyj and Russell 1974). These polar hydrocarbons tend to dissolve into solution from an oil slick, which raises the total concentration of oil-derived hydrocarbons with time. In addition, pH (Kauss et al 1973) and salinity (Rice et al 1975) affect the amount of oil entering the water phase.

Changes in temperature influence the transport of oil into water because changes in temperature change the viscosity of the oil, the solubility of oil components, and the stability of emulsified or suspended oil. The viscosity of oil increases as temperature decreases, thus at low temperatures more mixing energy or time is required to transport oil into the aqueous phase. As temperature decreases, the solubility of the non-volatile oil components decreases, but the solubility of the volatile components increases. Finally, emulsions and suspensions are more stable at lower temperatures. These conflicting effects make it difficult to predict the overall effect of temperature on the amount of oil transported into the aqueous phase.

Factors Affecting the Composition of Oil in Water

The composition of oil transported into the aqueous phase is also strongly dependent on compound solubilities, mixing energy, mixing duration, and oil viscosity. The composition of oil in water may or may not be similar to the composition of the parent oil, depending on how the oil is associated with the water. When oil is mixed violently with water, many dispersed droplets having a composition similar to that of the parent oil are formed. When oil is mixed slowly, the bulk of the hydrocarbons transported into water is composed of the more soluble hydrocarbons, unlike the composition of the parent oil. For example, Bean et al (1974) found water-soluble fractions to have compositions quite unlike the parent oil. They found increases in IR absorption at 3,000 to 3,100 cm^{-1} for WSF's, indicating significant increases in the relative concentration of aromatic hydrocarbons in the WSF.

The AEF is the ratio of the concentration of aromatic compounds to n-paraffins in the oil-water mixture, divided by the ratio of the concentration of aromatic compounds to the n-paraffins in the parent oil. A dispersion from a turbulent mix will result in an AEF of 1-3, indicating that the composition of oil in water is about the same as the parent oil. In contrast, the AEF will be higher in oil-water solutions prepared with less turbulence. Aromatic enrichment factors of 10-125 and similar magnitude have been reported for WSF's prepared with slow, gentle mixing of Kuwait, Prudhoe Bay, and Cook Inlet crude oils (Anderson et al 1974, Short et al 1975, Rice et al 1976a).

In addition to solubility, mixing energy, mixing duration, and oil viscosity, there are undoubtedly other factors that affect the compositon of oil in water. For example, the solubility of many compounds is influenced by pH (Kauss et al 1973), salinity, and temperature. Removal of selected hydrocarbons from solution by biodegradation, evaporation, photochemical oxidation, etc. will change the compositon of oil in water.

The fact that the amount and composition of oil that is transported into distilled water or seawater is strongly dependent on the method used to prepare the oil-water mixture, emphasizes the need for analytically determining the amount of oil actually transported into the aqueous phase. There have been many studies of static bioassays that report only the volume of oil used to prepare the oil-water test mixture. The concentrations of oil that the test species were actually exposed to in these studies are almost completely unrelated to the amount of oil used to prepare the test solutions, so that these studies are of limited value.

Factors Affecting the Persistence of Oil in Water

After the oil has been transported into the water, several factors cause hydrocarbons to be lost, resulting in changes in both concentration and composition of the oil solution or dispersion. Cheatham et al (In prep.) demonstrated that the losses of total aromatics from WSF's of crude oil were significant, and that the rate of loss was less at low temperatures (Fig. 1).

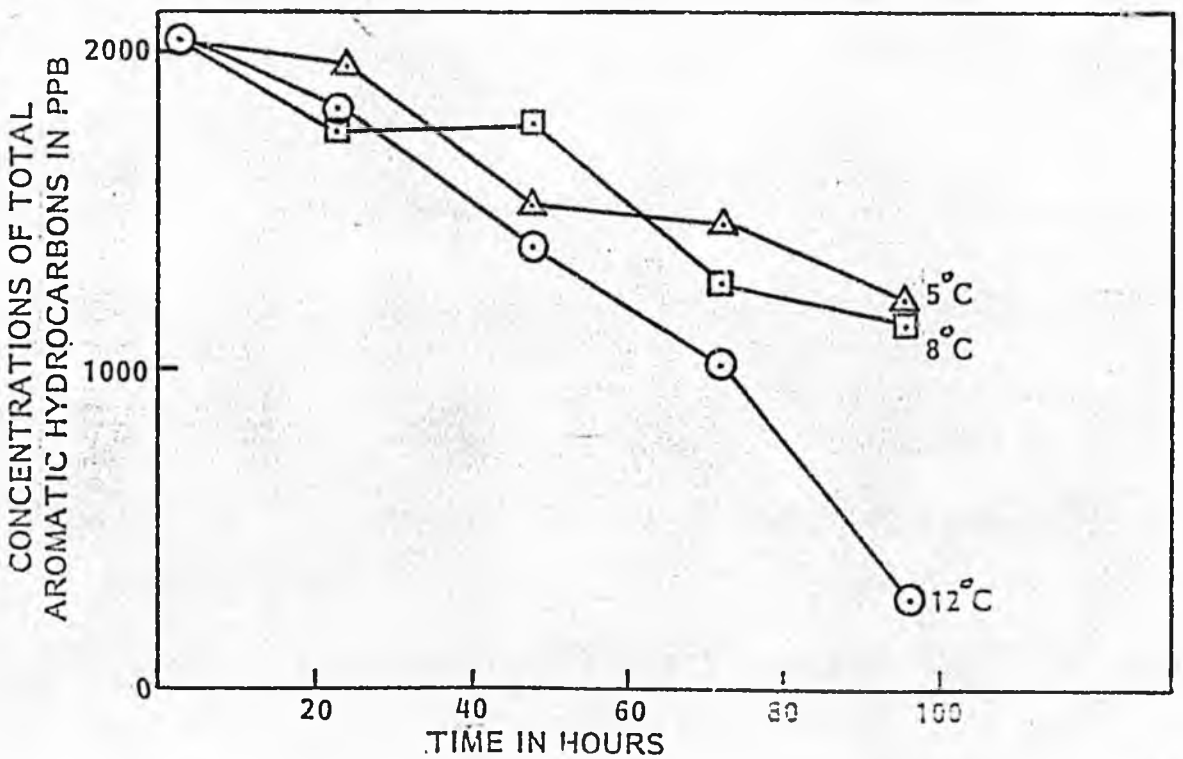

Fig. 1. Concentration of total aromatic hydrocarbons from water-soluble fractions of Cook Inlet crude oil measured by gas chromatography at 24-hr intervals. Solutions were non-aerated, and held at either 5°, 8°, or 12° C (from Cheatham et al In press).

Both paraffinic and aromatic hydrocarbons are susceptible to microbial oxidation, although several studies (Kator et al 1971) have indicated that paraffins are oxidized by microbes more easily than aromatic hydrocarbons. Further, dinuclear aromatic hydrocarbons are lost from solutions primarily by biodegradation, while mononuclear aromatics are lost primarily by evaporation; both processes occur at faster rates at higher temperatures (Cheatham et al In prep.).

Chemical and photo-oxidation can also change the concentration and composition of oil in water. Aromatic hydrocarbons in particular are susceptible to photo-oxidation. Finally, significant quantities of oil can be separated from the water when dispersed droplets coalesce into larger droplets and form a layer of oil at the surface.

METHODOLOGY PROBLEMS ASSOCIATED WITH BIOASSAYS

Since oil-water solutions are so complex and difficult to work with, researchers have had to develop various modifications of standard bioassay methods. The following discusses the general problems encountered in oil toxicity testing, and specific problems associated with comparisons of oil toxicity.

Preparation of Oil-water Mixtures

Different investigators have used a wide range of methods to prepare oil-water mixtures. For example, mixing methods range from virtually no mixing (layering oil on top of water) to very turbulent mixing for prolonged periods. As noted previously, the mixing turbulence and duration strongly affects the amount and composition of oil entering the water phase. Direct comparisons between results of different investigators cannot be made when different mixing methods have been used.

Individual investigators have tended to justify their choice of mixing methods on the basis of analogy to probable environmental situations. This strikes us as a fundamentally faulty approach. Several different mixing regimes may occur in the environment, so that it is impractical to try to simulate all of them. Acute bioassays cannot provide more than a hazy idea of what is likely to occur in the environment, nor were they intended to do so.

Methods of Exposing Animals to Oil

There are numerous practical problems in oil toxicity tests that have led to a variety of specific exposure techniques. For example, sometimes the test animals are passed directly through a surface film of oil into the oil-water mixture, and sometimes the animals are added to oil-water dispersions or WSF's. Some investigators have aerated the oil-water mixtures, which will affect results since aeration accelerates the evaporation of the toxic light aromatics. Many different designs of exposure containers have been used because the requirements of various animals differ. For example, most intertidal animals have to be trapped in the exposure container to prevent them from crawling out (controls included).

Death versus Moribundity

Since animals have a variety of structures and activity levels, dead and moribund animals may be difficult to distinguish from live animals. Usually, the lack of visible motion is used to define death, but with some slow-moving animals, death may not be distinguishable until some necrosis occurs, and this requires extending the time of the observation period. Some animals depress their metabolism and respiratory activities when stressed, and will appear dead, but can recover when placed in clean water. On the other hand, delayed mortality (deaths occurring after the exposure period has terminated), may occur in some species, such as molluscs (Swedmark 1973).

Delayed mortality leads to the problem of identifying moribund animals in contrast to dead animals. Moribund animals are severely affected and destined to die, usually within a few days. Moribund animals will die a physiological death and are not to be confused with affected animals that can live but would be "ecologically dead" because of increased vulnerability to predation or environmental stresses. If moribund animals are counted as alive at the end of the exposure (e.g. 96 hr), the calculated median lethal concentrations will be high, implying a level of tolerance that is erroneous. Crustacean larvae have been observed to be particularly slow in dying, and will exist in a moribund state for up to several days before the larvae become necrotic (Brodersen et al In press).

Each species that is tested must be observed carefully and with attention to its biology. Although there can be no universal guidelines for observing all animals in toxicity tests, post-exposure observations should be made to determine if affected animals are moribund or if they will recover.

Effects of Temperature on Oil Toxicity Tests

Temperature can affect the results of oil toxicity tests in a complex manner. Percy and Mullin (1975) found that the amphipod *Onisimus affinis* was consistently more sensitive to oil when exposed at 8°C than at 0°C, but that oil-water solutions prepared at 0°C were consistently more toxic than solutions prepared at 22°C. Korn et al (In prep.) attempted bioassays at different temperatures with pink salmon fry and shrimp exposed to crude oil WSF's, naphthalene, and toluene a d found opposing results. Survival of pink salmon fry was decreased when exposed at low temperatures, whereas shrimp survival was decreased when exposed at higher temperatures. Temperature can affect toxicity measurements in two basic ways: (1) by affecting oil toxicity, and (2) by affecting animal sensitivity. Oil toxicity is increased at lower temperatures, since toxic aromatics persist longer at lower temperatures (Percy and Mullin 1975, Cheatham et al In prep.). Animal sensitivities will be affected by changes in temperature since rates of hydrocarbon uptake, metabolism, and excretion will be altered. Because the effects of temperature on oil toxicity and animal sensitivity may oppose each other, it is conceivable that the order of potency of different oils could vary with temperature. Indeed, Ottway (1971) found that the relative toxicities of 10 different crude oils changed in a complicated way between 4°C and 26°C.

Chemical Analysis

Until the 1970's, comparison of results between experimenters has been especially difficult because most experimenters have not measured the concentrations of oil present in their test solutions. In these cases, results have usually been reported as the volume of oil used to prepare the test solution. Reporting oil concentrations as the "volume added" will underestimate the toxicity of oil, because most of the oil exists as a separate phase above the water phase. As previously discussed, the amount of oil that actually enters the water phase depends strongly on the method of mixing, and the volume of oil used to prepare the test solution is an inadequate measure of the amount of oil actually in the test solution.

Several chemical methods have recently been used to determine the concentration of oil in the water phase. Infrared spectrophotometry (Anderson et al 1974, Bean et al 1974, Rice et al 1975, 1976a, 1976b), ultraviolet spectrophotometry (Brenniman et al 1976, Rice et al 1976a, Caldwell et al This symposium), fluorescence spectroscopy (Gordon et al 1973, Percy and Mullin 1975, Wells and Sprague 1976), and gas chromatography (Bean et al 1974, Benville and Korn In press, Cheatham et al In prep., Korn et al In prep.) have been used as analytical methods. These analytical methods all have the advantage of providing a measure of the amount of oil actually in the test water, as opposed to the amount of oil used to prepare the test water. Each of these analytical methods also has different practical advantages.

The infrared (IR) method of Gruenfeld (1973) is relatively simple, but is much more sensitive to paraffinic hydrocarbons than to aromatics. In addition, standards for this method are necessarily arbitrary because the composition of oil in the water phase is not the same as the parent oil. Although the IR method quantitates paraffins that presumably are not toxic, their concentrations are usually proportional to concentrations of toxic compounds.

Ultraviolet (UV) spectrophotometry and fluorescence spectroscopy are especially sensitive methods for detecting aromatic hydrocarbons, which are presumed to be the most toxic fraction of crude and fuel oils. However, the UV and fluorescence methods are completely insensitive to paraffinic hydrocarbons, and measure different aromatics with different sensitivities, making standards somewhat arbitrary.

Analysis by gas chromatography (GC) or high pressure liquid chromatography (HPLC) is more complicated than the UV and fluorescence methods, but it also provides more detailed results. Both GC and HPLC separate individual compounds from mixtures, can measure paraffins and aromatics with nearly equal sensitivity, and have standards that are not arbitrary. However, because most individual compounds are separated by these methods, the amount of data produced by a single analysis can be formidable. Analyses by GC and HPLC are relatively expensive since fewer samples can be analyzed per day.

Gas liquid chromatography (GLC) and high pressure liquid chromatography (HPLC) are probably the most appropriate analytical methods for oil toxicity investigations. Both GLC and HPLC are able to separate and measure the concentrations of individual aromatic hydrocarbons present in oil-water mixtures. As discussed later, there is general agreement that

aromatic hydrocarbons are responsible for most (if not all) of the toxicity of oil-water mixtures. Thus, using GLC or HPLC, one can attempt to correlate changes in the toxicity of oil-water mixtures with changes in chemical (i.e. aromatic) composition in order to assess the relative toxicity of each of the aromatics present (Bean et al 1974).

All of the previously described methods involve extraction of oil components into a low polarity solvent, such as hexane or methylene chloride. Since a low polarity solvent may not efficiently extract polar components of oil in the WSF, polar compounds may not be measured effectively. These polar compounds may form a significant proportion of oil-derived material in the water phase, especially if the water has been in contact with oil in the presence of light for a prolonged period (Lysyj and Russell 1974). Detailed measurement of these polar compounds is a formidable analytical problem, and the contribution made by these polar derivatives to toxicity has not been evaluated.

Statistical Analysis

Statistical analysis of bioassay data is required for meaningful comparisons between tests. Unfortunately, only a few investigators have determined 95% fiducial intervals so that statistically significant differences could be determined.

Probit analysis (Finney 1976) is the most appropriate statistical method for analyzing bioassay data because (1) it provides an accurate determination of the concentration of oil necessary to kill 50% of the test animals (LC50, LD50, or TLm), (2) it provides a measure of how much the toxicity of oil increases with increasing oil concentration, and (3) 95% fiducial intervals for LC50's can be calculated.

Other methods for calculating LC50's have been used which do not require as much data as the probit method, but the certainty of the calculated LC50 is reduced. The most commonly used of these methods is that of Doudoroff et al (1951) where the percent mortality is plotted against the log of the oil concentration, and a line is fitted to the plot. The antilog of the oil concentration corresponding to 50% mortality is the estimate of the LC50. This method will work even when exposure to oil concentrations results in only zero and complete mortality. However, the accuracy of the method in such cases can be very poor, and there is no way to estimate confidence in the LC50. In addition, an underlying assumption of Duodoroff's method is that percent mortality is a linear function of the log of the oil concentration. A detailed plot of percent mortality versus the log of the oil concentration will usually yield a sigmoid curve, if enough observations are made at oil concentrations resulting in less than 100% mortality but more than zero mortality in the test animals.

A comparatively simple method that does not have the drawbacks of Doudoroff et al's (1951) method is that of Spearman and Kärber (Finney 1976). This method requires only that oil concentrations resulting in zero and 100% mortality in the test animals be known, although it also makes efficient use of data where some concentrations have some survivors. Confidence intervals can be calculated for LC50's determined by this method, and the applicability of the method is not affected by assumptions regarding the tolerance distribution of test animals.

Neither probit analysis nor the method of Spearman and Kärber determine variability in toxicity test results from any source other than the test organisms. Specifically, we have found that variation in the toxicity of water-soluble fractions or dispersions of a given crude or refined oil mixed under identical conditions significantly exceeds the variation expected from the test organisms. Therefore, in order to obtain statistically reliable data when other sources of variation are involved, such as different WSF preparations, a bioassay should be conducted on each WSF preparation and the LC50's analyzed using Student's t-test. This procedure would then include all sources of variation.

Specific Methodology Requirements Associated with Comparing Oil Toxicities or Animal Sensitivities

At least three specific methodology requirements must be met when comparing the toxicities of different oils or comparing the sensitivities of different species.

First, a reference toxicant is needed when comparing oil toxicities. Different investigators have compared oil toxicities, but the validity of comparing results without a reference toxicant is questionable when the tests are not conducted simultaneously with the same population of test animals under identical conditions. Use of a reference toxicant will permit valid comparisons by verifying that different sub-populations of animals are equivalent in sensitivity, or that minor modifications of procedures between different researchers are insignificant.

The toxicant DSS (dodecyl sodium sulfate), suggested as a standard reference toxicant by LaRoche et al (1970), has been used in some tests; however, it is evidently not a satisfactory standard for use over a wide range of temperatures. Rice et al (1976a) were unable to generate reliable data on DSS toxicity to some shrimp because a precipitate involving DSS forms readily above 30 ppm at 30 °/₀₀ salinity and temperatures less than 15°C. They concluded that DSS is a poor reference toxicant.

Although the bioassay method is appropriate for comparisons of toxicity, few investigators have used the same test species, exposure conditions, or appropriate reference toxicant. It is therefore impossible to directly compare results between investigators. However, conclusions made by each investigator are usually valid, and one can compare conclusions formed by different investigators.

The second requirement when comparing oil toxicities is a standard test species. Comparisons of toxicity differences between several oils require that the sub-populations of animals used in the tests be of equal sensitivity. This is presumably assured when the same test species is used, although "reference toxicant" tests will verify that the sensitivities of the sub-populations have not been affected by other factors, such as sex, health, etc. Several investigators have used more than one species, and found the relative toxicities of different oils (or different methods of mixing a given oil) are generally not significantly affected by the choice of test species. Anderson et al (1974) tested four different oils each mixed with water in two different ways (WSF's and dispersions), and determined the toxicity of each oil-water mixture to six different marine animal species. Within each mixing method, the order of toxicity was not significantly different for the six animals. Rice et al (1976a) conducted a similar study and found that the LC50's of the eight species studied were generally within the same order of magnitude regardless of the kind of oil or mixing method used. Percy and Mullin (1975) found that the order of potency of four different crude oils was different for each of the three marine invertebrates they tested. However, they did not determine the concentrations of oil in the doses they used to determine the toxicity of these oils, so that these results may be due to variation in potency between preparations of their test solutions. When different investigators use different species to compare oil toxicities, the relative toxicities of different oils can be compared, but absolute values from one study cannot be compared to values from another study unless the same species is used. For the purpose of comparing toxicities of different oils, the use of a standard test species is most desirable.

Third, accurate comparisons of sensitivities of different species require that oil concentrations remain stable during the exposure. However, in static tests the oil concentrations usually decline with time, since aeration, biodegradation, temperature, and other factors affect the persistence of petroleum hydrocarbons in seawater. Nevertheless, most toxicity studies to date have used static exposures rather than flowthrough exposures because static exposures are relatively easy and inexpensive, and the technology for flowthrough bioassays with oil has been complicated, costly, and slow to develop.

There are two reasons why declining oil concentrations during static exposure cause difficulties in comparing the sensitivities of different species. First, the effective exposure period is short, possibly only a few hours, depending on the rate the oil concentration declines. Consequently, estimates of toxic oil concentrations are likely to be high. Since the rate of decline is likely to vary between tests, the effective period of exposure is also likely to vary between static tests. Second, some species accumulate the toxicants at faster rates than others, and are likely to be the species that will die faster than others. Animals that slowly approach equilibrium with toxic solutions may not be as tolerant as they seem because lethal concentrations may decline to sublethal concentrations before the animals have achieved equilibrium. Sensitivities of fast- and slow-dying species can be compared if they are tested long enough in flowthrough exposures where the toxicant concentrations are held constant during exposure. The value of flowthrough tests depends on constant exposure to stable concentrations, which must be verified by chemical analyses.

COMPARATIVE TOXICITY OF OIL-WATER MIXTURES, OILS, AND COMPONENTS OF OILS

Historically, bioassays were developed to determine the biological potency of substances such as drugs and insecticides. For these purposes, the bioassay method requires that a standard set of exposure conditions be maintained and that standard test species be used whose sensitivity does not change between tests. If the standard species sensitivity does change between tests, then reference bioassays may be conducted with a standard reference toxicant to identify and correct for this change in sensitivity. If the above requirements are met, then the bioassay method will yield valid comparisons of toxicity. The bioassay method is thus appropriate for determining relative toxicity differences.

Toxicity Differences Between Water-soluble Fractions of Oil and Oil-water Dispersions

The toxicity of oil-water mixtures depends in part upon the way the oil is associated with the water. Experiments comparing the toxicity of water-soluble fractions and dispersions of oil suggest that the toxicity of an oil is due to the soluble compounds contained in that oil, and not due to compounds in dispersed droplets. The chemical composition of the droplets is probably very similar to that of the parent oil, except that the droplets probably contain slightly lower concentrations of soluble compounds because of losses of these compounds due to equilibration with the water. If oil dispersions are less than or equally as toxic as WSF's (which contain far fewer dispersed droplets of oil), the toxicity must be due to the soluble fractions of oil.

Oil dispersions are slightly less toxic than WSF's of a given oil when oil concentrations are analyzed by IR. Rice et al (1976a) tested five species with dispersions and WSF's of two crude oils and found that toxicities of dispersions were always less than, but within an order of magnitude of, the toxicities for corresponding WSF's. Anderson et al (1974) did not analytically determine oil concentrations in the doses they used to determine the toxicity of dispersions. However, they did provide data relating the amount of oil used to prepare a dispersion to the amount of oil found in a typical dispersion (as determined by IR). After calculating the amount of oil found in toxic dispersions, we estimate that the toxicity differences between the dispersions and WSF's studied by Anderson et al ranged from nil to about an order of magnitude, with the dispersions being consistently less toxic.

Dispersions and WSF's seem to be equally toxic when oil concentrations are measured by UV. Rice et al (1976a) compared toxicities of dispersions and WSF's of two crude oils to each of 6 test species. They found significant differences in only 4 of 12 cases when oil concentrations were determined by UV. In 3 of these 4 cases, the dispersions were slightly more toxic than the corresponding WSF. The lack of significant differences in toxicity suggests that the toxicity of oils is due to the water-soluble compounds.

In conclusion, all these results suggest that oil toxicity is due to chemical toxicity of soluble aromatics, rather than physical toxicity of dispersed droplets.

Toxicity Differences Between Different Oils

Toxicities vary between oils, which is to be expected because the concentration and composition of individual hydrocarbons within the oil vary. The refined oils are generally considered to be more toxic than crude oils, since smaller volumes of refined oils are needed to kill 50% of the test animals in a given length of time. The increased toxicity of refined oils, as measured on a volume added basis, is primarily caused by two factors. Refined oils often have higher concentrations of aromatic hydrocarbons, and refined oils are usually less viscous than crude oils thus requiring less mixing energy for toxic concentrations to be mixed into the water.

We believe that direct toxicity comparisons between different oils is a simplistic approach, because so many factors other than composition differences between oils can affect the observed results. We now know that the toxicity of a given oil is influenced by mixing method, temperature, salinity, etc.

We believe that any oil, whether crude or refined, is best considered as a source of toxic compounds. Based on a knowledge of the toxicity of all the compounds contained in an oil and the concentration of these compounds, one should be able to predict the toxicity of any oil-water mixture. (This may not be so formidable a task, since the solubility of most toxic compounds in oil is so low that they probably do not make significant contributions to toxicity.) With this approach, the toxicity of an oil would be evaluated in terms of (1) the concentrations of toxic compounds it contained, and (2) the physical characteristics of the oil (such as viscosity) that would promote the transfer of these toxic compounds into solution when a standard oil-water preparation method is used.

Comparative Toxicity of Different Oil Components

Although there is general agreement that aromatic hydrocarbons are responsible for the toxic effects of crude oils and refined products, the relative importance of various aromatic hydrocarbons to toxicity is not clearly defined. Therefore, there has been an increasing interest in determining the degree of contribution of individual aromatics to the toxicity of oil-water solutions.

There have been several studies on the toxicity of individual hydrocarbons (summarized in Table 1). Studies by Neff et al (1976), Benville and Korn (In press), and Caldwell et al

(This symposium) compare the toxicities of mono- and di-aromatic compounds to four marine species. Even though the species tested are quite different, and include tests with larvae, the following three results are quite consistent: mono-aromatics are the least toxic, acute toxicity increases with increasing molecular size until the 4- and 5-ring compounds are reached, and alkylation of the aromatic nucleus seems to increase the toxicity of the parent compound. Thus, in both the benzene and naphthalene series, toxicity increases with increasing degrees of alkylation. The toxicities reported for m-, o-, and p-xylene for shrimp, bass, and crab larvae suggest that the position of alkyl substitution on the aromatic ring may influence toxicity (Benville and Korn In press, Caldwell et al This symposium). The most toxic hydrocarbon evaluated by Neff et al (1976) was 1-methylphenanthrene. Considering the toxicity of the compounds they studied and the concentrations of these compounds in toxic WSF's, Neff et al (1976) concluded that much of the toxicity of most crude and refined oils was due to the mono- and dinuclear aromatics.

TABLE 1

Comparative toxicity of different aromatic hydrocarbons, expressed in 96-hr LC50's with concentrations in ppm. Asterisk (*) indicates that toxic concentrations were above solubility limits.

AROMATIC H.C.	96-hr LC50's in ppm					
	POLYCHAETE[1]	SHRIMP[2]	CRAB LARVAE[3]	SHRIMP[4]	BASS[5]	GOLDFISH[6]
Benzene	----	27	108	20	5.8-10.9	----
Toluene	----	9.5	28	4.3	7.3	22.8
Ethyl benzene	----	----	13	0.5	4.3	----
Tri-methyl benzene	----	5.4	5.1	----	----	12.5
Xylene	----	7.4	----	----	----	16.9
m-	----	----	12	3.7	9.2	----
o-	----	----	6	1.3	11.0	----
p-	----	----	----	2.0	2.0	----
Naphthalene	3.8	2.4	> 2			
Methyl naphthalene	----	1.1	1.6			
Di-methyl naphthalene	2.6	0.7	0.60			
Tri-methyl naphthalene	2	----	----			
Phenanthrene	0.6	----	----			
Methyl phenanthrene	0.3	----	----			
Fluorene	1	----	----			
Fluoranthrene	0.5	----	----			
Chrysene	*	----	----			
Benzo(a)pryene	*	----	----			
1,2,5,6-Dibenzanthracene	*	----	----			

[1] Neff et al (1976). *Neanthes arenaceodentata*
[2] Neff et al (1976). *Palaemonetes pugio*
[3] Caldwell et al (This symposium). *Cancer magister*, Stage I larvae
[4] Benville and Korn (In press). *Crago franciscorum*
[5] Benville and Korn (In press). *Morone saxatilis*
[6] Brannigan et al (1975). *Carassius auratus*

The solubility of individual aromatic hydrocarbons decreases with increasing methyl substitution and number of rings, and this is reflected in most WSF's (Caldwell et al This symposium). The concentrations of mono-aromatics, such as benzene, are usually greater in WSF's than naphthalene and other larger aromatics. Since the toxicity of aromatic hydrocarbons increases as the concentrations in the WSF decrease, it is difficult to identify which specific compounds are most responsible for the toxicity of WSF's. The toxicity of oil-water solutions is probably due to contributions from both the more soluble, less toxic mono-nuclear aromatics and the less soluble, more toxic dinuclear aromatics. The relative importance of the two classes will likely depend on several factors, such as their relative concentrations in the parent oil, temperature, mixing characteristics, etc.

Since the solubilities of the larger polynuclear aromatic hydrocarbons are so low, these compounds probably contribute little to the acute toxicity of oil-water solutions. Neff et al (1976) found several polynuclear aromatics that were not acutely toxic in four days at the maximum possible concentrations (solutions were 100% saturated). However, these

compounds may contribute to long-term damage if they accumulate to significant concentrations in the tissues after lengthy exposures.

Several investigators have given evidence suggesting that mono- and dinuclear aromatic hydrocarbons account for much of the toxicity of oil-water solutions, and there have been correlations of adverse effects with tissue concentrations of aromatic hydrocarbons. However, it is premature to conclude that the aromatic hydrocarbons are solely responsible for the acute toxicity of oil-water solutions. The presence and toxicity of polar hydrocarbon derivatives or polar oxidation products of oil hydrocarbons have generally been ignored, because they are more difficult to identify and measure.

COMPARATIVE SENSITIVITY OF DIFFERENT LIFE STAGES AND SPECIES

When assessing the potential impact of spilled oil, it is crucial to know if some species or life stages are more sensitive than others to oil toxicity. As previously discussed, comparisons of animal sensitivities to oil are most valid when tested with flowthrough exposures during which the oil concentrations remain constant. Unfortunately, most studies have used static exposures, in which the oil concentrations decline with time, and slow-dying animals may appear more tolerant than they actually are to four-day exposures. In spite of these limitations with static exposures, we attempt to compare sensitivities of different life stages and species to oil.

Comparing Sensitivities of Different Life Stages

Survival of a species is dependent on the survival of each developmental stage. In general, eggs are assumed to be more tolerant than other life stages to oil exposures because of the protection given by the surrounding chorion. In contrast, larvae have been assumed to be more sensitive to oil pollution, probably because of their high mortality in response to natural environmental stresses. In an earlier review, Moore and Dwyer (1974) concluded that larvae are approximately an order of magnitude more sensitive than adults to oil toxicity. Although their conclusions are consistent with general assumptions of larval sensitivity, support for their conclusions is based on literature where oil concentrations had to be "normalized" for comparative purposes.

Comparisons of results from early studies on the sensitivity of eggs to oil are severely limited since exposure concentrations are reported in quantities of oil added. The sensitivities of fish eggs and larvae of Black Sea turbot (Mironov 1967), herring eggs incubated under an oil film (Kühnhold 1970), and cod eggs incubated in the water-soluble fraction of crude oil (Kühnhold 1974) have been reported. In addition to mortality, effects on developmental rates and developmental abnormalities which would presumably cause death at a later stage have been observed. In more recent quantitative studies, Struhsaker et al (1974) found herring eggs to be more tolerant than larvae. Similarly, Rice et al (1975) found salmon eggs to be quite resistant to the crude oil WSF, and that sensitivity increased after hatching until yolk absorption was complete.

Some investigators have also attempted to document the sensitivity of larvae of various species to oil but the concentrations are given as "volume added" and comparisons are arbitrary. Crude oil concentrations as low as 1,000 ppm are reported to retard development of *Crassostrea* larvae (Renzoni 1975). Concentrations of 100 ppm of oil are fatal to larvae of lobster (Wells 1972), shrimp, and crab (Mironov 1968). In addition, 10 ppm or less produced a delayed mortality and resulted in marked changes in color and behavior in lobster larvae (Wells 1972). Chia (1973) exposed 14 species (5 phyla) of pelagic larvae to 0.5% diesel oil and found that larger larvae generally lived longer than smaller larvae. The large range in reported lethal concentrations (10 to 1,000 ppm) may reflect differences in the toxicities of crude oils or the sensitivities of species, but is more likely due to differences in preparation of the oil-water mixtures. As stated previously, the amount of oil in solution is particularly influenced by mixing energy and duration (Gordon et al 1973, Anderson et al 1974, Rice et al 1976a). All of the above studies on larvae were quantitated in terms of "volume of oil added" rather than by quantitative analytical measurements that allow comparisons.

Recent studies employing analytical measurement of oil concentrations in the test exposures have found the sensitivities of larvae and juveniles to vary considerably, with sensitivity depending on life stage and species (summarized in Table 2). Neff et al (1976) found larvae of grass shrimp to be more sensitive than adults, while post-larvae of brown shrimp were more resistant than early or late juveniles. They concluded that generalizations cannot be made about larvae versus adult sensitivity, and this is borne out by other studies. The early stages of a polychaete worm were found to be more resistant than later juvenile stages and adults to crude oil and No. 2 fuel oil (Rossi and Anderson 1976). Stage

I lobster larvae are more sensitive (4-day LC50 of 0.86 mg oil/liter) than stages III and IV (LC50 of 4.8 mg/liter) (Wells and Sprague 1976). Brodersen et al (In press) determined sensitivities of stage I larvae of four species of shrimp, two species of crab, and of six larval stages of coonstripe shrimp. Sensitivities differed considerably, but stage III and VI larvae of coonstripe shrimp were the most sensitive (4-day LC50's of 0.35 and 0.24 ppm). Brodersen et al concluded that the stage I larvae tested were all slightly more sensitive than adults (larvae were 1.2-4.9 times more sensitive). They concluded that larvae are slow to die, and that comparisons of sensitivities should be based on oil concentrations that cause moribundity rather than mortality during a four-day test.

The animals most sensitive to oil appear to be crustacean larvae but this may only be apparent because of test methodology differences, or because these larvae have been studied more than any other phylum. Brodersen et al (In press) report a 96-hr LC50 for moribundity of 0.24 ppm of crude oil for stage VI larvae of coonstripe shrimp; Wells and Sprague (1976) report an LC50 of 0.14 ppm of oil after exposing lobster larvae for 30 days; and Sanborn and Malins (1977) report an LC50 of less than 8-12 ppb of naphthalene after 36-hr exposures for larvae of spot shrimp and Dungeness crab. The test by Wells and Sprague was quite long (30 days) compared to most larval bioassays. The observations on shrimp larvae by Brodersen et al were of moribundity rather than death during the exposure. Although the observations of Wells and Sprague (1976) during the 30-day test with lobster were of death, they may be analogous to the previous observations on moribundity in shrimp larvae (Brodersen et al In press) since there was ample time during the 30-day tests for moribund lobster larvae to die. The tests by Sanborn and Malins (1976) were short in duration (36 hr) but were conducted with a pure and highly toxic compound under continuous-flow conditions.

TABLE 2

Comparison of larval sensitivities to crude oil and No. 2 fuel oil. The reported LC50's are from 96-hr static tests, except the 30-day test by Wells and Sprague, and the flowthrough, 36-hr tests by Sanborn and Malins.

		Range of LC50 (ppm)	
Study and Species	Stage	Crude oils	No. 2 fuel oil
Rossi and Anderson (1976)			
Polychaete	Juveniles	15-19.8	4-8.4
	Adults	12.5-17.6	2-4.2
Neff et al (1976)			
Grass shrimp	Larvae	--	1.2
3 sp. shrimp	Post larvae	--	1.4-6.6
3 sp. shrimp	Juveniles, adults	--	1.0-3.7
Wells and Sprague (1976)			
American lobster	Stage I-IV	0.8-4.9	--
	Stage I	0.14 (30-day LC50)	
Brodersen et al (In press)			
6 sp. shrimp and crab	Stage I	0.9-1.8	
Coonstripe shrimp	Stage I-VI	0.2-1.8	
Mecklenburg et al (This symposium)			
King crab	Stage I	2.0	
	Stage I molting	1.3	
Coonstripe shrimp	Stage I and II	4-7.9	
	Stage I molting	0.9	
Sanborn and Malins (1977)			
Spot shrimp	Stage I and V		Naphthalene < 12 ppb

Previous studies with crustacean larvae exposed to oil (Wells 1972, Katz 1973) have suggested that molting larvae were more sensitive, since mortalities often increased during molting. Mecklenburg et al (This symposium) confirmed that molting larvae of coonstripe shrimp and king crab were more sensitive than non-molting larvae. Molting larvae of coonstripe shrimp were about five times more sensitive to oil than non-molting larvae. Similarly, adult tanner crabs exposed to oil just prior to molting died during the molting process (Karinen and Rice 1974). Emery (1970) also found molting larvae of two crustaceans to be more sensitive to creosol than non-molting larvae. Emery suggested that tolerance is reduced during molting because of the toxicant-laden fluid that is taken up rapidly prior to molting to create enough hydrostatic pressure to split the exoskeleton. Since all molting crustaceans are probably more sensitive to oil exposure than non-molting crustaceans, comparison of sensitivities will be more valid if sensitivities are determined for crustaceans when they are all in the same period of the molt cycle, such as intermolt. However, isolating intermolt larvae for toxicity tests can be a problem, especially in warmer climates where larvae of some species molt more frequently and the intermolt periods are shorter.

Juveniles of non-crustaceans, such as polychaetes, are apparently more tolerant than adults to oil (Rossi and Anderson 1976). Polychaete juveniles grow by adding additional segments, and do not molt like crustaceans. Since there is no molting process, polychaete juveniles do not have a rapid uptake of fluid associated with growth. These differences in growth and sensitivity suggest that molting animals are more vulnerable to oil, probably because of increased permeability during the molting process.

At this time, generalizations about greater sensitivity to oil during early life stages cannot be made, since a general pattern has not emerged from the literature. More life stages from several groups need to be tested, with the bulk of the early literature being of little value. It seems likely that sensitive stages will be those that are already under a certain amount of natural stress. Larvae in general would seem to qualify, since they typically have a high natural mortality. If larvae are more sensitive, then species from a colder climate may be particularly vulnerable because of the relatively long period spent as developing larvae.

Although some questions remain about the relative sensitivity of larvae and adults exposed to oil, larvae are probably more vulnerable than adults. Larvae that are weakened by oil, though not killed outright, may become easy prey while adults so affected are afforded some protection by their greater size and their better-developed exoskeletons. Furthermore, some adults and juveniles will probably avoid contaminated water, since they can detect the oil and have the motor ability to avoid the area (Rice 1973). Larvae may lack both of these abilities. Lack of avoidance behavior has been observed in larvae of three species of marine fish (Kühnhold 1970) and in herring and crab larvae (Rice et al 1976a). The interactions in the environment are complex, and while sensitivities to oil can be extrapolated from the laboratory to the ecosystem, vulnerability and survival of larvae exposed to oil in the natural environment are another matter.

Comparing Sensitivities of Different Species

The sensitivities of several marine species have been tested in quantitative static or flowthrough tests (summarized in Table 3). There have been differences between the studies, such as the oil used, mixing techniques, analytical methods, temperatures, and exposure methods (static or flowthrough). In spite of these differences, the ranges of LC50's overlap considerably between most studies, suggesting that sensitivities of most animals are fairly similar.

The study by Rice et al (1976b) tested 27 species of marine fish and invertebrates, and permits the best comparisons of species sensitivities since methods, temperature, etc., were all similar. Fish and shrimp were usually among the more sensitive species tested, while intertidal animals were generally more tolerant. Intertidal animals are probably more tolerant to static exposures because they can temporarily insulate themselves from the exposures, at least until the concentrations in the static exposures have declined to sublethal levels. The intertidal limpets and chitons were more sensitive than the other intertidal animals, but this may have been due to damage occurring when they were collected (pried off the substrate).

The sensitivities of cold-water fish and shrimp (Rice et al 1976b, Korn et al In prep.) appear greater than sensitivities of similar species from warmer climates (Anderson et al 1974, Neff et al 1976). The differences in sensitivity are consistent, but are not large. Rice et al (1976b) speculate that the cold-water species may appear more sensitive because lower temperatures increase the persistence of toxic aromatic hydrocarbons, even though there are differences in oils and species between the studies. This speculation is compatible with other studies. Cheatham et al (In prep.) have shown that water-soluble fractions

at lower temperatures have increased persistence of aromatic hydrocarbons because of decreased losses from evaporation and biodegradation. Korn et al (In prep.) tested the effect of temperature on the toxicity of toluene, naphthalene, and the water-soluble fraction of crude oil to shrimp and fish. They found that with increasing temperature, toxicity increased for shrimp but decreased for fish. They concluded that temperature affects complex interactions in three ways: (1) the persistence of aromatic hydrocarbons is increased at lower temperatures, (2) temperature affects an animal's sensitivity by changing the rates of hydrocarbon uptake, metabolism, and excretion, and (3) temperature may act as a synergistic stress at cold or warm extremes.

TABLE 3

Comparison of adult sensitivities to crude oils and No. 2 fuel oil. All tests were static, except the flowthrough tests (FT) by Battelle. Most of the LC50's reported for the Battelle studies are estimates that have been calculated from Battelle's raw data.

Study and species tested	Temperature range (°C)	96-hr LC50's (ppm) Crude oils	96-hr LC50's (ppm) No. 2 fuel oil
Battelle/Sequim 1973-76			
2 fish sp. (FT)[1]	8	15-65	--
Coonstripe shrimp (FT)[2,3]	10-11	6.6-24.9	0.8
Coonstripe shrimp[1]	8	1.3-4.9	--
Texas A&M 1974-76			
4 crustacean sp.[4,5]	18-22	6->19.8	1.3-4.9
3 fish sp.[4]	18-22	5.5-19.8	3.9-6.3
3 polychaete sp.[6]	20	9.5-12.5	2.3-2.7
Auke Bay Lab 1976[7]			
4 fish sp.	3.6-10	1.2-2.9	0.8-2.1
6 crustacean sp.	3.5-5.4	0.6-4.2	0.5-1.7
4 limpet and chiton sp	3.9-7	3.6-9.6	0.4-5.0
12 invertebrate sp.	3.6-10	>3.1-14.7	>0.9-5.6

[1] Bean et al 1974
[2] Vaughan 1973
[3] Vanderhorst et al 1976
[4] Anderson et al 1974
[5] Neff et al 1976
[6] Rossi et al 1976
[7] Rice et al 1976

CONCLUSIONS

Methods

1. Toxicity tests with oil require some form of chemical analysis to determine what concentrations of oil are in the water. Gas chromatography or HPLC is preferable since these methods can measure concentrations of individual aromatic hydrocarbons.

2. Statistical analysis generating confidence intervals is more informative than graphic estimates of the LC50.

3. If oil toxicities are compared, reference toxicants and the same test species should be used.

4. If species sensitivities are compared, flowthrough tests with stable oil concentrations during exposure should be used.

Comparative Toxicity

1. Crude and refined oils are best considered as sources of toxic compounds, with toxicity depending on the concentration of toxic compounds in the oil and on physical factors, such as temperature and viscosity of the oil, which affect the transport of petroleum hydrocarbons into the water.

2. Refined oils are generally considered [illegible] than crude oils on a volume added basis because refined oils often have higher [illegible] of aromatic hydrocarbons and are usually less viscous than crude oils.

3. The toxicity of oils is apparently due to the soluble compounds in the water rather than dispersed droplets.

4. The toxicity of aromatic hydrocarbons increases with the number of rings and with the degree of alkyl substitution. The solubility of these compounds decreases with these factors, so that the relative importance of individual aromatic hydrocarbons to toxicity of water-soluble fractions is unknown. Mono- and dinuclear aromatics are probably the most important classes of compounds, accounting for most of the toxicity in water-soluble fractions.

Comparative Sensitivity

1. No conclusions can be made concerning egg sensitivities because not enough quantitative data exist.

2. Crustacean larvae appear more sensitive than most adults. Molting animals are more sensitive than non-molting animals.

3. Sensitivity data for larvae or juveniles from other groups are generally lacking, except for polychaete juveniles, which are more tolerant than adults.

4. Adult sensitivities are fairly similar when data from static tests are compared. Intertidal animals appear more tolerant in short-term, static exposures, probably because of their ability to temporarily insulate themselves from the environment.

5. Cold-water species probably have sensitivities that are equivalent to the sensitivities of species from warmer water, but cold-water species may be more vulnerable to oil toxicity because toxic aromatic hydrocarbons persist longer at colder temperatures.

6. The preceeding conclusions are based on static exposures. Because of the deficiencies of the static exposure method (declining dose), conclusions about sensitivity differences may be altered considerably when tests with flowthrough exposures have been conducted.

Recommendations for Future Research

1. A high standard of quantitative methodology (flowthrough tests, chemical analyses, and statistical analyses) should be used in future toxicity tests.

2. There is little need to test the toxicity differences between different oils. Future research should: (a) determine if aromatics account for most, if not all, of the toxicity of WSF, and (b) determine the relative importance of individual mono- and dinuclear aromatics to the acute toxicity under various conditions.

3. Additional sensitivity data are needed for eggs, larvae, and juveniles of several groups of animals such as molluscs, echinoderms, etc. since virtually no information on these animals is available.

4. Several species need to be retested with flowthrough exposures, so that (a) better estimates of sensitivity can be measured, and (b) sensitivities can be compared between species.

5. A few selected species should be tested for longer periods of time, so that the relationship between oil concentrations that are toxic for short and long exposures can be determined.

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MOLTING AND SURVIVAL OF KING CRAB (*PARALITHODES CAMTSCHATICA*) AND COONSTRIPE SHRIMP (*PANDALUS HYPSINOTUS*) LARVAE EXPOSED TO COOK INLET CRUDE OIL WATER-SOLUBLE FRACTION

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ABSTRACT

Larvae of coonstripe shrimp and king crab were exposed to solutions of the water-soluble fraction (WSF) of Cook Inlet crude oil in a series of bioassays on intermolt stages I and II and the molt period from stage I to stage II. Molting larvae were more sensitive than intermolt larvae to the WSF, and molting coonstripe shrimp larvae were more sensitive than molting king crab larvae. When molting larvae were exposed to high concentrations of the WSF (1.15-1.87 ppm total hydrocarbons) for as little as 6 hr, molting success was reduced by 10-30% and some deaths occurred. When larvae were exposed to these high concentrations for 24 hr or longer, molting declined 90-100% and the larvae usually died. The lowest concentrations tested (0.15-0.55 ppm total hydrocarbons) did not inhibit molting at any length of exposure, but many larvae died after molting. Median lethal concentrations (LC50's) based on 144 hr of observation for molting coonstripe shrimp and 120 hr for molting king crab were much lower than the 96-hr LC50's, showing that the standard 96-hr LC50 is not always sufficient for determining acute oil toxicity. Although our LC50's for intermolt larvae are higher than levels of petroleum hydrocarbons reported for chronic and spill situations, some of our LC50's for molting larvae exposed 24 hr and longer are similar to or below these environmental levels. Comparisons of sensitivity to oil between different crustacean species or life stages should be based on animals tested in the same stage of the molt cycle, such as intermolt.

Key Words: Molting, crustaceans, larvae, *Paralithodes camtschatica*, *Pandalus hypsinotus*, crude oil, Alaska.

INTRODUCTION

The breeding and larval stages of marine invertebrates are considered to be the most sensitive to natural environmental stresses (Thorson 1950). In crustacean larvae this sensitivity is compounded during molting. Factors contributing to a high natural mortality in molting crustaceans include increased permeability and altered ionic regulation, the mechanical process of casting off the old exoskeleton, and increased predation while the cuticle is still soft and locomotion is slowed down (Lockwood 1967, Hagerman 1973). Manmade stresses such as pollution from offshore oil production and transoceanic transport of crude and refined oils could impose an additional burden. Pollution by petroleum hydrocarbons in Alaskan surface waters would be particularly damaging to crustacean larvae in the early spring when the larvae are released from the females and undergo several rather closely spaced molts. Cold temperature is another factor to consider in arctic and subarctic waters because aromatic hydrocarbons persist longer (Atlas and Bartha 1972, Cheatham et al. 1976) and some animals retain accumulated hydrocarbons for longer periods of time (Short and Rice in prep.) than would be the case in warmer waters.

The sensitivity of molting crustacean larvae to oil pollution has been reported for only a few species. Oil was more toxic to molting larvae than intermolt larvae in tests with a lobster, *Homarus americanus* (Wells 1972, Wells and Sprague 1976), and the crabs *Neopanope sayana* (Katz 1973) and *Rhithropanopeus harrisii* (Neff et al. 1976). Sublethal effects on these crustaceans included both delayed and stimulated molting.

For this study we chose two crustaceans that are important Alaskan fishery resources, the king crab, *Paralithodes camtschatica*, and the coonstripe shrimp, *Pandalus hypsinotus*, and exposed their larvae to various concentrations of the water-soluble fraction of Cook Inlet crude oil. Separate bioassays were conducted on larvae during intermolt stages I and II and during the molting period from stage I to stage II. We wished to determine sensitivity differences between the intermolt and molt stages and the effects of various concentrations

and lengths of exposure to the WSF on molting success and survival.

METHODS

Mixing and Analysis of Oil Solutions

Solutions of the water-soluble fraction of Cook Inlet crude oil were prepared at ambient seawater temperatures (3°-5°C) and salinity (29 °/oo) by the methods of Anderson et al (1974) as modified by Rice et al (In press). Samples of the test solutions were taken at the beginning of each exposure and whenever a solution was replaced with a fresh solution. The samples were measured by infrared spectrophotometry (IR) at a wavelength of 2930 cm^{-1} (Gruenfeld 1973). At this wavelength IR measures paraffinic hydrocarbons, but not aromatics. Optical densities were converted to ppm total hydrocarbons by comparing the optical densities to prepared standards. Gas chromatographic characterization of a typical WSF of Cook Inlet crude oil has been given by Rice et al (1976).

Collection and Rearing of Larvae

Ovigerous coonstripe shrimp and king crab were caught in pots or collected by divers and held in flowing seawater tanks at the Kasitsna Bay and Auke Bay laboratories. Individual females were isolated in rearing containers just before hatching and release of the larvae. When the larvae were released the females were removed from the containers. The water in the rearing containers was aerated continuously and changed daily. Larvae were fed daily on detritus and laboratory-reared *Artemia*.

Bioassays

The bioassays were conducted in sealed 200-ml and 500-ml glass jars submerged in a waterbath chilled to ambient seawater temperature. There were replicate jars for each of 7 to 12 concentrations of the WSF. There were 10-20 larvae in each jar and the tissue weight/volume ratio in the test jars never exceeded 1 g/liter. Oxygen concentrations measured at the end of the exposure periods were above 70% saturation.

Observations of death and molting success were made without removing the larvae from the test jars. This eliminated handling of the larvae, which could be detrimental. We observed the larvae in each test jar by holding the jar horizontally above a 24-in convex magnifying mirror. Larvae were recorded as dead when there was no visible motion.

Intermolt stage I king crab and coonstripe shrimp larvae were bioassayed within 24 hr of release from the females. The first intermolt stage lasted about 10 days, so we could be sure that molting would not begin during these bioassays. Bioassays on molting larvae were begun 1 or 2 days before the larvae started to molt to stage II. Intermolt stage II coonstripe shrimp larvae were bi assayed 3 days after molting was completed. The second intermolt stage also lasted 10 days. No bioassays were conducted on intermolt stage II king crab larvae.

For intermolt larvae we conducted static 96-hr bioassays (single-dose with declining concentration). Three separate bioassays were conducted on coonstripe shrimp intermolt stage I larvae, and one bioassay each for coonstripe shrimp intermolt stage II and king crab intermolt stage I.

We conducted several bioassays on molting larvae, and each bioassay had a different exposure period: 6, 24, 48, and 96 hr for coonstripe shrimp, and 6, 12, 24, 48, and 72 hr for king crab. In exposures longer than 24 hr the old WSF solution was replaced with fresh solution every 24 hr. After the exposure periods the larvae were returned to uncontaminated seawater for further observations. The total length of time for each test, including the exposure period and the period in clean seawater, was 120 hr for king crab larvae and 144 hr for coonstripe shrimp larvae.

Statistical Analysis

The acute toxicity of the Cook Inlet crude oil WSF to intermolt and molting larvae was expressed as the median lethal concentration (LC50), which is the concentration of WSF causing death in 50% of exposed larvae in a given amount of time. For intermolt larvae we give the standard 96-hr LC50. For molting larvae we give 96-hr LC50's which, although they are each based on 96 hr of observation, involve different exposure times and periods in clean seawater. When comparing acute toxicity to molt and intermolt larvae, for molting

larvae we use the 96-hr LC50 based on 24 hr of exposure and 72 hr in clean seawater.

The LC50's and 95% fiducial limits were calculated by probit analysis (Finney 1971) where possible. Where the data were insufficient for probit analysis we determined LC50's by the methods of Spearman-Karber (Finney 1971) and Doudoroff et al (1951). Abbott's formula (Finney 1971) was used to compensate for control deaths.

RESULTS

Molting larvae of both coonstripe shrimp and king crab were significantly more sensitive to the Cook Inlet crude oil WSF than were intermolt larvae of either species (LC50's with nonoverlapping fiducial limits, Table 1). Molting coonstripe shrimp larvae were four to eight times more sensitive to the WSF than were intermolt stages I and II. The tolerance of king crab larvae during molting was not decreased to the extreme observed in coonstripe shrimp larvae.

TABLE 1

The 96-hr LC50's for molting and intermolt larvae of coonstripe shrimp, *Pandalus hypsinotus*, and king crab, *Paralithodes camtschatica*, exposed to the WSF of Cook Inlet crude oil. The 95% fiducial limits are given in parentheses.

Larval stage	96-hr LC50's in ppm of total hydrocarbons for--	
	Coonstripe shrimp	King crab
Intermolt larvae:		
Stage I	7.94* (6.05-9.50)	2.00 (1.60-2.60)
Stage II	4.06 (3.22-5.11)	-- --
Molting larvae:		
Stage I-Stage II	0.95 (0.87-1.03)	1.33 (1.23-1.45)

*Mean of three separate bioassays.

As the WSF concentrations and exposure periods increased, the number of coonstripe shrimp larvae that molted to stage II declined (Fig. 1). Control coonstripe shrimp larvae for each bioassay completed molting to stage II, with 95-100% molting success, by the sixth day or 144 hr after the beginning of each bioassay. At the lowest concentration tested, 0.25 ppm total hydrocarbons, there was little or no effect on molting success even when the larvae were exposed to replenished WSF solutions for as long as 96 hr. The next highest concentration, 0.63 ppm total hydrocarbons, did not affect molting success when the larvae were exposed only 6 hr, but was progressively more effective in inhibiting molting with each increased duration of exposure. The highest concentrations, 1.15 and 1.37 ppm, severely inhibited molting in exposures of 24 hr or longer. Molting success was only about 10% in these longer exposures to high concentrations and did not drop below 10% even when the WSF solutions were renewed daily.

Molting success in king crab larvae exposed to the WSF followed essentially the same pattern of decline (Fig. 2). Control groups for king crab larvae molting to stage II reached a maximum molting success of 37% by the end of 120 hr of observation. Exposure of king crab larvae to the two lowest concentrations, 0.15 and 0.55 ppm total hydrocarbons, for 6 and 12 hr resulted in some stimulation of molting compared to controls. Longer exposures to these low concentrations had little effect, even when the larvae were exposed for 72 hr to periodically-renewed solutions. The 1.20 ppm concentration had no effect on molting success at exposures less than 48 hr, but 48- and 72-hr exposures completely inhibited molting. The highest concentrations, 1.65 and 1.87 ppm, progressively inhibited molting with increased exposure time until the 48- and 72-hr exposures which again resulted in zero molt.

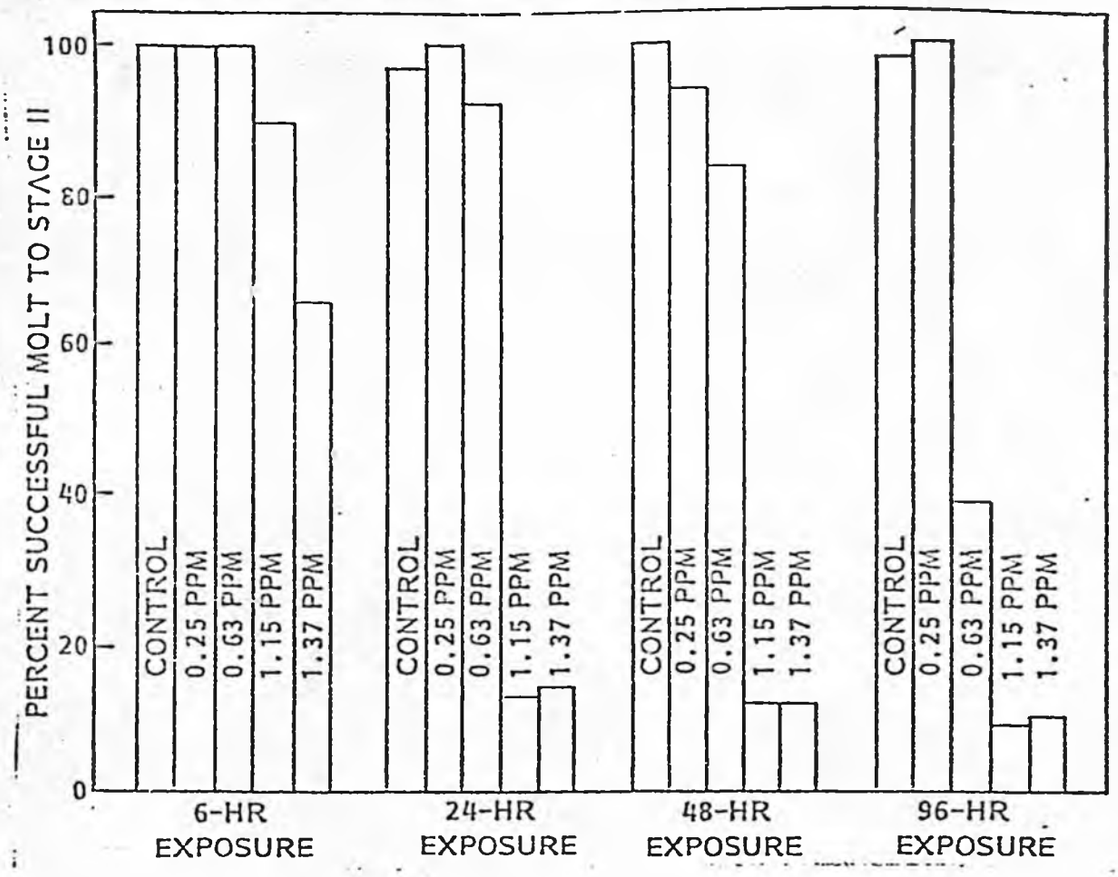

Fig. 1. Molting success of larvae of coonstripe shrimp, *Pandalus hypsinotus*, exposed for increased lengths of time to increased concentrations of the WSF of Cook Inlet crude oil. After the exposure time listed, the exposure water was replaced with clean seawater to make a total of 144 hr of observation for each test. Molting success at 144 hr = stage II larvae/initial total of stage I larvae.

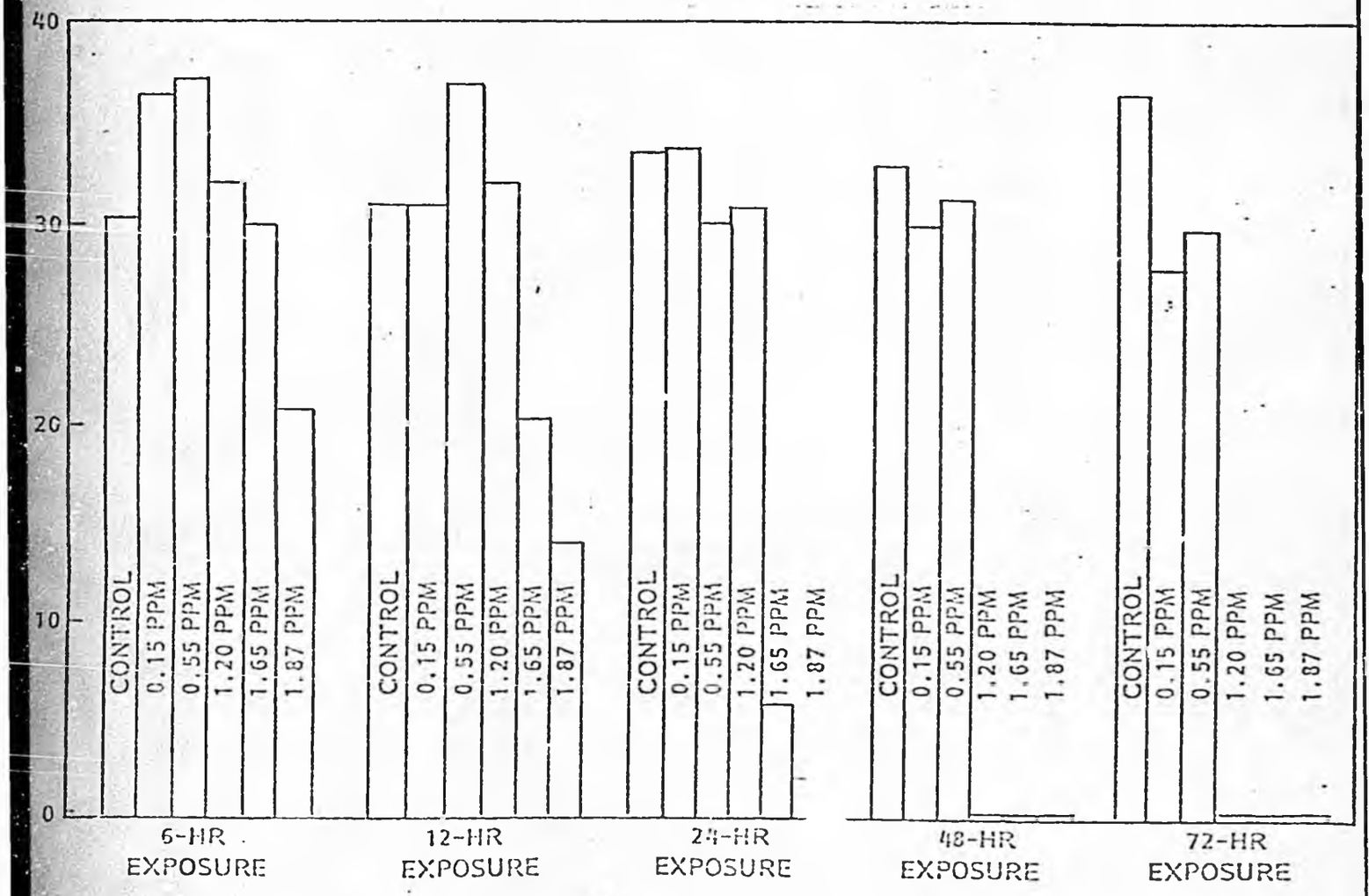

Fig. 2. Molting success of larvae of king crab, *Paralithodes camtschatica*, exposed for increased lengths of time to increased concentrations of the WSF of Cook Inlet crude oil. After the exposure time listed, the exposure water was replaced with clean seawater to make a total of 120 hr of observation for each test. Molting success at 120 hr = stage II larvae/initial total of stage I larvae.

late in the tests. This is shown by comparing the LC50's for deaths occurring by 96 hr with the LC50's for deaths occurring by the end of the observation period (Table 2). There were no significant numbers of deaths by 96 hr when the larvae were exposed for only 6 hr, but deaths occurring within the next 48 hr yielded an LC50 of 2.24 ppm total hydrocarbons for coonstripe shrimp. (Observations were not continued as long for king crab.) For coonstripe shrimp larvae exposed 24 hr and longer the 96-hr LC50's were all similar, averaging 0.96 ppm, and also very similar in king crab which averaged about 1.40 ppm total hydrocarbons. The progressively more toxic effects of these longer exposures to periodically-renewed WSF solutions did not show up until sometime after 96 hr, when the larvae were in clean seawater. For example, for coonstripe shrimp larvae exposed for 96 hr, the LC50 dropped from 0.96 ppm at 96 hr to 0.24 ppm at 144 hr.

TABLE 2

The LC50's for larvae of coonstripe shrimp and king crab exposed to the WSF of Cook Inlet crude oil during the molting period from stage I to stage II. After the duration of exposure listed, the exposure water was replaced with clean seawater to make a total of 144 hr for each test on coonstripe shrimp and 120 hr for king crab. The 95% fiducial limits are given in parentheses; NS indicates insignificant number of deaths.

Duration of oil exposure	LC50's in ppm of total hydrocarbons for--			
	Coonstripe shrimp		King crab	
	96-hr LC50	144-hr LC50	96-hr LC50	120-hr LC50
6 hr	NS	2.24	NS	NS
12 hr	No bioassay		4.75 --	1.75 (1.72-1.78)
24 hr	0.95 (0.87-1.03)	0.62 (0.35-0.75)	1.33 (1.23-1.45)	1.38 (1.08-1.61)
48 hr	0.98 (0.83-1.15)	0.50 (0.42-0.62)	1.45 (1.35-1.50)	0.76 (0.66-0.88)
72 hr	No bioassay		1.37 (1.20-1.55)	0.93 --
96 hr	0.96 (0.80-1.15)	0.24 (0.15-0.37)	No bioassay	

DISCUSSION

Larvae of coonstripe shrimp and king crab were more sensitive to the WSF of Cook Inlet crude oil during the molting period from stage I to stage II than during intermolt stages I and II (Table 1), which agrees with previous studies on molting crustacean larvae exposed to different oils. In two of the earlier studies (Wells 1972, Katz 1973) the oil concentrations were not chemically quantified so the reported lethal concentrations cannot be compared to ours. Lethal concentrations for molting stage I-II larvae reported in the other two studies (Neff et al. 1976, Wells and Sprague 1976) are based on different oils and different types of bioassays than ours, but are useful to mention for the purpose of a broad comparison. The 96-hr LC50 for the first larval molt of the crab *Rhithropanopeus harrisii* was between 0.63 and 0.94 ppm (WSF of No. 2 fuel oil; Neff et al 1976) and for the lobster *Homarus americanus* it was 0.86 mg/liter (oil-water dispersion of crude oil; Wells and Sprague 1976). These concentrations are similar to our 96-hr LC50's of 0.95 ppm for molting coonstripe shrimp larvae and 1.33 ppm for molting king crab larvae in that all of the concentrations are lower than the 96-hr LC50's reported for nonmolting larvae, juveniles, and adults exposed to various oils (reviewed by Wells and Sprague 1976).

Molting coonstripe shrimp larvae were about four times more sensitive to the WSF than molting king crab larvae (Table 1), suggesting that as much difference in sensitivity to oil exists between crustacean species during molting as has been reported for species in intermolt stages. These differences in sensitivity to oil also occur intraspecifically at

larvae differ in their sensitivities to oil when, for example, stage III being more sensitive than stages I and II (Brodersen et al In press); this suggests that coonstripe shrimp larvae molting at the later stages could also be more sensitive than we observed for the first molt. However, larvae of *Neopanope texana* were more sensitive during the first molt than the later molts (Katz 1973). In *Homarus americanus* (Wells and Sprague 1976) and *Rhithropanopeus harrisii* (Neff et al 1976) most of the deaths also occurred during the first molt, but the tests on these species were long-term (30 or more days) and did not include separate tests for the different molt periods, so the sensitivities of later molts were not determined. The available data are insufficient to determine if the most sensitive molt period differs with species or is usually the first larval molt, and if any one group of crustaceans (such as shrimp) is more sensitive than another (such as crab) during molting.

The effects on molting success (Figs. 1 and 2) and mortality (Table 2) that occurred when larvae of coonstripe shrimp and king crab were exposed for increasing periods of time to increasing concentrations of the WSF of Cook Inlet crude oil were basically the same for each species and are summarized as follows. The lowest concentrations of the WSF (0.15-0.55 ppm total hydrocarbons) did not cause molting success to decline at any length of exposure, but did cause some stimulation of molting in king crab larvae after short exposures. Although molting success did not decline, at long exposures to the low concentrations many of the larvae died after molting, as reflected in the low 144-hr and 120-hr LC50's. Exposure of larvae to the highest concentrations of the WSF (1.15-1.87 ppm) for only 6 and 12 hr reduced molting success by 10-30% and resulted in some deaths of both molted and nonmolted larvae. When exposed to these high concentrations for 24 hr or longer, 90-100% of the larvae were inhibited from molting and usually died, yielding LC50's that were equal to or well below the high concentrations tested. The stimulation of molting we observed in king crab larvae has also been reported for larvae of the crab *Rhithropanopeus harrisii* when exposed to low concentrations of No. 2 fuel oil (Neff et al 1976). On the other hand, we did not observe any delays in molting relative to controls; long-term studies like those reported on crabs and lobster (Katz 1973, Neff et al 1976, Wells and Sprague 1976) would be needed to determine if the nonmolted larvae which survived our tests would have eventually molted to stage II or later stages.

In our bioassays on molting larvae, many larvae died after 96 hr, so the progressively more toxic effects of increased exposure times and increased concentrations of the Cook Inlet crude oil WSF were not as clear from the 96-hr LC50's as they were from the 144-hr and 120-hr LC50's (Table 2). Delayed mortality (i.e., deaths occurring after exposure) has also been noted for some other crustacean larvae exposed to toxic pollutants (Buchanan et al 1970, Brodersen et al In press). These data indicate that a bioassay lasting only 96 hr is not always sufficient to yield an accurate determination of acute toxicity.

Greater sensitivity to environmental stresses during molt than intermolt periods is a general phenomenon among crustaceans (Lockwood 1967) which should also be reflected in tests on crustaceans molting at any life stage, and in tests with pollutants other than oil. Exposures of tanner crab, *Chionoecetes bairdi*, to crude oil near the time of molting resulted in reduction in molting success and autotomizing of limbs (Karinen and Rice 1974). The greater sensitivity of molting crustacean larvae during exposures to insecticides (Buchanan et al 1970, Epifanio 1971) and creosol (Emery 1970) has also been reported.

Increased sensitivity to oil during molting is probably related to the physiological changes associated with the molting process. Rises in blood osmotic pressure and changes in permeability to seawater (Lockwood 1967, Hagerman 1973) could result in heightened concentrations of toxic hydrocarbons in the tissues. Depressed metabolism has been observed in molting adult blue crab, *Callinectes sapidus* (Lewis and Haefner 1976), and in oil-exposed king crab, *Paralithodes camtschatica* (Mecklenburg and Rice In prep.), and may impair the ability of molting larvae to metabolize and excrete the oil-derived hydrocarbons accumulated in the tissues.

Because molting has a significant influence on the sensitivity of crustaceans to oil, comparisons of sensitivities between life stages and species will be most valid if based on animals tested in the same stage of the molt cycle, such as intermolt. Testing the sensitivity of intermolt larvae to oil may be difficult for many crustacean species because the intermolt periods are often as short as 2 or 3 days. Thus, larvae would begin to molt during the standard 96-hr bioassay.

Measurements of hydrocarbons from chronically polluted areas or oil spills in Alaskan waters are not yet available. Levels of petroleum hydrocarbons reported for other areas, harbors and tanker routes as well as the open ocean (reviewed by Brown et al 1973, Wells and Sprague 1976), are very low compared to our LC50's for intermolt and molting larvae of king crab and coonstripe shrimp. However, the concentration of 0.8 mg/liter reported for a small oil spill in Nova Scotia (Gordon et al 1973) is higher than some of the LC50's we found for molting larvae exposed 24 hr and longer.

CONCLUSIONS

(1) For both coonstripe shrimp and king crab, larvae molting from stage I to stage II were more sensitive to the WSF of Cook Inlet crude oil than were larvae in intermolt stages I or II. From this we further conclude that comparisons of the sensitivities of crustaceans to oils should be based on tests on animals in the same stage of the molt cycle, such as intermolt.

(2) In tests on molting coonstripe shrimp and king crab larvae, as the concentrations and lengths of exposure to the WSF of Cook Inlet crude oil increased, molting success decreased and deaths increased. This pattern was not as clear from the 96-hr LC50's as it was from the 120-hr and 144-hr LC50's. From this we also conclude that the standard 96-hr bioassay is not always long enough for accurate determinations of the sensitivities of crustacean larvae to oils.

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B10

EFFECTS OF OIL ON MARINE ECOSYSTEMS: A REVIEW FOR ADMINISTRATORS AND POLICY MAKERS

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ABSTRACT

A broad selection of recent literature on the effects of oil on marine ecosystems is reviewed. The focus is on studies on crude oil, and the results are discussed with the purpose of providing a summary of findings that will be a useful reference for administrators and policy makers involved in decisions concerning petroleum developments and related activities. The characteristics of crude oil and factors modifying its impact on the marine environment are discussed. Most research on the toxicity of oil has dealt with acute effects and data on long-term impacts at the community level are inconclusive. It is concluded that chronic low-level pollution is potentially more damaging to ecosystems than isolated catastrophic spills. Decision makers are forced to rely on interpretative judgments rather than conclusive data.

Much of the material in this report was gathered as background material for use in preparing the marine section of the final environmental impact statement on the proposed trans-Alaska pipeline system (U.S. Department of the Interior, 1972). Some of the statements are essentially unchanged from the way they were presented in the appendix to volume IV of the impact statement. The impact statement made it clear that not enough data are available to analyze conclusively all of the potential environmental impacts of operation of the pipeline marine terminal facilities at Port Valdez, Alaska, and the transshipment of crude oil by tankers to west coast ports. A conclusion that can be drawn, however, and a message of the impact statement, is that oil poses a significant hazard to marine ecosystems, and a good deal of intensive research is necessary if these hazards are to be quantified and fully understood.

Research on oil pollution published since the impact statement on the pipeline was issued reveals that scant progress has been made, particularly with regard to the effects of chronic low-level oil pollution. Current and projected demands for energy in the United States are prompting accelerated development of offshore petroleum reserves, expanded oil tanker traffic, and proposals for construction of deepwater port facilities to handle the increasing number of supertankers. These developments will not wait for conclusive answers to questions on oil pollution. Recognizing this, we feel it is important that public administrators and policy makers be made aware of the inferences and trends evident in the research findings to date. These findings present a persuasive case that decisions regarding the handling of crude oil and petroleum products should be conservative and in favor of protecting the natural environment. While this report is by no means a complete review of the literature, it is sufficient to illustrate the potential danger of oil pollution to marine ecosystems and provide some guidance for policy decisions.

History is replete with examples of man's scientific and technological advances carrying him into situations he did not fully comprehend and with consequences he could not evaluate. Bella (1970) noted that "our ability to change this world is going to increase faster than our ability to predict what that change is going to be." He concludes that our management procedures must recognize the degree of ignorance we have about this world in which we live.

Pollution of the ocean by oil is a worldwide problem of growing concern to many nations. Spills like the *Torrey Canyon*, the *Arrow*, the Santa Barbara Channel blowout, and other spectacular incidents have helped stimulate international organizations of governments and industry to react to the problem. Viewed pragmatically, international response has been at least as adequate as domestic programs. Predicting the impact of an oil spill on the environment requires an understanding of the complex interactions involved. What

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appears to be universally lacking is the difficult research leading to an understanding of chronic and sublethal effects of oil at the biological community level. The following discussion outlines these complexities and points out how they make most generalizations invalid and the extrapolation of most data dangerous.

DESCRIPTION OF OIL

Crude oil is a complex mixture of many different specific hydrocarbons and a variety of compounds containing sulfur, oxygen, nitrogen, and some trace metals. Hydrocarbons make up the bulk of crude oil and can roughly be placed into one of three classes: paraffinic, naphthenic, and aromatic. From one area to another, crude oils vary in their composition and in density, volatility, and solubility. Their relative toxicity will vary (Ottway, 1971) but is roughly proportional to their aromatic content.

Paraffinic (or aliphatic) hydrocarbons are straight or branched carbon chains and are saturated (thus no carbon-carbon double bonds) with hydrogen or other groups. These hydrocarbons are the least toxic, although they may have an anesthetic or narcotic effect if concentrations are great enough.

Naphthenic compounds (cycloparaffins) contain at least one ring structure that is saturated. With this base, more rings or chains may be attached to form a variety of complex molecules.

Aromatic hydrocarbons also contain a ringed structure, but the ring is unsaturated with hydrogen and contains carbon-carbon double bonds (benzene ring). The simplest aromatic is benzene, which is very toxic and relatively water soluble in comparison to most hydrocarbons found in crude oil. Benzene and other low-boiling aromatics are the most toxic petroleum fractions. High-boiling aromatics act as slower poisons than low-boiling aromatics, but they are equally severe in their effect. In addition, some are known to induce cancer; 3,4-benzpyrene, 1,2-benzanthracene, and some alkylbenzanthracenes have been isolated from crude oil, and their carcinogenic effects on animals and man have been demonstrated (Blumer, 1970).[3]

Olefinic hydrocarbons (paraffinlike but unsaturated and containing reactive carbon-carbon double bonds) are not generally found in crude oils but are plentiful in certain gasolines and other refined products. The fate of olefins in the marine environment is poorly understood, but this class of compounds may be quite reactive under certain conditions and may combine readily with hydrogen, oxygen, chlorine, sulfur, and other elements to produce toxic substances. Once incorporated into organisms, olefins may remain intact for surprisingly long times (Blumer, 1967). The full range of olefinic hydrocarbons probably interferes with the reception of chemical messengers, or odors, in the sea by certain marine organisms (Blumer, 1970, see footnote 3).

When crude oil is processed ("cracked"), olefins and other compounds for gasoline and fuel oils may be formed or separated. Fuel oils, commonly involved in spills, are rated from 1 to 6. Those rated 1 are the lightest, most volatile, and most toxic and have the greatest aromatic concentrations; those rated 6 are the least volatile, least soluble, and least toxic and are asphaltic (tarlike).

Hydrocarbons are not foreign to the marine environment; normal paraffins are synthesized by most, if not all, living organisms. Blumer, Guillard, and Chase (1971) characterized the natural hydrocarbon content of 22 species of phytoplankton and cited literature for zooplankton. There are certain characteristic differences, however, between hydrocarbons native to organisms and the hydrocarbons in petroleum, particularly in the relative distribution of the various hydrocarbons. Crude oils and certain petroleum products are complex mixtures that contain molecules of different sizes in ratios not found in any one species of organism. Certain specific paraffins, and some naphthenic and aromatic compounds, are rarely found in organisms not exposed to oil pollution. These characteristic differences have been the basis for several scientific papers (Blumer, Souza, and Sass, 1970; Ehrhardt, 1972; Clark and Finley, 1973; and others).

FACTORS INFLUENCING THE IMPACT OF OIL

The impact of oil on the marine environment is governed by several factors—physical, chemical, and biological—in addition to the inherent complexity of crude oil and refined products. The behavior, effects, and fate of an oil spill involve all of

[3]Blumer, M. 1970. Scientific aspects of the oil spill problem. Presented at NATO Conference, Brussels, 6 Nov. 1970, 21 p., Woods Hole Oceanogr. Inst., Woods Hole, Mass.

these factors; and because they are interdependent, the reliability of our predictions concerning the impact of a spill is limited by our knowledge of the least understood variable.

Straughan (1972) noted our general inability to predict the environmental impact of a spill because of the complexity of the matter, and identified several factors that govern biological damage caused by a spill: 1) type of oil spilled, 2) dose of oil, 3) physiography of the area of the spill, 4) weather conditions at the time of the spill, 5) biota of the area, 6) season of the spill, 7) previous exposure of the area to oil, 8) exposure to other pollutants, and 9) treatment of the spill. Several of these factors are touched upon below.

Natural Physical Processes Affecting Oil in the Water Column

Once oil is spilled, it is dissipated by evaporation, dissolution, and mixing or dilution in the water column. The natural processes are speeded by wind action and by waves and currents that increase spreading and vertical mixing. Various fractions respond differently to these processes, and the weathered residue behaves differently than the material originally spilled. A contaminated bay may be flushed by freshets, tidal action, or longshore currents. Some oil sinks directly to the bottom, especially in fresh water, where some oil fractions have densities approaching that of fresh water, and in water with high sediment loads. Certain fractions may undergo autoxidation.

Conover (1971) reported that sedimentation of fecal-bound oil that had been ingested by zooplankton may have accounted for up to 20% of the spilled oil entering the water column at Chedabucto Bay, Nova Scotia. Oil can also be removed from the water column by absorption within organisms and accumulation within the food chain. Suspended sediments carried by runoff from a major flood entered the Santa Barbara Channel area immediately before and after the well blowout (Kolpack, 1971). Kolpack noted that adsorption of oil on the flocculated suspended particles followed by decomposition was a major factor in carrying much of the oil to the sea floor. Kinney et al. (1970) reported, however, that in Cook Inlet, Alaska, glacial silt from the inlet had no apparent effect on the emulsion properties or the sinking of the type of crude oil found in that area.

Forrester (1971) noted the extensive distribution of oil particles stirred into the water by wave action after a bunker C oil spill in Chedabucto Bay. Oil particles were found to a depth of 80 m inside the bay and to depths of 45 m at a distance of 65 km outside the bay. Near-surface distribution of particles extended 250 km southwest along Nova Scotia in a band extending up to 25 km offshore. Berridge, Thew, and Loriston-Clark (1969) indicated that the stabilization of emulsions like those observed at Chedabucto Bay and elsewhere was caused by complex chemical components in the nonvolatile residues and not by bacterial activity, marine organisms, or suspended solid matter.

Environmental Differences

The fate and effects of oil spilled in the marine environment are difficult to generalize because several types of environments may be involved. Some extreme comparisons are tropics versus arctic, open ocean versus estuaries, and the differences between the intertidal and subtidal zones.

Within these environments are several diverse physical conditions such as temperature, salinity, oxygen, and nutrient concentrations, as well as biological differences such as species composition, diversity and density, and community metabolic rate. The prediction or assessment of pollution effects on the basis of observations extrapolated from one environment to another is seldom supported by adequate data. Unfortunately, however, few data on pollution effects exist for most areas and species, which has led to the use of information from areas that may be dissimilar in critical respects.

There are arguments as to which environment is the most stable and capable of withstanding attacks by additional pollution stresses. Copeland (1970), discussing the response of ecological systems to stress, suggested the principle that "...those systems already subjected to energy-requiring stresses are more likely to resist the changes than those (such as tropical systems) adapted to relatively constant environments." He concluded that estuarine ecosystems composed of organisms capable of wide adaptations and generalizations, such as north temperate systems, would be relatively unaffected by the same magnitude of disturbance that would drastically alter

a tropical system. Odum (1970) noted, however, that many estuarine species are living near the limit of their tolerance range and that any alteration in the environment, such as additional stresses caused by low levels of pollution, could exclude these animals permanently from the estuary.

All healthy balanced ecosystems are generally functioning at or near some critical tolerance limit. In an ecosystem with a variable environment, such as a north temperate estuary, responses to additional stress might not always be the same. For example, even though factors surrounding an oil pollution incident might be outwardly similar in most respects to another spill in a comparable area, the biological impacts may differ. The ability of the local community to absorb the additional stress will be influenced by the coincidence of seasonal variability of natural stresses, the differences in vulnerability of stages in an organism's life cycle, and many other dynamic features of the ecosystem.

Biological Differences

The effects of oil pollution on many different organisms in various habitats may vary from no effect to responses of avoidance and decreased activity, to nonadaptive responses of panic and physiological stress. What kills one species may have little or no effect on another. Affected organisms vary from single cells, to sedentary clams, to highly mobile predators, each of which has different behavioral and physiological interactions with the environment.

Just as different species are affected differently, so may individuals within a species be affected differently. In particular, different life stages such as eggs, hatched larvae, and newly molted individuals may have different sensitivity to the same level of pollution. Mironov (1968), for example, reported that prelarval stages of barnacle, *Balanus* sp., were 100 times more sensitive to oil pollution than the adult form. This contrasts with the relative lack of sensitivity to crude oil by pink salmon eggs and sac fry, which were 10 times more tolerant than older fry (Stanley D. Rice and Adam Moles, Auke Bay Fisheries Laboratory, National Marine Fisheries Service (NMFS), NOAA, Auke Bay, AK 99821, pers. commun.).

Renzoni (1973) conducted a series of experiments on the toxicity of several crude oils and petroleum products to the sperm, eggs, and larvae of the oysters *Crassostrea angulata* and *C. gigas* and the mussel *Mytilus galloprovincialis*. He found a relatively high degree of tolerance by eggs and larvae but reported that the fertilizing capacity of sperm was markedly affected by similar exposures.

Biodegradation

Quantitative data describing the biodegradation of various components of crude oil, especially in arctic and subarctic areas, are limited.

ZoBell (1973a) briefly reviewed the current understanding of microbial degradation of oil, including interactions, limiting factors, problems, and perspectives. Ahearn (1973) stated that research on microbial utilization of hydrocarbons for treatment of oily pollutants in the environment, though more intensive in recent times, is still in an early stage of development. It is known that microorganisms can degrade much of a crude oil, particularly the less toxic paraffinic compounds. No single species can degrade all the compounds, but many different species together can metabolize a large number of the compounds, if not all. The rate of microbial degradation, which is principally aerobic, decreases with a decrease in temperature. Large quantities of oxygen are needed. It has been estimated, for instance, that complete oxidation of 1 gallon of crude oil would require all of the dissolved oxygen in 320,000 gallons of water. This comparison may be unrealistic because most oil is at the surface of water in contact with air and only the outer surfaces of oil can be attacked at any one time. It is reasonable to assume, however, that an oxygen-deficient environment may well occur under some oil slicks and in oil-contaminated sediments.

Glaeser and Vance (1971) studied the behavior of Prudhoe Bay crude oil in controlled spills in the Chukchi Sea but were not able to isolate any microorganisms which could degrade hydrocarbons at the ambient temperatures of the Arctic, although some emulsification of the crude oil was observed. However, ZoBell and Agosti (1972) collected oil-oxidizing bacteria near natural oil seeps from the Alaska North Slope and observed oxidation rates of mineral oil at −1°C and above. They noted that the solid surfaces of the ice crystals appeared to facilitate bacterial growth, because the rate at −1°C was substantial and near the 4°C rate.

The apparent contradiction between the studies is probably best explained by ZoBell's (1973b) continued observations with North Slope bacteria. He

found that the nine different crude oils were not degraded as rapidly as purified mineral oil. Glaeser and Vance's studies were with microorganisms from the surface water of the Chukchi where small numbers of bacteria may have been present. Furthermore, the observations of Straughan (1971), who noted the apparent lack of biological damage by the Santa Barbara blowout, may apply here. She discussed the possibility that the fauna had an unusually high tolerance for oil, probably because of adaptation from chronic low-level oil exposures from local natural seepages. The observations of ZoBell and Agosti (1972) on the oxidation rates of oil at −1°C may be an example of similar adaptive response by the North Slope bacteria collected near natural seeps. These oxidation rates and other adaptive responses might not occur from organisms that have not been preacclimated to chronic low-level exposures of oil and may explain why Glaeser and Vance obtained reports of negligible oxidation rates at 0°C from microorganisms from surface water of the Chukchi Sea. Robertson et al. (1973) estimated hydrocarbon-oxidizing bacteria populations were in the order of 1/ml in Cook Inlet and Port Valdez, but less in the Arctic Ocean. Numbers decreased with salinity in Cook Inlet and with depth in Port Valdez.

ZoBell (1963) reported that oil is readily adsorbed by clay and silt and suggests that although adsorption of oil by solids renders the oil more susceptible to autobial and microbial oxidation, almost no bacterial decomposition occurs after burial in the bottom sediments, probably because the environment is anaerobic. Blumer and Sass (1972) found that some paraffinic hydrocarbons remained in bottom sediments 2 yr after the West Falmouth oil spill and aromatic hydrocarbons were prominent, which suggests that these more toxic compounds are utilized by bacteria to a minimum degree.

Oil in Sediments

The effect of oil in sediments is poorly understood, although several authors have quantitated oil concentrations and noted its persistence. Scarratt and Zitko (1972) observed little diminution of bunker C oil concentration from soft sediments 26 mo after the wreck of the tanker *Arrow*. The oil reached maximum concentrations in coarse sediments 1 yr after the spill, but the concentrations reduced thereafter. Chemical degradation can occur but is normally restricted to the surface layer of the bottom penetrated by ultraviolet light. Blumer and Sass (1972) noted that "The preservation of hydrocarbons in marine sediments for geologically long time spans is one of the accepted key facts in current thought on petroleum formation." However, in spite of the stability of hydrocarbons in marine sediments, there are characteristic differences between the hydrocarbons in polluted and unpolluted areas. Tissier and Oudin (1973) found that hydrocarbons in polluted sediments differed from those of unpolluted sediments by having lower percentages of heavy components, by not having an odd carbon dominance in the n-alkanes, and by having polycyclic aromatic hydrocarbons with alkyl chains.

Oil residues were observed on sandy beaches by ZoBell (1963) and in marshes and in sediments of the deepest area (15.3 m) near the West Falmouth spill by Blumer, Sass, Souza, Sanders, Grassle, and Hampson (1970).[4] About 2 wk after fuel oil was spilled at Resolute Bay, Northwest Territory, in August 1970, casual sampling revealed that oil penetrated into beach material to a depth of about 3 inches (7.6 cm) (Barber, 1971). Oil may be buried and stay intact for a considerable time, even at the higher temperature of the California coast (ZoBell, 1963). During laboratory experiments, Johnston (1970) determined oil decay rates in sand columns contaminated with various concentrations of oil. Ten percent of the oil was oxidized over a period of several months; the remaining 90% decayed much slower.

The West Falmouth spill provided a unique opportunity for a study of the immediate and long-term effects of an oil spill on an area where the previously existing environmental base was well known (Blumer, Sanders, Grassle, and Hampson, 1971). One effect of the oil was to reduce the cohesion of bottom sediments of tidal marshes and the estuary by killing the benthic plants and animals (Blumer, Sass, Souza, Sanders, Grassle, and Hampson, 1970, see footnote 4). The resulting erosion spread hydrocarbons to new areas, where the process was repeated. Because of the stability and persistence of the hydrocarbons in marine bottom sediments, Blumer, Souza, and Sass (1970) noted that hydrocarbons may be returned to the biosphere by organisms living and feeding in the sediments. This redistribution of hydrocarbons can be

[4]Blumer, M., J. Sass, G. Souza, H. Sanders, F. Grassle, and G. Hampson. 1970. The West Falmouth oil spill. Unpubl. manuscr. Woods Hole Oceanogr. Inst., Ref. No. 70-44, 32 p.

the source of a chronic pollution problem near that spill.

It is quite possible that normal functions of sediments will be disrupted when contaminated by oil. Changes in the sediments that are subtle and difficult to detect, such as decreased nutrient recycling and community metabolism, could result in the loss of significant contributions to the productivity and stability of an area. Although oil in sediments has been monitored and measured after several spills, other aspects of the oil–sediment relation have yet to be studied.

BIOLOGICAL EFFECTS OF OIL POLLUTION

Blumer (1970, see footnote 3) summarizes the potential damage to organisms from pollution by crude oil and oil fractions as follows:

1. Direct kill of organisms through coating and asphyxiation.
2. Direct kill through contact poisoning of organisms.
3. Direct kill through exposure to the water-soluble toxic components of oil at some distance in space and time from the accident.
4. Destruction of the generally more sensitive juvenile forms of organisms.
5. Destruction of the food sources of higher species.
6. Incorporation of sublethal amounts of oil and oil products into organisms (resulting in reduced resistance to infection and other stresses—the principal cause of death in birds surviving immediate exposure to oil).
7. Incorporation of carcinogenic and potentially mutagenic chemicals into marine organisms.
8. Low-level effects that may interrupt any of numerous events (such as prey location, predator avoidance, mate location or other sexual stimuli, and homing behavior) necessary for the propagation of marine species and for the survival of those species higher in the marine food web.

Some of the potential effects described by Blumer may be obvious, such as the direct deaths from acute exposures. Less obvious indirect deaths may occur from effects at either the individual or population level. Individual organisms subjected to sublethal exposures may undergo an "ecological death" if they are less capable of adjusting to and responding to natural changes (stresses) in their physical and biological environments. For example, postmolt Tanner (snow) crab, *Chionoecetes bairdi*, lost legs during short exposures to crude oil (Karinen and Rice, in press). Even though the crabs lived through the exposure, they probably could not have survived in the natural environment because some of them lost as many as seven legs, including both chelae. Moreover, crabs or other adversely but sublethally affected organisms would be more likely to be eliminated by natural selection.

Effects from chronic exposure may be adverse to a population over a period of time if exposed but normal-appearing adults have their ability to reproduce seriously impaired. This loss may be due to physiological changes such as reduced fecundity and delayed ovary development or to impaired behavioral mechanisms which could prevent mate location and identification or homing and timing of spawning. Although the effects at this level might not result in death of the adult, they could induce a trend of decreasing numbers that might eventually eliminate the population or race.

Hydrocarbons in the Marine Food Web

Blumer (1967, 1969) and Blumer, Guillard, and Chase (1971) studied the fate of organic compounds in the marine food web. They found that certain hydrocarbons, even highly unsaturated ones, are stable once they are incorporated into a particular marine organism and that they may pass through many members of the marine food web without alteration and may actually be concentrated in tissue. Most hydrocarbons are lipid soluble and thus may accumulate in food webs to the point where toxic levels are reached. This pathway is illustrated by the well-documented chlorinated hydrocarbon group of pesticides.

The entrance of oil-derived hydrocarbons into marine food webs has been observed several times at several trophic levels. Conover (1971) reported that 10% of the bunker C oil in the water column after the Chedabucto Bay spill was combined with zooplankton and that their feces contained up to 7% oil. Mironov (1968) also noted the ability of some zooplankters to accumulate hydrocarbons. The incorporation of hydrocarbons into the food web at these primary levels assures exposure at all higher trophic levels.

Blumer, Souza, and Sass (1970) and Ehrhardt (1972) reported pollution-derived hydrocarbons in shellfish. Uptake and retention of labeled hydrocarbons of several classes by a marine mussel,

Mytilus edulis, was noted by Lee, Sauerheber, and Benson (1972). Smith (1968) reported the presence of oil and benzene-ring compounds in the feces of limpets browsing on an oily deposit, and in top shells, *Monodonta*, and limpets, *Patella*, living on oiled rocks. He reported that analysis of the gut indicated "the proportion of oil in material ingested by these animals was estimated as about 20-30 percent in *Patella* and 5-50 percent in *Monodonta*."

Organisms at the highest trophic levels may be affected directly by the oil itself or indirectly by hydrocarbons that have reached them through the food web. Horn, Teal, and Backus (1970) found large amounts of tar in the stomachs of three saury, *Scomberesox saurus*, from a sample of ten in the Mediterranean Sea near Gibraltar. Although saury are generally considered to be carnivorous, the occurrence of tar and also of "vegetable debris" in one of the stomachs examined by Horn et al. (1970) suggests that the species is not a very discriminate feeder. Although all ingested oil was obviously not incorporated into the tissues (some oil was found in feces), such feeding behavior does describe a pathway for hydrocarbons to be directly taken up into the tissues of the organism. Thus, oil ingested, absorbed, and even adsorbed may enter the food chain when contaminated organisms are eaten.

Carcinogenicity

Some doubt may remain as to the direct carcinogenicity to man of crude oil and crude oil residues in marine organisms (Blumer, 1969), but evidence pointing toward this is accumulating (Blumer, 1970, see footnote 3; 1972). A literature search and evaluation conducted for the U.S. Coast Guard by Battelle Memorial Institute (1967) noted that shellfish, although alive, may have been unfit for consumption because of the carcinogenic hydrocarbon 3,4-benzpyrene in their bodies. Oysters that were heavily polluted and contaminated with ship fuel oil were reported to contain 3,4-benzpyrene. The Battelle review also reported that barnacles attached to creosoted poles contained the same carcinogenic hydrocarbon (3,4-benzpyrene). Sarcomas were elicited when extracts from the barnacles were injected into mice. The endemic occurrence of papillary tumors around the rectal opening of soft-shell clam, *Mya arenaria*, was reported, but the author (Battelle Memorial Institute, 1967) did not feel these were due to oil pollution, even though the clams were taken from waters adjacent to areas highly polluted by ship fuel oil. Hyperplasia in reproductive cells of a bryozoan in response to coal tar derivatives was observed by Powell, Sayce, and Tufts (1970). They noted that similar abnormalities may also have occurred in coastal faunas exposed to spills such as the *Torrey Canyon* and the Santa Barbara blowout. However, most observations on these spills were concerned with gross mortality and may not have detected the sublethal effects.

ZoBell (1971) reported the natural synthesis and metabolism of carcinogenic hydrocarbons by several marine organisms. Thus, oil pollution is certainly not the only source for carcinogenic hydrocarbon introduction into marine food webs. Suess (1972) recognized that carcinogens were in seafoods but concluded that they would probably not be dangerous unless the foods contained an excess amount of polynuclear aromatic hydrocarbon carcinogens. Carcinogenesis from oil-contaminated marine organisms has not been proved, but Ehrhardt (1972) expressed a need for carcinogenic testing of hydrocarbon fractions extracted from marine organisms contaminated by exposure to oil.

Observed Toxic Effects

A study of the available information on potential toxic effects of oil pollution reveals more unknowns than proven conclusions. Only a decade ago, ZoBell (1963) reviewed the literature on the effects of oil on bacteria and higher organisms and concluded that oil pollution had no great adverse impact on fishery resources in general. He did point out, however, a few reports of toxic effects, tainting of flesh, and damage to vessels and fishing gear.

The quantity of literature on effects of oil spills has increased since the *Torrey Canyon* incident of 1967. Most of the recent work has depended on onsite visual surveys after occurrence of an oil spill rather than on experiments and detailed study. The surveys have been limited mostly to the effects of oil and of cleaning or dispersing agents on primarily adult intertidal organisms and populations. These observations on a restricted segment of the affected ecosystem include only a few of the factors that influence the total impact of oil. Wilson, Cowell, and Beynon (1973) noted that the absence of results from studies at the commu-

nity level make the interpretation, extrapolation, and use of many observations very difficult. Further, the differences between various crude oils and between the hundreds of petroleum products in their physical and biological effects must always be kept in mind. Comparative data generally are far too few to permit attaching any relative significance to production area or product formulation in this review.

Field Investigations

The utility of many "after-the-fact" studies is limited because of the lack of knowledge of prespill conditions. Data are often collected without proper controls for comparison, and knowledge of natural local fluctuations and species composition of animal populations is usually quite limited. For these reasons conclusions about the impact of a particular spill may vary.

Ehrsam (1972) reported substantial immediate kills of marine life from a fuel oil spill at Anacortes, Wash., and concluded that if larval and juvenile forms of certain organisms were killed, the full impact of the spill may not be known for some time. Katz (1972) observed intertidal transects of the same affected area and concluded that the effects were minor and long-term effects would be unlikely. Webber (1972) pointed out, however, that these after-the-fact studies observed only a small wedge of the total biota. Knowledge of subtidal and benthic organisms as well as larvae and juveniles was lacking.

Other large spills have been studied in greater detail and have contributed significantly to our understanding of the gross effects of oil. Yet, they have been unable to answer many important questions on the effect of pollutant hydrocarbons in the marine environment, and generalizations learned from one spill may not apply to another because each is different.

Field observations of behavior and effects of oil in Arctic ice environments are few. The U.S. Coast Guard investigations in the Arctic have primarily been directed toward gaining knowledge to improve cleanup methods (Glaeser and Vance, 1971; McMinn and Golden, 1973). Campbell and Martin (1973) discussed possible large-scale movements and persistence of oil spilled in the Beaufort Sea. They suggested that the surface waters of the Arctic Ocean and the winter waters of Chedabucto Bay, Nova Scotia, might be comparable, particularly with regard to the physical behavior of oil. Chedabucto Bay is the site of the grounding of the tanker *Arrow* in February 1970 with 2.8 million gallons of bunker C oil aboard. Campbell and Martin (1973) found that highly stable oil-water emulsions formed to a depth of 50 m throughout Chedabucto Bay. They described conditions by which oil reaching the edge of the pack ice could be distributed under the ice.

Thomas (1973) also suggested that results of the studies at Chedabucto Bay might in some respects be applicable to spills in the Arctic. He observed remobilization of oil from beneath the weathered surface of deposits during the summers following the *Arrow* spill and the subsequent re-oiling of some intertidal areas, adding a chronic pollution aspect to the spill. Extensive mortalities of soft-shell clams and salt marsh cord grass, *Spartina alterniflora*, resulted where this occurred. In other areas, clams were visibly contaminated with oil and clam fishing was closed, at least through the summer of 1972 (Thomas, 1973).

When the *Torrey Canyon* broke up near the southwest coast of England in 1967, 15 million gallons of Kuwait crude oil with a high aromatic content were released. Efforts to cope with this first super disaster depended principally upon 2 million gallons of toxic dispersant, which probably caused more damage than the oil, most of which had weathered at sea for a week or more before reaching the shores. Many techniques for oil containment and control on the seas were attempted during the time oil leaked from the tanker; the fact that they all failed reveals the inadequacies of our technology and preparedness for such emergencies.

Extensive investigations of the West Falmouth spill by Blumer and his associates at Woods Hole provide one of the best documentaries of an oil spill. A total of 185,000 gallons of no. 2 fuel oil (41% aromatic content) were spilled in 1969 from a ruptured barge. Intertidal and subtidal benthic organisms of all phyla were killed during the first few days (Blumer and Sass, 1972). Blumer, Souza, and Sass (1970) showed that the uptake of fuel oil hydrocarbons by shellfish left them unfit for human consumption for later. Blumer and Sass (1972) reported the continued persistence of fuel oil hydrocarbons in the sediments after 2 yr. Although there had been some degradation, the boiling range and composition of the hydrocarbon mixture was basically unchanged.

The 1969 Santa Barbara blowout released an estimated 5,000 barrels of crude oil per day ini-

tially (Foster, Charters, and Neushul, 1971), yet biological damage was not reported widespread and the area has started to recover. Foster, Neushul, and Zingmark (1971) observed that much of the damage to intertidal areas corresponded to sand movement, probably from storm damage. Cimberg, Mann, and Straughan (1973) concluded that the blowout had less effect on intertidal marine organisms than did sand movement and substrate stability. Straughan (1971), reporting on investigations at Santa Barbara, noted factors unique to that accident: 1) the long history of natural oil seepage in the Santa Barbara Channel and 2) the unusually heavy winter runoff at the time of the spill, which reduced salinities, increased sedimentation, and possibly increased pesticides in the channel. R. L. Kolpack (pers. commun. cited by Foster, Straughan, and Jessee (1971)) noted that Santa Barbara crude oil is relatively insoluble in water and contains a very low percentage of toxic aromatic compounds. Thus, information gathered on the effect of the Santa Barbara spill or any other is of limited utility in predicting the ecological effects of crude oil spills or of other oils in other areas.

Several studies have provided encouraging reports of varying degrees of recovery after some of the recent larger spills. Investigations about 1½ yr after the *Torrey Canyon* spill revealed that at least the affected shoreline areas were recolonizing and recovering, although recovery was not yet complete at that time (Spooner, 1969). The areas affected by the 1969 Santa Barbara blowout were recently reported to be recovering (Cimberg et al., 1973), as was a reef affected by bunker C oil spilled from a tanker collision in San Francisco Bay in January 1971 (Chan, 1973).

Too few of the controlled field investigations have been designed to bridge the gap between field surveys after spills and simultive laboratory experiments. Perkins (1970) exposed periwinkles and other intertidal organisms to the oil dispersant BP1002 in the laboratory and then released marked individuals in the natural environment. After recapture of the individuals exposed, he found that survival from doses as low as one three-thousandth of the 24 h LC_{50}[5] was lower than among the recaptured controls. Crapp (1971a) conducted field experiments by applying crude oil and oil emulsifiers to the intertidal zone. Physical damage by the oil was observed, but toxicity damage was not great because the oil had previously been exposed to air; in contrast, the oil-emulsifier mixtures were toxic. Baker (1970) applied a crude oil to salt-marsh plots at different times of the year and monitored the effects on plants. Summer applications of oil severely affected annuals but not perennials.

[5]24 h LC_{50} equals that dose of toxicant that resulted in 50% survival after 24 h exposure.

Laboratory Studies

Experiments in the laboratory also do not provide all the answers about how an oil spill will affect a marine organism or its environment. Laboratory research has demonstrated the toxicity of various crude oils and petroleum products on several forms of marine life. Much of this research has focused on the planktonic life history stages of pelagic and benthic animals. Many of these planktonic larvae are phototactic at their earliest stages and concentrate in the surface layer of the sea. This community of the surface 5 cm, the neuston, is the first affected by most oil entering the water. Thus, many organisms are most sensitive to oil pollution at the time of their greatest likelihood of exposure.

Studies by Mironov (1968) on the development of fertilized eggs of the plaice, *Rhombus maeoticus*, showed extreme sensitivity of the eggs to the influence of the oil products in seawater. He noted that injury to the eggs occurred at concentrations of 10^{-4} to 10^{-5} ml/liter (0.1 to 0.01 ppm). In these concentrations of oil products, 40 to 100% of the hatched prelarvae showed some signs of degeneration during development and perished. Mironov (1969a) also demonstrated that 0.001 ml of crude oil per liter was toxic to the eggs of anchovy, scorpionfish, and sea parrots from the Black Sea.

Newly set spat of *Elinius modestus*, an Australian barnacle introduced to Europe, were tolerant of 100 ppm crude oil but showed reduced cirral activity and retarded shell growth (Corner, Southward, and Southward, 1968). Adults of this species also showed reduced activity at 100 ppm (Corner et al., 1968).

Mironov (1969b) tested crude oil on several copepods and a cladoceran, and found that 0.001 ml/liter accelerated death in all forms and that 0.1 ml/liter caused death in less than 1 day. *Acartia* and *Calanus* died at 0.01 ml/liter oil in seawater in 72 to 96 h (Mironov, 1968). Larvae of crab and shrimp died at 1 ppm (Mironov, 1969c).

Little is known of the mechanisms of various

toxic effects. Damage to cell membranes and the cellular contents of planktonic larvae may occur. Goldacre (1968) demonstrated such cytological damage and death to the freshwater protozoan, *Amoeba proteus*, exposed to crude oil fractions. Brocksen and Bailey (1973) measured increased respiratory response of striped bass and chinook salmon to sublethal concentrations of benzene. The fish recovered to normal activity when they returned to noncontaminated water for several days. Rice and Short were unable to demonstrate changes in the enzyme activity of cholinesterase or Na-K stimulated ATPase in juvenile pink salmon, *Oncorhynchus gorbuscha*, after in vivo and in vitro exposures to Prudhoe Bay crude oil (Stanley D. Rice and Jeffrey Short, Auke Bay Fisheries Laboratory, NMFS, NOAA, Auke Bay, AK 99821, pers. commun.). This is somewhat surprising because various hydrocarbon pesticides have been shown to affect both enzymes.

Cellular membranes of phytoplankton are also damaged by the penetration of hydrocarbon molecules: the cellular contents are extruded, and oil penetrates into the cell. Detergents administered in a concentrated solution also penetrate the plant cells and cause the dissolution of cellular membranes and the extrusion of cellular fluid (Ruivo, 1972). The effects of oils on plant respiration are variable, but an increase of respiration is frequently observed, probably because of an alteration of the mitochondria. This could result in an uncoupling of the oxidative phosphorylation enzymes from the electron transport enyzmes, and the energy release would be lost as heat.

All marine animals ultimately depend on the photosynthetic activity of phytoplankton and algae for the production of biomass. Baker (1971), reviewing the literature, noted that weathered *Torrey Canyon* oil had no apparent effect on the photosynthetic activity of green algae. He did find, however, that green algae treated with fresh crude oil died and that photosynthesis in kelp, *Macrocystis* sp., was reduced when the kelp was exposed to various petroleum products. Kauss et al. (1973) determined the effects of crude oil on several species of freshwater algae in both field and laboratory experiments. In their field studies, response of the algae to a spill varied from suppression of growth to its stimulation. In their laboratory studies, they noted depressed photosynthetic rates in one algal species after it had been exposed to aqueous crude oil and other selected aromatics.

Growth of phytoplankton from axenic cultures and mixed cultures of natural populations was inhibited by water-soluble extracts from no. 2 fuel oil in a laboratory study by Nuzzi (1973). Mironov and Lauskaya (1968) demonstrated that marine phytoplankton vary several orders of magnitude in sensitivity to crude oils and kerosene in oil concentrations ranging from 0.1 to 1,090 ppm. Of the 20 species tested, a diatom, *Ditylum brightwellii*, was the most sensitive. The wide variation in susceptibility may account for the statements in other reviews of low toxicity of crude oils to phytoplankton (Føyn, 1965; Nelson-Smith, 1970) and supports the premise that biological response will differ among species.

Sublethal and Chronic Effects of Oil Pollution

While data are scarce in some of the areas previously discussed, information on the ecological effects of chronic sublethal oil pollution is essentially nonexistent. Observing these effects is difficult because they are not dramatic and may pass unnoticed by the casual observer. A full description would require observations extending over a long period of time.

Lewis (1972), commenting on approaches to the study of chronic pollution, contends "... that without a massive expansion of ecological and reproductive data by simultaneous multidisciplinary studies not only will we be unable to detect the significant long-term changes, but we will even remain unaware of the most suitable or important species and methods to build into a monitoring program."

A few studies concerning sublethal effects on organisms have appeared in the literature. Wells (1972) reported deaths of lobster larvae to exposures of 0.1 ml of Venezuelan crude oil per liter, while larvae exposed to 0.01 ml/liter had poor survival rates and were unable to molt to the fourth stage. Decreased limb (cirral) activity of marine larvae exposed to oil has been reported (Smith, 1968). Kuhnhold (1972), while observing toxic effects of crude oils to eggs of cod and to larvae of cod, plaice, and herring noted that the larvae exposed to oil-contaminated water were unable to avoid well-defined milky clouds of toxic oil dispersions. Blanton and Robinson (1973) observed damage to the gills of specimens of seven species of fish that had apparently been exposed to an oil spill off the Louisiana coast.

Crapp (1971b) observed that fucoid algae replaced barnacle and limpet populations near an outfall where the effluent contained about 20-25 ppm oil from treated ballast water of tankers unloading at Milford Haven. Although the relative oil content was low, the cumulative volume discharged was large (20,000 gallons of oil per year), a situation similar to that which may occur at Port Valdez, Alaska, when the trans-Alaska pipeline is completed.

Blumer (1972) discussed how low-level chronic effects of oil may damage marine organisms because of their dependence on natural organic chemical clues for a variety of functions. Salmon and other fishes utilize organic chemical clues in migrations; predators are attracted to prey by organic compounds at the parts-per-billion level (Whittle and Blumer, 1970); and other organisms may use chemical clues for predator avoidance, selection of habitat, and sex attraction. Blumer (1972) discussed the fears that oil pollution may interfere with these fundamental biological processes by masking or blocking, or by mimicking natural stimuli (resulting in false responses). He cited literature discussing the attraction of lobsters to kerosene and to purified hydrocarbon fractions derived from kerosene and noted that many dead lobsters were washed ashore after the West Falmouth spill. Blumer's fears about interference with chemoreception are further substantiated by the observations of Takahashi and Kittredge (1973) on crab behavior. Crabs, *Pachygrapsus crassipes*, exposed to water-soluble extracts of crude oil failed to exhibit feeding behavior or mating behavior responses when given appropriate chemical stimuli. Inhibition of chemoreception of some motile marine bacteria by a crude oil and several other hydrocarbons has been demonstrated by Walsh and Mitchell (1973).

Rice (1973) performed laboratory tests of avoidance of pink salmon fry to Prudhoe Bay crude oil and observed avoidance of oil at concentrations as low as 1.6 mg/liter. He concluded that salmon fry had the capability of detecting sublethal concentrations of oil and that they might avoid areas contaminated with sublethal levels of oil, which would result in confused and nonadaptive migratory behavior. The effect of chronic low-level pollution in areas such as Port Valdez, the terminus of the trans-Alaska oil pipeline, could be as severe as the total loss of all salmon runs in the local area because of altered behavioral responses to sublethal oil pollution.

CONCLUSIONS

Although crude oil generally should be considered toxic to marine organisms and harmful to their environment, most ecosystems can tolerate some pollution because oil can be dissipated or removed by processes like evaporation, autoxidation, dilution, and biodegradation. However, each organism and environment has a limit to how much oil can be absorbed and metabolized. Catastrophic spills are obviously pollution at a level that ecosystems cannot tolerate without damage. However, if the spills are not continued, the oil will slowly be removed and recovery of the area, at least to some degree, will likely occur. There is some evidence for recovery of some affected individuals.

Assessments of the impact of oil pollution cannot depend solely on evaluation of immediate kills of organisms from acute exposures. Chronic low-level oil pollution can cause subtle changes in organisms and is potentially more dangerous to the ecosystem than dramatic catastrophic spills. For this reason, the effects of chronic pollution warrant intensive study so that they will not be underestimated. The cumulative impact of "ecological death" of individuals which have impaired functions may be quite significant, yet difficult to assess because the death is not tied directly to an acute oil exposure. Equally as dangerous is the potential impact on populations where reproductive processes, adversely affected through physiological or behavioral mechanisms, result in fewer progeny. Chronic pollution may eliminate a species from an area entirely, and once eliminated that species may remain suppressed and may not repopulate the area because of continuing pollution or because its niche has been filled by a more tolerant, possibly less desirable, species.

The adverse effects of oil on animal populations has been of wide concern when stocks of special interest, such as those providing the basis of a sport or commercial fishery, have been involved. It should be remembered that changes in populations of lesser apparent significance will also cause changes in the community because each species population interacts with and is dependent on the rest of the community.

The foregoing review of information does little to simplify or ease the problems of policy makers concerned with marine production and transportation of oil and petroleum products. The weight of

the evidence leaves little doubt that oil poses a serious hazard to living marine resources, that spills and chronic pollution have happened and will continue to occur, and that the interests of the marine environment are best preserved if marine transportation of oil and petroleum products is minimized. The continuing need for new sources and increased amounts of energy, however, limits many of the conservative and prudent alternatives to these hazards. Until research has provided conclusive data, policy makers must continue to rely on these interpretative judgments for much of their guidance in making decisions that can profoundly affect the well being of marine ecosystems.

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HB 712

March 30, 1978

ALASKA LEGISLATION - 1978
S.B. 557
OIL SPILL PENALTIES

This bill, which amends H.B. 137, Chapter 129 of the 1977 Session, should be further amended as follows:

1. Section 46.03.758(a)(2) is amended to read:

> "~~the exact nature and extent of oil pollution can be neither documented with certainty nor precisely quantified on a spill-by-spill basis; however,~~ in light of the magnitude of harm which may be caused by oil discharges, and the vital importance of commercial, sport and subsistence fishing, tourism, and Alaska's natural abundance and beauty to the economic future of the state, and its quality of life, it is the judgment of the legislature that substantial civil penalties should be imposed for the discharge of oil, in order to provide a meaningful incentive for the safe handling of oil and to insure that the public does not bear substantial losses from oil pollution for which, ~~because of its subtle, long-term or unquantifiable nature,~~ compensation would not otherwise be received; and however, it is not the intent of this section to impose a civil penalty for discharge of oil where there is no demonstrable damage to the environment; and"

This amendment is the most important of the four. It deletes the reference to unquantifiable damage, a thoroughly illogical concept which no one has ever been able to explain, and it adds language to require a demonstration that environmental damage has occurred before penalties under this law can be imposed.

The existing law, which does not require evidence of environmental damage before imposing penalties, must be considered punitive. Yet, subsection (a)(3) states this should not be the case.* Thus, this amendment would render the penalty remedial rather than punitive.

2. Section 46.03.758(b)(1) is amended to read:

> "Subject to subsection (a)(2) and to ~~(3)~~ (2) of this subsection, the penalties for the following categories of receiving environments may not exceed"

Making the penalties subject to subsection (a)(2) is a precaution to ensure that penalties will not be imposed unless it is demonstrated that environmental damage occurred.

*46.03.758 (a)(3) "in order to provide an incentive which is effective, but not punitive."

The change from (3) to (2) is a technical change. There is no (3) in subsection (b).

3. Section 46.03.758(d) is amended to read:

> "The schedule shall vary according to the toxicity, degradability and dispersal characteristics of the oil. The schedule shall also vary according to the sensitivity and productivity of the receiving environment. And, the schedule shall take into account seasonal changes. Variations under this subsection may be by subcategories of receiving environments, specific receiving environments, or both. The maximum penalties established in (b) of this section shall apply to discharges in the most sensitive and productive of receiving environments within each category of receiving environment, and the penalty shall decrease for less productive or less sensitive receiving environments."

This is consistent with past arguments that seasonality is an important factor in determining potential enviromental damage. Also, it reinforces our first amendment. "Less" is added before "sensitive" in the interest of good construction.

4. Section 46.03.758(g) is amended to read:

> "Except as provided in (f) and (j) of this section, the entire penalty specified in the regulations shall be imposed, except that a person who discharges oil into a receiving environment may demonstrate, by a preponderance of evidence, that mitigating circumstances relating to the effects of the discharge would make imposition of the full penalty inappropriate. ~~In determining whether mitigating circumstances exist, the court shall recognize that scientific knowledge pertaining to oil spills is very limited and if there is insufficient knowledge either to predict a base case or to show mitigating circumstances varying from that base case, the administratively established schedule of penalties shall apply.~~ Only when no such mitigating circumstances exist shall the schedule of full penalties apply."

The language deleted describes the body of scientific knowledge pertaining to oil spills as "very limited." This is simply not true. The scientific community, academicians, government, and industry have produced volumes of data on the fate and effects of oil spills (an abbreviated bibliography is attached), and their work is continuing. Therefore, the deleted sentence cannot be justified.

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Sponsor Analysis of HB 137

1. Need for the legislation

Oil pollution can and does cause a wide range of harm to renewable resources, and the environment in general. Many types of harm, which can have devastating long-term effects on important marine resources, cannot be quantified. Included within this category are mortality to fish and shellfish larvae, food chain contamination, carcinogenic effects, and chronic toxicity. (See "Effects of Oil on Marine Ecosystems: A Review for Administrators and Policy Makers," Evans and Rice (1974), copy of which is attached to this analysis.)

Much of the damage caused by oil pollution can at least partially be seen -- oil-smothered beaches and intertidal areas, dead birds, marine mammals and the like. Yet even here, under existing state and federal law, the public, and the industries which depend upon the productivity of the sea, must bear these damages without compensation. As impressive as oil spill liability statutes may seem on their face, the fact of the matter is that traditional concepts of burden of proof will normally pose an insurmountable barrier to effective redress for the great bulk of harm caused by oil pollution.

In Alaska, the primary remedy for recoving damages for oil pollution is AS 46.03.822, which provides a strict liability remedy for those damaged by oil discharges. Yet it must be remembered that, to receive any compensation under the statute, the plaintiff must prove actual loss, the precise economic value of the loss, and causation. It is naive to believe that in any but the most basic cases can that burden be met. For example, let us suppose that, two years after a major oil spill, the salmon run in the area declines by 30%. Is that decline attributable to the oil spill? Natural fluctuation? Hard winters? Overfishing? A little of each? An even greater problem, of course, arises with regard to the subsistence user, who must prove not only causation, but must also meet his burden of establishing an exact dollar figure for lost subsistence opportunities. As the Court of Appeals for the Ninth Circuit warned in Union Oil Co. v. Oppen, 501 F. 2nd 559 (1974), after holding that commercial fishermen could sue for lost profits due to oil pollution:

> "To [recover any damages] it must be shown [by the fishermen] that the oil spill did in fact diminish aquatic life, and that this diminution reduced the profits the plaintiffs would have realized from their commercial fishing in the absence of the spill. The reduction of profits must be established with certainty and must not be remote, speculative or conjectural. . . . These are not small burdens, nor can they be eased by our abhorrence of massive oil spills. All that we do here is to permit plaintiffs to attempt to prove their case. . ." Id at 570.

The problem, of course, reaches unmanageable proportions when the state, on behalf of the public, seeks redress for harm caused to its natural resources. Here we deal not with lost profits, but with the diminution of the quality of the state -- lost recreational opportunities, decreased tourism, loss of heritage and the like.

The State of Maine considered it a major victory when a federal district court ruled in Maine v. M/V Tamano, 357 F. Supp. 1097 (D.Me. 1973) that the state could sue for these kinds of damages. The difficulty, of course, came afterwards -- in translating the harm from the spill into a dollar figure. Maine was fortunate in this instance. The primary visible harm was the direct coating of commercially valuable clams. The state actually conducted an on-site survey, and counted the dead clams. Yet even here, the inability of the state to put a dollar figure on the value of "in place" clams forced an out-of-court settlement of $750,000.

In most cases, however, the burden on the state will be far more formidable. While dead clams can be more or less effectively surveyed, most species cannot. And what of the indirect damages to commercial species -- such as food chain contamination? And the problem of valuation of non-commercial species? What is the "in place" value of a trumpeter swan, or a whale?

Alaska's answer to this problem has been the modest civil assessment provision of AS 46.03.760, which provides for an assessment of not less than $500, nor more than $100,000 for oil spills, based on the toxicity of the substance discharged, and the receiving environment. The statute is intended to provide "liquidated damages" for harm caused by oil pollution.

The most glaring problem with the statute is the $100,000 upper limit. In light of the fact that in many situations, the only recovery the state will make will be under sec. 760, the $100,000 figure seems ludicrous when applied to a Torrey Canyon or Santa Barbara.

The $100,000 figure is unreasonably low for another reason. Any civil penalty scheme should be regulatory as well as remedial. The penalties should be sufficiently high to constitute a meaningful stimulus to comply with the laws which they enforce. A potential maximum exposure of $100,000 no doubt fails to even register in the cost-benefit analysis of oil handling operations. An illustrative anecdote might be provided here. Last summer, Exxon Corporation willingly paid the U. S. Environmental Protection Agency $100,000 in civil penalties for a 200-400 gallon discharge of oil into the Beaufort Sea, to protect a "tight hole" from potential exposure in litigation. With regard to oil spills, sec. 760 fails its regulatory, as well as its compensatory role.

Sec. 760 is primarily addressed to continuing acts of pollution -- by depriving the discharger of the economic incentive of continuing to violate state law. It is not an appropriate enforcement mechanism for single-act oil spills. Even with the presence of the toxicity and receiving environment criteria, it is still exceptionally difficult to apply to any given oil spill. A person simply has no means of assessing his potential liability under the law. A trial to set the amount of the assessment remains largely potluck, and, as a result, there have been none. Cases under the law languish for years, while the private and public bar argue across the negotiating table as to whether the spill in question is a $500, or $50,000 discharge. There are more efficient, as well as more effective ways of protecting the public interest.

2. Major issues regarding HB 137

A. What is a civil penalty?

Although called a "penalty," the primary purpose of a civil penalty is to compensate for public harm, and to effectively encourage the regulated industry to comply with the laws which it enforces. See U.S. v. Mar.-Tee Contractors. _____F. Supp. _____, 8 ERC 1925 (D.N.J. 1976). In both intent and operation, HB 137 is remedial and regulatory, rather than punitive in nature.

B. Why dollars per gallon?

Civil penalty schemes are usually open-ended -- like current sec. 760 -- with a broad range between the lower and upper limits. This inevitably leads to the problems the state has faced with sec. 760.

The consequences of oil pollution should be definitively and unequivocally established from the outset. The dollars per gallon approach objectively grades the penalty according to the degree of public harm caused. The approach also furthers the regulatory purposes of the bill, by increasing the incentives for safe operation according to the amount of oil handled.

C. Why should an administrative agency establish the dollars per gallon schedule?

In the bill, the legislature establishes both the amount of the penalty, and the criteria for its application. What remains is a ranking of the relative sensitivity of receiving environments, and the relative toxicity of various types of oil. That is a technical effort which is properly vested in an administrative agency.

It might be argued that the establishment of a particular dollars per gallon figure should be established on a spill-by-spill basis by the courts. That, of course, would lead to precisely the same problem faced in utilizing current sec. 760. Moreover, courts are simply not equipped to make these kinds of relative judgments.

D. Why $5 to $50 per gallon?

We believe that $5-$50 per gallon is reasonably related to the gravity of the harm caused by oil pollution. In arriving at the figure, we of course recognize that it is impossible to quantify the environmental harm caused by oil pollution. But this bill is not an attempt to rigidly pre-establish damages. It is a penalty scheme in lieu of damages for which the public will never recover. It is also, of course, intended to serve as a meaningful incentive for safe operations.

On this point, it should be noted that a significantly lower range would result in unreasonably low assessments at the low end of the scale. For example, at a maximum range of $1 per gallon, the discharge of 100 gallons of oil to a salmon stream would result in a penalty of $100 -- a sum hardly commensurate with the gravity of that kind of incident.

E. Shouldn't there be an upper limit on liability?

Under HB 137, an upper limit does exist -- $50.00 per gallon. The total limit of liability thus depends upon the total amount of oil spilled.

To place a dollar limit on the total amount that may be assessed would represent a policy judgment that, at a given point, the harm caused by oil pollution should be

borne by the public, rather than the discharger. The administration is not prepared to make that judgment. In this regard, it should be noted that Alaska currently imposes unlimited strict liability for actual damages -- as do Maine and Florida. See AS 46.03.822.

Admittedly, the recoveries which might be had under HB 137 are conceptually very high. So, it should be added, is the level of impact which an oil spill catastrophe can cause, as well as the figures which enter into industry's calculations in determining what level of safety is economically justifiable.

F. Why is it necessary to establish vicarious liability?

HB 137 does extend liability for the penalty to certain persons who are in a position to control the integrity of operations from which the discharge occurred. For example, oil terminals are made vicariously liable for spills caused by vessels which load at their facilities. Similarly, the lessee of an offshore platform is made vicariously liable for discharges caused from his platform, even though the actual cause of the discharge may be due to the acts of an independent contractor.

Focusing on the question of vicarious liability for terminals, it should be stressed that the owners of the transported oil are the ones who choose the carriers which

handle their products. Because of the terminal's ability to insure that only the safest vessels, and most experienced crews enter Alaska waters, it simply makes sense, as a matter of equity, to hold the terminal responsible for the vessels' actions, while they are in state waters.

It is this philosophy which motivated §204 of the Trans-Alaska Pipeline Authorization Act (43 USC §1653(c)) which makes the owners of the TAPS oil, through the Trans-Alaska Pipeline Liability Fund, vicariously liable for damages (above $14 million) caused by oil spills from vessels which service the terminal. It is this same philosophy which led the State of Maine, in its Oil Discharge Prevention and Pollution Control Act of 1970, to make oil terminals vicariously liable for oil spills caused by "vessels destined for the licensee's facilities." 38 M.R.S.A. §552. This vicarious liability provision was upheld by the Maine Supreme Court in Portland Pipe Line Corporation vs. Environmental Improvement Commission, 307 A 2nd 1 (1973).

There are very real practical reasons for creating vicarious liability, aside from the amount of control which the terminal exercises over the quality of the vessel and its crew. First, the "independent contractor" defense -- which may be available if vicarious liability were not created -- has generally caused severe problems in oil spill

enforcement. For example, the dogged insistence of Alyeska Pipeline Service Company that it is not responsible for oil spills caused by independent contractors engaged in Trans-Alaska Pipeline work has frustrated state enforcement efforts in that regard.

Litigation against the owner of the vessel will often be fruitless. The vessel's owner or charterer will often be protected under the federal Limited Liability Act (46 USC §183, 186), which provides that the liability for damages of the vessel's owner or bareboat charterer as a result of a maritime incident will often be limited to the value of the vessel and freight on board after the incident. After a tanker grounding, of course, that value will be rather small. Of course, since HB 137 imposes liability for penalties, and not damages, it will be the state's position that the Limited Liability Act is inapplicable. It is, however, far from certain how the federal courts will treat this hybrid regulatory approach vis-a-vis that act.

The Torrey Canyon disaster provides a tragi-comic example of precisely this problem. On March 18, 1967, the Italian master of this Liberian registered flagship ran aground off the coast of England, spilling, over a period of days, most of her 119,000 tons of crude oil. On March 28, the vessel was sunk by RAF bombers.

The Torrey Canyon was owned by Barracuda Tanker Corp., a subsidiary of Union Oil Co. of California. Barracuda owned the boat pursuant to a sale-lease back arrangement with Union.

Barracuda immediately sued to limit its liability. The federal court obliged, limiting Barracuda's liability to $50 -- the value of one lifeboat which survived the bombing. See In Re Barracuda Tanker Corp., 281 F. Supp. 228, 232 (S.D.N.Y. 1968).

The frustrated British and French governments finally resorted to a remedy unavailable to Alaska -- they seized the Torrey Canyon's sister ships in Singapore and Rotterdam and, in a very real sense, held them for ransom. Barracuda's insurers then paid the governments 3 million pounds sterling -- about one-sixth of the clean-up costs incurred as a result of the spill.

Vicarious liability is nothing new to hazardous undertakings -- particularly the handling of oil. Both as a matter of equity, and practical necessity, we believe it is imperative that those who induce, and profit from oil handling activities, and who in fact have the ability to control the integrity of those activities if they so desire, be impressed with a non-delegable duty to see that those operations are conducted in as safe as possible a manner.

Finally, it should be stressed that those upon whom vicarious liability is imposed are not without recourse if the penalty is assessed against them. As the Maine Supreme Court stressed in Portland Pipe Line Corp., supra, we are dealing here with a "mutually beneficial relationship [i.e. between terminal and vessels, and owners and operators where] there is, in the relationship, adequate opportunity to locate, among the business associates, the primary liability."

G. Will federal admiralty law let us do this?

The short answer is yes. Following the United States Supreme Court decision in Askew v. American Waterways Operators, 411 US 325 (1973), which upheld Florida's strict liability oil spill statute, it was argued by some that certain implications in that opinion might limit the state's ability to impose strict liability for sanctions or damages beyond the limits established in the Federal Water Pollution Control Act -- i.e. $14 million dollars for vessels. In upholding Maine's unlimited strict liability oil spill law, the Maine Supreme Court, in Portland Pipe Line Cement, supra, specifically rejected that argument, and Congress has since made it clear that the Maine Supreme Court correctly interpreted its intent with regards to the state's power to enter the domain of admiralty, to seek redress for oil pollution. For example, in establishing the Trans-Alaska Pipeline Liability Fund, Congress stated with regard to vessels:

> "This subsection shall not be interpreted to preempt the field of strict liability or preclude any state from imposing additional requirements." 43 USC § 1653(c)(9).

To the same effect is the following provision in the federal law creating the Deep Water Port Liability fund:

> "This section shall not be interpreted to preempt the field of liability or to preclude any state for imposing additional requirements or liability for discharges of oil from a deep water port or a vessel within a safety zone." P.L. 93-697, § 18(k)(1).

Similar provisions are contained in comprehensive oil spill liability legislation now pending before Congress. It is clear that states have a "wide scope" in enacting laws pertaining to admiralty matters, as long as the law does not concern a matter requiring uniformity, or impair the harmony of the admiralty system. See Romero v. International Terminal Operating Co., 358 U. S. 354; Askew, supra. Both the courts and Congress have made it clear that the states' power to legislate in admiralty with regard to oil pollution is particularly broad.

H. Where does the money go?

The administration made a conscious decision, in submitting HB 137, not to specify how the penalties received should be allocated. If the bill is left untouched in this

regard, penalties collected would, pursuant to AS 30.25-.220(b), be deposited in the coastal protection fund. We believe it would serve no purpose to over-load the coastal protection fund with the substantial penalties which may be collected under this bill.

We would submit, for the legislature's consideration, that it would be more appropriate to return the penalties to the general fund, providing at the same time that the legislature may annually appropriate an amount equal to the penalties collected for the previous year for the purpose of financing renewable resource enhancement efforts in areas affected by oil pollution. These efforts, of course, could specifically include fish hatcheries. It is our belief that, in light of the extreme unlikelihood of effective recovery by fishermen for the full amount of damages actually caused to them as the result of oil pollution, that this mechanism would come as close as possible to, in fact, making the fishing industry whole after a catastrophe occurs. The department of law will be glad to assist the legislature in drafting a new subsection in this regard if that is the legislature's desire.

I. How does this bill affect private damages actions under AS 46.03.822?

This bill has no effect on the bringing of private damages actions under §822. It must be stressed that this section does not provide a damages remedy, but is rather a penalty law. It is true that the penalties are graded according to environmental and renewable resource impacts. However, again, the purpose of the bill is to provide a means of redress for harm caused by oil spills above those actual damages which might be proven in a given instance.

Respectfully submitted,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Jonathon K. Tillinghast
Assistant Attorney General

HB

144

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING / POUCH SA – JUNEAU 99811

February 23, 1977

The Honorable Alvin Osterback
Chairman
House Resources Committee
Alaska State Legislature
Room 118 - Capitol Building
Juneau, Alaska

Re: House Bill No. 144

Dear Mr. Osterback:

House Bill No. 144, an Act concerning the oil and gas properties production tax was introduced in the House on January 31, 1977 and was referred to the House Resources and Finance Committees.

For the consideration of the House Resources Committee, I am enclosing a Fiscal Note prepared by Mr. Thomas K. Williams, Director, Petroleum Revenue Division, Department of Revenue, Anchorage, concerning the proposed legislation.

Very truly yours,

R. D. Stevenson
Special Assistant

Enclosure
cc: The Honorable Steve Cowper
Chairman
House Finance Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska

Thomas K. Williams, Director
Petroleum Revenue Division
Department of Revenue
Anchorage, Alaska

AGO 547428 +

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 144
Title Act concerning the oil and gas properties production tax
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected General Government - Fiscal Services
Budget Request Unit(s) Affected Petroleum Revenue

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	None	None	None	None	None	None

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME	None	None	None	None	None	None
PART TIME						
TEMPORARY						

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

This Bill would facilitate the administration of the present production tax, making it fully auditable for the first time since "stair steps" were introduced into the statute in 1970. No additional staff or other costs are anticipated to administer this Bill. Assuming a full and fair market price for Prudhoe Bay oil, estimated receipts under the Bill for production from the main reservoir of that field would be $131.3 million in FY 78, $205.6 million in FY 79, $362.4 million in FY 80, $585.9 million in FY 81 and $636.3 million in FY 82. Further comments (which are hereby incorporated into and made part of this Analysis) on the Bill appear in the attached memorandum from Thomas Williams to R. D. Stevenson.

IV. DATE February 18, 1977 PREPARED BY Thomas R. Williams
AGENCY Revenue
PHONE (907) 276-1363

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

AGO 547429 +

33-001 (Rev. 10/76)

MEMORANDUM State of Alaska

TO: R. D. Stevenson
Special Assistant
Department of Revenue

DATE: February 18, 1977

FILE NO:

TELEPHONE NO:

FROM: Thomas K. Williams
Director
Petroleum Revenue Division
Department of Revenue

SUBJECT: SB 103 and HB 144
(identical Bills)

At the outset I would note that the Department of Revenue has recently released its review of Alaska's present taxation methods as they apply to the oil and gas industry. Within that review is the production tax, and recommendations regarding this tax have been made by the Department. This will shortly be followed up with specific bills.

SB 103 and HB 144 are identical. They incorporate a number of suggestions made last Session by the Administration to improve the production tax; however, these Bills do not reflect the latest recommendations in the Department's tax study. The most notable difference is that these Bills retain the basic "stair step" approach based on productivity, while the Department proposes a "curve" (instead of "steps") based on the actual economic condition of a property. The Department's recommendation recognizes and adapts itself to the fact that different areas of the State have different scales of economic production (i.e., in some places a far greater amount of production is needed to break even than is needed in others).

No simple set of "steps" can be structured for statewide application that will reduce the economic effect of the tax as the production of a property declines toward the minimum needed to break even. Either the tax will accommodate Cook Inlet operations and be too insensitive for non-coastal Native lands (whose break-even rates of production will more closely resemble the break-even rates for Prudhoe Bay than those for the Inlet), or else they will reflect the economic scale of operations for Native lands and Prudhoe Bay and give too much away to the Inlet operations.

If the "stair step" approach is to be retained despite its defects, the change to average well productivity as the basis for the "steps" is an improvement over the present tax. Both Bills make this change. However, they seem to give a bit too much away in their present definition of average daily per well production." A well operated only one day in the month would count the same as one operated every day of the month. To prevent the "one-day well" tax dodge, it is suggested that something along the lines of the following be used:

AGO 547430 +

R63072

(15) "average daily per well production" means the amount calculated by dividing the total number of barrels of oil produced from a lease or property during the calendar month by the well-days for that lease or property for the calendar month.

(16) "well-days" means the total obtained by determining the number of days each well of a lease or property was operated during the calendar month and then adding those numbers together for all the wells of that lease or property.

Again, this suggestion is made only if "stair steps" are to be retained: it would be unnecessary if the Department's proposed Economic Limit Factor (ELF) is adopted instead.

Despite the difference between "stair steps" and the ELF, these Bills do contain a number of the Administration's recommendations last Session that would still be beneficial.

Most important of these is the specification of the point at which the production is to be valued. There was litigation over this question for Cook Inlet production, and only the fact that the tax is being paid on the cents-per-barrel basis keeps the controversy from boiling up anew. A similar situation could develop at Prudhoe Bay. Specifying the valuation point corrects this and prevents a problem from arising.

Another good feature of the Bills is their proposal to extend the tax to flared gas and to tax that gas at a higher rate. Without a cents-per-Mcf tax, however, the percent-of-value tax could have little if any effect. A producer presumably would argue (before the courts?) that its flared gas has zero value or else why would it be flared.

Neither Bill would change the ordinary gas production tax rate to achieve rate parity with oil. This flaw in the existing tax structure was pointed out in the Department's tax study.

TKW/fm

cc: Sterling Gallagher
Commissioner of Revenue

John R. Messenger
Deputy Commissioner of Revenue

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM February 15, 1977

SUBJECT: HB 144, Proposed Change in Oil and Gas Production Tax (W.O. #3344)

TO : The Honorable Merle Snider
Alaska State Representative

FROM : Gregg K. Erickson
Director of Research

As you requested on February 8th, we are sending herewith a copy of the fiscal note for HB 144.

Also attached is a memorandum prepared by Al Latham for the Subcommittee on Oil and Gas Leasing and Taxing Policies, which sets out the expected revenues to accrue from this legislation. The memorandum evaluates a number of alternative proposals, but the one reflected in the bill is schedule B, with escalating floor price. In tables 1, 2 and 3, this is the second column from the left. For example, under the assumptions used, the proposed tax will yield $285.6 million in FY 1978. Also attached is a table showing the relative impacts on the oil companies doing business in Cook Inlet.

GKE:cm

cc: Legislative Finance

Attachments: Fiscal Note for HB 144
Memorandum of 15 January 1977, Latham to Croft
Table showing company by company impact of HB 144

AGO 547438

Effective Severance Tax Rate in Percent
Paid by Corporate Owners in Cook Inlet for Fiscal 1978
Under Present Schedule and Alternate Schedule

Corporation	Alternate Schedule	Present Schedule	Percent Increase/(Decrease)
Amoco	6.0	7.1	(15)
Arco	7.6	8.8	(14)
Marathon	10.3	9.9	4
Mobil	5.8	7.7	(25)
Phillips	6.0	7.1	(15)
Shell	4.7	5.7	(18)
Skelly	6.0	7.1	(15)
Socal	6.6	8.7	(24)
Superior	5.5	8.3	(34)
Texaco	5.5	8.3	(34)
Union	10.2	9.8	4

1/25/77

AGO 547439

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 144

Title "An Act concerning the oil and gas properties production tax, and providing for an effective date"

Requested by Rep. Merle Snider Date 2/14/77

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected General Government

Budget Request Unit(s) Affected Petroleum Revenue Division

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
400 COMMODITIES	-0-	-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

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

In addition to the changes in the tax rates, this bill provides for an administrative simplification of the oil and gas production tax. No additional costs for the proposed changes are anticipated and it is possible that some minor savings will result. Revenue increases due to passage of HB 144 are analyzed in the attached memorandum.

IV. DATE February 14, 1977 PREPARED BY Gregg K. Erickson, Director of Research

AGENCY Legislative Affairs Agency

PHONE 465-3802

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

AGO 547440

33-001 (Rev. 10/76)

APPENDIX A

Effective Severance Tax Rates in Percent
Weighted by Production for Schedules A & B by Units

Fiscal 1978

Field Units	Schedule B	Schedule A	Percent Increase/Decrease
Beaver Creek	5.6	8.3	(32)
Granite Pt.			
280001	5.8	7.7	(25)
280002	5.1	7.5	(32)
280012	0	0	0
280022	6.8	8.0	(15)
Mac. River			
520001	11.7	10.5	11
520002	7.5	9.0	(17)
520003	7.4	8.8	(16)
Mid. Grnd. Shoal			
524001	4.2	5.6	(25)
524002	5.3	6.0	(12)
524003	4.9	5.8	(16)
524013	4.4	5.6	(21)
Swanson River			
772001	7.7	10.4	(26)
772002	0	0	0
Trading Bay			
800001	5.3	7.6	(30)
800002	0	7.2	(100)
800003	0	0	0
800004	5.7	8.5	(33)
800005	2.2	7.1	(69)
Composite	8.3	8.9	(7)

(This page revised 1/25/77)

Table 1

Comparison of Total Severance Tax Revenues
Generated by Schedules A and Variations on Schedule B
For Fiscal Year 1978
(millions of dollars)

Field	Schedule A	Schedule B (with escalating floor price)	Schedule B (w/o floor price)	Schedule B (with fixed floor price) $6.10/bbl	Schedule B (with floor price) $4.83/bbl
Cook Inlet	$ 21.3	$ 20.0	14.2	19.2	14.2
Prudhoe Bay	171.4	265.6	265.6	265.6	265.6
Total	192.7	285.6	279.8	284.8	279.8

Note: Assumes Well-head value of Prudhoe Bay Oil at $7.00/bbl in 1977 with 5% annual inflation thereafter.

AGO 547445

Table 2

Comparison of Total Severance Tax Revenues
Generated by Schedules A and Variations on Schedule B
For Fiscal Year 1979
(millions of dollars)

Field	Schedule A	Schedule B (with escalating floor price) $6.10/bbl	Schedule B (w/o floor price)	Schedule B (with fixed floor price) $6.10/bbl	Schedule B (with floor price) $4.83/bbl
Cook Inlet	19.6	17.9	12.7	16.2	12.7
Prudhoe Bay	255.8	409.7	409.7	409.7	409.7
Total	275.4	427.6	422.4	425.9	422.4

Note: Assumes Well-head value of Prudhoe Bay Oil at $7.00/bbl in 1977 with 5% annual inflation thereafter.

AGO 547446

Table 3

Comparison of Total Severance Tax Revenues
Generated by Schedules A and Variations on Schedule B
For Fiscal Year 1980
(millions of dollars)

Field	Schedule A	Schedule B (with escalating floor price) $6.10/bbl	Schedule B (w/o floor price)	Schedule B (with fixed floor price) $6.10/bbl	Schedule B (with floor price) $4.83/bbl
Cook Inlet	18.1	16.0	11.4	14.0	11.4
Prudhoe Bay	303.7	483.9	483.9	483.9	483.9
Total	321.8	499.9	495.3	497.9	495.3

Note: Assumes Well-head value of Prudhoe Bay Oil at $7.00/bbl in 1977 with 5% annual inflation thereafter.

AGO 54744?

MEMORANDUM

January 15, 1977

SUBJECT: Severance Tax Schedules (Supplement to C.O. #2883)

TO: The Honorable Chancy Croft, Chairman
Subcommittee on Oil and Gas Leasing and Taxing Policies

FROM: A. R. Latham
Research Analyst

Following your consideration of our memorandum on Oil Severance Taxation on Janaury 8, 1977, we were requested to perform further analysis with the following objectives:

1) Prepare a tax schedule which will leave the effective severance tax rate for the Cook Inlet Basin at present levels, eliminate tax liabilities on the first 100 barrels of production per day, and produce an effective tax rate at Prudhoe Bay of approximately 12.5%.

2) Analyze the effects on this schedule and on projected revenues of eliminating the floor price altogether, freezing the cents/bbl. option at present levels (i.e. $6.10/bbl) using the controlled "old oil" price as the floor price, and freezing the floor price at present levels for one year.

3) Contrast these above options to the present situation.

For the purpose of reference in this memorandum, let us define the present tax schedule as Schedule A and the proposed schedule, Schedule B.

Schedule A (Present Law)

Production (b/d per well)	Percent of Value Tax
0 - 300	5.0
301 -1000	6.0
over 1000	8.0

Floor Price $6.10/bbl 27' API

AGO 547441 +

Schedule B (Proposed)

Production (b/d per well)	Percent of Value Tax
0 - 100	0.0
101 - 300	4.0
301 -1000	6.0
1001 -1500	9.0
1501 -3500	11.0
over 3500	14.0

Floor Price $6.10/bbl 27° API

You may recall from our previous memo that the average severance tax rates over the two Prudhoe Bay units under the current law is 7.7% and over the 20 Cock Inlet units is 7.8%.

In Cook Inlet, since the various units produce such different volumes of oil, a better definition of the effective tax rate is the weighted average over the basin rather than the arithmetic average over the units as we have considered up to this time. This difference is of no consequence whatsoever in Prudhoe Bay since the two percentages are identical. In Cook Inlet, however, this is not true. The calculated weighted average over Cook Inlet is 0.9 percentage points higher, 8.7%, indicating that those units which pay the higher effective rates also produce the greater volumes.

In contrast, the new proposal produces an effective tax rate over Prudhoe Bay of 12.3%; in Cook Inlet the average rate over the units drops precipitously to 5.0% yet the average rate over the basin is only slightly lowered to 8.3%. It is thus seen that we have decreased the effective tax rate on the lower producers without significantly affecting the rate on the higher producers (See Appendix A). This means, however, that we still have units in Cook Inlet paying very high rates but none paying higher than Prudhoe Bay.

Let us now turn to the other versions of Schedule B. The effects upon the severance tax rate at Cook Inlet and Prudhoe Bay may be most easily illustrated by referring to Tables 1, 2 and 3.

We immediately observe from the Tables that altering the floor price or eliminating it altogether has no effect under present conditions on Prudhoe Bay.

The story in Cook Inlet is different indeed. Removing the floor price or lowering it to the value of the "old oil" controlled price will reduce the effective tax rate to 5.9% resulting in a 29% decrease in the anticipated tax revenues in Fiscal 78. Holding the floor price fixed at $6.10/bbl for 27° API oil will reduce the effective tax rate to 7.96% decreasing revenues by 4.0%. Holding the floor price constant for one year and letting it increase 5% annually thereafter will produce a negligible effect. (Approximately an 0.8% decrease in revenues over 5 years.) We must, however, be careful in equating the removal of the floor price and establishing it as the "old oil" controlled price simply because the effective rates and fiscal impacts are identical. We must always remember that removing the floor price allows the possibility of a drastic reduction in severance tax revenue (and royalty revenues) if there is a precipitous drop in the well-head value of oil.

ARL:cm
Attachments

HB

145

TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 145

Title An Act relating to the Alaska net income tax

Requested by _____ Date 3/8/77

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development

Program Category Affected Public Protection

Budget Request Unit(s) Affected Alaska Pipeline Commission

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES	0	17.5	37.3	39.3	41.2	43.3
200 TRAVEL						
300 CONTRACTUAL	0	.75	1.5	1.5	1.5	1.5
400 COMMODITIES	0	1	2	2	.2	.2
500 EQUIPMENT	0	1.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	19.6	39.0	40.9	42.9	45.0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	19.6	39.0	40.9	42.9	45.0
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME	0	1	1	1	1	1
PART TIME						
TEMPORARY						

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

Given the Commission's workload, satisfactory performance of the certification responsibility will necessitate hiring a staff person with specialized knowledge of tax accounting.

Effective date: January 1, 1978

IV. DATE 3/8/77 PREPARED BY William L. Murray

AGENCY Alaska Pipeline Commission

PHONE 279-0583

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

AGO 547448 +

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 145
Title An Act relating to the Alaska Net Income Tax
Requested by _____ Date 2/25/77

II. FISCAL DETAIL
Agency Affected Commerce & Economic Development
Program Category Affected Public Protection
Budget Request Unit(s) Affected Alaska Public Utilities Commission

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		15.3	30.6			
200 TRAVEL						
300 CONTRACTUAL		2.1	2.1			
400 COMMODITIES		.2	.2			
500 EQUIPMENT		.8				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		18.4	32.9			

FUNDING (Thousands of Dollars)

GENERAL FUND		18.4	32.9			
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		1	1			
PART TIME						
TEMPORARY						

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

Passage of this proposed legislation will require the Alaska Public Utilities Commission to employ at least one additional Financial Analyst III who would be responsible for examining the tax returns for intrastate pipeline.

Detailed expense estimate attached

Effective date : January 1, 1978

IV. DATE 2/25/77 PREPARED BY Susan B. Knowles per cvg
AGENCY Alaska Public Utilities Commission
PHONE 272-1487

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

AGO 547449

33-001 (Rev. 10/76)

FISCAL NOTE

Re HB 145

1 Tax Accountant (UFA III, Range 18C)	$24408	
Benefits 25 1/2%	6226	$30634
Contractual:		
Office Space	1890	
Telephone	240	2130
Commodities:		
Stationery and Office Supplies	230	230
Equipment:		
Desk	295	
Chair	135	
Calculator	150	
Dictating Machine (Pocket Secretary)	250	830
		$33824

AGO 547450

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING / POUCH SA — JUNEAU 99811

March 16, 1977

The Honorable Alvin Osterback
Chairman
House Resources Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska

Re: House Bill No. 145

Dear Mr. Osterback:

House Bill No. 145, an Act relating to the Alaska net income tax was introduced in the House on January 31, 1977 and was referred to the House Resources and Finance Committees.

For the consideration of the House Resources Committee, I am enclosing a Fiscal Note prepared by Mr. Gary L. Jenkins, Director, Audit Division, Department of Revenue, Juneau concerning the proposed legislation.

Very truly yours,

R. D. Stevenson
Special Assistant

cc: The Honorable Steve Cowper
Chairman
House Finance Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska

Gary L. Jenkins, Director
Audit Division
Department of Revenue
Juneau, Alaska

AGO 547451 +

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 145
Title An Act relating to the Alaska net income tax
Requested by House Resources Committee Date 2-1-77

II. FISCAL DETAIL

Agency Affected Revenue
Program Category Affected Fiscal Services
Budget Request Unit(s) Affected Audit Division

EXPENDITURES (Thousands of Dollars)

		FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES		88.1	317.8	317.8	353.3	353.3
200	TRAVEL		5.0	70.0	70.0	75.0	75.0
300	CONTRACTUAL		10.2	105.2	65.2	70.0	70.0
400	COMMODITIES		6	2.0	2.0	2.2	2.2
500	EQUIPMENT		1.8	6.0	1.0	1.8	1.0
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	-0-	105.7	501.0	456.0	502.3	501.5

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	105.7	501.0	456.0	502.3	501.5
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME	-0-	3	10	10	11	11
PART TIME						
TEMPORARY						

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

This bill will necessitate an Audit staff of 8 Field Auditors with a Clerk Typist III and a Tax Examiner to handle the clerical, typing and return processing duties. The other costs are related to the development of the computer processing systems and costs related to the positions. See memo attached to R. D. Stevenson dated 2/3/77

IV. DATE 2/3/77 PREPARED BY Gary Gerke
AGENCY Audit Division
PHONE 465-2320

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

33-001 (Rev. 10/76)

AGO 547452 +

STATE of ALASKA

MEMORANDUM

TO: Mr. R. D. Stevenson
Special Assistant
Department of Revenue

DATE : February 3, 1977

FROM: Gary L. Jenkins
Director
Audit Division

SUBJECT: House Bill 145

House Bill 145 provides that all oil producing and pipeline companies would compute their income on a separate accounting basis. This concept, while appearing to be simplistic and easy to accomplish, actually is very complex. This has been pointed out by the recent report prepared by Messrs. Zeifman and Ainsworth for the Department of Revenue and the Legislature.

There are several specific areas of concern which we have regarding the Bill. First, it splits the responsibility for audit of the returns to two different agencies. For a company in the production of oil and gas, the returns would be audited by this Division, while for pipeline companies it is assigned to the APUC. I would strongly urge that the audit function for pipeline companies be assigned to this Division with the provision that the APUC will generate the reporting requirements which would be used as the basis for the audit. Sections 3, 6 and 8 of the Bill would need to be amended to accomplish this.

Second, it appears that the intent of the Bill is that the Department of Revenue would by regulation define what would be deductible as an expense and how such items as intangible drilling costs would be treated for reporting purposes. To accomplish this would necessitate the employment of two Auditors and the Clerk Typist III at least one year ahead of the effective date of the law to do the research needed for these determinations.

Third, on line 17 of page 5 of the Bill is a reference to the "allocation" formula required under Sec. 65 of the chapter. To be technically correct and to remove all doubts of what is meant, I would recommend that the proper term "apportionment" be inserted in place of allocation. To allocate is to specifically identify the nature of each item of income and assign it to the proper jurisdiction, while to apportion is to assign income on the basis of a formula.

Fourth, Sec. 4 of the Bill refers to AS 43.20.330 which was repealed in 1972 by Chapter 169 of the Session Laws. The proper reference is AS 43.20.335 with the two subsections identified as (j) and (k).

Fifth, the portion of Sec. 3 of the Bill which pertains to public reporting has provisions in it which may be unconstitutional. A primary tenant of our system of self-assessed tax is that the information reported shall remain confidential. The provision which would require

a summary of each return filed to be made public should be stricken from the Bill. That portion is included in lines 2 - 9 of page 6.

Lastly, there appears to be a conflict between Sections 9 and 10 of the Bill. Section 9 implies that the Bill would be effective on 1-1-77 while Section 10 states that it is effective on 1-1-78. Does Section 10 mean that returns would be due after 1-1-78 on income earned in 1977? I would recommend that this be clarified.

GLJ:mh

Commerce & Economic Development Legislative Council SB 105 AL

DEPARTMENT POSITION HB 145

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
Ak. Public Utilities Commission			February 14, 1977

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☐ POSITION APPROVED ☐ POSITION DISAPPROVED

BY: DATE:

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING)

(2) a. ORGANIZATIONAL SUPPORT FOR BILL	(2) b. ORGANIZATIONAL OPPOSITION TO BILL

(3) PROGRAM EFFECTS OF BILL

(4) FISCAL IMPACT: ☐ NONE XX FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

(6) COMMENTS:

See attached for Commission position on proposed legislation.

AGO 547464

The certification procedure envisioned by the proposed legislation is a significant extension of the Commission's responsibilities because of both the scope of the task and its interrelationship with current regulatory activities.

The Commission will be required to review the accounts and certify the net taxable income of natural gas pipeline companies or, alternatively, to identify the deficiencies and, if possible, provide a reporting of the true and correct income. This procedure is akin to issuing an independent audit opinion and will require comparable standards of review and expertise. Additionally, the Commission is constrained to issue a certificate of compliance or deficiency within 45 days from receipt of a request of a pipeline carrier.

Section AS 42.05.502(c) anticipates some coincidence between the definition of net income for tax purposes and that used by the Commission in establishing rates and measuring rate of return. There are a number of differences between accounting for rate-making purposes and tax purposes. The information on net income currently filed and reviewed by the Commission is tailored to regulatory requirements and only tangentially relevant to the certification process. Thus, existing analysis of pipeline financial data, while complimentary, is not directly applicable to this task.

Given the Commission's workload, satisfactory performance of the certification responsibility will necessitate hiring a staff person with specialized knowledge of tax accounting. The alternative of developing in-house expertise and diverting limited staff resources to certification would dilute effective performance of existing regulatory responsibilities.

Title: An Act Relating to the Alaska Net Income Tax

Requested by: Date:

Return Date Requested:

Agency: Commerce Program: Public Protection

II. FISCAL DETAIL

Budget Request Unit(s) Affected:

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
00	PERSONAL SERVICES		0	15.3	30.6		
00	TRAVEL		0				
00	CONTRACTUAL		0	2.1	2.1		
00	COMMODITIES		0	.2	.2		
00	EQUIPMENT		0	.8			
00	LAND & STRUCTURES						
00	GRANTS, CLAIMS, ETC.						
	TOTAL			18.4	32.9		

B. FUNDING: (Thousands of dollars)

GENERAL FUND			18.4	32.9		
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	/	1/	1/	/	/
MAN MONTHS (P./T.)	/	/	6/	12/	/	/

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

Passage of this proposed legislation will require the Alaska Public Utilities Commission to employ at least one additional Financial Analyst III who would be responsible for examining the tax returns for intrastate pipelines.

IV. ATTACHMENTS

Detailed expense estimate

V. DATE: PREPARED BY:

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

; 50

AGO 547466

1 Tax Accountant (UFA III, Range 18C)	$24408	
Benefits 25 1/2%	6226	$30634
Contractual:		
Office Space	1890	
Telephone	240	2130
Commodities:		
Stationery and Office Supplies	230	230
Equipment:		
Desk	295	
Chair	135	
Calculator	150	
Dictating Machine (Pocket Secretary)	250	830
		$33824

HB
156

ALASKA ASSOCIATION OF REALTORS
2223 SPENARD ROAD
ANCHORAGE, ALASKA 99503
(907) 272-8016

REALTOR®

March 18, 1977

The Honorable Al Osterback
Chairman
House Resource Committee
Capitol Building
Juneau, Alaska 99811

Copy in all files

Dear Representative Osterback:

The Alaska Association of Realtors questions the effect of HB 156 as written on three basic counts: This Act erodes the inherent rights to private ownership of land (fee simple title) and it will have a potential drastic effect on the tax base of municipalities and boroughs. More particularly, this Act will not assure what it presumes to protect. The purchase of development rights to agriculturally-classified land would not assure the continuing or future agricultural use of the land.

The Alaska Association of Realtors is in favor of the preservation of the opportunity for agricultural use and development of lands suited to such occupation.

May we respectfully submit that tax relief on agricultural land that is in production is an incentive that should be explored.

Very truly yours,

Elden L. Haugen

Elden Haugen
Chairman
Legislative Committee
Alaska Association of Realtors

Alaska State Legislature

House

JUNEAU ALASKA

Memo to: Alvin Osterback, Chairman
House Resources Committee

From: Subcommittee on Parks, Timber and Lands
Sally Smith, Chairman

Re: HB 156-Privately Owned Agricultural Land

February 23, 1977

On request of the sponsor, we recommend that HB 156 be held indefinitely and not be taken up by the complete Resources Committee as scheduled.

Sally Smith

Mike Miller

Dick Eliason

Tape 18 Side 2
0998 - end and Tape 19
Side 1 - 0 - 2025

HOUSE RESOURCE COMMITTEE - Minutes - April 7, 1976

Subject: HB 654 Sale of school lands & other lands

Present were Eliason, Huntington, Osterback, Smith, Brown, Staff Assistant VAn Dor_n and Chairman Anderson.

Dale Tubbs, Deputy Director of the Division of Lands, began testimony. He stated that this bill gives corrections and changes to operation of the land bill--it ties up the loopholes.

Sect. 1 38.05.430 (c)
The present language doesn't allow school grant lands to be sold except to municipalities. The change is to remove the limiting wording. It would still require the Board of Education to review any proposed sales.
Question: Does it include college lands? No.
Question: How much land is involved? A. About 100,000 acres. It doesn't involve any lands being surveyed now. Most of the lands involved are around the large cities, with some in Southeast Alaska on U.S.F.S. land.
Question: Is the Board of Education for it? A. Yes.
Q. How about the rent being charged? A. The grant says that you must create revenue from the land. Market value will be paid for all lands sold.

Tubbs mentioned that some school lands had previously been sold, before 1971, in residential areas. The money is then used for schools wherever it is needed.

Huntington asked about the source of information for leasing or selling preferences. Answer was that School Board minutes contain that information.

Eliason asked about putting land into recreational lands. A. That's o.k., but the lands involved are still residential.
Question: Could control of lands be put under Natural Resources?
A. They are the managing agent now.
Question: Would money be used for buying other sites? A. Probably not. Only the interest can be spent.

Osterback asked whether homesites as defined under HB808 could go on this land. A. Not as it stands now, because the land must make money one way or another to meet requirements.

Smith added that the lands aren't necessarily in the right places for either schools or parks.

Sect 2 (regarding agricultural preference right holders.) Agricultural land is now being lost to subdivision because prices are too high to farm it. Wording needed gives the Director the responsibility of determining whether agriculture is the best use. Also, an "existing farmer" is the only one who could qualify for the agricultural lands.

Re: taxes on land forcing persons to sell, Tubbs replied that it is up to the local government unit to determine the tax on land.
Smith reminded the group that agricultural exemptions are still available.

(See approx. 1682 on tape for testimony not in minutes)

There was discussion of "adjacent" lands, as applied to the grazing industry.

Also discussed was the fact that the soil survey analysis for the state is not yet completed. In the end, the Director of Lands makes the final land use determinations.

Eliason asked about public hearings being required for agricultural land classification. A. At present none are required, just public notification. Recommendations are usually received from Planning and Zoning departments. The present law says that the state "shall negotiate". The new law would state "auction".

Rod Pegues, of the Attorney General's office presented testimony. The purpose of the change is to set a fair market value through auction of the land.. As to the price of the land at an auction being too high for the farmers, it was explained that the land that is designated agricultural would not be able to be subdivided, so the auction would be only between farmers. They themselves would determine the price.

Sect. 3. Adds wording on agricultural lands when agriculture isn't the highest and best use, in order to allow the land to be re-offered for commercial use.

Pegues stated that all decisions made by the Director of the Division of Lands are appealable. The court can then decide.

Senator Tillion stated that the state can't arbitrarily take the land from a farmer. The farmer must request the classification change.

Regarding how the conveyance is done, Tubbs stated that in paragraph 4, page 3, we need to add "agrees and consents" to accept payment. Also added should be "constructed" improvements. (Clearing the ground doesn't count as a "constructed" improvement.

Senator Tillion expressed concern that the farmer should be paid for his farm--not just the land. A discussion of "fee title" ensued--who should get the money for the farm.

Chairman Anderson stated that at the top of Page 3, language is needed to protect improvements on the land.

Re: paragraph 6. This is needed to protect the state rights to sell timber, gravel, and minerals on the land. Example was given of agricultural land with timber on it. You can use the timber on the land to develop the land, but you can't sell "off" the land, at the present. (Tape 2145)

Senator Tillion stated that what you want is to allow the guy to sell the timber, but don't allow the state to go on the land to get the timber or the gravel.

Pegues mentioned the situations where agreements can't be reached with the state. A mechanism isn't provided now for solving the problem. It must be stated--the bill can't remain silent.

Tubbs stated that lease agreements cover the situation, but a sale contract doesn't. Smith stated that a mutual agreement was needed with the proceeds going to the state.

Pegues stated that the only real problem is the disposal of gravel. Again, the basic question to solve is how to allow the farmer to use his own "things". He added that the value of the timber shows up in the bid amount.

Re: Sect. 6. Pegues said that minerals must be isolated or a lawsuit is possible. A subsection 6 can be added stating that "Nothing affects.....(tape 2308).

Discussion of renewing leases brought out the fact that there used to be a standard value used ($600.00), renewable. This allowed people to get their "foot in the door" for a minimal amount of money, and acquire more land, with little if any additional money. The automatic renewal has created a problem.

Question: How about eliminating the negotiating authority? Answer: Negotiating doesn't require a survey. The timespan involved can be shorter. If an auction is used, it takes at least a year to cover all the necessary paper work, including the survey. "Spot" classification is also a problem. The year's delay is an inconvenience to the buyer or lessee.

Tubbs answered that wherever competitive interest is involved, public auction is used anyway.

Regarding eliminating the automatic renewal on negotiated leases, Pegues said that the bill doesn't eliminate it, but it could be done. Tubbs said that all current leases <u>can</u> be renewed. The new wording would only apply to new leases.

Re: Section 6 of the existing statute, the wording "equivalent other measure" is used to cover different measuring standard language. Also, the limit should be changed to $5,000 as applied to timber. Negotiation for materials becomes critical. Sometimes it becomes limited to one bidder because of location or circumstances. The higher limit allows the state to take care of these projects without bids.

Re: Sect. 7. When the land is within 6 miles of a municipality the municipality would be allowed to bid.

Re: Sect. 8--Public Utilities shouldn't have to auction for land, if there is no other place that will suit their needs. Brown stated that the language is too simple. It needs to be tightened. A higher standard than "reasonably requires" is needed.

Smith suggested that "licensed public utility" would qualify.

Pegues stressed that we don't give them a right--the need has to be demonstrated.

Sect. 11 takes out existing language. Publication rules would be changed to make at least 30 days involved. At present the wording is such that the process can take as little as 15 days.

Concern was expressed that the Director of the Division of lands has too much power without control.

(Morning meeting adjourned until after the Session)

1:30 meeting Tape 19 Side 1 0523

Present were Hershberger, Rhode, Huntington, Smith, Osterback, Eliason, Van Doren and Chairman Anderson.

Discussion began on the issue of including not only "municipalities" but also "villages" in the 6-mile requirement (or privilege). Pegues stated that the problem has been indefiniteness. Village incorporation is limited.

Tubbs stated that if villages were included care would be needed. Half are now incorporated. We assume others will be soon. That would give the certainty needed for the qualifications. Also, if villages were included it would help to include only those outside a Borough. What we're aiming for is an official Planning Authority for each contact.

Discussion continued as to the differences between the villages and the Regional Corporations. It was suggested that the Corporations could be designated the contact organization.

Chairman Anderson stated that the land use patterns are pretty well set up for Corporations.

Tubbs added that the problem (village) will be more acute as the state acquires more land. Disposal of minerals is a problem now, but land is being taken care of.

Re: Sect. 12--This would repeal the renewal of lease wording. In one place it says renew, in another it says must review first. This would apply only to future renewals--not current ones.

Discussion of "high bid" on leases, and preference right structure took place.

Clarification was given as to school sites not being the same as school grant lands.

Tubbs stated that a reappraisal is done every 5 years on all leases. As land values climb, there is pressure to change recreational leases to sales.

Tubbs explained that Section 13 makes legal what's already being done--it ratifies previous leases granted under preference rights. Possibly 40 preference right leases have been offered.

Chairman Anderson asked what would happen if the bill didn't pass. Tubbs answered that they would continue working with the Planning Authority in any affected areas. Especially needed is the school grant land part of the bill. Otherwise, the schools are losing money. It is better to have the government manage the money, as under the bill, than the land, as now is being done.

Not all of the 100,000 acres of school grant land has been appraised as yet. Most of it is in urban areas. At present, there are many uses of the Anchorage area sites, both commercial and residential.

Pegues explained that the Board of Education makes the decisions on land use. Commercial property is leased. Residential will be sold.

Huntington asked who would do the appraising of the lands. Answer was that the Division of Lands has appraisers. It must be remembered that no two appraisals match. Appraising is not an exact science. Mr. Smith mentioned that the State of Alaska has qualifications that their own employees acting as appraisers must meet.

Tubbs stated that on school grant lands, development plans are submitted, then accepted if there is no competition for the land.

Question was raised about the problem in Southeast (possible problem) of school grant sections conflicting with Claims Act selections. Answer was given that exchanges can be made if problems are encountered.

Eliason expressed concern as to public input before the Director can classify land.

Re: Section 4, Tubbs would recommend passage. Smith mentioned that he would prefer retaining control by keeping the $250 limit as pertains to this section.

Re: Section 7, this is considered critical. Guidelines are created. A new subsection (b) is needed to cover the Regional Corporation responsibility as a Planning Agent.

Re: Section 13, this is needed for Title companies. i.e. if you deal with the government, but the government acts illegally, you're out of luck.

Smith asked that in Section 1, leave in the now-deleted words, but add "or for residential purposes". Also, on Page 3, Paragraph 6, Add a new subsection.

Recommendation was made to delete Section 4 leaving the section as it is in existing law. This would retain the $250 per year limit and 5-year leases.

Pegues explained that it is basically an inflation amendment.

Committee agreed to delete section 4.

Smith asked that on Page 4, between Lines 6 and 7, add (b) changing exempt limits to $500. Committee adopted the amendment.

Committee approved the "right of renewal" appeal wording.

Chairman Anderson asked that the Committee Substitute be drafted and ready as soon as possible.

Meeting adjourned.

Rep Sally Smith

P. O. Box 223
Douglas, Alaska 99824

February 3, 1977

The Honorable Alvin Osterback
Chmn., House Resources Committee
Alaska State Legislature
Juneau, Alaska

Dear Representative Osterback:

During the last few weeks, I have been developing an administrative manual for the State Board of Education. (I am a retired, former employee of the Department of Education for 25 years.) During the course of the project, I reviewed the various statutes applying to the Board and I noticed that legislation enacted a year ago expanded on the Board's responsibilities in connection with the leasing of school lands.

Prior to last year, the Board was required to approve the lease or other disposition of school lands. Their responsibilities and prerogatives have now been increased to the point where the Board is now the trustee for school lands and has the authority to employ special legal counsel and technical assistance to administer this program.

In my opinion, this is a misapplication of the Board of Education's function, and the Board's involvement in the management of school lands should be repealed.

School lands, like other categories of state lands, should be administered by the Division of Lands, Department of Natural Resources, the agency especially created for land management.

Actually, there is no connection between the Department of Education (Board of Education) and school lands. Up to statehood, certain surveyed sections of lands in each township were designated school lands (Sections 16-36, of each township). When such lands were leased or sold, the funds were placed in the "permanent school fund" and invested. The income (interest) from the permanent fund then goes to the State General Fund. Relatively speaking, the income from the permanent fund is small and is only indirectly involved in financing educational programs.

It is my understanding there has been some criticism of the Division of Land's handling of school leases in the past. If

there are problems concerning the leasing of school lands, they should be resolved by strengthening procedures in the Division of Lands, not by involving another agency in lands administration.

In ord[illegible]l its trusteeship responsibilities, the Board of Educ[illegible]quired to employ additional personnel to administer the [illegible].

I submit that the Board of Education should not be in the land leasing business, that it detracts from their primary educational function, and furthermore, could result in a needless expense.

With the above in mind, I respectfully request the Resources Committee to initiate legislation which would repeal the Board of Education's involvement in the leasing of school lands.

Yours truly,

Robert P. Isaac

cc: Senate Resources Committee
State Department of Education
State Department of Natural Resources

(14) School Lands - Title 38

Section 38.05.030(e). The sale, lease or other disposal of school lands under the jurisdiction of the department shall be made by the commissioner in accordance with the provisions of this chapter. However, disposal of school lands under this subsection, other than disposal by lease for a term of years, shall be made only for sites for school facilities or for public park and public recreation purposes. School lands may be exchanged for (1) state lands, (2) vacant, unappropriated and unreserved public lands and (3) lands owned by a city, borough or other public entity. In the case of unequal values, cash may be used to equalize land values. When the department determines that it is in the best interest of the state to dispose of the school lands located within Sections 16 and 36 in an organized borough or city of any class, the borough or city is authorized, and has preference for six months after notice, to acquire the land at the appraised value by purchase or exchange of land acceptable to the department. No sale, lease, exchange or other disposal of school lands may be made without the approval of the state Board of Education. The state Board of Edudation shall act as a trustee of school lands. The board may retain private counsel or other professional assistance when necessary to carry out its duties as a trustee.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

February 15, 1977

SUBJECT: HB 156, "An Act Relating to the Conservation of Privately Owned Agricultural Land" (W.O.# 3319, Partial)

TO: The Honorable Sally Smith

FROM: George Utermohlen
Research Analyst

SUMMARY

House Bill 156 is a companion bill to Senate Bill 66 introduced by Senator Tillion. These bills seeks to conserve agricultural land by severing the rights to develop agricultural land from the fee title. Once the landowner has sold his development rights to the state, he is relieved of the tax burden associated with the development rights as well as the pressure to develop. The decreased tax burden is important to those who own agricultural land near major population centers where there is the greatest pressure to convert agricultural land to more intense use.

The landowner who wishes to sever the development rights from his agricultural land may sell them to the state. The purchase price of the development rights shall be determined by an independent appraisal of the value of the development rights. The cost of the appraisal is deducted from the purchase price. The development rights remain with the state until the landowner requests that the development rights be sold or leased and the Director of the Division of Lands and the Commissioner of Natural Resources agree. When the development rights are sold at public auction, the landowner has thirty days to meet the high bid. In exericing his preference right, the landowner may credit the value of improvements on the land towards the purchase price.

The only lands affected by this act are those lands for which a soil survey has been completed by the U.S. Soil Conservation Service. Those areas which have been surveyed by the Soil Conservation Service are the Kenai Peninsula, Anchorage, Matanuska Valley, Fairbanks, and Delta Junction.

At least 60% of the agricultural land for which the development rights are acquired must be rated as Class V or better by the Soil Conservation Service. A copy of the soil classification scheme is attached.

COMMENT

That area of law dealing with the acquisition of development rights is relatively new. No state has had similar legislation in effect long enough for all the potential problems to be realized. The best that can be done with new kinds of legislation is to address all the foreseeable problems in the initial legislation and to hope for sucess.

Those parts of the bill which deserve scrutiny in committee are addressed below.

1. In the proposed subsection 38.60.010(b), the only criterion for selecting land to be protected is the soil capability classification assigned to the land by the Soil Conservation Service. Other criteria which might also be considered are minimum acreage and past agricultural use. The state gains little in protected agricultural potential if the plots which are protected are too small for agricultural purposes or if the land has an unknown agricultural potential.

2. In subsection 38.60.010(c) the purchase price of the development rights is established by an appraisal of the development rights by an independent appraiser. The cost of the appraisal is deducted from the purchase price. This provision is meant to assure the landowner the best price for his development rights. However, if the cost of the appraisal is deducted from the purchase price, it may be in the best interests of the property owner to accept an appraisal by the Division of Lands, which will not be subject to a deduction equal to the appraiser's fee. It is suggested that the provision for an independent appraisal be at the option of the landowner.

3. Under subsection 38.60.020(a) are listed a few of the provisions to be included in any development rights purchase agreement. One of these provisions allows the construction of only those structures consistent with agricultural purposes. It is not clear if this provision would prevent a landowner who has not already built a home on the land from building a one-family residential structure for his personal use. Examples of those structures which would be allowed to be built while the state holds the development rights could be included as a guide for Division of Lands.

Another provision of this subsection limits the kinds of interest which a landowner can sell in his land if the state owns the development rights. This provision should be written so that it is clear that the landowner may not sell any interest in his land which would substantially hinder agricultural operations and that scenic, access, and utility easements would be permitted by the development rights purchase agreement.

4. Subsection AS 38.60.020(b), as proposed, would permit the Director of Lands to offer the development rights for sale or lease if requested by the landowner. The sale of development rights is by public auction. The landowner has 30 days to meet the high bid and repurchase the development rights. The value of improvements owned by the landowner may be credited toward the purchase price. The value of improvements owned by the landowner who is engaged in certain forms of capital intensive agriculture, as dairy farming, could be worth much more than the development rights. If these improvements could be credited toward the repurchase of the development rights, the landowner would be able to receive cash for his development rights, tax relief while the state holds the development rights, and then repurchase his development rights at no cost at any time before the value of the development rights exceeds the value of the improvements. An alternative form of improvement credits would allow credit only for those improvements made during the period when the development rights purchase agreement is effective.

5. The phrase beginning on line 26 of page 2 "included with the development rights sold" may be deleted because it is unnecessary and complicates interpretation of the section.

6. By requesting the Director of Lands to make the development rights available for purchase, the landowner consents to the sale and acknowledges that the development rights may be sold to a third party if he cannot meet the bid received at public auction. The provision of 38.60.020(b)(3)(B) is not consistent with the other sections of the bill and should be deleted, because it requires the landowner to assent to the sale of improvements. No improvements made by the landowner are affected by the sale of development rights; all improvements remain the property of the landowner.

7. The phrase "together with improvements" should be deleted from line 7 of page 3 [sec. 38.60.020(b)(4)] because it is not applicable to the situation which is addressed by this bill for the same reasons as given in Six above.

8. A new definition of "agricultural operations" which would change only the form of the existing definition is suggested as follows:

"agricultural operations" means those activities related to the production of domesticated plants and animals useful to man, including forage and sod crops, grains and feed crops, fruits, vegetables, and livestock;

9. A proposed amendment of the definition of "agricultural use" which alters the form of the definition, but not the meaning, is suggested as follows:

"agricultural use" means the use of substantially undeveloped land for the production of domesticated plants and animals useful to man, including forage and sod crops, grains and feed crops, fruits, vegetables and livestock; and other related uses and activities.

Because this aspect of land use legislation is relatively new, this bill is, in many respects, very general. It will be the responsibility of the Division of Lands to promulgate regulations which will enumerate the procedures to be employed in purchasing development rights to privately owned agricultural land.

This legislation shall benefit both the agricultural landowner who wishes to remain in agriculture, but is subject to pressure to convert his land to more intense uses, and the state, which will be able to conserve productive agricultural land. The ability of the state to acquire development rights to farm land will promote the retention of open space in areas subject to intense development pressure, however, the ability of the state to utilize this land use planning tool will depend upon the monies appropriated.

GU:mo
Attachment

SOIL CONSERVATION SERVICE

Soil Capability Classes

Class I soils have few limitations that restrict their use.

Class II soils have moderate limitations that reduce the choice of plants or that require moderate conservation practices.

Class III soils have severe limitations that reduce the choice of plants, require special conservation practices, or both

Class IV soils have very severe limitations that reduce the choice of plants, require very careful management, or both.

Class V soils are subject to little or no erosions but have other limitations, impractical to remove, that limit their use largely to pasture, range, woodland, or wildlife habitat.

Class VI soils have severe limitations that make them generally unsuited to cultivation and limit their use largely to pasture or range, woodland, or wildlife habitat.

Class VII soils have very severe limitations that make them unsuited to cultivation and that restrict their use largely to pasture or range, woodland, or wildlife habitat.

Class VIII soils and land forms have limitations that preclude their use for commercial plants and restrict their use to recreation, wildlife habitat, or water supply, or to esthetic purposes.

HB
158

HB 157

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the University of Alaska to determine the feasibility of using waste heat generated by the trans-Alaska pipeline for grain and forage drying; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA

* Section 1. The sum of $100,000 is appropriated from the general fund to the University of Alaska for a study to establish the feasibility to use waste heat recovered from pump station No. 9 of the trans-Alaska pipeline to dry grains and forages for livestock feed.

* Section 2. The unexpended and unobligated portion of this appropriation lapses into the general fund June 30, 1979.

* Section 3. This Act takes effect immediately in accordance with AS. 01.10-070(c).

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 87

Title "An Act Making A Special Appropriation to the University of Alaska to Determine Feasibility of Using Waste Heat for Grain Drying" Date 9 February, 1977

REQUESTED BY Senator Kerttula

II. FISCAL DETAIL

Agency Affected University of Alaska

Program Category Affected Agricultural Experiment Station

Budget Request Unit(s) Affected Organized Research

EXPENDITURES (Thousands of Dollars)

		FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES	3.4	24.6	37.9	-0-	-0-	-0-
200	TRAVEL	-0-	3.5	0.5	-0-	-0-	-0-
300	CONTRACTUAL	-0-	10.2	7.2	-0-	-0-	-0-
400	COMMODITIES	0.2	0.2	0.3	-0-	-0-	-0-
500	EQUIPMENT	2.5	9.5	-0-	-0-	-0-	-0-
600	LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700	GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
	TOTAL				-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	6.1	48.0	45.9	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	1	2	2	-0-	-0-	-0-
PART TIME	-0-	-0-	1	-0-	-0-	-0-
TEMPORARY	-0-	1	1	-0-	-0-	-0-

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

See Attachment

IV. DATE 9 February, 1977

PREPARED BY Dr. F.J. Wooding, Dr. C.E. Lewis
AGENCY Agricultural Experiment Station
PHONE 479-7188 University of Alaska

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

Senate Bill No. 87
Project Summary Totals

100	Personal Services		$ 65,857.39
	FY 77	$ 3,394.61	
	FY 78	$24,604.62	
	FY 79	$37,858.16	
200	Travel		$ 4,000.00
	FY 77	$ -0-	
	FY 78	$ 3,500.00	
	FY 79	$ 500.00	
300	Contractural Services		$ 17,400.00
	FY 77	$ -0-	
	FY 78	$10,200.00	
	FY 79	$ 7,200.00	
400	Commodities		$ 700.00
	FY 77	$ 200.00	
	FY 78	$ 200.00	
	FY 79	$ 300.00	
500	Equipment		$ 12,000.00
	FY 77	$ 2,500.00	
	FY 78	$ 9,500.00	
	FY 79	$ -0-	
		TOTAL	$ 99,957.39

Senate Bill No. 87
Analysis of Fiscal Note

FY 77 Costs

100	Personal Services		$ 3,394.61
	Assistant Professor of Resource Systems	$ 3,394.61	

This position would be employed for one month prior to FY 78 to begin implementation of the research project. It is the responsibility of the position to act as project co-principal investigator and to conduct the cost analysis, assist in data analysis of grains, and interact with technological contractural services provided.

$2,482.13	Salary ($2,482.13 per month X 1 month)
394.66	Leave Allowance (15.9%)
$2,876.79	Subtotal
517.82	Staff Benefits (18%)
$3,394.61	Position Total

400	Commodities		$ 200.00
	a) Bag tags and grain bags	$ 200.00	
500	Equipment		$ 2,500.00
	a) Laboratory grain dryer and associated equipment	$ 1,000.00	
	b) Grain storage bins	$ 1,500.00	
	TOTAL FY 77 COSTS		$ 6,094.61

Senate Bill No. 87

FY 78 Costs

100 Personal Services $24,604.62

Assistant Professor of Resource Systems $11,392.14

This position would be employed for three months to develop and coordinate the project. It is the responsibility of the position. to act as project co-principal investigator and to conduct the cost analysis, assist in data analysis of grains, and interact with technological contractural services provided.

$ 8,191.02	Salary ($2,730.34 per month X 3 months)
1,302.36	Leave Allowance (15.9%)
$ 9,493.38	Subtotal
1,898.76	Staff Benefits (20%)
$11,392.14	Position Total

Senior Research Assistant (21A) $11,922.48

This position would be employed for four months to develop the project. The person employed would be an agronomic specialist, skilled in laboratory techniques and would aid in laboratory work, calculating data and other duties assigned by the project heads.

$ 8,572.40	Salary ($2,143.10 per month X 4 months)
1,363.00	Leave Allowance (15.9%)
$ 9,935.40	Subtotal
1,987.08	Staff Benefits (20%)
$11,922.48	Position Total

Agricultural Laborer (11A) $ 1,290.00
(Temporary Help)

This position would be responsible for field work associated with grain harvest and storage and would be employed for one month.

$ 1,075.00	Salary ($1,075.00 per month X 1 month)
215.00	Staff Benefits (20%)
$ 1,290.00	Position Total

200	Travel		$ 3,500.00
	Travel required to review waste heat agricultural projects in parts of United States, such as California, Washington, Oregon, etc. to analyze various drying techniques for application in Alaska.	$ 1,000,00	
	The Scandanavian countries and England currently employ waste heat in the processing of agricultural products, particularly high moisture grains. A review of the techniques would be done to determine applications in Alaska.	$ 2,000.00	
	Approximately 20 trips to and from Delta Junction (Pump Station #9 site and field plot site) would be necessary during equipment adaption and harvest.	$ 500.00	
300	Contractural Services		$10,200,00
	Contractural services will be used to determine types and amount of fungal organisms and amounts or presence of micro toxins in stored grains; analysis of carbohydrate content (sugars & starches); and amino acid analysis of proteins.	$ 1,700.00	
	Technological consultants will be used for aid in analysis of technology for utilizing waste heat for grain drying and for aid in equipment design and installation.	$ 8,000.00	
	Computer run time will be necessary for cost analysis and grain analysis.	$ 500.00	
400	Commodities		$ 200.00
	a) Bag tags and grain bags	$ 200.00	
500	Equipment		$ 9,500.00
	200 bushel per hour grain dryer, conversion and heat transfer equipment.	$ 9,500.00	
		TOTAL FY 78 COSTS	$48,004.62

Senate Bill No. 87

FY 79 Costs

100 Peraonal Services $37,858.16

Assistant Professor of Resource Systems $12,740.13

This position would be employed for three months to coordinate and complete the project. The position would also collaborate in preparation of documentation for publication of the project results.

$ 9,010.11	Salary ($3,003.37 per month X 3 months)
1,432.62	Leave Allowance (15.9%)
$10,442.73	Subtotal
2,297.40	Staff Benefits (22%)
$12,740.13	Position Total

Senior Research Assistant (21A) $16,666.65

This position would be employed for five months to maintain and complete the project. The position would also assist in preparation of documentation of project results as assigned by project heads.

$11,787.05	Salary ($2,357.41 per month X 5 months)
1,874.15	Leave Allowance (15.9%)
$13,661.20	Subtotal
3,005.45	Staff Benefits (22%)
$16,666.65	Position Total

Secretary (12A) $ 4,123.43

Secretarial services would be necessary for two months to type project results and be responsible for any duties necessary for publication of documentation.

$ 3,379.86	Salary ($1,689.93 per month X 2 months)
743.57	Staff Benefits (22%)
$ 4,123.43	Position Total

Agricultural Laborer (11A) $ 4,327.95
(Temporary Help)

This position would be responsible for field work associated with grain planting, harvest, drying and storage and would be employed for three months.

$ 3,547.50	Salary ($1,182.50 per month X 3 months)
780.45	Staff Benefits (22%)
$ 4,327.95	Position Total

200	Travel		$ 500.00
	Approximately 20 trips to and from Delta Junction (Pump Station #9 site and field plot site) would be necessary during planting, harvest and drying seasons.	$ 500.00	
300	Contractural Services		$ 7,200.00
	Contractural services will be used to determine types and amount of fungal organisms and amounts or presence of micro toxins in stored grains; analysis of carbohydrate content (sugars & starches); and amino acid analysis of proteins.	$ 1,700.00	
	Technological consultants will be used to aid in assessment of methods of utilizing waste heat for drying assessment of system performance and documentation of technological data.	$ 5,000.00	
	Computer run time will be necessary for cost analysis and grain analysis.	$ 500.00	
400	Commodities		$ 300.00
	Parts needed for equipment adjustment and/or field preparation.	$ 300.00	
	TOTAL FY 79 COSTS		$45,858.16

HB/57

Title:

The Feasibility of Utilizing Waste Heat from the Trans-Alaska Pipeline for Grain and Forage Drying

Principal Investigators:

Frank J. Wooding, Ph.D.
Associate Professor of
Agronomy

Carol E. Lewis, Ph.D.
Assistant Professor of
Resource Systems

Performing Organization and Address:

Agricultural Experiment Station
School of Agriculture and Land Resources Management
University of Alaska
Fairbanks, Alaska

Date:

February), 1977

THE FEASIBILITY OF UTILIZING WASTE HEAT FROM THE TRANS-ALASKA PIPELINE FOR GRAIN AND FORAGE DRYING

BACKGROUND

Much emphasis has been placed in recent years on energy utilization and it's impact on economic growth. In the face of an increasing world population, heavy demands are being made on energy supply sources, particularly as related to food production. It has become exceedingly important to conserve and improve the efficiency of energy available from both fossil and non-fossil fuels. This is very evident in the agricultural industry, particularly in small grain and forage production. As an example, natural gas forms the energy base for over 80 percent of the energy used in irrigation pumps, grain drying and anhydrous ammonia fertilizer production in Kansas. Decreasing supplies of natural gas can be expected with continuously rising prices.(1) This will be true in all agricultural areas of the United States. It is important to utilize the maximum energy available from any fuel source.

Alaska, in particular, is placed in a unique position in the scenario of total energy use in food production. Over 17 million acres of tillable land and 10 million acres of rangeland have been identified.(2) One area, the Delta-Clearwater region, in the interior is considered most attractive for future agricultural development for the following three major reasons:

1. The area contains approximately 10,000 cleared acres and over 100,000 acres of uncleared land with high agricultural potential. Portions of this acreage are currently in use for the production of grain and forage crops.

2. Pump Station #9 of the trans-Alaska pipeline is located centrally within the area. During beginning phases of oil flow, an average of 800,000 BTU per minute of low pressure turbine exhaust will be released at temperatures of 475° F at an ambient temperature of 0° F. At maximum oil flow, this will increase to an average of 1,000,000 BTU per minute at temperatures of 535° F.(3) These temperatures are considered within the range necessary to operate grain and forage dryers, which have an energy requirement in the neighborhood of 1/10 that available from Pump Station #9, if the grain and forage is harvested at moisture levels as high as 40 to 60 percent.(4,5)

3. The beginnings of a production and marketing infrastructure are present in the Delta-Clearwater area. A major road system serves as a connector to Fairbanks and Anchorage. Farm equipment and supply outlets are located within a 100 mile radius. Small grains and hay produced within the area are marketed within the state through established channels. In addition, Delta Junction is the headquarters of the Alaska Farmers Cooperative, Inc..

The potential for growth in agricultural production, processing and marketing in the Delta-Clearwater area will not be realized until several specific questions are resolved. These are:

1. Can waste heat be used for grain and forage drying? Although the heat generated by pump station turbine exhausts is extremely high, it is not in a form immediately usable in any agricultural application. Investigations show that systems can be designed within specifications of the turbines to use the heat generated.(6) The various methods of transfering the heat to the drying area must be investigated to determine that which is the most efficient. Use of waste heat for grain and forage drying may make production of these crops within Alaska economically attractive.

2. Will use of turbine exhaust gases for drying damage grains and forages? Indications are that there will be no damage and that there may be an advantage to using waste gases. Grains and forages should be analyzed both before and after a storage period to determine the effect of the exhaust gases, if any.

3. Will grains and forages produced meet international quality standards? Data from the Agricultural Experiment Station at Fairbanks indicate approximately 80 percent of barley produced in the Delta-Clearwater area can meet international standards. Again, analysis of grain and forage quality before and after a storage period will substantiate this data.

The conversion and use of gas turbine exhausts as an energy source for drying grains and forages is a key to large scale production of an animal feed product within Alaska.

PROJECT OBJECTIVES

The objective of this project is to show the feasibility for utilizing waste heat for drying grains and forages. This will accomplish:

1. The provision of a waste heat recovery system design for Pump Station #9 of the trans-Alaska pipeline or for similarly designed exhausting systems.

2. The provision of a method for more efficient use of fossil fuel in a multi-purpose system (pump station operation and crop drying).

3. A means to use high moisture grains and forages as a year-round feed base in Alaska and as a marketable product to areas outside the state.

All of the above will combine to provide the opportunity for growth of an agricultural industry which will include as major components production, processing and marketing of grains and forages. The industry will serve the immediate area and the state and provide consumer benefits including dollar savings per unit of energy expended.

PROJECT AREA

The Delta-Clearwater area is largely agricultural. It is serviced by a major highway system providing access to Fairbanks (90 miles west-northwest), Anchorage (300 miles southwest) and the Canadian border (200 miles southeast). The nearest railhead is in Fairbanks; the nearest port, Anchorage. Only charter airlines service the area with Fairbanks the nearest international airport. The area cannot be considered a bedroom community of fairbanks, although Fairbanks is considered the primary trade center. It was, previous to the trans-Alaska pipeline influx, a trading center for area farmers, most of whom had begun as homesteaders. In fact, Fairbanks, ninety miles west of the Delta-Clearwater area, from the turn of the century to the 1930's, was considered the center of Alaska's agriculture. Cattle and hogs were rainsed. Market vegetable production, hay production and grain production were under way.

In 1968, legislative action made additional land available to persons actively engaged in farming. Several area farms have grown because of this action but have not expanded substantially. As examples, a 1,000 hog production facility was established in 1970, but did not remain in operation because of lack of a consistent feed supply and lack of an existing market infrastructure.(7) A dairy operation involving more than one hundred head with a complete processing, packing and distributing facility exists in the area. In addition, a beef cattle feeding operation involving one hundred head was recently established. There is an on-going egg production operation of over 10,000 laying hens, as well as a sheepherder with a one hundred head flock. Agriculture in the area is not limited by climactic or biological factors, but by factors of a developmental and economic nature.

The transportation access in the Delta-Clearwater area provides a means for import and export of products. The same system makes distribution to inter and intra-state destinations possible, and provides access to shipping ports making available possibilities for international trade. Japan, in particular, imports 90 percent of its vital grains. Alaska, with a high quality grain product, could be in a good position to compete in the international livestock feed market. As the market is expanded, the Delta-Clearwater area could conceivably provide up to 100,000 acres of high quality agricultural land for production of grains and forages.

An ad hoc committee on agriculture has prepared an assessment of large scale barley production in the Delta-Clearwater area. The assessment indicates that farms approximately 3,000 acres in size, using fallow management systems are viable and that sufficient quantities of grain can be produced on 50,000 acres to warrent a 1 million bushel out-through elevator-dryer system.(9) Investigation of the potential of drying grains and forages with waste heat is, therefore, of high interest in terms of contribution to a renewable resource economic base for the state. The conclusion which may be reached is that waste heat utilization may well be the impetus needed for the revival and future development of agriculture in Alaska.

RELATED STUDIES AND PROJECTS

The following is a listing of projects, with references, of on-going and future research by the University of Alaska, Agricultural Experiment Station.

Grain and forage production:
For the past four years, a cereal grain research program has been conducted in the Clearwater-Big Delta region. Emphasis has been placed on evaluation of barley, oat and wheat varieties as feed grain crops. Oat varieties have also been evaluated as a forage and straw crop. Other areas of research include fertilizer response, comparison of production systems (continuous grain vs. summer fallow-grain), tillage practices, seeding rates, and weed control.

Burton, W. E., D. H. Dinkel, and F. J. Wooding, "So Many Questions-So Few Answers", Agroborealis, Vol. 3, No. 1, pp. 21-24, 1971.

Wooding, F. J., G. M. Paulsen, and L. S. Murphy, "Sulfer Composition of Soybeans as Affected by Macronutrient Deficiencies", Soil Science and Plant Analysis, 3:151-159, 1972.

Wooding, F. J. and C. W. Knight, "High Protein Grain from Interior Alaska", Agroborealis, Vol. 4, No. 1, pp. 12-13, 1972.

Martin, G. C., R. F. Barnes, A. B. Simons, and F. J. Wooding, "Alkaloids and Palatability of Phalaris arundinancea L. Grown in Diverse Environments", Agronomy Journal, 65:199-201., 1973.

Wooding, F. J. and A. C. Epps, "Grain Varieties for the Golden Valley", Cooperative Extension Service Publication . No. 46, University of Alaska, 1973.

Wooding, F. J. and C. W. Knight, "Barley Yields on Summer Fallowed and Stubble Land", Agroborealis, Vol. 5, No. 1, p. 22, 1973.

Wooding, F. J., D. H. Hassinger, and G. Willis, "Grains in Seward's Icebox", Agroborealis, Vol. 6, No. 1, pp. 4-6, 1974.

Wooding, F. J., J. L. Brossia, S. D. Sparrow and D. H. Hassinger, "Small Grains on Agricultural Land in Remote Areas of Alaska", Agroborealis, Vol. 7, No. 1, pp. 28-30, 1975.

On-going research concerns grain production in the Tanana Valley of interior Alaska. The objectives are to increase production of barley, oats, and wheat through a broad, intergrated, research program of variety testing and cultural practices. Triticale is to be evaluated as a potential new grain crop. Grains produced in a subarctic environment are to be evaluated for quality and suitability. In addition, grain adaptation tests are being conducted for remote areas of Alaska.

Wooding, F. J., "Small Grain Production in the Tanana Valley of Interior Alaska", Hatch Project, March 1, 1974.

Wooding, F. J., "Grain Adaptation Tests for Remote Areas of Alaska", Special Appropriation of Hatch Funds, 1974.

Since May, 1970, research on peas, barley and oat mixtures has been conducted to determine in-combination and independent response to harvest date and crop mix. The parameters of interest are protein, digestibility and yield.

Brundage, A. L., R. L. Taylor and V. L. Burton, "Barley, Oats and Peas, Alone and in Combination, for Forage", presentation at the Annual Meeting of the American Dairy Science Association, June, 1976.

Markets:

Past work on markets for agricultural commodities produced in Alaska has been largely confined to only statewide markets. The topics covered have included pork, beef, vegetables, dairy, and feed production. Although only limited local markets were identified, production within the state is small enough to allow market expansion in most areas.

Burton, W. E., "Alaska's Agriculture", Institute of Social, Economic and Government Research, University of Alaska, 1971.

Flynn, E. and W. Thomas, "Assessment of Markets for Fresh Vegetables in Anchorage", G. E. - TEMPO, Research Publication, 1973.

Thomas, W., and P. Linn, "Economic Factors in Alaskan Milk Marketing", Agroborealis, 1972.

Stephens, C., W. Thomas and V. Burke, "Supplying Alaska's Red Meat and Poultry Products, Institute of Agricultural Sciences, University of Alaska, 1975.

Research just beginning at the University of Alaska will analyze the export market for feed barley, malt barley, and grain and/or feed pellets. Identification will be made of possible markets and problems and opportunities associated with these markets. Included will be an analysis of price conditions, trade arrangements, transportation system requirements and appropriate domestic and foreign government regulations.

Thomas, W., "Agriculture in Alaska; 1976 - 2000 A.D.", Alaska Review of Business and Economic Conditions, Institute of Social, Economic and Government Research, University of Alaska, June, 1976.

Thomas, W., "International Markets and Marketing for Alaska Produced Farm Products", Research Project, Agricultural Experiment Station, University of Alaska, 1976. Sections of this marketing research will be carried on as in-kind contributions to the waste energy project proposed here.

Agricultural potential:
There are three agricultural potential studies which are on-going within the Agricultural Experiment Station. The major concern is economic and social impact on the state and on available markets for products from the state.

Buton, W. E., "Creating a Northern Agriculture, I, II, III, IV, V", University of Alaska, Agricultural Experiment Station Bulletin No. 42 through 46, 1975, 1976.

Faris, J. E. and R. J. Hildreth, "Consideration for Development - Alaska's Agricultural Potential", for the Federal Land Use Planning Commission of the University of Alaska, Agricultural Experiment Station, April, 1976.

Thomas, W. C., C. E. Lewis and F. J. Wooding, "The Potential for Production of Barley in the Delta-Clearwater Area of Interior Alaska", Univ. of Ak., Ag. Exp. Station, February, 1977, draft.

Waste heat utilization:
The utilization of waste heat in agricultural systems has been addressed within the Agricultural Experiment Station.

Dinkel, D. H., "Potential for Production of Intensively Cultured Crops in Alaska Using Geothermal or Waste Heat Sources", presented at the Second Int. Symp. on Cold Regions Engineering, Univ. of Ak., Aug. 13, 1976.

Lewis, C. E., "The Utilization of Waste Heat in Agribusiness Development ", presented at the Second Int. Symp. on Cold Regions Engineering, Univ. of Ak. Aug. 13, 1976.

PROJECT PROCEDURES

Method of Approach

A three part study will be conducted over a two year period to provide answers to those questions raised in the background discussion. The parts of this study are:

Part 1. Provision of an efficient design for the conversion of low pressure turbine exhaust to usable form.

Part 2. Determination of the effect of turbine exhaust gases on quality of grains and forages.

Part 3. Determination of grain and forage quality after drying with exhaust gas and after a period of storage at varying moisture levels.

Discussion of Part 1.

The exhausted heat available is in the form of a low pressure, high BTU per minute flow at high temperatures. Requirements of low back pressure for efficient turbine operation limit the design specifications for recovery of the heat. Both a fin tube and a tube/ambient air system have been suggested. Alternate possibilities will be considered. The possibility of a water jacket surrounding the recovery tube will be investigated, assuming a future need for heated water. Cost of the system and operation and maintenance requirements will be a primary consideration.

In FY 78, a small dryer (200 bushel per hour) will be purchased and equipped with heat conversion and transport systems which will allow utilization of turbine exhausts. If it is not possible, due to conflict with pipeline start-up operations, to use the Pump Station #9 site, an alternative source will be used. Several are available in the Fairbanks area. The dryer system is scheduled to be operational in FY 79.

After completion of drying of the FY 79 crops, an analysis of operating efficiency, cost of operation and conversion and installation costs will be prepared. The waste heat system will be compared to conventional drying systems using this cost data.

Discussion of Part 2.

During FY 78, grain and forage samples harvested either in Fairbanks or in the Delta-Clearwater area will be dried to moisture levels varying from 30 to 12 percent. The drying will be done at the Agricultural Experiment Station at Fairbanks using conventional drying methods. The objective of the FY 78 sampling is to establish a data base for Alaskan grains and forages dried using conventional methods. This data base will be used as a comparison when turbine exhaust is used for drying.

Before storage, contractural services will be used to analyze grain and forage quality. Particular attention will be given to carbohydrate content (sugars and starches), protein content, and amino acid composition of proteins.

The grain and forage samples will be stored in outdoor bins. After a nine month storage period, an analysis will again be conducted of carbohydrate content and proteins. Additionally, a determination will be made of the type and amount of fungal organisms and amounts or presence of micro-toxins in the stored grains and forages.

Discussion of Part 3.

During FY 79, the grain and forage drying procedure of Part 2. will be repeated. However, the drying will be accomplished using a waste heat source and a drying system described in Part 1.. Contractural services will again be used to perform the analysis described in Part 2. on the dried samples and on samples taken from grains and forages which have been stored for nine months.

After sample analysis is completed, carbohydrate content, protein levels, amino acid composition of proteins, and fungal types and micro-toxins present will be compared to those in the grain and forage samples in the control group of Part 2..

Summary of Data to be Collected

After completion of the three part study (July 1, 1979), sufficient data will have been collected to complete a report addressing the questions:

1. Can waste heat be used to dry grains and forages?

2. Will use of gas turbine exhaust for drying effect grains and forages?

3. Will grains and forages produced in Alaska meet internation quality standards both before and after storage?

The following data catagories will be used in the report.

1. Technology of waste heat recovery systems for use in grain drying.

2. Efficiency of waste heat recovery systems considering all energy uses within a system. An example would be the use of fossil fuel for pump station operation and a use of the exhaust heat from the turbines for crop drying.

3. Investment cost of the waste heat recovery system.

4. Operating cost of the recovery system.

5. Efficiency, investment cost and operating cost of conventional drying systems.

6. Quality characteristics of grains and forages stored at varying moisture contents for one season after drying by either conventional or waste heat methods.

7. Quality characteristics of grains and forages immediately after drying either by conventional or waste heat methods.

FOLLOW-UP

This project has been proposed to aid those persons already producing grains and forages within Alaska and those who may be considering a beginning enterprise. At present, there is no data base which the farmer can use to determine to what moisture level grains and forages should be dried to maintain quality after storage under interior Alaska climactic conditions. Moreover, much interest has been generated concerning the use of waste heat for grain and forage drying. It is

reasonable to assume an operating cost savings would be effected by waste heat utilization. When the cost of wasted energy is compared to investment cost of recovery systems, the qualitative savings of valuable fuels is also large. Cost savings may be even larger if the use of turbine exhaust proves beneficial in storage of grains and forages at higher than normal moisture levels. However, if gas turbine exhausts damage the crop, there will be no need for further consideration of waste heat for grain and forage drying. The completion of the much needed data base for drying of grains and forages utilizing waste heat.

FOOTNOTES

1. R. J. Robel, "There May be Energy Tomorrow but at a Frightful Cost", address to the Kansas Cooperative Council, 1976.

2. Alaska Rural Development Council, "Alaska's Agricultural Potential", prepared by the Agricultural Potential Committee ARDC Pub. No. 1, Fairbanks, Alaska, March, 1974.

3. Communication: Alyeska Pipeline Service Company, Anchorage, Alaska, April 28, 1976.

4. Operating and Parts List, Behlen Model K Grain Dryer, Behlen Manufacturing Company, Columbus, Nebreska.

5. Correspondence: MEC Company, Neodesha, Kansas, 1976.

6. Communication: Ekodyne, Inc., Santa Barbara, California, April 16, 1976.

7. Communication: F. J. Wooding, May, 1976.

8. A. Tussing, et. al., "Alaska Pipeline Report", Institute of Social Economic and Government Research, Univ. of Ak., Sept., 1971.

9. Thomas, W. C., C. E. Lewis, and F. J. Wooding, "The Potential for Production of Barley in the Delta-Clearwater Area of Interior Alaska", Univ. of Ak., Ag. Exp. Station, February, 1977, draft.

DREW'S SUGGESTION TO COMPLY W/SB 87 THIS BILL

Introduced: 2/2/77
Referred: Resources and Finance

IN THE HOUSE BY COWPER

HOUSE BILL NO. 158

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the University of Alaska for a study to develop the technology for using waste heat generated by the transalaska pipeline for ~~agricultural purposes~~ grain + forage drying; and providing for an effective date."

DR. DREW'S suggestion change → the study of grain drying + forage drying from pump station 9

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

* Section 1. The sum of $100,000 is appropriated from the general fund to the University of Alaska for a study to develop the technology necessary for utilizing waste heat in Alaska for the production of intensively cultivated agricultural crops.

* Sec. 2. The unexpended and unobligated portion of this appropriation lapses into the general fund June 30, 1979.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

sub. SB 87 (1067 ON TAPE 8:05 PM)

CSHB 158

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the University of Alaska to determine the feasibility of using waste heat generated by the trans-Alaska pipeline for grain and forage drying; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA

* Section 1. The sum of $100,000 is appropriated from the general fund to the University of Alaska for a study to establish the feasibility to use waste heat recovered from pump station No. 9 of the trans-Alaska pipeline to dry grains and forages for livestock feed.

* Section 2. The unexpended and unobligated portion of this appropriation lapses into the general fund June 30, 1979.

* Section 3. This Act takes effect immediately in accordance with AS. 01.10-070(c).

HB

176

CS HB 176

4/13/77

AGO 122811

HB Reserv

Reservation of Water

~~S~~/. 2/28/77

hag

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

SUBPORT BUILDING – JUNEAU 99801

January 4, 1978

The Honorable Alvin Osterback, Chairman
House Resources Committee
Alaska State Legislature
Box 71
Sand Point, Alaska 99661

Dear Mr. Osterback:

The Board of Fisheries at its December 1977 meeting unanimously adopted the resolutions listed below. Copies of them are being transmitted to you at the direction of the Board.

> Resolution #77-29-FB relating to the inclusion of the contiguous marine and coastal waters of the State of Alaska into the definition of anadromous streams and waters; and
>
> Resolution #77-30-FB relating to the passage of House Bill 176 of the 1977 legislative session, relating to the reservation of water.

The Board voiced strong convictions supporting these resolutions, and I am sure any assistance you can give would be appreciated.

Sincerely,

Ron Skoog

Ronald O. Skoog
Commissioner

Enclosures

Board of Fisheries

ALASKA BOARD OF FISHERIES

Resolution #77-29-FB

RELATING TO THE INCLUSION OF THE CONTIGUOUS MARINE AND COASTAL WATERS OF THE STATE OF ALASKA INTO THE DEFINITION OF ANADROMOUS STREAMS AND WATERS

WHEREAS, the marine and anadromous fish resources of Alaska's coastal zone and marine waters are critical to the economic, cultural, and social well-being of the citizens of Alaska; and

WHEREAS, these resources constitute a major food source not only for other nations of the world, but also for other forms of marine and terrestrial life; and

WHEREAS, the contiguous marine and coastal waters of the State of Alaska are critical to the spawning and early life history of most of Alaska's commercial fisheries resources including crab, shrimp, herring, smelt, salmon, halibut, and many other pelagic and demersal species of commercial and ecological importance; and

WHEREAS, these fisheries resources are particularly vulnerable to damage or destruction during their spawning and early life stages; and

WHEREAS, the nearshore marine and coastal environment itself is particularly susceptible to damage from man's activities in the coastal zone;

BE IT THEREFORE RESOLVED, that Alaska's contiguous marine and coastal waters, out to three nautical miles, should be declared a fisheries conservation zone and that the provisions of Alaska Statute 16.05.870 pertaining to the protection of waters important to the production of anadromous fish be extended to include this area; and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the Alaska Coastal Policy Council with a recommendation that it be incorporated into the Guidelines and Standards of the Alaska Coastal Management Plan and included when the plan is sent to the Legislature for approval; and that a copy of this resolution be sent to the Alaska Legislature with the recommendation that Alaska Statute 16.05.870 be amended in an appropriate manner during the 1978 Legislative Session.

Nicholas G. Szabo, Chairman
Alaska Board of Fisheries

ADOPTED: December 18, 1977
Anchorage, Alaska

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

M E M O R A N D U M 25 March 1977

SUBJECT: HB 176, Reservation of Water

TO: House Resources Committee Members

FROM: Al Osterback, Chairman

Several people have contacted me concerning HB 176, which we originally considered on March 2, 1977 - see minutes in your files. These people want the bill to be considered by the Committee again.

There was a lot of controversy with the bill at that meeting. Today I met with Sandy Sagalkin, Department of Law and Mike Kaill, Department of Fish & Game. Together we went through the bill and cleaned it up, trying to address all of the controversial items brought up on March 2, 1977. A record of those items is in your minutes. What do you think?

Attached - mark up copy of HB 176.

Diann - this is in the files. Pat Conheady brought it by.

[redacted] ANALYSIS
CSHB 176 - RESERVATION OF WATER

Intent

CSHB 176 provides a mechanism and a process for reserving stream flows and water levels in some streams and bodies of water for purposes of fish and wildlife, recreation, and sanitary and water quality purposes. Without the legislation, State authority to make water reservations for instream uses is unclear and inconsistently administered. All streams and lakes would not be affected. The amount of water reserved would be a percentage of the stream flow and would be based on "instream" requirements.

The procedure established by CSHB 176 follows the intent and mechanisms established in the Alaska Constitution and in the Water Use Act, AS 46.15. Existing water rights are not affected in any way by the provisions of this proposed measure. CSHB 176 utilizes guidelines of the Water Use Act requiring the Commissioner of Natural Resources to follow established procedures in evaluating applications (public notice and comment period) and provides for public hearings. Criteria detailed in the existing Water Use Act are also employed to determine that the proposed reservation is in the public interest. The criteria utilized to review applications include:

--economic effect

--impact on fish and game resources

--public health aspects

--harm to persons

--effect upon access to navigable or public waters

Recommended Revisions to CSHB 176

1. Preference in granting permits

Section 2 of CSHB 176 established a somewhat rigid rule that "when there are competing applications for water from the same source, and the source is insufficient to supply all applicants," that first preference in the granting of permits is given to public water supply and second preference to reservations of water. This provision allows little flexibility and could circumvent thorough analysis of individual cases.

Administration recommendation: Delete section 2 of CSHB 176.

2. Public review

CSHB 176 is designed to be implemented under the administrative regulations of the parent law, the Water Use Act (AS 46.15). Generally that law provides that each water use application must be publicly advertised, reviewed comprehensively, and public hearings held where the Commissioner determines it appropriate. CSHB 176 also provides guidelines for use by the Commissioner during his review. These guidelines include: findings that the rights of prior water users are not affected, that a need exists, that there is unappropriated water available, and that the proposed reservation is in the public interest. The Water Use Act includes public interest criteria such as economic effects, effects on fish and game resources and public health, the effect of the loss of alternate uses of water, and harm to other persons.

Administration recommendation: The proposed amendment to AS 46.15.070(c) (Section 2 of the Sponsor Substitute) would direct the Commissioner to conduct public hearings and undertake a more detailed analysis if a municipality affected by the proposed reservation expresses concern regarding the application. The addition to line 11, page 2 of CSHB 176 in the Sponsor Substitute makes direct reference to public interest criteria in the Water Use Act.

3. Water Quality

Maintaining sufficient flows to reduce the impact of pollutants can be a significant factor in achieving water quality standards. Page 3, line 5 of CSHB 176 adds "and maintenance of water quality" to the definition of beneficial use. The reference to water quality needs clarification.

Administration recommendation: Page 3, line 5, delete the semi-colon after the word "quality" and add the words "standards as promulgated under AS 46.03.070."

Summary

1. Need for the bill:

Drought conditions in the western United States have resulted in serious damage to fish populations and other instream uses of water. Industries dependent on normal streamflows have been significantly damaged. Alaska is at a stage in its development where such problems can be avoided with positive actions at the present time.

The Water Use Act directs the Commissioner of Natural Resources to take into account many factors before issuing a water use permit. One of the public interest considerations in AS 46.15.080is "the effect on fish and game resources and on public recreational opportunities". This and other sections of the Alaska Constitution and Water Use Act indicate that water can be reserved through existing law, but clarification of this authority is desirable before undertaking such a program.

2. Provisions of the bill:

* Establishes a means of reserving water in a stream or lake for purposes such as maintaining sufficient water for fish populations.

* Clarifies the Department of Natural Resources' authority to reserve water from further appropriation.

* Establishes criteria for the issuance of a certificate.

* Is compatible with the Water Use Act (AS.46.15) which recognizes that public water supply is a preferred use of water that shall be granted preference over other appropriators and reservations of water.

* Specifies that the Commissioner of Natural Resources shall consider applications for the reservation of water in a manner similar to that used for other water rights applications.

3. Impact of the bill:

Passage of HB 176 would allow the State to reserve stream flows and maintain lake levels before competition for the available water resource creates conflict situations. Reservation of water will have a beneficial effect on the future of important renewable resource inductries such as commercial fishing and tourism. The bill does not affect existing uses of water. It does provide a mechanism for maintaining quantities of water whach are necessary for "instream" uses. As such, the process helps to clarify the availability of surface water by recording reservations of water along with other water appropriations. Development plans can then be formulated with full knowledge of instream water needs.

4. Implementation and coordination:

HB 176 is the product of interagency efforts to draft a bill which accomplishes the desired objectives and is administratively workable. Although the process of reserving water would be administered by DNR, significant coordination with the Departments of Fish and Game and Environmental Conservation will continue to occur during the submission and review of applications. In addition, DNR and ADF&G are working on procedures for determining instream flow requirements. This bill is an important part of interagency efforts at state water planning that have recently received new direction and emphasis.

Thursday - 1/15

ADMINISTRATION SUBSTITUTE FOR HOUSE BILL NO. 176

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the reservation of water; and providing for an effective date."

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

*Section 1. AS 46.15.030 is amended to read:

Sec. 46.15.030. WATERS RESERVED TO THE PEOPLE. Wherever occuring in a natural state, the waters are reserved to the people for common use and are subject to appropriation and beneficial use and to reservation of instream flows and levels of water, as provided in this chapter.

*Section 2. AS 46.15.070(c) is amended to read:

Within 15 days of publication or service of notice of the proposed appropriation or reservation of instream flows or levels of water as provided in sec. 145 of this chapter, an interested person or any general law, home rule or unified municipality, as defined under AS 29, containing all or part of the stream or body of water may file an objection. The commissioner may hold hearings upon giving due notice, however, if requested to do so by an objecting municipality he shall hold a hearing within that municipality. (AND) The commissioner shall grant, deny, or condition the application in whole or in part within 30 days of receipt of the last objection or at the conclusion of the hearing. Notice of the order or decision shall be served personally or mailed to any person or municipality (WHO HAS FILED AN OBJECTION.) filing an objection.

*Section 3. AS 46.15 is amended by adding a new section to read:

Sec. 46.15.145. RESERVATION OF WATER. (a) The State or any political subdivision or agency of the state may apply to the commissioner to reserve sufficient water to maintain a specified instream flow or level of water at a specified point on a stream or body of water, or in a specified stretch of

stream, throughout the year or for specified times of the year, for protection of fish and wildlife habitat, migration and propagation, for recreation and park purposes, and for sanitary and water quality purposes.

(b) Upon receiving an application, the commissioner shall proceed in accordance with sec. 70 of this chapter.

(c) The commissioner shall issue a certificate reserving the water requested if he finds

(1) the the rights of prior appropriators will not be affected by the reservation;

(2) that a need exists for the reservation;

(3) that there is unappropriated water in the source sufficient for the reservation; and

(4) that the proposed reservation is in the public interest, consistent with criteria in sec. 80(b) of this chapter.

(d) After the issuance of a certificate of reservation, the specified water shall be withdrawn from appropriation and the commissioner shall reject an application for a permit to appropriate the reserved water, except for public water supply.

(e) A reservation under this section does not affect any rights in existence when the certificate reserving water is issued.

*Section 4. AS 46.15.260(1) is amended to read:

(1) "appropriate" means to divert, impound, or withdraw a quantity of water from a source of water, or, in the case of a public agency, to reserve water in accordance with sec. 145 of this chapter, for a beneficial use;

*Section 5. AS 46.15.260(2) is amended to read:

(2) "apropriation" means the diversion, impounding or withdrawal of a quantity of water from a source of water, or in the case of a public agency, the reservation of water in accordance with sec. 145 of this chapter, for a beneficial use;

*Section 6. AS 46.15.260(3) is amended to read:

(3) "beneficial use" means a use of water for the benefit of the appropriator, other persons or the public, that is reasonable and consistent with the public interest, including, but not limited to, domestic, agricultural, irrigation, industrial, manufacturing, fish and shellfish processing, mining, power, public, sanitary, fish and wildlife, (AND) recreational uses, and maintenance of water quality standards as promulgated under AS 46.03.070;

*Section 7. This Act takes effect immediately in accordance with AS 01.10.070(c).

HB 176 HOUSE BILL NO. 176 by the Rules Committee by request of the Governor, entitled:

"An Act relating to the reservation of water; and providing for an effective date."

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

"February 4, 1977

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill to allow a reservation of instream flows and levels of water for the benefit of fish, wildlife, recreation, and for the maintenance of water quality.

This bill is an amendment to the state's Water Use Act, AS 46.15, and is designed to permit state agencies and political subdivisions to apply for an order reserving a certain quantity, level or flow of water, without actually diverting it from its source.

The bill does not represent a significant departure from existing law. The Alaska Constitution, for example, in art. VIII, sec. 13, states that water of the state may be appropriated subject to "the general reservation of fish and wildlife." Also, secs. 80 and 260 of the Water Use Act, dealing with permit issuance and definitions, respectively, explicitly recognize the value of water for fish and wildlife, recreation, and public health. It is our belief that existing law would allow such a reservation of water to be made. However because of uncertainty caused by case law in other states which hold that appropriated water must be diverted from its source, a clarification of the Alaska Water Use Act is necessary.

The bill would give reservations, after public water supply, for fish and wildlife, recreation, or water quality a preference over other applications, if there are competing applications for use of water from the same source. This seems to be implicitly recognized in the state constitutional provision mentioned above, with respect to fish and wildlife, and it is certainly reasonable to assume that recreation and maintenance of water quality are public uses which should likewise be given some priority.

Sincerely,

Jay S. Hammond
Governor"

HB 176

Dept. of Environmental Conservation:
This bill will have minimal fiscal impact on the Dept.

Dept. of Natural Resources (FY 78 Cost Estimates)

1. Land Management Officer III
   (a) Personal Services
   Land Management Officer III (6 months) 14,224.0
2. Travel - Adjudication; Hearings etc. 500.0
3. Contractual - Advertisement 200.0
4. Commodities - Office Supplies 200.0
5. Equipment - Desk and Chairs 500.0
   15,624.0

Dept. of Fish and Game (FY 78 Cost Estimates)

1. Travel costs for coordination with Federal and State agencies. 1.0
2. Contractual - Advertisements 1.2
   2.2

HB 176

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 176
Title An Act Relating to the Reservation of Water
Requested by Office of the Governor Date January 24, 1977

II. FISCAL DETAIL
Agency Affected Depts. Natural Resources, Fish and Game, Environmental Conserv.
Program Category Affected Fish and Wildlife, Lands
Budget Request Unit(s) Affected Habitat, Land and Water Management

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		14.2	29.5	32.5	34.1	38.2
200 TRAVEL		1.5	3.0	2.6	2.7	3.4
300 CONTRACTUAL		1.4	2.9	3.2	3.6	3.9
400 COMMODITIES		.2	.2	.1	.4	.4
500 EQUIPMENT		.5		.2		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		17.8	35.6	38.8	40.8	45.9

FUNDING (Thousands of Dollars)

GENERAL FUND		17.8	35.6	38.8	40.8	45.9
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This Fiscal Note represents the combined fiscal impacts on the Depts. of Environmental Conservation, Natural Resources, and Fish and Game.

A. Assumptions
   1. Department of Fish and Game will submit no more than 100 applications per year, during first year and no more than 200 during the following two years.
   2. Regulations will have to be written/revised and adopted.
   3. Measurement and/or determination of levels, quantities, flows, etc., both surface and ground water, will be made.

D. Program Summary -- In addition to reducing backlog, personnel will be required to adjudicate new applications under this act, and to see that regulations are adopted. It is assumed that it will be six months before a person is hired and under way the first year.

Fiscal Note - An Act Reservation of Water (See Attachments)

IV. DATE 1/28/77 PREPARED BY Lee Siegel
AGENCY Jim Stey
PHONE

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

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HB 176

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Fiscal Note - An Act Reservation of Water (See Attachments)

IV. DATE 1/28/77 PREPARED BY Jim Stey
AGENCY
PHONE

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

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

February 14, 1977

SUBJECT: An Analysis of HB 176, Relating to the Reservation of Water (W.O.# 3383)

TO: The Honorable Sally Smith

FROM: George Utermohle
Research Analyst G.U.

House Bill 176, relating to the reservation of water, was introduced by the governor and contains amendments to the Water Use Act (AS 46.15.010-.270). The effect of the amendments is to provide for the reservation of stream flows or water levels by the Commissioner of Natural Resources at the request of local governments or state agencies.

EXISTING LAW

Article VIII, section 13 of the Alaska Constitution subjects to appropriation all surface and subsurface waters controlled by the state. Any appropriation of water, except for a public water supply, is limited to the use for which the water is appropriated and is also subject to preferences among beneficial uses and a general reservation of water for fish and wildlife. The Water Use Act implements the constitutional provisions relating to water rights.

The right to appropriate (use) water is obtained only by an application to the Commissioner of Natural Resources. When the Commissioner receives an application for water, he must publish a public notice and notify the Departments of Fish and Game and Environmental Conservation to that effect. The Commissioner issues the permit to appropriate water if he determines that:

1. rights of a prior users will not be unduly affected;
2. the proposed means of diversion or construction are adequate;
3. the proposed use of water is beneficial; and
4. the proposed appropriation is in the public interest.

In determining the public interest, the Commissioner shall consider:

1. the benefit to the applicant resulting from the proposed appropriation;

2. the effect of the economic activity resulting from the proposed appropriation;

3. the effect on fish and game resources and on public recreational opportunities;

4. the effect on public health;

5. the effect of loss of alternate uses of water that might be made within a reasonable time if not precluded or hindered by the proposed appropriation;

6. harm to other persons resulting from the proposed appropriation;

7. the intent and ability of the applicant to complete the appropriation; and

8. the effect upon access to navigable or public waters.

When there are competing applications for water from the same source, and the source is insufficient to supply all applicants, the Commissioner shall give preference first to public water supply and then to the use which alone or in combination with other foreseeable uses will constitute the most beneficial use.

When the permitholder has completed construction of the facilities to appropriate water and appropriations have begun, the Commissioner issues a certificate of appropriation if the conditions of the permit are followed.

The use of water for a public water supply is preferred above all other uses, however, a user who exercises his preference right must agree to compensate permit and certificate holders who have established prior rights to the water.

Water rights are attached to the land where the water is used unless the Commissioner has approved the severance of appropriated water from the land where it is used. If the Commissioner does permit the severance, water rights may be sold, leased, or transferred.

The use of less than 1,000 gallons per day for domestic use and the use of water in a remote location which does not affect other uses are exempt from the requirement to apply for a water use permit under regulations

issued by the Commissioner. Those who take advantage of the exemption are generally encouraged to apply for a water use permit because rights to water on the basis of prior use are not recognized unless the prior use has been recorded with the Commissioner.

AMENDMENTS TO THE WATER USE ACT BY HB 176

House Bill 176 amends the Water Use Act as described below.

Section 1 amends AS 46.15.030 to provide for the reservation of stream flows and water levels, as a form of appropriation.

Section 2 amends AS 46.15.090 by giving preference to reservations of stream flows and water levels over other beneficial uses of water when there exists competing applications for water from one source which exceed the amount available. The preference granted to applications for water needed for public water supplies over all other applications is unchanged.

Section 3 amends the Water Use Act by adding a new section which establishes the reasons for which water can be reserved and the procedures by which reservations are granted. Any local government or state agency may apply to the Commissioner of Natural Resources for a reservation of sufficient water at a specified point in a stream or body of water for all or any part of the year, if it is necessary to protect fish and wildlife or it is for park, recreation, sanitary or water quality purposes. The request for a reservation of water is subject to the same procedures as other applications for appropriation. (The only exception is found in section 2 of HB 176.)

The Commissioner is authorized to grant the reservation of water, if he finds that the prior rights of others are not adversely affected, that there exists sufficient unappropriated water, that a need exists, and that it is in the public interest. All existing rights are protected from adverse impacts if a certificate of reservation should be granted.

Section 4 amends the definition of "appropriate" to include reservation of water at the request of a public agency.

Section 5 amends the definition of "appropriation" to include the reservation of water at the request of a public agency. The definition of "beneficial use" is amended to specifically include the maintenance of water quality. Standards for water quality are established by the Department of Environmental Conservation in compliance with the Federal Water Pollution Control Act. Alaska's water quality standards are found in AAC 18.70.

EFFECT OF HB 176 ON EXISTING LAW

House Bill 176 amends the existing law by specifically allowing public agencies to reserve stream flows and water levels for fish and wildlife, parks and recreation, and sanitation and water quality. The application by a public agency to reserve water is treated as all other requests for water. When the application is received, the Commissioner must publish notices in newspapers. If there is any objection, the Commissioner must hold a public hearing. Before the approval of a reservation, the Commissioner must determine that the reservation would not interfere with prior appropriations, that adequate water is available, and that the reservation is needed and is in the public good.

The only difference between the reservation of water and other non-public water supply uses is that when the number of applications for water use is greater than that available, the application for a reservation of water shall have second preference, after public water supplies, but before other applications. All water rights are determined on a first come, first served basis. If valid rights exist to all the water in a stream, no additional rights to use water from that stream is possible. The only exception is that applications for water for public water systems can take precedence over valid existing rights (including reservations of water) but the public water utility must compensate prior users.

It is possible that the reservation of certain stream flows or water levels will preclude other water uses in the future. This bill seeks to make it public policy that reservation of water for permissible uses is as important as appropriations for other purposes. HB 176 makes the existence of flowing water or certain water levels a valid use when such use of water is for wildlife and fish, parks and recreation or sanitation and maintenance of water quality. This bill would make it possible to reserve water for those reasons just listed in order to establish a legal right of priority.

The Alaska Constitution gives a preference for the use of water to fish and wildlife. This bill establishes a formal procedure by which water may be reserved for fish and wildlife. Federal pollution control laws could have the effect of requiring the state to reserve water for sanitary or water quality reasons because certain minimum stream flows may be necessary to insure that pollutants which may arise from industrial or domestic waste are sufficiently diluted. Parks and recreation as a justification for a reservation of water are the uses of water which do not already have a stated or implied existence in state or federal law.

GU:mo

Alaska State Legislature

House

JUNEAU ALASKA

Memo to: Rep. Sally Smith

From: Ruth

Date: Feb. 21, 1977

Re: Conversation in office with Phil Holdsworth

HB 156: The issue of agricultural preference for land is "hot" all over the nation. The preference should not exclude other uses that might be determined in the future--determinations made on information not now available, or contemplated. Also, the Committee should keep in mind that the waste heat bill is tied closely to the agricultural use situation.

HB 159: Holdsworth would hate to see resources separated from each other within the state. They are too interdependent. State Departments would end up fighting among themselves. All of the issues relate to land, and should remain together. Instead of consolidating the state, which is the expressed desire of the governor, this would expand state government. Each department would tend to be competing. But--as the bill stands, Holdsworth sees no major problem with it.

HB 176: According to Holdsworth, this bill is dangerous. The reservation for minimum flow could preclude future uses for public water supply. It is "cloudy" as to who would currently have a "claim" on the water --a reservation--at the time the bill would go into affect. What happens to future public water supplies--in situation where they do not now need the water? At that time, who gets the water?

HB 40: The Forestry area should be strengthened by this bill.

HB 2: The homesites could be a good thing, if adequately planned.

HB 211: It is unclear with present wording whether the three commissioners from the state could, or would be state employees. Also, would this commission take effect before the LUPC disbanded? Re. the $250 per day compensation, Holdsworth says that, from his experience on the LUPC, this is definitely not out of line.

Alaska State Legislature

House

JUNEAU ALASKA

Memo to: Rep. Sally Smith

From: Ruth

Date: Feb. 21, 1977

Re: Conversation in office with Phil Holdsworth

HB 156: The issue of agricultural preference for land is "hot" all over the nation. The preference should not exclude other uses that might be determined in the future--determinations made on information not now available, or contemplated. Also, the Committee should keep in mind that the waste heat bill is tied closely to the agricultural use situation.

HB 159: Holdsworth would hate to see resources separated from each other within the state. They are too interdependent. State Departments would end up fighting among themselves. All of the issues relate to land, and should remain together. Instead of consolidating the state, which is the expressed desire of the governor, this would expand state government. Each department would tend to be competing. But--as the bill stands, Holdsworth sees no major problem with it.

HB 176: According to Holdsworth, this bill is dangerous. The reservation for minimum flow could preclude future uses for public water supply. It is "cloudy" as to who would currently have a "claim" on the water --a reservation--at the time the bill would go into affect. What happens to future public water supplies--in situation where they do not now need the water? At that time, who gets the water?

HB 40: The Forestry area should be strengthened by this bill.

HB 2: The homesites could be a good thing, if adequately planned.

HB 211: It is unclear with present wording whether the three commissioners from the state could, or would be state employees. Also, would this commission take effect before the LUPC disbanded? Re. the $250 per day compensation, Holdsworth says that, from his experience on the LUPC, this is definitely not out of line.

H

Alaska State Legislature

House

JUNEAU ALASKA

Memo to: Rep. Sally Smith

From: Ruth

Re: Conversation in office with Rep. Smith, Sharon Lobaugh, Marlys Burnett, Sandy Sagalkin, and Michael Kaill.

Date: Feb. 21, 1977

Subject: HB 176--Reservation of Water

Kaill--Dept. of Fish and Game, Sportfish Division. Fish and Game need to make sure that enough water is available to ensure the survival of the wildlife they officially are mandated to represented. In many instances, the water can't be appropriated legally unless you take it out of the stream. Alaska is one of the states that currently has appropriation only if you take the water out of the stream.

Sagalkin: Most states had laws saying you had to divert water from its source to obtain a water right. This bill is an effort to clarify that "in place water right" is legal. In Alaska, uses for Fish and Wildlife are considered to be "beneficial" uses. But leaving the water in its original stream--in place--for habitat, is better than diverting for a hatchery (Lobaugh comment). Most western states have changed to "in place" beneficial uses, and most of these changes are recent.

Sagalkin: (In response to question from Rep. Smith) There is a problem with Section .90 of the bill. There are now 1800 pending aplications for water reservation. There is no intent on the part of the Departments to "bump" these aplications. Maybe this Section .90 should be separated into two parts. (Sagalkin will have suggested amendment wordings available by Monday)

Lobaugh: (to Sagalkin) What about allocations [illegible] being completely used, such as Auke Bay?

Sagalkin: The water would still have to be allocated on an available basis, considering the previously approved uses.

The earliest filed would be considered first. The Dept. of Natural Resources says that prior aplications should be considered, but there could be a situation where the Conservationists may not want that. The bill isn't clear.

Kaill-The Dept. of Fish and Game, Sportfish Division, is reviewing existing "flow" technology. However, it gets expensive. An indexing system is necessary. Existing flows must b e determined--i.e. low season, high season, width of stream, etc. A water system profile is roughed out on "instream flows", then Alaskan systems are figured in to the profile. Flows are documented within a system and by season. Estimated minimum flows are based on what's required. (Water flow bases include the amount necessary to carry sediment out.)

Kaill--A grant for studying non-point pollution is being contemplated. (Adequate flows minimize the contaminants)
It is necessary to:
Apply existing technology to Alaska
Relate to what we already know about Alaska
Apply for appropriations so as to minimize already existing areas of controversy and resolve those conflicts early.

Fish and Game will apply first so that the fish get priority. The Sportfish staff will probably begin work on this issue from the Anchorage area, then branch out.

Fish and Game acts as agent for the fish now. The bill clarifies that right. Under Title 16:
Protect the resource
Make sure people get benefit from the resource

Lobaugh: What will Fish and Game request? Will it be on a stream by stream basis?

Kaill--Many streams have small runs--as low as 30 fish--but miles and miles of coastline mean lots of fish are affected. The bill doesn't change much at all--it just clarifies.

Water is a limited resource.

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

Put in file

February 24, 1977

Memo to: Alvin Osterback

From: Resources Subcommittee on
Parks, Timber and Lands
Sally Smith, Chairman

Re: HB 176

The Subcommittee on Parks, Timber and Lands has discussed HB 176 - Reservation of Water - and recommends that it be given a Do Pass by the Resources Committee.

Respectfully Submitted,

Sally Smith

Sally Smith, Chairman

Mike Miller

Dick Eliason

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

April 5, 1977

SUBJECT: Definition of "Public Water Supply" (W.O. #3936)

TO: The Honorable Sally Smith

FROM: George Utermohle
Research Analyst

The term "public water supply," for the purposes of determining "beneficial use" under the Water Use Act (A.S. 46.15), has not been defined by statute. In order to find a definition one must go to the administrative regulations adopted by the Department of Natural Resources under the authority of the Water Use Act (11 A.A.C. 72.010-.300). Those regulations promulgated by the Department of Natural Resources have adopted by reference the definition used by the Department of Health and Social Services (7 A.A.C. 14.020(1)). Thus, the definition of "public water supply" for the purpose of implementing the Water Use Act is as follows:

> A "public water supply" shall mean any water supply and all parts of the collection, treatment, transmission and distribution works of such supply which is officially designated as a "public water supply." Public water supplies shall include but not be necessarily limited to supplies made available to residents of a community such as a municipal corporation, public utility district, village, town, subdivision, or any other area within the jurisdiction of a duly constituted authority which is authorized to provide, operate or control a water supply system or any water distributed, sold, or made available to 25 or more consumers for drinking, culinary or ablutionary purposes.

The above definition of "public water supply" has been used by the Department of Health and Social Services since at least 1959 and by the Department of Natural Resources since 1967.

I have found no court cases which have challenged or refined this definition.

The definition of "public water supply" could be changed at any time in one of three ways: First, the Department of Health and Social Services could amend its regulation which defines the term "public water supply;" second, the Department of Natural Resources could rescind its regulation which adopts the Department of Health and Social Services definition and promulgate a new regulation containing a new definition of "public water supply;" and third, the legislature could amend the Water Use Act by adding a definition of "public water supply."

However, until one of those events occurs, the definition of "public water supply" for the purposes of the Water Use Act and HB 176 is that adopted by the Department of Health and Social Services.

GU:jm

02-7018

STATE
of ALASKA

MEMORANDUM

TO:

Sally Smith
House Resources

DATE : April 5, 1977

FROM: Pat Conneady
Legislative Liason
Dept. of Natural Resources

SUBJECT: Definition of Public Water Supply

The Department has finally been able to agree on the most appropriate language for a definition of a "public water supply" if the Resources Committee deems it necessary for inclusion in the committee substitute for HB 176.

A "public water supply" shall mean any water supply and all parts of the collection, treatment, transmission and distribution works of such supply which is officially designated as a public water supply. Public water supplies shall include but not be limited to supplies made available to residents of a community such as a municipal corporation, public utility district, village, town, or any other area within the jurisdiction of a duly constituted authority which is authorized to provide, operate or control a water supply system where water is distributed, sold or made available for drinking, culinary or ablutionary purposes.

Designation of a public water supply is authorized pursuant to 7AAc 14.310.

by law. Leases and permits giving the exclusive right of exploration for these minerals for specific periods and areas, subject to reasonable concurrent exploration as to different classes of minerals, may be authorized by law. Like leases and permits giving the exclusive right of prospecting by geophysical, geochemical, and similar methods for all minerals may also be authorized by law.

Water Rights

SECTION 13. All surface and subsurface waters reserved to the people for common use, except mineral and medicinal waters, are subject to appropriation. Priority of appropriation shall give prior right. Except for public water supply, an appropriation of water shall be limited to stated purposes and subject to preferences among beneficial uses, concurrent or otherwise, as prescribed by law, and to the general reservation of fish and wildlife.

Access to Navigable Waters

SECTION 14. Free access to the navigable or public waters of the State, as defined by the legislature, shall not be denied any citizen of the United States or resident of the State, except that the legislature may by general law regulate and limit such access for other beneficial uses or public purposes.

No Exclusive Right of Fishery

SECTION 15. No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State. This section does not restrict the power of the State to limit entry into any fishery for purposes of resource conservation, to prevent economic distress among fishermen and those dependent upon them for a livelihood and to promote the efficient development of aquaculture in the State.

(The amendment to this section was approved by the voters of the State, August 22, 1972. This amendment added the second sentence.)

Protection of Rights

SECTION 16. No person shall be involuntarily divested of his right to the use of waters, his

Sponsor Analysis

of HB No. 176

(Reservation of Water)

Purposes of Bill

This bill--pure and simple--is designed to help the state ensure that streams and other bodies of water contain enough water for fish. It lets the state act like any other person or business and apply for an appropriation for the water it needs. The needs of the private appropriator are strictly his own--personal consumption, water for industrial processes, etc. The needs of the state, on the other hand, are public--everyone benefits. The public purposes for which water can be appropriated are spelled out in the bill--the protection of fish and wildlife habitat, migration and propagation, recreational and park purposes and sanitary and water quality purposes.

Water, Water Everywhere?

Juneau distorts our view of the problem. Since it is difficult to stay dry in Juneau, how, people say, can we possibly have water problems? But here are the facts and they belie the aquarium-like atmosphere of Juneau: The Sag River on the North Slope flows at 10,000 to 20,000 cubic feet per second (cfs) in June; in the winter when most of the water freezes, at 1.6 cfs. Over-wintering fish must then search out under-ice pools to survive; must compete, at times with North Slope drilling and construction camps for a meagre resource. Even south-east Alaska has its distinct

problems. Recently glaciated, southeastern soil has extremely poor water holding abilities and requires steady precipitation to maintain minimum flows to support fish. Extended dry periods in southeastern have in the past prevented normal salmon spawning--fish could not ascend streams to reach the spawning beds.

Even streams having normal flows can run into trouble. In the Matanuska Valley several are so over-appropriated that if all holders of water rights turned on their taps and collected their water simultaneously, the streams would go dry.

How Much Water Is Enough Water For Fish and Wildlife?

We know how much water is needed to run a household--human consumption, sanitary, etc.--and we know how much water is needed for irrigation or industrial processes. We also have a good idea of how much water is needed to keep fish alive. The Alaska Departments of Fish and Game or Environmental Conservation would apply for enough water to keep fish alive during critical life stages such as spawning, egg development, and rearing. The following table, for example, shows general spawning needs of salmon:

Water Velocity: (fps)	1.0-3.0
Water Depth: (ft)	.6-.8
Riffle-pool Rates:	near 50:50
Riffle Area Covered by Water:	60% or more
Pool Velocities: (fps)	.3-.8

Knowing these amounts, state biologists and hydrologists can measure streams in stretches where spawning occurs and determine how much water must be reserved from upstream appropriation to guarantee these flows. Downstream of the spawning area fish might need less water--for migration, for example--and sufficient water for that function would then be reserved. The important point is that each section of the stream providing a vital function for fish or wildlife would be separately measured and only the amount of water necessary would be reserved.

Why Do We Need A Change In the Law?

The main reason is that under existing law there is no real recognition of the needs of fish and wildlife. Anyone can apply for and obtain an appropriation for almost any other conceivable non-wasteful use, but in-stream appropriation (i.e. leaving sufficient water in the stream) is not a use for which an appropriation can be made under Alaska water law. In granting water rights for these other uses, present law does allow the commissioner to consider the effects of the appropriation on fish and wildlife. But nothing in the law tells him how much weight those considerations should receive or whether to deny an appropriation which might damage fish and wildlife resources.

More basic yet is whether existing law provides a good institutional basis for protecting the water fish and wildlife need? If state agencies had to intervene to protect fish and wildlife and other in-stream values in each appropriation

proceeding brought by a private individual, each application would have to be analyzed, and a determination made on whether the stream would be over-appropriated. In each case the resource agency would be reacting to an appropriation and that reaction would soon appear negative and obstructionist. This has happened in California. Furthermore this strategy would be difficult to budget for and would probably drag out the proceedings much longer than necessary while the state completed its studies.

The bill on the other hand, allows the state to make the case for fish and wildlife and allows the state to prioritize time and money to streams where protection is most needed. Other streams and other appropriators can be left alone. Once the state obtains a water right, the public knows what its rights in the stream are and future private appropriators know what their rights are. Fairness, order, and certainty are the results. Public water supply, of course, always takes precedence over other uses, including reservations for fish and wildlife.

In sum, HB 176 is designed to help the state carry out its responsibilities to the public to protect fish, wildlife and public recreation in an orderly manner, assuring that the wisest use of water will prevail. The bill is needed because under existing law it is highly impractical for the state to try to reserve water from appropriation

case by case, as intervenor in private applications for water rights, and it is highly doubtful that the public interest can be fully protected in that way.

AFS

American Fisheries Society
WESTERN DIVISION

ALASKA CHAPTER

ALASKA
ALBERTA
ARIZONA
BRITISH COLUMBIA
CALIFORNIA
COLORADO
HAWAII
IDAHO
MANITOBA
MONTANA
NEW MEXICO
NEVADA
OREGON
SASKATCHEWAN
UTAH
WASHINGTON
WYOMING

American Fisheries Society
Alaska Chapter
February 1977

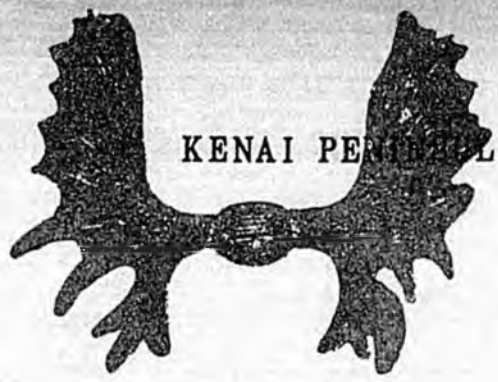
Resolution Number 2

WHEREAS Fish and Wildlife resources are of paramount importance to the State of Alaska, and to Alaskan individuals, from aesthetic, commercial, subsistence and recreational points of view, and

WHEREAS the current Alaska water code (Title 14) does not adequately address the issue of protection of in-stream water resources, as it defines appropriation of water in terms of diversionary (removed from the streambed) use, and as it does not adequately identify in-stream values of fish and wildlife and of recreational values as beneficial uses,

THEREFORE BE IT RESOLVED that the Alaska Chapter of the American Fisheries Society at its annual meeting in Cordova, Alaska, February 1977, hereby endorses the concept of legislation (e. g. HB 176) that recognizes in-stream flow demand as a beneficial use and that the in-stream water resources for fish and wildlife and recreational uses be accorded the highest possible priority, and that copies of this resolution be sent to the Alaska House of Representatives Resources Committee, Alaska Senate Resources Committee, the Governor of the State of Alaska, the Commissioners of Department of Natural Resources and Alaska Department of Fish and Game, and other appropriate agencies.

resources (beneficial) (use) Fish bill (Fish bill)



KENAI PENINSULA CONSERVATION SOCIETY
P.O. BOX 563
SOLDOTNA
ALASKA 99669

Put in HB 176 files

February 22, 1977

Mr. Al Osterback, Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99801

Dear Mr. Osterback:

The Kenai Peninsula Conservation Society would like to be put on record as strongly favoring a strong Water Act for the state.

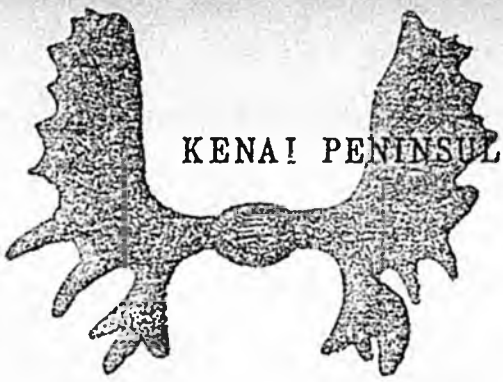
We favor H.B. 176 as proposed by the Governor and would support any means by which this bill could be strengthened to protect the public's uses and the protection of our water resources.

Sincerely,

Dr. Calvin Fair

Calvin M. Fair, D.D.S.

Put original letter in Dianne's file



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Sincerely,

Dr. Calvin Fair

Calvin M. Fair, D.D.S.

Put original letter in Dianna file

4041 East 84th
Anchorage, Alaska 99507
March 16, 1977

Put in all files HB 176 Sent original to me

Rep. Richard K. Urion
House of Representatives
State of Alaska
State Capitol Bldg.
Pouch V
Juneau, AK 99811

Dear Representative Urion:

I have recently learned that House Bill 176--Reservation of Water was discussed in the House Resources Committee, but that some members of this Commmittee apparently have not taken this issue seriously. As a fisheries biologist with the University of Alaska's Arctic Environmental Information and Data Center, I support the concept proposed in this bill: recognize that waters of the State must be reserved, after public water supply, for fish and wildlife needs.

I have already expressed my feelings to Representative Sally Smith in a previous letter, to which she responded that this bill will be held in committee until additional information is gathered. My questions to you at this time are: will this bill be seriously considered by you and your fellow Resource Committee members during this legislative session, and if not, specifically why not? Secondly, would you please indicate to me your personal feelings, or reservations, on this bill?

Thank you for taking your time to consider my letter, and I look forward to your response.

Sincerely,

William J. Wilson

William J. Wilson

/wjw

cc: Rep. Alvin Osterback
Rep. Sally Smith

4041 East 84th
Anchorage, Alaska 99507
March 16, 1977

Put in all files HB 176 Give original to Rep.

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House of Representatives
State of Alaska
State Capitol Bldg.
Pouch V
Juneau, AK 99811

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Thank you for taking your time to consider my letter, and I look forward to your response.

Sincerely,

William J. Wilson

William J. Wilson

/wjw

cc: Rep. Alvin Osterback
Rep. Sally Smith

Cordova District Fisheries Union

Headquarters: Box 939, Cordova, Alaska

March 25, 1977

Representative A. Osterback, Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

We request your support of House Bill #176 ammending "An act relating to the reservation of water".

These ammendments are necessary to preserve and insure water quality for human consumption and fish and wildlife. With the upcoming development of our coastal areas we feel this legislation is very timely.

Sincerely,

Bob Blake

Bob Blake
Chairman

bb/jd

Cordova District Fisheries Union

Headquarters: Box 939, Cordova, Alaska

March 25, 1977

Representative A. Osterback, Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

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Sincerely,

Bob Blake

Bob Blake
Chairman

bb/jd

Trustees for ALASKA

1026 West 4th Ave., Anchorage, Alaska 99501 (907) 276-4244

March 31, 1977

HB 176

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University of Alaska
Juneau, Alaska

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Economist, Univ. of Alaska,
Senate Interior Committee
Washington, D. C.

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University of Alaska
Fairbanks, Alaska

Paul N. Yivisaker
Dean, Grad. School of Ed.
Harvard University
Cambridge, Massachusetts

Honorable Alvin Osterback
Chairman,
House Resources Committee
Alaska House of Representatives
Capitol, Room 118
Pouch V
Juneau, Alaska 99811

Re: H.B. 176

Dear Representative Osterback:

Trustees for Alaska is an organization which encourages the use of our state's resources in a manner that assures the right of present and future Alaskan generations to enjoy a rich and varied quality of life. We are therefore highly interested in a bill currently before the House Resources Committee, H.B. 176, which would provide for reservation of in-stream water flows or levels by the state. I write this letter to inform you of our views on this subject.

In brief, the provisions of H.B. 176 are basic to the future health of Alaska's waters and the many important values associated with them -- particularly the fishery resources.

The need to protect stream flows from over-appropriation has already been recognized by a number of other states, including Idaho, Colorado, California, Montana, and Oregon. And the National Water Commission, in its study of water resources and problems, has specifically recommended that: "Public rights should be secured through State Legislation authorizing administrative withdrawal or public reservation of sufficient unappropriated water needed for minimum stream flow in order to maintain scenic values, water quality, fishery resources and the natural stream environment . . . . "

The concern expressed by the Commission and several Western states is very well-founded. Unless adequate water flows are protected in our rivers and streams, there is a real danger that fish which rely on those watercourses to spawn will be left, literally, high and dry. (This nearly happened in British Columbia's Goldstream River in 1970, where it took emergency actions by concerned citizens to ensure that sufficient water

was allowed to flow to permit salmon spawning. See Natural Resources Journal, Vol. 16, p. 137 (1976).)

In Alaska, fortunately, this danger has probably not yet materialized in a widespread fashion. But as more and more water is appropriated for out-of-stream use, it will become increasingly difficult to assure the necessary conditions for fish spawning without encroaching on vested property rights. Indeed, fish survival has already been seriously threatened at some North Slope locations due to dewatering of under-ice pools by oil development activities. And in the Matanuska Valley there are now some streams whose total flows have been fully appropriated.

All this simply goes to show that now is the time to provide for protection of Alaska's future fisheries by reservation of the necessary stream flows and water levels.

Thank you for your cooperation.

Sincerely yours,

Robert Mintz

Robert Mintz
Staff Member

k

LA21 3750 17.57 04/22/77 JA01 0002 03.42 04/23/77

TO: CINDY, JNU
FROM: APRIL, FBX

PLEASE DELIVER THE FOLLOWING MESSAGE:

TO: ALL MEMBERS OF THE LEGISLATURE
WE, THE MEMBERS OF PLCER MINERS OF ALASKA, OPPOSE THE BILL, CSHB 176, BECAUSE IT WOULD REPEAL EXISITING GRANDFATHER WATER RIGHTS OF ALASKA PLACER MINERS.
SIGNED:
FRED WILKINSON, PO BOX 2702, FBKS
WALT WIGGER, 900 PARK DR., FBKS
SCOTT HASKINS, 206 ROSELLA, FBKS.
GEORGE A. NELSON, BOX 80163, COLLEGE, AK
GARLAND, H. ALLMAN, P.O. BOX 1411, FBKS.
DAVID L. ANDERSON, 2525 19TH AVE, FBKS
LARRY SKELLY, 19TH&PEGER, FBKS.
GEORGE R. HASKINS, 1/2 MILE VAN HORN RD., FBKS.
ROGER BARTLING, BOX 73230, FBKS.
ROBERT AULT, BOX 1596, FBKS
STANLEY C. RYBACHEK, BOXX 73069, FBKS.
M. H. OTT, 332, NORTH BOUNDARY, FBKS.
ERNEST N. WOLFF, BOX 80989, COLLEGE, AK
DON DELIMA, MANLEY HOT SPRINGS AK 99756
JOE VOGLER, BOX 7, FBKS.
JIM FUKSA, BOX 60254, FBKS, AK.
GEORGE BAILEY, BOX 2052, FBKS, AK.
BILL LOMERSON, 708 CONTINENTAL LIFE BLDG., FORT WORTH, TEXAS.
DEL BOOTH, RT. 9, BOX 216R, FORT WORTH, TEXAS
JOHN "PAT" RYAN, BOX 34, SRA, ANCHORAGE, AK 99502
LINDA STONE, 206 ROSELLA, FBKS.
TOM STONE, "
RONALD ROSANDER, 713 16TH AVE, FBKS.
ROSE RYBACHEK, BOX 73069, FBKS.
EOM

PLEASE ACK WHEN MESSAGE DELIVERED. THANKS. /A/ EOM

A Minimum Stream Flow Rationale for Alaska

Mike Kaill

Mention of Alaska often brings to mind visions of huge river systems such as the Yukon and Kuskokwim Rivers. This probably contributes to the unfortunate myth that water is unlimited in Alaska. True, in most areas there *is* plenty of water, but in many situations low water flow becomes a limiting factor for fish and wildlife populations. For example, the Sagavanirktok River has an abundant flow 10,000 to 20,000 cubic feet per second in June, but it slows to a fraction of that (1.6 cfs) in the winter, when most of the water freezes. Over-wintering fish are then forced into under-ice-pools. In some instances, North Slope drilling and construction camps have completely dewatered these fish refuges (on occasion the water pump intakes are clogged with fish). Another example of low flow problems encountered in Alaska is the system of small coastal streams in Southeastern Alaska. Flows in these streams depend upon Southeast's frequent and abundant rains. Periodically, Southeast may have a week or more of sunny weather producing droughtlike conditions. In some years, this has prevented normal salmon spawning, as fish have inadequate water with which to ascend streams.

Even where streams normally have enough water there may be heavy demands that can produce low flows. Several streams in the Matanuska Valley are presently so over-appropriated that if all owners of water rights simultaneously claimed water due them, these streams would dry up.

All of these examples point to the need for legislation to protect and administer the most basic element of fish habitat — water. Not *just* water, but water "in place" or to use the current terminology, "minimum in-stream flows." Such terminology is necessary because most states, Alaska included, define appropriation as a diversion or "out-of-stream" use. In other words, the only people that can appropriate water are those that intend to use it outside the stream banks. Examples of such uses are irrigation, industrial needs, and domestic water supplies. A Fish and Game department or other party attempting appropriations on behalf of fish and wildlife has no legal water right. Clearly, in a state as fish-oriented as Alaska, this is an incongruous situation. A portion of a legal decision from Montana is illustrative of this point:

> "Testimony and evidence relating to recreational and wildlife uses of Carpenter Lake was not considered. Such *nondiversionary* recreational and wildlife uses are not recognized under Montana Water Law before July 1, 1973 and testimony to their existence is not relevant." (emphasis added).

Legislation providing for water rights for fish and wildlife is necessary to realign Alaska's existing water laws. Once legislation is accomplished, our attention can turn to the establishment of minimum flow administration. Natural flow patterns are affected by precipitation, nature and size of the drainage basin, soil structure, and vegetative cover to name a few influences. How much water will fish and wildlife of a particular stream really need? One thing for sure, we should not interpret the "minimum" in "minimum in-stream flow" too literally. As Don Tennant of the U.S. Fish and Wildlife Service recently wrote:

> "Recommending the meager, all-time historic minimum flow would be unthinkable. That would be like prescribing a person's all-time worst health condition as a recommended level for a portion of his future well-being."

Most aquatic animals can "hang on" for short periods of low flow, but in order to establish maintenance levels of stream flow, it is necessary to study the effect that various flow levels have on fish and wildlife. For example, as flows increase, the "wetted area" of the stream bed also increases, increasing habitat opportunities. Stream riffles produce insect populations that are important sources of food. Undercut banks and overhanging vegetation are important for cover, providing protection from predators, and as sources of eddies in which fish can rest. At low flow, these areas may be outside of the wetted area of the stream. An important (but poorly known) requirement is spawning and rearing habitat. In many streams, the spaces between the gravel particles of the stream bed fill with sand, silt and other "fines" (smothering eggs and reducing insect populations) — unless there is a periodic flushing from high flow rate during freshets. Impairment of periodic cleansing water flows deprives a stream of its inherent energy and therefore its ability to clean itself.

Intensive studies are required to establish minimum flows necessary to support satisfactory populations of fish. Yet, Alaska cannot afford to do intensive studies on all streams, especially since water appropriations are going on all the while.

Is there a "rule of thumb" that can be generated based on the more detailed studies?

Tennant thinks so, and recommends a regime based on percentages of average annual flow. His rule of thumb is that 10 percent of the average annual flow is sufficient only for short-term survival: 20-40 percent is satisfactory, 40-60 percent excellent, and 60-100 percent optimum. On the other hand, Pitney, from Oregon State Fish and Game states that, "Each stream must be physically studied. No pat 'slide rule formula' has been developed as an alternate."

A continuum of possibilities exists for the determination of

Granite Creek, Kenai Peninsula, Alaska CHARLIE OTT

stream flows for particular systems. With certain basic guidelines for spawning and rearing conditions (Table 1), four basic categories are feasible with increasing credibility as field measurements. They are: (a) the formula method, (b) field observation with application of professional judgement, (c) techniques involving a variety of conversion factors, and (d) evaluation of field measurements. Put in the vernacular, they become: (a) crystal ball, (b) eye ball, (c) slide rule, (d) Gurley (a widely used type of flow meter).

Perhaps the best approach to Alaska stream flow determination with the available resources is to "type" them as to basic nature of the drainage, and evaulate them in terms of index measurements. Feasibility of such an approach is an important area of study yet to be done. Another critical problem is that many generalities developed in other states may not be applicable in Alaska.

The people of Alaska must have the legal right to appropriate water *in the stream* for preservation of fish and wildlife. As in all allocation problems, trade-offs and compromises will have to be made. Economic analyses are necessary, so that the "most beneficial" use of resources can be made and then substantiated. Biologists and hydrologists must be consulted to assure that the biotic and abiotic systems are protected through use of proper biological criteria and procedure. Finally, workable monitoring systems, smooth administrative procedures, and effective enforcement of established minimum in-stream flows are needed.

Since water appropriations are being granted every year, timeliness is of the essence. As soon as possible, the people of Alaska must make fish and wildlife, as well as water recreationists, legal beneficial users of water, entitled to appropriation of water for use within the stream banks.

Table 1
Salmon Spawning Criteria

Water Velocity: (fps)	1.0 to 3.0
Water Depth: (ft)	0.6 to 0.8
Riffle-pool Ratio:	near 50:50
Riffle Area Covered by Water:	60 percent or more
Pool Velocities: (fps)	0.3 to 0.8

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A MYTH — (Continued from page 3)

bodies ineffectively. Something, I maintained, was being consumed: respect for animals, my enjoyment, and the seal's sleep, at least.

Item: the newest issue of *Audubon* magazine briefly tells of a new problem birds face: birdwatchers armed with tape recorders. Want to add a rare bird to your life list? Get a recording of the bird's territorial call, march out into the springtime, and play the tape loudly. An answer comes, you check off another bird on your list. Oops! Better check: it might have been another tape recorder. One pair of rare black hawks was disturbed so often by such nonconsumptive shenanigans that they failed to nest successfully in three consecutive years.

Item: in 1975, scientists in Alaska "collected" birds of over 80 species, fish of over 20 kinds, and 20 kinds of mammals. (Nobody kills wildlife: hunters "harvest" it and scientists "collect" it.) Among the birds killed were 79 black-footed kittiwakes, 110 tufted puffins, 224 redpolls, 23 savannah sparrows, and 32 black-capped chickadees. Fish collections included 179,697 three-spined sticklebacks and 2,988 arctic char. Scientists reported taking and killing 1,046 tundra red-backed voles, 5 wolverines, 34 arctic ground squirrels, and 6 arctic fox, among numerous other mammals. All very well justified collections, I'm sure, and undoubtedly within sustained yield limits. But where is the distinction between scientist and hunter, in terms of consumption? The only difference is that scientists kill animals of more species, and more of them in breeding seasons, than hunters.

Item: Christopher Robin likes sand between his toes, and so do millions of other Englishmen. The international journal *Biological Conservation* reported in 1974 that human use of British beaches had eliminated the Kentish plover as a breeding species on the British Isles. The little tern is suffering the same stresses in Sweden. At Chatham on Cape Cod, Massachusetts, a colony of arctic terns plummeted from 40,000 birds to 24 survivors after intensive disturbances over a decade's time by wildlife photographers and beachgoers.

Item: Nonconsumptive users enjoying national parks and forests all over the world have trampled, eroded, and burned thousands of acres of green places and wildlife habitat.

Item: Elementary and high school classes have all but stripped many California beaches bare of the bigger, easily found, and colorful species of tidepool and beach animals.

No fingers are being pointed. My intent, in fact, is to make anyone who has a scornful or accusing finger pointed at anyone else, to realize that we are all consumers of wildlife.

We share the burden and responsibility of being consumers in much more fundamental ways than the leisure-time goofs I sampled just now. Consider, for instance, the consumption involved in hunting moose, versus the consumption involved in eating the same amount of beef. The hunter eats no more meat than the average non-hunter, but he gets it from a different source. Nature produces moose without plowing ground, spreading fertilizers, or spraying pesticides. The energy consumed in transporting a moose home is less than the energy cost of shipping a beef from Colorado to Chicago and up to Anchorage. Who is the consumptive user? When you think about it, the conservationists who ate prime rib at last year's Earthcare Conference undoubtedly consumed more quail and quail habitat than if they had each gone out and shot a brace of bobwhites for dinner. And the money spent in hunting would have lobbied for quail habitat preservation, whereas the money paid for prime rib paid "the enemy."

We are all consumers of wildlife. I consume energy in flying to distant meetings and in heating my home, and that energy comes from strip-mined lands or oilfields and pipelines. I wear clothes made from wool (which commits wildlife forage to domestic sheep), cotton (which replaces oak-pine woodlands of the South), or polyester (which comes from coal or oil). In short, every human, by existing, consumes or displaces wild things.

To continue to make false distinctions between consumptive and nonconsumptive users is to play into the hands of those who don't give a damn about wildlife.

There is no such thing as a nonconsumptive user of wildlife. There are only consumers who care, and consumers who don't care.

Robert Weeden

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PROTECTING INSTREAM FLOWS UNDER STATE LAWS

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I. Introduction

You will forgive me, I trust, if I draw on some experience gained during an earlier part of my life for the introduction to my presentation today. I think this experience is useful to show why, at a rather tender age, I learned to appreciate the necessi' ' of diverting water from the stream to make crops grow, as well as the importance of preserving the watercourse for its environmental and social values.

I was born and raised on the desert of southwestern Utah, where water was scarce and where one naturally developed an appreciation of the vital role of water and the wonders it can perform, whether in or out of the watercourse. Years later, in England, I always enjoyed the rain, because I remembered how important it had been to the needs of the desert, and that there had never been enough, though my companions in England perceived no particular fascination in the daily downpour.

Not all memories associated with water use on the farm were entirely pleasant. I remember irrigating, particularly at night, when the water flooding between the dikes would force the wildlife to seek refuge on the dikes where you had to walk to change the

water settings. It never failed to release a little adrenalin into my system when a snake would wind itself around my boot, or when a pheasant or meadow lark would fly up in front of my face in the dead of night.

Instream uses were quite limited in that area. The primary excitement derived from swimming in the river was waiting to see whether you would get typhoid fever. But we did fish in the river in the summer, and we ice skated in winter when it was frozen over.

That river was the Sevier River, which has its headwaters near Bryce Canyon National Park, and which used to terminate in Sevier Lake, a lake that was about thirty miles long and ten miles wide--before diversions from the stream took their toll. The Sevier River system is probably subject to a more intensive use than any stream system in the United States, and Sevier Lake is now totally dry, as is the main stem of the river for about 20 miles upstream from the lakebed. There are simply so many diversions from the river, and so many impoundments on it, that it no longer has sufficient water to reach the old lakebed.

Sevier Lake and the lower reaches of the river were dry from my earliest recollection, and so I have no first-hand knowledge as to what the social values used to be. Indians used to hunt waterfowl there, and I have found arrowheads and pottery along the shores of the dry bed. And my father used to tell me that, when he was a boy, he and his friends would hook a team of horses to a wagon and go to Sevier Lake and spend a couple of days, and shoot enough ducks and geese to fill the wagon box. They would then return home and the waterfowl would be bottled, or "canned" if you prefer the euphemism, for winter use. Of course, that was before conservation laws placed limits on the number of ducks and geese you could shoot.

Perhaps even at that time it was improvident to take wildlife in those amounts, even discounting the story a bit to allow for the exaggerations that sometimes creep into our telling of stories about the good old days. Even so, while I don't think that I would have been too interested in eating bottled ducks all winter, I would have enjoyed the opportunity to hunt when waterfowl was present in such abundance. But waterfowl will never return to Sevier Lake.

I think that you have to live in an area where outdoor esthetic values are scarce before you can truly appreciate the importance of preserving and protecting them. In a humid area like Virginia, where I lived for several years, it seemed that the State was blanketed with trees and grass, and so it was not too disturbing to see trees being removed to clear a construction site. But on the desert, where there are virtually no trees, it was a very sad experience to see hugh cottonwoods, planted by the early settlers, later destroyed because they were

considered to be harmful phreatophytes whose roots drew too much water from the stream.

The annual outing that I looked forward to most, as a boy, was the fishing trip that the family would take in June after the hay was cut, hauled and stacked. We always went to Trout Creek, which is in the Deep Creek Mountains of western Utah near the Nevada border. The trip always seemed long across the desert, but it was a rewarding experience, because the stream, though small, was clear and pure, and was loaded with native trout. The banks were lined with willows and birch trees. I did not have a chance to go back to Trout Creek between 1948, when I went away to college, and 1974, when I decided to let my kids experience the same fun I had had in catching those native trout.

But Trout Creek was not the same in 1974. It had been lined with cement, in a rather crude manner, but still effective enough to kill streamside vegetation and fish. The birch trees and willows that had graced the dry bench were gone, no fish could be found, and all that remained was a very long cement trough which carried the water from its canyon source to marginal irrigation uses on the alkali flats below. I am aware of no better illustration of a poorly conceived program to "improve" the use of water resources. It also served as a reminder to me, if I needed one, that you can't go home again.

I have retained an interest in farming, and I still have farm lands and consumptive use water rights. But I realize that the day has not only come, but in fact has long since pa when the public interest demands that environmental and socia values of watercourses be considered, preserved and protected in a manner consistent with society's need for orderly econom development.

This brings us, then, to a consideration of the ways in which instream flows may be preserved or protected under state laws. I hope we can prevent this subject from becoming as dry as the bed of Sevier Lake.

II. Examples of Strategies that may be Employed under State Law to Enhance Instream Uses

A. Scope of the Analysis

There are various legal concepts that justify regulat of water use by the states and by the Federal Government. Som of these concepts are based on constitutional considerations, some on statutes, and some on judicial doctrines. In many instances there have been, and still are, conflicts between the United States and the states concerning their respective propr etary rights and regulatory powers. I shall refrain from identifying or summarizing these concepts, because I believe they will constitute the substance of Professor Frank Trelease's presentation tomorrow morning.

It should also be noted that the statutory and regulatory regimes for regulation of water resources vary from state to state. While the appropriation states have very much in common, they also have a significant number of difference. And riparian states differ markedly from appropriation states, although some of the Federal programs, such as those created by the 1972 Amendments to the Federal Water Pollution Control Act, are serving to create some degree of uniformity in some state programs. But time does not permit an exploration in this of the differences among the states.

The historic stumbling blocks to protecting instream uses in the western states have been the requirements that water must be (1) physically diverted from the stream and (2) applied to a beneficial use before an appropriation right could be acquired.[1] These trammels are no longer insurmountable, although in some states legislation is required before effective measures can be implemented to protect instream flows. More difficult questions arise, however, when state constitutional provisions provide, in substance, that appropriation for beneficial use shall never be denied. The Idaho Supreme Court has had no difficulty in finding that protection of instream flows is consistent with its constitutional provison;[2] but Colorado, which has a similar provision, has yet to answer this question.[3]

The purpose of this paper is to illustrate various kinds of techniques, approaches and strategies that have been used, or may be used, under state law to protect streamflows. The material that follows is sort of a laundry list of such strategies. The list is not inclusive, and I suspect that different people would compile the illustrations differently, both with respect to the strategies selected and the sequence of their presentation. Be that as it may, it should be remembered that these examples are intended merely to illustrate techniques, and we shall not pause to evaluate the legal ramifications of each technique. Since the audience is comprised of representatives of various professions and disciplines, the task at hand is to survey the practical utility of the strategies selected.

With the foregoing limitations and caveats, let us proceed to the specific strategies.

B. Specific Illustrations

1. Interstate Compacts

Interstate compacts cannot be created unilaterally by a single state, but they result from state action because they are negotiated by states. The United States need not be involved in the negotiation, but Congress must approve such compacts as a constitutional requirement.[4] These compacts should be distinguished from Federal-Interstate compacts, such as those on the Delaware and Susquehanna Rivers, where the United States actually becomes a party to the compact.

Interstate compacts necessarily have an impact on instream flows, because they provide certain allocations and apportionments to the states, and flows adequate to meet these obligations must be sustained. The Colorado River Compact provides, for example, that an average of 7,500,000 acre-feet of water must flow past Lee Ferry in Arizona each year to satisfy lower basin entitlements.[5] These flows also are regulated to some extent by hydrologic criteria which are designed to optimize generation of hydroelectric power in reservoir releases.

The pertinent point, I suppose, is that the conventional wisdom of earlier years failed to take into account the social and environmental values of instream flows when interestate compacts were negotiated; and, to the extent that minimum flows or stream yields are provided for in such compacts, such results were designed to serve purposes other than instream values. It would be appropriate, I think, for States to plan for the protection and enhancement of instream uses as direct purposes of such a compact, along with the allocation and apportionment of waters for economic and consumptive use purposes. This opportunity, and obligation, should be kept in mind when new compacts are negotiated or when existing compacts are amended.

2. Purchases and Contracts

All state wildlife agencies have the authority to enter into contracts to advance and support their statutory missions. With very little imagination, contracts can be negotiated to provide for instream flows. In Utah, for example, the Division of Wildlife Resources has participated financially in the construction of new reservoir facilities, most commonly purchasing conservation pools and public access rights, but in some instances purchasing sufficient water to provide for releases for streamflow augmentation during critical times of the year.

A number of contracts have also been negotiated in reservoirs that were constructed many years ago. In some instances, conservation pools have simply been acquired by buying part of the water rights held by an irrigation company; and in other instances similar rights have been acquired when an older facility has been enlarged or modified. Not all of these arrangements have provided for releases to augment downstream flows, but if such a need had been critical, and if the Division had had sufficient money, such arrangements would have been possible.

There are any number of arrangements that might be consummated through such negotiation. It would be possible in many instances, for example, for a wildlife agency to purchase water shares in a mutual irrigation company and hold such water in storage for release during critical low flow periods, and to sell the released water to users far enough downstream so that the purpose of stream augmentation would have been satisfied. Complications will arise,

of course, but in most cases they can be worked out to accommodate the particular concerns of the parties and the hydrologic features of the watercourse.

In short, this avenue of purchases and contracts derived through negotiation should not be overlooked, and it is important not only for new project construction, but also for existing facilities on watercourses where the entire water supply has been fully appropriated.

3. Legislation Protecting Scenic Rivers

Where watercourses have particular scenic and esthetic values, some states have enacted legislation to protect these values. One of the earlier efforts was that of Oklahoma in 1970, known as the Scenic Rivers Act,[6] which provides for protection of certain free-flowing streams which:

> possess . . . unique natural scenic beauty, water conservation, fish, wildlife and outdoor recreational values. . . .[7]

The statute also recites that its purpose is to:

> . . . preserve these areas for the benefit of the people of Oklahoma . . . as a part of Oklahoma's diminishing resource of free-flowing rivers and streams.[8]

The act identifies specific reaches of particular streams and provides for protective measures to perserve natural scenic values, and further provides for the elimination of pollution in these waters. In essence, the statute seeks to maximize public use and the protection of social values, while, at the same time, protecting private rights.

4. Legislative Definition of Navigability

States have regulatory authority over navigation on the navigable waters within their borders. If the waters are navigable waters of the United States, then the state authority is subject to the paramount regulatory authority of the United States; but if the waters are the navigable waters of the states, the state regulatory authority controls the use of the watercourse.[9] Since the public trust over navigable waters extends to all waters that are navigable, a more inclusive test of navigability will extend the public trust to more watercourses.

Many states follow the Federal test of navigability, which requires that the watercourse be capable of supporting commercial navigation.[10] But, for purposes of the public trust, the states are at liberty to declare their own test of navigability, and some have adopted tests much more inclusive than the Federal test. Idaho, for example, has enacted legislation that declares that certain streams are navigable for the purpose of fishing, and, after naming such streams, further provides that every other stream or part thereof will be deemed navigable if:

> . . . logs or timber can be floated to market or the place of use during the high water season of the year. For the purpose of this act, logs and timber are defined as any cut timber having a diameter in excess of six (6) inches; high-water is defined as the time of year when the stream normally carries its greatest volume.[11]

This is, indeed, a very inclusive test. As an aside, it might be worthy of note that a case is now pending before the Idaho Supreme Court which is based in part on this statute, and which involves competing claims for fishery resources. A small inlet on the Snake River was diked and commercial fish ponds were constructed. Since springs flowed into the inlet, a source of fresh water was available to flow through the fish ponds and make it possible to raise trout for sale. An action was filed by private persons, invoking the statute cited above, claiming that the inlet was a navigable water that could not be appropriated for private use to the exclusion of the public. The district court agreed, and ordered that the fish ponds be removed. Since the Idaho Supreme Court has not yet acted on the appeal, /12 it is too soon to say whether the lower court's decision will be upheld.

5. Judicial Definition of Navigability

In some States, even in the absence of a legislative definition of navigability, the courts have established inclusive tests of navigability, thereby extending the protection of the public trust to all waters falling within the judicial definition. Quite commonly, a "pleasure boat" test of navigability has been applied. Illustrative examples are found in cases decided by the courts of Minnesota, /13 Wisconsin /14 and Oklahoma. /15

6. State Regulation of Navigation

States have authority to regulate their navigable waters to aid navigation, and, since navigation is an instream use, flows to support navigation might also support wildlife. In the west, where past emphasis has been on diversions and consumptive uses of water, very few efforts have been made to require instream flows sufficient to support navigation. But there is no reason why the states should not now focus more attention on this prospect, particularly in the light of the fact that no compensation would have to be paid to those making diversion from the stream by virtue of the state navigation servitude. /16

To keep things in perspective, let me repeat once more that the Federal Government has superior regulatory power on the navigable waters of the United States and their tributaries, and state regulations cannot conflict with Federal regulations on those waters; but states have sole regulatory authority over navigation on the navigable waters of the states. /17

7. Instream Reservations by State Agency

Some states authorize an agency of the State to withdraw or reserve instream flows sufficient to satisfy instream needs. This is not to say that instream needs have a priority over consumptive use needs, but is to emphasize that administrative action to withdraw or reserve instream flows against other appropriations or diversions is an important technique. In 1969 the

State of Washington authorized the Department of Water Resources to reserve minimum flows for fish, game, and other wildlife resources when requested to do so by the wildlife agencies.[18]

8. Appropriations by State Agency

In 1969 Montana enacted a statute which authorized the Montana Fish and Game Commission to appropriate water from streams named in the statute, "in such amounts as may be necessary to maintain stream flows necessary for the preservation of fish and wildlife habitat."[19] This procedure is similar to appropriations made for consumptive uses, but the substantive difference, of course, is that the very purpose of such instream appropriations is to protect the streamflow from excessive diversions.

The 1969 statute went on to provide that such appropriations, when made, would have a priority of right over other uses until such time as the state district court should determine that the water was needed for a use "more beneficial" to the public. And so it was possible for the instream appropriations to be divested by changing circumstances and needs. The most curious provision, it seems, is that which placed upon the district judge the responsibility of determining public policies and priorities to assess which uses are more beneficial to the public.[20] Ordinarily policy questions such as these are determined by the state legislature, or by administrative agencies with delegated authority to establish such policies, and not by the courts.

It might also be noted that in 1973 Colorado enacted a statute,[21] popularly known as Senate Bill 97, which recited in its title that it was for the purpose of "providing for the appropriation of water by the State of Colorado to protect the Natural Environment." Section 1 of that statute eliminated the "diversion" requirement for appropriations and enlarged the statutory definition of "beneficial use," which already included fishery and wildlife,[22] to include "the appropriation by the State of Colorado . . . of such minimum flows between specific points or levels for and on natural streams and lakes as are required to preserve the natural environment to a reasonable degree."[23]

Another provision authorizes the Colorado Water Conservation Board to make appropriations, on behalf of the people of the State of Colorado, of waters in natural streams and lakes "as may be required to preserve the natural environment."[24] Before doing so, however, the Board must request the recommendations of the Division of Wildlife and the Division of Parks and Outdoor Rec[illegible]on.

9. Statutory Moratorium on Appropriations and New Diversions

State water records do not have the accuracy and reliability that real estate records do, and it is often difficult to determine with any degree of accuracy the extent to which the waters of a stream are appropriated.[25] Moreover, in some instances

the hydrologic data and flow records for the stream need further supplementation, refinement and evaluation to assess fully the available water supply.

Because of factors such as these, it becomes difficult to determine the amount of unappropriated water that might be available for withdrawal or reservation to protect instream flow needs. As a result, in some instances it might be advisable to declare a moratorium on further appropriations pending a study of present appropriations and prospective needs for diversions and instream flows.

Montana, for example, provided for such a moratorium on the Yellowstone River in 1974, when it enacted a statute which withdrew the waters of that river from further appropriation for a three-year period, during which time a thorough study was to be made of the available water supply and present and prospective water-use needs, including instream flow needs.[26] Applications to appropriate pending at the time of the enactment cannot be acted upon until the study is completed. One of the applications now pending was filed by the Montana Fish and Game Commission on March 4, 1974, and it requests a substantial reservation of flows to preserve instream values. The recommended minimum streamflow would yield an annual discharge at Billings in the amount of 3,800,000 acre-feet, 6,300,000 acre feet at Miles City, and 7,000,000 acre-feet at Sidney.

10. Administrative Moratorium on Appropriations and Diversions

Sometimes states have general legislation which authorizes an administrative withdrawal of unappropriated waters. Some of these statutes were enacted long ago when instream values were of no particular concern, and when diversions and economic uses were paramount concerns. However, the language in a Utah statute seems to be sufficiently broad to permit an administrative withdrawal of water to protect instream values.[27] That statute provides that when the State Engineer and Governor jointly agree that the "welfare of the state demands it," the Governor can preserve the surplus and unappropriated waters of any stream "for any use whatsoever" by suspending "the right of the public to appropriate such surplus or unappropriated waters." It seems plausible that this statute could be dusted off and used to protect instream values.

11. Conditions in Water Use Permits

Another technique is to impose conditions and restrictions when water use permits are issued or when applications to appropriate are approved. These conditions and restrictions could be designed to protect important instream flow needs, and this could be done whether the permit was for the construction of a reservoir or simply for direct diversion from the stream.

In the case of a reservoir, the permit might require that a minimum flow be sustained through reservoir releases as a condition to construction of the reservoir; and, in the case of

direct diversion permits, it could be stipulated that there would be no right to divert when the stream fell to a certain level or to a flow of a specified number of cubic feet per second. California has used this technique, and it seems to hold promise for states that have not yet considered it.[28]

12. Conditions on Transfers

One feature of an appropriation water right is that it may be sold and transferred, and sometimes the purchaser desires to change the point of diversion, place of use, or nature of use (such as from an irrigation use to a municipal or industrial use). And sometimes the owner of the water right will desire to make such changes without actually selling the water right to another party.

It would seem to be appropriate to consider the impact of any such proposed change or transfer on the natural stream environment, and to approve such changes and transfers only when such impact is not reasonable or unduly harmful.[29] Colorado,[30] Montana and Utah,[31] through differing devices, seem to be taking such an approach.

13. Conditions on Exchanges

Exchanges must be distinguished from transfers and changes. The latter relate to changes and transfers in water use on the same source of supply where the original appropriation was made, whereas exchanges contemplate moving the water right to a separate source of supply.[32] Most commonly, this arises when a proposal is made to move the water right from the main stem to a tributary, or from a tributary to the main stem, or from one tributary to another.

There seems to be no reason why the same environmental considerations that might be applied to changes and transfers could not also be applied to applications for exchanges.

14. Prohibitions on Transfers and Changes

Montana seems to have gone the furthest in restricting transfers and changes by enacting a statute in 1975 which prohibits transfers from agricultural to industrial use when the amount involved exceeds 15 cubic feet per second.[33] While I have refrained from commenting on the legal aspects of the mechanisms discussed, I must say that there are serious questions concerning the constitutionality of this statute. If it is valid, then I suppose that a similar prohibition could be imposed on exchanges.

15. Permits for Limited Periods of Time

Traditionally, appropriation water rights have been acquired in perpetuity, without regard to the period of time that the appropriator actually needs to use the water in order to satisfy the purpose of the appropriation. In many cases it is obvious that the appropriator does not need to use the water in perpetuity. A mining operator will not need the water after the ore body is mined out; a sand and gravel washing

operation might be commenced for the sole purpose of a single construction project, such as a major dam; and many similar illustrations could be cited.

The question, of course, is whether a water right acquired for such purposes should be in perpetuity or only for the period of time required to satisfy the intended use. If awarded in perpetuity, the owner most likely will sell and transfer the right when he no longer has a use for the water; but if awarded only for the period of time required to satisfy the original use, the water would return to the watercourse after expiration of the permit, and would be available to satisfy instream flow needs or other benericial purposes. And, as a general proposition, such fixed-period permits would give the state water rights administrator a good deal more flexibility in allocating and reallocating the water resource.

In some states such fixed term permits may be implemented without specific statutory authorization, so long as there is general authority to approve water applications and there is no direct conflict with any other statutory provision. I think, for example, that the Utah State Engineer would have had such authority, but the question is now moot because the Engineer sought and received express legislative authority [34] to approve applications for fixed periods of time--although the farm lobby succeeded in getting agricultural uses exempted from this provision.

Thus, the implication of the statute now is that water rights acquired for agricultural purposes must be in perpetuity, whereas, prior to the statute, there was no such implication, and it is likely that the State Engineer could have imposed fixed periods on all water appropriations, whether for agriculture or otherwise.

It is not entirely clear to me, however, that the exemption for agricultural uses will be an unmitigated boon to farmers. The State Engineer must still evaluate all applications to determine, among other things, whether the proposed use will interfere with the more beneficial use of water and whether it will prove detrimental to the public welfare. It seems quite possible that an application to appropriate water in perpetuity for irrigation purposes might conflict with more beneficial uses of water in the future, and might otherwise prove detrimental to the public welfare--whereas an application to appropriate water for an irrigation use for a fixed period of time, say 20 years, might not. In such an event, the application might be denied, whereas it might have been approved for a limited period of time if the statute had not provided the exemption.

16. Statutory Criteria to Protect Instream Values

Another technique for considering and protecting instream values is realized through statutory criteria which require the administrative officer to reject any application to appropriate when it appears that it would unreasonably interfere with instream flow needs. It is important to visualize

that, under this technique, it is the legislature that requires instream values to be considered, but it is the administrator who actually determines whether any specific proposal to divert water would result in an unacceptable impairment of instream values.

Utah enacted such a statute in 1971,[35] wherein an additional criterion was added to those previously in effect. The pertinent part of the 1971 amendment provided that any application to appropriate water must be rejected by the State Engineer if, after investigation, he determines that such proposal would "unreasonably affect public recreation or the natural stream environment."

17. Enlightened Administrative Interpretation of Broad Statutory Criteria

Even though, historically, state administrative officers have not been concerned with instream values when acting on applications to appropriate water, it is quite possible that they have had authority to take such values into consideration. The administrative officers almost always have had authority to take the "public interest" into consideration, but they often took a narrow view as to what the public interest was. Most administrative officers have authority to promulgate rules and regulations to implement the statutory authority vested in them, and it seems entirely appropriate for such officers to set forth in their regulations the criteria which will be used to ascertain the public interest. And there is no reason why these criteria cannot embrace instream values.

The Utah State Engineer has distributed for public comment a preliminary draft of rules that contain such provisions, but he has not yet taken any final action to approve and implement them. The pertinent observation is that the Utah State Engineer has been required for many years to determine whether a proposal to appropriate water would interefere with the "more beneficial use" of water or would be "detrimental to the public welfare," but he had never taken any steps to define these broad criteria or to develop any specific criteria by which they could be determined. The new regulations, as proposed in draft form, would require an evaluation of positive and negative impacts on economic, social, recreational and environmental values that would result from the proposed use,[36] in addition to other specific criteria set forth in the review draft of the regulations.

It might be observed that in 1971 the Utah legislature added an additional statutory criterion, mentioned earlier, which required the State Engineer to reject any application that would have an unreasonable affect on public recreation or the natural stream environment. But the new draft rules now under review, it seems to me, would have been authorized by the earlier legislation.

Some questions might arise under this mechanism when instream flows are preserved and applications to appropriate are denied when there is unappropriated water in the source, and these questions will depend on the particular state. Questions as to the "diversion" requirement and "beneficial use" concept might

still arise in some states, although the answer seems to be that the instream flow is not an "appropriation" under this strategy. The administrative officer has simply determined that the public interest would be better served by leaving the water in the stream. It must be conceded, however, that where instream values are not "beneficial uses," it would be difficult to sustain administrative action which denies a proposed appropriation that would qualify as a beneficial use, for the purpose of protecting a public value that does not qualify as a beneficial use.

18. Imposing More Stringent Burden of Proof on Large Applications to Appropriate

Montana has devised a mechanism, apparently designed to protect instream values, which imposes a more severe burden of proof on those appropriators who seek to appropriate flows in excess of 15 cubic feet per second.[37] The traditional requirement in most states has been that an applicant must make at least a prima facie showing that there is sufficient unappropriated water in the source to satisfy his proposed appropriation, but the Montana statute goes further by requiring a clear and convincing showing that the appropriation would not interfere with other water rights.[38] It must be borne in mind that the Montana Fish and Game Commission is authorized to acquire instream rights, and so any applicant who desires to divert 15 cubic feet per second, or more, must make a clear showing that any instream rights so held by the Commission will not be impaired. In many cases, this might be an insurmountable burden.

19. Demanding Increased Efficiency in Existing Uses before Allowing further Stream Depletions

Appropriation law has always required water users to employ a reasonable degree of efficiency in their use of water, so as to avoid waste. Indeed, the very concept of "beneficial" use contemplates that the method of diversion, means of conveyance, and application to use will be reasonable so that quantities of water in excess of those beneficially required will not be diverted from the stream. Courts have generally been quite liberal in construing this requirement, however, and in many cases rather substantial losses--particularly in conveyance systems--have been sustained as being reasonable.[40]

The time has now come, it seems to me, when we should take a more careful look at the efficiency of use. New technologies have provided new and improved ways of diverting, transporting and using water. Methods that were reasonable a half-century ago, or even ten years ago, might no longer be reasonable in light of potential improvements that are now feasible. It also seems sound, in fact necessary, to consider the increasing demands now being placed on the resource--including demands for instream uses.

I think the possibilities of imposing more stringent requirements on efficiency of use are well illustrated by the decision of an intermediate appellate court in California.[41] In that case a water district sought to withdraw additional water from the American River, but was met with opposition by an environmen

organization which claimed (1) that the district could satisfy its need for additional water by reclaiming and recycling its existing supply, and that (2) further stream depletions would have adverse environmental impacts. The court noted that the California constitution [42] requires that waste, unreasonable use, or unreasonable method of use of water be prevented, and held that to the fullest extent possible all waters within the state should be put to beneficial use. [43] So holding, the court remanded the case for trial on the merits.

20. Demanding Greater "Diligence" in Completing Appropriations

Under the laws of most western states, when the first step is taken to acquire a water right the appropriator acquires an inchoate right, and he may then complete or perfect his appropriation free from interference by subsequent appropriators, so long as he proceeds with "reasonable" or "due" diligence. In the first instance, the question as to whether there has been reasonable diligence is determined by the administrative officer, with subsequent judicial review.

But administrative officers ordinarily are given wide discretion in deciding what is reasonable, and some have allowed unperfected appropriations to pend for many years. The Utah statute, [44] for example, allows the State Engineer to keep pending appropriations alive for 50 years, and, even then, if the works are fully constructed additional time may be granted within which to apply the water to beneficial use.

The Utah State Engineer, in his draft rules distributed for review, has indicated a much more demanding position by requiring prompt completion of appropriations, and by indicating that he will consider such things as environmental values and instream flow needs in deciding whether an appropriator should be granted additional time within which to complete the appropriation. [45]

From the standpoint of instream flow values, it should be noted that waters cannot be reserved or withdrawn for instream use unless there is unappropriated water in the stream. When water is "obligated" by numerous unperfected appropriations, the water is still in the stream but it is not available for allocation to instream uses. In many instances, the old, unperfected appropriations could be lapsed and cancelled for lack of diligence, and there then might be unappropriated water that could be reserved for instream values.

21. Private Instream Appropriations

Another strategy is that of allowing private persons to make appropriations of instream flows. While a number of arguments could be mounted in favor of, and against, this approach, I personally do not favor it because there appear to be so many preferable mechanisms and strategies available. That approach seems similar to the private riparian rights of Eastern states. I confess that I feel that instream flows in natural channels yield public values that should be reserved and protected for and in the name of the public, rather than private parties.

Nevertheless, the State of Washington feels otherwise, and a private appropriation of an instream flow has been recognized as lawful.[46] Consequently, it appears that this avenue cannot be ignored.

22. Additional Strategies and Techniques

Time does not permit a discussion of further strategies and techniques, but I would like briefly to identify some remaining mechanisms and procedures that have important implications for instream flows.

a. Weather Modification

Many states have operational weather modification programs to augment water supply,[47] and instream flow needs should be considered along with other needs in deciding how the new supply of water should be allocated.[48]

b. Watershed Management

In the western states watershed management is primarily a function of the Forest Service and the Bureau of Land Management, but in some areas significant parts of watersheds are owned by the states, and state and county zoning regulations and other land use controls can play a meaningful role. While the tail cannot wag the dog, the relationship of watershed management practices to instream flow needs should be considered in establishing the criteria and programs for the watersheds.[49]

c. Intrastate Transbasin Diversions

It is not uncommon for water to be transported from one basin to another within a particular state. The exporting basin will experience a depletion in its water supply, and the importing basin will experience an augmentation of its supply. The impacts on instream flows in both basins should be evaluated before the diversion is made; and, if made, measures to satisfy instream flow needs in the importing basin should be considered as part of the project purposes.[50]

d. Protection of Streambeds

State statutes which protect streambeds from alteration and relocation are now rather common.[51] While these statutes do not augment, preserve or protect instream flows, they do protect habitat and spawning areas for fish, and are thus of considerable importance to the value of the instream flow. A minimum streamflow is not too significant, from the point of view of the fish, if the bed of the stream has been lined with cement.

e. Water Quality Control

While many state water quality control programs are prompted, and to some extent controlled, by PL 92-5[illegible] other state water quality programs are within the discretion and control of the states. And some states have adopted administrative procedures whereby fish and wildlife needs are considered a part of the water quality planning process.[52] As such, administrative action can be taken not only to control the quality of wate[illegible]

in the stream, but also to establish minimum flows for fish and wildlife needs.[53]

f. Planning Programs under Section 208 of PL 92-500

The planning programs under Section 208[54] of PL 92-500 are just getting under way. These programs are conducted by state and local representatives in the planning process, in accordance with the board mandate of Section 208 and regulations promulgated thereunder. In essence, these programs are state planning processes, and now is the time for advocates of instream flows to take appropriate steps to make sure their views are heard and considered in these planning programs.[55]

g. Pumping Groundwater to Augment Streamflow

Groundwater can be a valuable source of augmentation for the flow of surface streams, either as part of a water management plan (conjunctive use of surface water and groundwater), or as an isolated operation.[56] In some cases, particularly on the lower reaches of a stream, groundwater has been pumped to augment the flow of the stream, with benefits to instream needs as well as to downstream users who divert from the stream.

h. Requiring Consideration of State Water Plan

All of the states have developed, or are in the process of developing, state water plans, ordinarily with financial assistance provided by the Federal Government throug the Water Resources Council, under the provisions of the Water Resources Planning Act of 1965.[57] To the extent that these pla provide for protection of instream flows, it is important that appropriate legislation require the water rights administrator to consider the state plan when deciding whether appropriation should be approved or rejected.[58]

i. Evolving Water Use Plan to Regulatory Status

If it is deemed desirable to accord regulato status to the state water plan, then rather formal procedures must be followed to develop and adopt the plan.[59] I think that this technique has significant potential for placing all water uses, including instream flows, in a proper balance to protect the entire spectrum of the public interest. In the past, there has been far too much "daylight" between the planning process and regulatory procedures.[60]

j. Water Management Districts

Strange to say, several eastern states have advanced beyond the western states in creating water management districts as integrated entities to plan, administer and regula water use.[61] This technique might be the ultimate in water mana ment, and might be a very effective means of protecting instrea flows, as well as providing for diversions and economic uses. The primary reluctance of western states to adopt such manageme districts has stemmed from the resistance of those holding

appropriation rights, who fear that their rights might be jeopardized or diminished by the creation of such districts.

This fear is unfounded. Management districts might well plan and implement programs for augmentation of water supply to the benefit of all. This augmentation might result from weather modification programs,[62] integrated use of surface water and groundwater to maximize supply,[63] water savings practices and techniques,[64] basin imports,[65] and a variety of other possibilities.

k. Little NEPAs (SEPAs)

Some states have enacted statutes patterned after the National Environmental Policy Act.[66] These statutes commonly have the effect of requiring a consideration of the environmental values of instream flows before state action is taken to authorize the diminution of depletion of such flows.

l. State Fish and Wildlife Coordination Acts

Some state legislation is patterned, to a considerable extent, after the Federal Fish and Wildlife Coordination Act,[67] so that fish and wildlife values are to be given equal consideration with economic values when water projects are licensed or constructed by the state.

m. Appropriations held in Trust for other Uses

A statute in Utah authorizes a state agency to acquire water rights for no other purpose than to hold such rights in trust for subsequent assignment to users.[68] This might seem to be a rather awkward technique, but it has had the effect of preserving a water supply in some streams that otherwise would have become fully appropriated. And now, when such water rights are assigned to others, environmental and instream values are seriously considered and reasonable protective measures are provided,[69] even though I am sure the original legislation did not contemplate the protection of such values.[70]

n. Acquisition and Re-Allocation of Water Rights

If there seems to be no other way to augment a stream flow that already has been severely depleted, and the need for augmentation is substantial with a promise of sufficient benefits, then it would be possible to acquire existing water rights and re-allocate the water for flow augmentation through the critical stretch of the stream. The state could acquire such rights by purchase or condemnation.[71]

III. Conclusion

In the preceding discussion I have identified 35 separate strategies and techniques that, to varying degrees, might prove useful in preserving, protecting and enhancing instream flows for fish and wildlife purposes. But we have only scratched the surface. Many more techniques and strategies can be found, perhaps some more effective than any I have mentioned. The field is fertile for those researchers who are interested in state water law and who believe that a fair share of the water resource must be preserved to protect instream values.

NOTES

1. Dewsnup, Legal Protection of Instream Water Values (National Water Commission, 1971).

2. State Department of Parks v. Idaho Department of Water Administration, 96 Idaho 440, 530 P.2d 924 (1974). The provision construed was Article 15, Section 3, of the Idaho constitution.

3. The similar provision in the Colorado constitution is Article 16, Section 6. A Colorado statute provides for appropriation of water by the state to protect instream flows (Section 37-92-102(3), Colo. Rev. Stat. Ann.), but the Colorado Supreme Court has not had occasion to determine whether the statute violates the consitutional provision. Other states have milder constitutional provisions in support of appropriation (Wyoming constitution, Article 8, Section 3; Nebraska constitution, Article 15).

4. United States Constitution, Article 1, Section 10, para. 4.

5. Colorado River Compact of 1922, Article III(a).

6. Okla. Stat. Ann., Title 82, § 1451-59.

7. Id. at § 1452.

8. Ibid.

9. The Daniel Ball, 10 Wall, 557 (1870).

10. Id. at 563.

11. Idaho Code Ann., § 36-907.

12. Ritter, et al. v. Standal, et al, Case No. 11971, pending in Idaho Supreme Court. See Southern Idaho Fish & Game Ass'n v. Picabo Livestock, Inc., 96 Idaho 360, 528 P.2d 1295 (1974).

13. Lamprey v. State, 52 Minn. 181, 53 N.W. 1139 (1893), as subsequently modified in State v. Adams, 251 Minn. 521, 89 N.W.2d 666 (1958). See also State v. Bollenbach, 241 Minn. 103, 63 N.W.2d 278 (1954).

14. Diana Shooting Club v. Husting, 156 Wis. 261, 145 N.W. 815 (1914).

15. Curry v. Hill, 460 P.2d 933 (Okla. 1969).

16. See, e.g., Colberg, Inc. v. State of California, 67 Cal.2d 408, 62 Cal. Rptr. 401, 432 P2d 3 (1967); Southern Idaho Fish & Game Ass'n v. Picabo Livestock, Inc., 96 Idaho 360, 528 P.2d 1295 (1974); Commonwealth v. Thomas, 427 S.W.2d 213 (1968).

17. PL 92-500, 33 U.S.C. 1251 et seq., extends federal regulatory authority over water quality to all navigable waters and their tributaries, whether navigable waters of the United States or navigable waters of the states. This jurisdiction apparently is based on general Commerce Clause power and not on the narrower power to regular navigation. See United States v. Ashland Oil and Transportation Company, 504 F.2d 1317 (C.A. 6, 1974). The United States Supreme Court has not yet ruled on the constitutionality of the broad jurisdictional reach of PL 92-500.

18. Rev. Code Wash. § 90.22.010.

19. Mont. Rev. Code § 89-801(2); repealed in 1973, now see § 89-890.

20. Ibid. The statute provided that instream appropriations for fish and game purposes "shall have a priority of right over other uses until the district court in which lies the major portions of such stream or streams shall determine that such waters are needed for a use determined by said court to be more beneficial to the public." For present provisions see § 89-890.

21. Colo. Rev. Stat. Ann. § 37-92-102(3).

22. Id., § 37-92-103(4).

23. Ibid.

24. Colo. Rev. Stat. Ann. § 37-92-102(3).

25. Dewsnup and Meyers, Improvement of State Water Records (National Water Commission, 1971).

26. Mont. Rev. Code § 89-8-103 (1974).

27. Utah Code Ann. § 73-6-1.

28. California State Water Resources Control Board Decision No. 1379 (1971); Bank of America Nat'l Trust & Savings Ass'n v. State Water Resources Control Board, 42 Cal. App. 3rd 198, 116 Cal. Rptr. 770 (1974); and see Cal. Water Code § 1243 (1975 Supp.).

29. Colo. Rev. Stat. Ann. § 37-92-102(3) authorizes the Colorado Water Conservation Board to appropriate instream flows for fish and wildlife purposes, but the streams of Colorado are fully appropriated. This would seem to mean that the Board will have to appropriate streamflows as they now are, so that there will be no interference with vested rights. But when the owner of a water right desires to transfer the point of diversion, it will be necessary to determine whether such a transfer would interfere with the "junior" instream

right held by the Board. If so, the transfer would be denied, or adjusted in such a manner as to avoid any interference.

30. Mont. Rev. Code §§ 89-890, 892.

31. The Utah State Engineer has promulgated draft rules for public review and comment, but has not yet finalized or adopted these rules. These draft rules would require consideration of the natural stream environment when any request for transfer is filed.

32. Utah Code Ann. § 73-3-20.

33. Mont. Rev. Code § 89-892(3).

34. Utah Code Ann. § 73-3-8.

35. Ibid.

36. Preliminary Draft of Rules to Supplement Rules of Utah State Engineer Adopted February 8, 1974.

37. Mont. Rev. Code § 89-885(6).

38. Ibid.

39. Dewsnup, Legal Aspects of Water Salvage (National Water Commission, 1971).

40. Ibid.

41. Environmental Defense Fund v. East Bay Municipal Utility District, 8 ERC 1535 (Cal. Ct. App. 1975).

42. California constitution, Article 14, Section 3.

43. Environmental Defense Fund v. East Bay Municipal Utility District, note 41 supra.

44. Utah Code Ann. § 73-3-12.

45. Proposed Rule No. 2; see note 36 supra.

46. A decision by the Washington Pollution Control Hearing Board has allowed such a private appropriation for research related to raising fish. See the discussion of such decision in Trelease, Water Law, pp. 37-38 (2d ed. 1974).

47. For a comprehensive discussion of weather modification programs and associated legal implications, see The Legal Implications of Atmospheric Water Resources Development and Management (Bureau of Reclamation, October 1968).

48. The most practical means of allocation would be through negotiated agreements with water users and funding agencies. See section II.B.2 of this paper, supra. Since most operational programs receive public funds, there would seem to be ample justification to provide for public uses such as instream flows.

49. See Land Use and Wildlife Resources, pp. 149-180 (Special Problems of Waters and Watersheds) (National Academy of Sciences, 1970).

50. This is particularly appropriate where public funds are used to aid in construction of the project, as is usually the case. Compare section II.B.22.1 of this paper, infra.

51. One of the first statutes of significance was passed by Montana in 1963, as Chapter 258, Mont. Sess. Laws 1963, amended in 1965 and codified in Rev. Code Mont. 26-1501 through 1507, and since amended. Now see 26-1501 through 1509, and the 1975 enactment of 26-1510 through 1523.

52. See section II.B.7 of this paper, supra.

53. Rev. Code Wash. § 90.22.010.

54. 33 U.S.C. 1288.

55. The Section 208 programs necessarily will develop both water use plans and land use plans in order to control water quality, and there inevitably will be conflicts between these plans and state water rights administration.

56. In some instances irrigation companies have simply filed for underground water permits upstream from the point of intended use, and have drilled wells and pumped water into the watercourse, thus augmenting the instream flow until such pumped water was diverted at the downstream point of use.

57. 42 U.S.C. 1962 et seq.

58. Too often water planners proceed to plan and water administrators proceed to administer, with little or no consultation. If water use planning develops useful data or meaningful alternatives for allocation of the water supply, the administrative officer should at least be required to consult the fruits of such planning, even though he is not bound by any recommendations or findings of the planning agency.

59. See Dewsnup and Jensen, Proposed Procedures for Planning, Allocating and Regulating Use of Water Resources in Utah, Vol. One, Chapter Two (Utah Division of Water Resources, 1975).

HB

211

COMMITTEE REPORT

2-11-77

HOUSE

JUDICIARY

April 13, 1978 Date

Mr. Speaker:

The Committee on RESOURCES has had HB 211 under consideration. A majority of the members of the Committee

☐ recommends it do pass

☐ recommends it do not pass

☐ recommends it do pass with attached amendment(s)

☐ recommends it be replaced with CS for HB 211 and that CS for HB 211 do pass

☐ (and) recommends it be referred to the _____ committee

☐ reports it back without recommendation

☐ AND attaches a report of its intent

☒ (other) COMMITTEE LETTER ATTACHED

MEMBERS SIGNING THE MAJORITY REPORT:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends: _____

_____ recommends: _____

_____ recommends: _____

_____
Chairman

16 February 1978

The House Resources Committee was called to order at approximately 2:25 p.m. by Chairman Alvin Osterback in Room 118 of the Capitol Building in Juneau, Alaska. All members were present

HB 211 Creating the Alaska Land Commission

TRANSCRIPT

MR. GRAVEL:

I really appreciate the opportunity to come forward. I received the invitation from the Speaker and President of the Senate to give my annual talk as other members of the delegation to the legislature. I'll be doing that. I think we have communicated back in March, about the 28th in the morning, if that would be the morning most desirable. From my point of view that is when we are having our Easter recess and I'll be in State for that whole period. What I wanted to do at this particular meeting in which you graciously afforded me the opportunity to do is to float, literally float, the draft of legislation on d-2 which I have promised to our collective constituencies that I would do at the beginning of the year, and I have it here and I met previously with the Steering Council and gave them copies of it since it is germane to their area of inquiry. And, also as I understand it, it is also germane to your area as a committee as the subject you are going through, so I would (indisc) submit for deliberation a copy of this Bill. Would appreciate your input and would hope to introduce this in the Senate sometime right around the 15th of March. The Bill does not have the magic numbers of acreage for the very simple reason, we could have easily done it, but since all of our attention is focused on acreage I thought it would detract from the substance of legal language in question to just worry about acreage and I thought it would be more advantageous to concentrate of substance, it would be easy to put some figures together that would hopefully cast us in a compromise mood with other pieces of legislation in that regard.

Before launching into this in some detail, because there is one element from my personal point of view in paramount. I would like to speak about two pieces of legislation. I think one is the reason you are having these hearings. Two pieces of legislation that involve land in Alaska and would have some unusual impact. One piece of legislation is HB 720 which apparently

is a substitute piece of legislation for HB 211. The Beirne bill is -- which is the Beirne bill?

UNIDENTIFIED VOICE: 720

MR. GRAVEL

720 - let me speak on that one first. If I were to suggest a piece of legislation that would destroy Alaska's position in Washington on d-2 I would think that this would be the piece of legislation. I want to make sure I've got the legislation properly. HB 720 as I understand it is a substitute. That is a new piece of legislation. If the initiative were to pass I think you would see the Congress react and this would foreclose the need of my -- initiatives. My testimony to you today is very (indisc). I would hope that this legislation would come into being and it would foreclose the need for (indisc). The reason is that, and I will use two cliches, we have federal laws right now that keeps us from doing what that initiative would do. As a result of those land scandals we have had in Florida and Arizona. If we were to parcel out chunks of land to the people wholesale, as I understand it, during the initial 15 year period there would be no responsibility at all for providing utilities or any planning process whatsoever, that essentially we would be selling unsubdivided land and this would be viewed by the Congress of (indisc) responsibility and would give real credence to the environmentalist community's charge, some elements of the environmentalist community, that Alaskan's are irresponsible and therefore we need a very strong d-2 bill because we don't know how to handle our own situation. Yet I can appreciate that the referendum, the initiative, would have a great deal of popular support. In fact one of the fears I would have and it's the reason why I'm talking about it now publicly -- I only found out about the initiative, I confess, not all that long ago and I couldn't believe it when somebody described to me what this initiative was going to do. And so realizing that it has a great deal of popularity and realizing that I may be treading on some individuals' toes -- I would respectfully apologize for treading on anybody's toes -- but the utilization of land and development of land is something that I feel a certain professional confidence in. I made my living in it. I've seen how people have butchered land from the state and how unconscionable this impact can be on the balance of society because once you've butchered it up, you spend the rest of your life paying to correct the deficiencies you've created structurally. And so what we'd be doing with this kind of initiative (indisc). And like I say, if you try to do this in the private sector, you'd be put in jail for trying to do it. And so trying to do it collectively as a society, you've got to realize what kind of an impact this would have in the United States and on the Congress. Therefore, the approach that's been taken with HB 70 in my mind is a very mature approach to try and sort of save the day because we've got so far down the road in the other approach. I can only commend to

your attention the capacity to effect legislation. (indisc) in general terms.

The next item I'd like to speak to is HB 211 which is a piece of legislation that was introduced last year, (indisc) Mike Miller, Mr. Speckling. I don't know if they have other co-sponsors. I was very impressed with it. Here again I find by noticing a lot of things that you're doing, that you're just doing a lot of good work and this essentially is the tactic that I'm here to recommend that the state employ in order to regain the initiative that we lost on the entire d-2 issue. We've got a chance now as the legislation comes into the Senate to take up the initiative. If we don't coalesce to some degree -- and I'll speak to how we can coalesce and still maintain our individual positions. But if we don't coalesce, we're just going to get run over as we have in the House. But one of the recourses that we will have at our disposal would be Senator Stevens and I would just wage a filibuster. I think we have the seniority and the capability and experience to wage a very effective one and I think we (indisc) legislation. I have never been one to be proud of negative acts because you're really not contributing anything, you're just stopping something from happening. But I think the task at hand is to bring something about not just stop something -- to bring something about that's worthwhile. So we have the opportunity to do this. In the legislation that I have here, there presupposes state legislation to accompany this. That's essentially what you have in HB 211, is state legislation. So if that could be flushed out and developed and passed in a reasonable period of time, that could be our position in the Congress. It wouldn't be Mike Gravel's position or Don Young's position or Steven's position, it would be the Alaska Legislature has so spoken. There's no question it's not going to be cast in concrete but it'll be a darn sight more powerful than anything else I can think about (indisc) that anybody else would have. And so if you can meet a time frame of early mid-March before the hearings reconvene, we could have a new product to present to the Congress -- the parties behind it, the State Legislature, the Governor would probably endorse it. I certainly endorse it and I think the balance of the delegation would endorse it. Let me now speak as to what would be the key elements of my endorsement and I've tried in the past to discuss the subject to varying degrees with success, with varying degrees of comprehension. Where I am right now I can say very simply, last year this document would not have been politically possible to introduce or to float under any elective official's name. We talked privately last year as to the efficacy of having cooperative management over the entire sub-continent of Alaska. And mind you, I'm specifically using the word sub-continent and not the state, the entire sub-continent. That would have been viewed quite oddly and very suspiciously, but we've all gone through a maturing process since last year and taking the position that they just can't do it to us is not a position, it's merely a reaction. That's all we've been

doing. They can't do it to us. That's why we have no initiative. That's why we have no collective posture. But what has happened is that we now see that every one of the state-wide leaders are talking the same rhetoric. They're talking the rhetoric of collective management. And so we're not far at all. When people in politics and society can begin to use the same words, then the only transition is to go from interpretative approaches to these words. So I would just like to share with you an analysis of what does collective cooperative management mean? And what would it mean from a tactical point of view as we would try to affect a compromise in the Congress. Let's take the first part of it. What does cooperative management mean? We could say in Alaska, in this area where they have federal lands, and part of those federal lands will be in four systems, one area, one level. Next we are going to have lands not in the four systems which would be under the BLM, which would be general lands under the Organic Act. That could quote be a fifth system, if you want to use that (indisc.) Then you've got state lands. That could be a sixth system. Then you've got Native lands, that could be a seventh system. And then somebody decides, well, there's a chunk of land here that maybe we ought to study or (indisc.) a little different, so let's make that a seventh (sic) system and we'll call that -- that's land that we think we're going to work and study together. And then you could have municipal lands, that's the eighth system and whatever lands that are held in patent today, you could develop and call it a system. You've just got a whole plethora of activity and definition on lands. And, in only one area where you have federal/state cooperation do you call that cooperative management. For my mind, if it's worthwhile to have cooperative management on one acre of ground -- if there's any merit to that concept at all, since there's really only two governmental entities on to themselves (indisc.) the federal government and the state government, then if it's worthy of having some cooperative management, then why just put it as part of it? Why pick up capriciously or arbitrarily ten million acres and say we're going to study that as cooperative management. If there's some merit to cooperative management, let's just do the whole thing in cooperative management. And then when you begin to think of it in that respect and the rhetoric is there for that, every one of the elected high officials quote, so to speak, are talking that rhetoric. We may have differences in the definition of cooperative management, but at least we're there.

Now let's look at what that would do. On the four systems lands, there's no way that you're going to have cooperative management. You usurp the powers of the Congress, literally. But (indisc.) you could very well do that. In a society of representative government, power is many times knowledge. Not always, but many times. And so if we set up a system, like the Land Use Planning Commission which is a vehicle for cooperative management, that Land Use Planning Commission has the ability to acquire knowledge

through research efforts, then that knowledge places them in a superior position than the individual members of Congress, or for that matter even yourselves, as individual legislators. And the reason why they have more knowledge is because they'd be more expert in the one particular area. The legislature and the Congress have a whole (indisc.) of issues that effect all facets of human life that we have to deal with continuously. So that simple fact that the Land Use Planning Commission in Alaska would be the major repository of land information and its use and adjudication would give it an edge that when it made a pronouncement or a study on something, that study would have great credibility in the Congress and I mean considerable credibility. Just as the present Land Use Planning Commission today, which is merely a voluntary organization, so to speak, when they'd come in and testify before the Interior Committee, it carried every bit as much weight as an individual member of the Congress. So you begin to see where the shift would take place. Ask youself why the House of Representatives under the leadership of Mr. Udahl and Seiberling don't want a Land Use Planning Commission that has any muscle. In fact the one that I introduced in 1971 had police powers and came out of the Senate that way. It was diluted in the conference on the House side. The reason why it was diluted was because they did not want to see a diminution in the power at the federal level. Well if those fellows back there think that there's a diminution of power at the federal level, where do you think that power goes. It's going to come back at this level, maybe in federal hands, but really what's happening just in that process alone and in the process that takes place on federal lands that are handled by the Bureau of Land Management, you've shifted the center of gravity from the federal government in Washington to the federal government in Alaska, meaning that there's a great principle of government that's closest to the people (indisc.). So if we now have the Land Use Planning Commission that will adjudicate all federal lands save the four systems, but will have an effect on the four systems because of their superior knowledge, we've made quite a gain. Now that's on the federal side. On the state side, if we take all the state lands that are presently there except lands that are in municipalities and boroughs and that they would come under (indisc.) of the Land Use Planning Commission and then offer entry into this to the Native community so that the Natives would voluntarily bring their lands in -- that could be very simply -- you could initiate a study of possible taxation would take place -- the Native community, properly so, has great fear over the possibility of future property taxes. They could be land poor. Their land could be under development and that they would have no ability to have a cash flow to handle that form of taxation. So they rightfully, from their point of view, would like to see them absolved of this. That could be the ingredient that would bring them in on a voluntary basis. I think not to do it more than on a voluntary basis might cause some real acrimony since they would feel that they received

their lands as part of a legacy, the land claims, and then if we pulled a win by fiat, I think they'd feel that they had been violated. And rightly so in the one sense. The balance of the land that's in boroughs is already subject to a planning process. We have that in state law and so there need not be a duplication. There need but be a liaison relationship established so that a community that develops a plan, or borough or municipality, it would have a five year projection of what that plan would be, they'd submit that plan to the Land Use Planning Commission, and the Land Use Planning Commission would give it it's seal, would sign off on it. But the function would be done by the municipality. This would solve the obvious problem of where individual governments come together, the frictions and the discoordinated activity is handled intelligently. So in this way, you look at the continent and I've just enumerated a process where all lands in Alaska is now under the aegis either directly, the Land Use Planning Commission or (indisc.) through the knowledge process of the four systems. Where that becomes a valuable tactic is that when we now talk to and negotiate in the Senate with the environmental community, national community and say we don't think that we need to put in a hundred million acres or ninety million acres into the four systems because we have a device that will continually adjudicate the use of land on an intelligent basis as a product of study. And so they're cast in a mode of saying well no we don't want to do something before we study it. Let's put it there before we study it. I don't think that's a very credible position for anybody to have. In fact when you look historically at why the environmental community has its extreme posture in some areas, it's because they could not get a resolution of the problem as they saw it in a legitimate fashion. And so what happens -- it's a simple process -- if you don't permit evolution, you have revolution. And so since we don't have a (indisc.) process in the United States of America, those people who are deeply concerned about the misuse of land and the atrocities that took place in the past and you need to travel this great country to see these atrocities then they are so fed up and their cup runith over with such reaction, that all they can think of is that we just don't trust anybody. We don't trust anybody so let's just lock it up. And in some cases you can look around and there's valid reasons for that posture. And I would say that if we passed that referendum, that on the national point of view there would be a valid reason to lock up major portions of Alaska. So they're at where they're at because there wasn't a process that permitted the intelligent organized adjudication of land. So what I'm proposing here is that we lay down a device that will have definitive powers which will be able to adjudicate the land on the sub-continent. Of course you get this attitude -- the brokers say well I'm not too keen on that commission because obviously they're going to put a bunch of environmentalists on that commission and they're going to stop growth. Then you talk to some environmentalist and they say

well boy I'm not to keen on that commission because they are going to put a bunch of chamber of commerce types on there and they'll rip up the country. Essentially what both parties are saying is that they have no confidence in our system of representative government because, you know, what's the point of having a legislature, you might get some dingalings elected to it and many times we do. We've had them in the Congress and we've had them here occasionally. So that doesn't mean that we don't develop a system of representative government because sometimes it fails to work. We don't have any options. Either anarchy or we develop a pattern of evolving things in an orderly fashion and this, of course, is what I think would be a most compelling argument in the Congress. Looking at individuals, Scoop Jackson has passed a land using planning bill twice in the Senate. It's failed both times in the House. I think (indisc.) I think many other members would view this from the environmental community, Senators in that area, would view this as an unusual opportunity to establish a prototype. I think that we could -- in the future I would recommend that we have a sunset feature in this. We don't know if this is going to work. We'll say this law is going into effect for ten years. At the end of ten years the Congress has to renew its charter of the law, of the situation, and so would the state legislature. So if it succeeds, it will build its constituency of success and it will be easy to renew and if it's not working very well, it will have an alternate constituency and it will be very easy to stop its renewal. And I think that that really could ward off a lot of serious criticism and would permit us to negotiate down the quantity of acres to something reasonable and something obvious because there are obvious easy decisions to be made in placing land in the four systems. But it's the quantities that we find disturbing and the fact that we don't have the vehicle to make changes. But if we've learned anything from the Statehood Act and from the Native Claims Act is that we've had a steady stream of people to Washington trying to resolve all of those problems that have been placed with the Congress. Well if that doesn't tell us something that we should have a body that should be deliberating on these problems daily. The other thing that I would recommend is that we take the Clean Air Act, the Solid Waste Act, the Coastal Zone Management Act and the Clean Water Act and place this under the aegis of the Land Use Planning Commission. Let me give you an example. Right now supposing we took the interior of Alaska -- somebody wanted to build an asbestos mine and a cement factory, let's say two of the real bad polluting elements, and it was a group of Natives that had a mountain and they made a joint venture with some Japanese interests and New York interests and they're going to come in and they're going to build a cement plant, maybe we'll build a dam and other devices, that we'll need some cement and the economic success would warrant it here in Alaska. How does that take place? Well presently what you do is you deal at the borough level, then you turn around -- if it's in the borough, if not you just go to the state level and you're bicycled

around to the various interests be it land, be it for water, be it for access. The access is very much undetermined. You don't know what the access is going to be. But under the plan I'm suggesting, you'd develop your plan and you'd go to the Land Use Planning Commission. The Land Use Planning Commission would do exactly what the legislature's done which I think has shown great maturity. You've got to hire some consultants to evaluate this for me, I'm not in the cement business, I don't know anything about cement. Come in and tell me what that means. Come in and tell me what the access requirements are going to be and how (indisc.) with this possible development up there. Analyze for me if (indisc.) what the air pollution will be. Do all those things as one coordinated body. And then when you know all the facts, these nine individuals will say yes or no. That's it. And when they state their approval, that's it. You don't have to go over there, or getting dragged here or having a catch-22 there. You're getting it all done at once. That to me is efficient from an economic point of view and from a knowledged decision judgmental point of view, it's just excellent. Because the people will be expert in this area. That's all they will do. They'll be handsomely paid and they will have research capabilities. And then a decision will be made. Yes or no (indisc.). Another question -- people want land. There's no reason why people cannot have land and I certainly in my opposition to the referendum, I hope that it won't ever be construed that Mike Gravel's against people having land in this state. I believe in private property. I think it's an excellent base to our free enterprise system. But there's got to be something reasonable to it, because when you give somebody a piece of property, it's got to be a legitimate piece of property. And legitimate means you've got to have access to it, he's got to have water, he's got to have air that he can breathe on his property. He's got to be sure that he's not invaded or polluted by his neighbors in that regard. So there's got to be an orderly process. There's no reason why if a person wants to go out and live in a wilderness, that he can't go to the Land Use Planning Commission and say hey, I want five acres. I want to go out and chop trees and haul water to a cabin in a bucket. And there's no reason why the Land Use Planning Commission can't look at this and say, hey, here's your five acres, go at it -- and bring an orderly process to that type of existence. There's no reason why that can't be done. So we can handle every facet of this. The only thing that I'm (indisc.) begging for is that by God we're intelligent human beings, let's do it in an orderly fashion and set up a vehicle to do it in an orderly fashion and essentially that's the case. I could go through and perhaps we could stop at this point for some question and answers and then in this draft proposal, this deals specifically with the Land Use Planning Commission which is really the guts of this proposal. This proposal is essentially the collective conventional wisdom of where we're at in the whole d-2 situation. Subsistence is no longer a gut, backbreaking issue. The fact that we're going to legislate state land, title land, Native land titles is something that's pretty well accepted, a whole host of things. What's new probably in here is an authorization for five hundred million dollars for a

transportation system to Mt. McKinley. That would be a new element in there. That's a simple thought that if it works this way, we're going to have the greatest park in the United States and probably the greatest park in the world, we'd darn well better make it accessible to the American people. It's tough to get there right now. I get there, I get there in a helicopter, but that's not the way it should be available to the American people. So I've got an authorization in there if Congress wants to make a great park, they've got to pay to let the American people see it.

The other key element (indisc. -- cough) this draft here of the language. On the second page of this draft I've detailed what I would recommend as suggestions and I really want to underline suggestions. It's all a product of how much thought you want to effect on an issue and so when you people start your deliberations and marking up the legislation, you're going to think of things that we haven't thought of and to that end, when you get to that point, where you decide to go that, I would have Pat Prusho (ph) on my staff spend some time in Juneau so we can monitor what's going on so that we understand your thinking processes so that we stay on the same wave length. These are just, these are suggestions of what I think the state legislation should encompass and I can't help but be struck by the parallel with HB 211 and so HB 211 in my mind is a vehicle that you should ---. You already have introduced. It's under hearing now. When your hearings are complete, you can begin markup on it. I would hope you'll just consider these suggestions to be incorporated into HB 211 and if you have HB 211 out as a product by mid-March -- and if CMAL -- and I have every reason to beleive that CMAL might be willing to endorse such a proposal. I can't speak for the other members of the delegation but I think that they would all be happy with a coalesce that might take place as a result of your actions. So let me just close with that point and you can proceed with questions and answers.

CHAIRMAN OSTERBACK:

Representative Malone.

MR. MALONE:

Thank you Mr. Chairman. Senator, first I'd like to thank you for making yourself available to the committee in this type of setting. As far as I know this is the first time a committee of the legislature during this legislature at least on the (indisc.) question has had an opportunity to meet in a hearing setting with a member of our congressional delegation. As legislator to legislator, I appreciate that. To begin with, some of the legislation that you

discussed at the beginning of your presentation, specifically HB 359 and the initiative which is now certified to the ballot in Alaska (indisc.) initiative, while I personally think that there's some problems with that legislation (indisc.) approaches that were set out in HB (indisc.) last year and HB 720, to be candid about it I would have to say with regards to this position of state lands, I'm usually relatively suspicious of recommendations coming from the federal arena. (Indisc.). On the two different approaches the homestead initiative versus the home site program, I think of the two that the more modern one is probably the better at least at this time. Coming down to HB 211 -- I don't think it's really any accident that that legislation parallels the possible compromise position that might be reached in the Senate. It did go out of consultation between members of the legislature and I think the congressional delegation and state administration last year and also through consultation with members of the Federal/State Land Use Planning Commission but my basic question on that approach, the management program approach as opposed to the classification and lockup of large amounts of federal land in Alaska is how realistic is the approach? How likely is the Congress, at least the Senate, to adopt on a consensus basis, or adopt that approach as a compromise position because that's the information we need to know in the legislature in order make a realistic determination as to what strategy we should pursue on the whole d-2 question. I gather from some of your remarks, that I think a compromise is possible. That Senator Jackson, yourself and others would be able to adopt an approach like this and perhaps sell it to the Senate and that work by the legislature on this question and putting an effort and interest in the concept would be valuable in reaching a compromise position on d-2 lands in the U. S. Congress. Is that correct then? Do you think that there's a real chance of a compromise being developed perhaps along these lines in the Congress?

MR. GRAVEL:

(Indisc.) I think the international environmental community has felt (indisc.) over their success and support both in the White House and the House of Representatives. In order for them to be placed into a compromise mode they have to fear that they will lose something. I've tried to convey as much as possible from my particular office that without this land use planning process, without a mechanism that I would be prepared to filibuster the bill. And the very simple reason is that I just feel that we'll never have an opportunity again to effect a planning process. It's such a complicated issue in the national arena. People are so afraid of it. And we're now pressured into a situation that we're prepared to now accept a planning process. And it's because we're about to be run over and so if that is what saves the day, I think it will turn around and be constructed to not only save the day but making

a significant contribution to human advancement in the process of how we deal with ourselves in society. We have to develop a planning process. I think that when they're faced with a situation that they're not going to get entirely what they want, and realize some of the things that we have (indisc.) compromise may prevail on their side. I have not been criticized in this approach and like I say I've covered it now for over a year or more privately, sometimes publicly, depending on the forum and I've never been criticized by anybody in the community for the idea. The only negative criticism has been well, that kind of people won't be appointed to the commission. To me that's not a valid criticism. That's the only criticism that's been heard. So I think it will be appreciated. And some environmentalists will realize that if this succeeds in Alaska, this is the (indisc.) of the nation. And if it doesn't succeed in Alaska, we'll go back to square 1. So both sides are going to have to give a little bit. Where the acreage will finally wind up, anybody can guess. That's really (indisc.) conference where you're shouting each other down and that process is not going to be all that logical. But the question is (indisc. -- pounding) to the conference. And so if we can do our work in the Senate in the conference, it's every man for himself. I think we'll clear ourselves very well on that. It's tough to argue against this. We're talking about -- it's tough to argue an orderly approach to things, regardless of how you feel, very tough to argue against that. That's the essence of what I'm proposing. The rest is already accepted by and large. So it's land use planning, how much it covers and the size -- how many acres. That's what we're down to in the whole process. How many acres, land use planning process and one sort of can balance out the others because if you have a process, you don't need so much acreage and you don't have to be afraid of locking up or putting away so much acreage into a system. You've got a process to deal with it. So in brief, to answer your question, I think we have a good chance to develop the elements of a compromise. Not to speak of the coalesce thing that will take place within the Alaska community which is lacking now for -- and probably for a very fundamental reason -- not so much I've got a personality and they have their personality -- we are all representatives of some degree of element in our contituency and I think the lack of coalesce is because we weren't at a mature level to coalesce. And I don't mean just the four of us in state-wide office, I mean just the whole (indisc. -- cough). This year has been a very sobering year. And I think we're getting there fast. The question is, we'd better get there real fast if we want to take the positive approach. If we don't get there fast enough then we can take the destructive negative approach.

CHAIRMAN OSTERBACK:

Thank you Senator. Are there any more questions from the committee.

MR. MILLER:

Yes, Senator Gravel, you were talking about the four systems -- (indisc.) but do I understand that what you're proposing still does

have a generous (indisc) of national park, wild scenic rivers, residues of the national forest and that sort of thing? More then 25 million acres.

MR. GRAVEL.

Considerably. The base would be twice that much, as I would say the negotiations would begin somewhere between 50 and 80. So we will tighten up between 50 and 80 and enlarge and be guided by your reaction in that area. I obviously would, with my staff, sit down with Pat and others and yourself when you get back there and go over maps. It truly is somewhat ...You know there is and I know there is, The summer season is nothing. You know areas and I certainly know areas that I would have no difficulty at all in making decisions as to what system we go to.

MR. CHAIRMAN.

Are there any other questions?

I would like to ask a question. Since we have native land claim settlement going on in our communities to determine land to build a home on, how long do you think it would be before title to your land, where they could build?

MR. GRAVEL.

The title problem in this proposal we are talking about here again I think we are (indisc.) at this point when we settle d-2 we are going to settle the land transfer question right then and there. We are tired of being dragged and delayed and working with an uncooperative bureaucracy, so it's (indisc) for this process here.

MR. MALONE.

Could I bring up one ...

MR. GRAVEL.

I have had, not from you, Hugh, but a couple of members of the legislature called me for my views on a trip back in Washington and characterized by some that they all want to get together and go back to Washington. I think that would be a terrible mistake for everybody to get on a plane and go back to Washington for several reasons. One: You would gobble up all the offices of Senator Stevens, myself and Don Young, and we would be doing nothing but handling your presence which would not permit us to be working effectively. Two: It would be viewed very much

by the Congress and by the national media as conspicuous consumption, and three, that many people visiting Washington the members of Congress would be a little oppressed. What I would suggest would be to appropriate monies for every member of the Alaska legislature to come to Washington and that they be staggered out, come in pairs, two and threes, not too much more than that and they would start right after your session has been terminated and I think it would be very beneficial as to what could be accomplished and I think you could do effective lobbying and come in and talk about areas of your expertise and interest to various members of the committee, the staff and Congress. Too, I think when you come back there you are going to get a feeling of what's going on in Washington, perceptions and I think that base of knowledge (indisc) regardless of the d-2 issue and as you pursue your political careers it will help you very much. There is one detriment to that and that is obviously some of you will come back and covet the offices of those of us that are already there. That is a gamble that we will have to take and if we treat you nice in the future we might not have to be harassed so extensively, in forms of a challenge I might say. I have never seen harassment in any other form. You have always been gracious. So in responding to those phone calls privately I have outlined this and I don't think I went into this much detail because I hadn't given that much thought to it but I would hope that you would look at it in those terms and that it would be a good investment for the public officials to come back, but to come back in very small numbers and to come back stretched out over a period of time and you will be surprised because this issue is not going to be solved either beneficially or negatively prior to the probably the first of October of next year. We have all summer.

CHAIRMAN OSTERBACK.

Representative Malone.

MR. MALONE.

Thank you, Mr. Chairman. First of all (indisc - cough) follow up statement on your last questions, in this question of transfer of title and the disposition of the different land settlements, it occurs to me that in addition to the resolution and legal entanglements there may be, and I haven't (indisc.) there may be a problem with the ability of bureaucracy to deal with the sheer volume that they are facing. Recently I think we have come to the conclusion in the State of Alaska that a similar situation exists with respect to the dispostion of some of the state lands they are owning and quite often the answer is money so I would think that in addition to the legal resolution that if the Congress is serious about expediting settlements that they would respond to your urgency to appropriate money to make the process take place within a reasonable period of time. A certain question with regard to trips by members of the legislature to go to Washington on the d-2 crisis, an additional suggestion was made by Senator Stevens during his visit with the legislature

that it might be his thought to appropriate funds for allowing members of the Congress to visit the State and meet with people and perhaps view some of the areas that are proposed for the classification. What is your reaction to that?

MR. GRAVEL.

Last year I felt very strongly about that and suggested that in our deliberations when the four of us were meeting. I felt strongly then because we had the whole month of August of last year and I had about ten members of the Senate that had agreed to come up here and that was just the beginning and it expanded that we had thirty or forty members of the Senate. We were unsucessful in getting federal money at the time and the subject did not have the (indisc.) of state legislature coming up with the money to do this. Now you have only got two opportunities. You have the 4th of July recess and you've got the Labor Day recess. There is no August recess because it's election year and they are going to try and get out early to campaign. The time frame is so short and it is a very difficult time to bring people up in that regard. The other is, you know it becomes a little sobering, it's not an easy task to do that and it cost a lot, a lot of money. I'm told (indisc. cough) that it was over a million dollars (indisc. cough) to bring us up here so you are talking about a considerable commitment of money and a million dollars would only be for four, five or six members to come up here and handle it properly. Whenever members come up, I am sure Senator Stevens devotes a lot of time, and I know that two years ago when I had five members of the Senate coming to Alaska, it took literally over forty days of the time of my Administrative Assistant and then a lot of time within staff and during the trip I spent all my time with each member making sure that each detail functioned during that whole ten day period, so these are all the things you would have to provide for and if they came here and didn't have a good trip you would have spent your money and done as much damage as you could have possibly have done. The other thing is that we have had -- Udal and Seiberling spent a lot of time in Alaska and didn't do us that much good on the particular views that we hold, but it cuts several different ways and I think that as we get closer to the frame here I would hope that we would not panic and you know throw things every different way and I remember that old cliche that when the going gets tough - the tough get going. That is where we are at. That is where we are going to take the measure of ourselves. We aren't going to run around like a little white mouse holding our hands (indisc) so just throwing money isn't going to be the answer. It could be very damaging. Alaska does have the perception in the eyes of the American people of being very wealthy. We confirm that perception every time we do something out of the ordinary. Sending the Alaska Legislature to Washington is (indisc.). I don't know if it ever has been done in American history. Inviting the entire United States Senate and the House of Representatives on us to Alaska and prepare to

pay their way is a little out of the ordinary. You know there would be a greater exodus then they had at the Battle of Bull Run if the time were right, so we have to be careful. I think there is some merit in it but I think it should be done (indisc.)

CHAIRMAN OSTERBACK.

Thank You. Mr. Parker.

MR. PARKER.

$31,500 is not a great deal of money. We spent over $800,000 on the Steering Committee to go back and convince certain people in Congress that we would like to have a little bit more of input on the d-2 lands, so if we are talking about $31,500 (indisc) I don't know for each member.

That's for each member.

MR. PARKER.

That's the total. (Indisc. simultaneous speech). We get per diem. We get per diem while we are here. $31,500. You could spend the rest of the year saying it didn't cost very much money but it looks like a hell of a lot. (indisc.)

I think this is the time Alaska should make full determinations and something like this might catch your imagination.

MR. GRAVEL.

You know the old days of rah-rah type of activities, you know like statehood, that's not what we are asking for. We are asking for the Congress to be generous in its adjudication of federal land - not state land - federal land. This land belongs to everybody so the guy, remember Seiberling's statement, remember the cliche that was used by an Alaska, boy this is a big federal land grab and the environmentalists are grabbing all this land in Alaska and Seiberling came along and said yah there is a land grab going on. The people of Alaska are trying to grab our land. Our means federal government. We live here, we get confused with the language as to whether its federal or state, but remind you the state it is 430,000 and with the federal it is 220 million. A big difference. If you were to send back the whole Alaska legislature all at once -- you know the only place I think we differ is that I think it is very important for you to go back. I would only differ in the way you go back. I would like to see you go back quietly without fanfare and do things in a nice

(indisc) fashion rather than swamp us back there and that is literally -- literally swamp us, and we couldn't be able to handle it, the appointments -- you might plan the trip and then all of a sudden we might have four or five key votes in the Senate on the Panama Canal Treaty in the House and you might have four or five key votes on some (indisc) legislation and you would all be sitting there with your bare faces hanging out. You can't plan, things change very quickly. So the worst that could happen if you string it out you might have a couple bad visits by two, three or four people, not by the whole (indisc.) I don't think -- there is a page out of the book of the Wealthy Philadelphian, it was during the depression, and it was one of the few places in the world that they did this, was that when the depression is (indisc) you don't drive Cadillacs. (indisc. cough). Just keep a low profile. And that is why Texas has had such difficulty it is because they have been too spectacularized, and what we in Alaska have to do is give a low profile and just go get the goods. That's what the natives have done, they handle the federal bureaucracy very well. Just come in slowly, two or three at a time, the only time we ever had the whole native (indisc) was on Alaska Day. But up until that it was a steady stream and we still have a steady stream. There is probably no crowd of people on this earth that better handled the federal government than these Alaska Indians and I think we should take a page out of their book and keep a fairly low profile, and they got in trouble when they had high profile, you know when you heard statements well we are going to do this and we are going to vote, and that always hurt their cause. When they kept a low profile and did their homework they did well. I didn't mean to (indisc.)

No, No, it's getting back to a initiative, you know, it might be far out, but nevertheless it's a serious initiative and 22,000 people (indisc.). People are frustrated with the fact that they are surrounded by land can't (indisc.) $20,000 for a lot to build on undeveloped land and we have nothing but land so I can understand (indisc).

MR. GRAVEL.

The worst thing we could do is pass a law telling people we are doing something for them when you are not. When you talk in terms of giving somebody land you have got to give them access, you have got to give them air, you have got to give them water, you have got to give them all those things, otherwise if it just a little piece of paper that they own land and they can't experience that ownership you thought they were frustrated before they'll go beserk, because you cheated them.

MR. PARKER.

I'm not speaking in favor of it, I am just speaking the way it is.

MR. GRAVEL.

Oh, no, I agree with you. That is exactly the way it is.

MR. PARKER.

Of course we have a problem here is that we have endorsed more or less a compromise, it might not be much, (indisc.) but what would happen if it was approved by the voters of Alaska how would that affect d-2 specifically. Would they lock everything else up?

MR. GRAVEL.

Like I said I don't (indisc.) the last month. I am supposed to be generally informed. I know that the Congress is not knowlegeable about this referendum and I'll bet you that when it does become known, and this public meeting here is going to carry it to the Congress. I mean, the environmentalists would absolutely be fools from their practical point of view if they didn't jamb this down our throat one little piece of paper at a time, and I would have no response. If I were testifying (indisc. cough) and somebody said well, Senator, you say that you people can handle the management process up there, the referendum has 22,000 Alaskans that want to carve up the land the way they used to do it in the land frauds of Arizona and Florida, do you really think that you can make the people in Alaska mature enough to handle the problem. Don't you think we should lock up a major part of Alaska. How do you think I would be able to answer that? How would you answer it?

MR. PARKER.

That's after the fact. (indisc). Wouldn't it be just as bad to give them, say through this piece of legislation, 20 million acres as a sort of a compromise, wouldn't that be (indisc).

MR. GRAVEL.

The process here would be to give them the land and the other process is to give them a piece of paper, which has evidence of land. The paper could be fraudulant. See, that's the difference between, you know I could buy land in Florida and go down there and plot it and see that it's got a road to it, see that there is electricity to it, see that there is a municipality, proper plan, and that it is zoned properly, or I could have sent in my $100 down payment, my $5.00 a month for the next twenty years and then I go down there later when I am ready to retire and I find out that it is under water. It's a valid piece of land, you know, but it floods four or five times a week. I have been cheated. There is no road to it. I have been cheated. That's why we pass federal laws so we can't - we can't sell these mail order properties, so

what we did, we designed a referendum capitalizing on the frustration and the lack of knowledge of the people, and we are going to give them a bunch of pieces of paper that's going to be useless, absolutely useless. (Indisc.) supposing I send in and say I want a piece of land right here. It is not in any native entitlement. I want that piece of land, I want 200 acres. So somebody sends, the Department of Natural Resources or whoever sends me a deed. I've got my deed. I wait around and then I finally take a plane up there and maybe hire somebody to drive me out to my property and it's nothing but a sheer cliff. You know, it's about a 45 degree angle (indisc.) What do I do, I've got my deed in my hand, I've spent a lot of money to get it. I would be so hopping mad at whoever was elected to office, whoever thought of this concocted scheme I would shoot them on sight.

MR. PARKER.

Let me finish this, I guess my question is, what do we do about it now? (indisc. simultaneous speech and laughter).

I think Hugh said it, I am here to legislate (indisc.) I don't pay (indisc.) answers. I think we have one heck of a problem.

MR. GRAVEL.

I thought of one, are all of these things valid that people just thought out (indisc. simultaneous speech - laughter). I am starting to do things in my life that I haven't thought out. It is a real tragedy, it really is. The fact that 20 some odd thousand signatures you know the only thing I can say is that that is not a majority of Alaska.

MR. CHAIRMAN.

Mr. Malone.

MR. MALONE.

Thank you, Mr. Chairman. On that subject, of course, I think that the referendum to a large extent does capitalize on people's frustrations and I think those frustrations are unlikely to be relieved if the referendum should be adopted. There will be problems of access, there will be problems of services, there will be problems of getting clear titles and there are only really two courses of action that the legislature can take at this time. One is to adopt an alternative program that would preclude the ballot measures, I don't know if there is a responsible program that would really preclude the ballot measures under the laws of the Constitution, of the State of Alaska and make an attempt

in that direction. The other thing is responsible measures at least to point out the shortcomings of the proposed initiative. I think the ideas behind it are probably valid at least at the root but I think it something that is not going to work once adopted and I expect it to be adopted because on the ballot at least it would be today. It might be time to change the (indisc.) between now and the election,not right now, I admit, but I think there are going to be some problems in even gaining the piece of paper that Senator Gravel is talking about there will be worse problems when it comes to access and should people manage to settle on the land they will need some kind of access and get their title. They are not going to get any form of governmental services whatsoever or most likely an economic basis to generate anything for a long, long time. In addition to the problems that might create in terms of perceptions in the Congress of the United States, I think the problems are of internal program that should be raised on the question on the ballot and I don't see any other course or anything other than those two courses of action (indisc.) I don't think that the question should be ignored. I don't think that is responsibility either even if the ballot measure should fail it is going to come back again.

MR. GRAVEL.

I was hoping to sit this year out, but if that's the situation that the legislature does not have the power to correct, change the setbacks we have, I am sure I will be out there campaigning against this and the only way that would be possible if a lot of others like you would join me and be out there campaigning (indisc.) I'll volunteer to lead the charge and reap whatever I reap figures in.

MR. PARKER.

Senator, getting back to HR39. I mentioned earlier that if all else fails you and Senator Stevens would engage in a filibuster wouldn't that also preclude any hope at all for next years (indisc.) of state land transference and land (indisc.).

MR. GRAVEL.

The question is that everything is delayed. We are held in suspension, it might even trigger a freeze by the executives in retaliation, but that could be in my mind a better situation then having a permanent bad situation forced upon us. So, you know, it's not much but again it's better (indisc.). I think the environmentalist and the leadership in the House certainly recognize that this is serious business. I've seen many times where you march up the hill and all of a sudden you pull the power and you don't have the ability to get back up the hill again and they are marching up the hill, they are doing quite well, you know maybe it is the time to compromise. It's only a fool in a moral contest that doesn't compromise.

MR. CHAIRMAN.

(Indisc.) any other questions? (Indisc.)

No thank you, Mr. Chairman, I am going to be testifying on this other committee.

CHAIRMAN OSTERBACK:

Any other questions. Representative

Just one point, Mike, you were talking about low profile. This is in view of the Capital move and even worse financing the gap of the pipeline.

MR. GRAVEL.

On the gas pipeline you have just been given a presentation. I'll have some real specific requirements in that area. I need some time myself to study that. I'll be going to New York I think on the second to speak to a group on Wall Street, a group of Bankers, which is what I did several times during the Alyeska deal (indisc.) to talk to them about Alaska's future and so I will have a little better feel on that situation. (indisc. simultaneous speech, laughter). It used to be back in Washington and travelling around the country, it used to be I would be asked about wolves, in fact I can recall once in my hotel on my pillow there was a little note stating save the wolves. Probably the (indisc.) historically has been about wolves. Our mail has not run heavily nationally but wherever I go it used to be how cold is it in Alaska, now it is oh, you are moving your Capital, huh? How is that going? For some reason it has captured the imagination of the American people. I think I stated earlier that I felt it had some (indisc.) because anybody who could afford to move the Capital has got to have a little wealth, and, now I must confess, I don't feel all those decrements (ph) taking place in the quarry but they could be there subconsciously and you just don't know. Of course you can't psychoanalyze every body that you meet, but you do know that every so often when you propose a piece of legislation where you are going for an appropriation all of a sudden everybody in the room votes against you, you smellyour breath to see if you have bad breath, you can't understand why out of no where everybody is against you. When that phenomena occurs and its occurred to me several times, I know it's occurred to Senator Stevens, I know it has occurred to Don Young. You ask yourself, is there something wrong with me or is there something going on that I can't perceive in the subconscience of the bodies I am dealing with. I went to a hearing once on a housing issue unbelievably meritorious and my colleagues in the Senate they were having to hear it (indisc) and they started making statements, well you Alaskans got it all, (indisc.) this (indisc.) is a very very serious thing. It is almost impossible to handle, so you know we can talk about the Capital move contributing to that, I don't know. I suspect that that is about the extent of it. So far it is just an oddity.

(indisc. simultaneous speech - laughter)

It occurred to me when you said it might not be too smart for us to be out of the ordinary does the figure 4.4 billion dollars (indisc.). Is that a little out of the ordinary? Is that the figure you are talking about?

MR. GRAVEL.

Let me respond by saying this. When the Congress focuses on whatever the cost is and they focus on the fact that maybe it is a conspicuous consumption you can bet your bottom dollar that somebody is going to say if you want to do it you do it on your money. You are not going to use my money. I think that will eventually happen. Roberto Compos (ph), I don't know if you know the name, is the Brazilian Ambassador to the Court of St. James. He is the architect of the economics of Brazil, (indisc.) Brazil. Brazil is one of the five super powers of the world. It is unbelievable what is going on and Roberto is one of the great renaissance of our society in his area, he is every bit as important of a person as Henry Kissinger. He resigned from his position over the Brazilian question, and when I saw him in London when I was coming out of the North Sea,boy he just assaulted me on (indisc)so if anyone wants to get a speaker up here that wants to take that side invite him and three good speakers on the other side. I didn't mean to dodge your question. (indisc. simultaneous speech - laughter).

(indisc.) you had a question?

CHAIRMAN OSTERBACK.

Just one before we let you go. (indisc.) I have been there twice and they have a different system than we have. If they have a big buzzer in a committee room. (indisc.) a couple times we went in to see a couple Senators, and the buzzer rang and they said we have to go, there is an issue on the floor and we have to go to vote, and then they leave, so if the buzzer rings you are left standing by yourself. And their committee rooms are real small. Sometimes two chairs and I don't know what 60 people would do. They don't have room to stand. Like you said get the money and travel two or three at a time.

MR. GRAVEL.

I think this may be the beginning of doing it every two or three years. Maybe during your two year tenure that one trip should be authorized for each member so they could get acquainted with their interrelationship with federal government.

Not only d-2 and looking into the future, but do you anticipate anything more important in Washington, D.C. then d-2 in Alaska?

MR. GRAVEL.

Not at this time.

Down the road?

MR. GRAVEL.

Yes. In economic terms, yes, but nothing of permanent nature. D-2 is on the order of native claims, on the order of statehood, on the order of purchase of Alaska. Once we are by that we are by the issue, the rest will warrant attention and will obviously be important as was the pipeline. But nothing of a permanent nature, d-2 is the biggest thing we have got going. No question about that. But I am persuaded that you do your jobs much better here when you interface more directly with your Congress rather than through our office. Thank you very much. It has been a pleasure being here.

CHAIRMAN OSTERBACK. Thank you very much, Senator.

MR. COWPER:

It is going to be a great help to the Congressional Delegation and instead of going into all the reasons why we should have this and why it is such a good thing, I think that has been pretty well covered, I would like to bring up one thing and I have a specific suggestion for an amendment on the Bill. The AFN has suggested that we place in any such legislation as this an authorization for the commission or whatever it is called, to enter into cooperative agreements with private land owners and the incentive for submitting our private to the jurisdiction of the commission would be that there would be no real estate taxes on any lands put in under the jurisdiction of the commission for a period of not less than five years. This is endorsed by AFN and I think it is a good idea and I think we should have a joint management agency or joint management system as to what land is being managed, particularly contiguous land (indisc.) I would like to suggest the following amendments and then I will yield to Mr. Parker. On Page 3, line 12, omit all the language after the word "land owner". Because we would like to, I think it might be well not to restrict those agreements just to contiguous land. Then add the following section in the appropriate place. SEction 41.45.085 seems like a good place to add it. If a private land owner, including any entity established under the Alaska Native Claims Settlement Act, enters into an agreement by which the commission manages undeveloped land, cross out undeveloped, I think, by which the commission manages land owned or selected under an Act of Congress by such private land owners, for a minimum of five years such land shall be exempt from any property tax on the land for the time it is managed by the commission. If the land is withdrawn from the commission's management before the minimum five year period then all property taxes on such land which would otherwise have been payable shall be due at the time the land is withdrawn. Now as you know we don't have a tax on unorganized borough right now but we might at some future time and I believe that this concept has been endorsed not only by the AFN but also at least by certain members of the congressional delegation. I think it is a good idea and it provides (indisc.) that consistent management plan spread not only the public land but the private land. Mr. Chairman that's all I have and I have this Amendment which I'll be glad to pass to the staff. Unfortunately it is not typed and it is sorta scratched out.

CHAIRMAN OSTERBACK.

Representative Malone.

MR. MALONE.

I just have one quick question, Mr. Chairman. Steve, you have been working on this stuff and all, what's your ideas in respect to the reality of adopting common management approach as an alternative, I won't say compromise, because it is not a compromise.

MR. COWPER.

Well, I think that the possibility is very real. I think what we have to do is take care of the fear that people have and I am speaking very frankly of the environmental community that the State will have effective control over the management of all federal lands in Alaska, or a substantial portion of it, without any (indisc.) I think if we come in and we establish a management system by which a joint commission manages not only federal but also state and native lands or private land, and we also provide a (indisc) by the land owners so that if the land owner doesn't like the decision being made it goes back to the drawing board and I think it should be acceptable, as Senator Gravel said, the main problem is not in the concept really but everybody says this isn't acceptable because they'll appoint somebody who is unacceptable to run it. They are afraid the system won't work just because they are not sure who is going to be administering the system. That's the problem everywhere. No system works if it isn't administered by good people. But I think there is a real chance of doing it. There is not any chance of doing it in the House. But I think it is a concept that has been advanced so many times at that level that when it comes back to them from the Senate they do not even look at it twice. That's my interpretation of what I have seen of it.

CHAIRMAN OSTERBACK.

Are there any other questions? (indisc.)

Why did you leave out the undeveloped (indisc.)

MR. COWPER.

Ah, Rick (ph) this is just to be consistent with AFN's position. I don't think that a real estate tax as such is all that way of getting into that sort of thing anyway. But, it it is consistent with AFN's position. I rather suspect that land which is developed in the sense of having a village on it or something like that isn't going to be turned over to the land (indisc) commission to manage. It is not precluded for instance personal property tax is the (indisc.) on pipeline property or production property on the slope. It would not preclude that and also it wouldn't preclude the severance taxes. I would think that the way you would get income being generated into land that is under the commission's jurisdiction would be through income taxes.

CHAIRMAN OSTERBACK.

Any other questions?

MR. COWPER.

Thank you, Mr. Chairman. I will have this proposed amendment

typed out and sent down to Committee (indisc.)

CHAIRMAN OSTERBACK.

Thank you. Mr.

Thank you, Mr. Chairman and Committee members. I would like to note that Commissioner Holdsworth(ph) is here also and he tells me he testified before you yesterday. This is the second time I have testified on House Bill 211. I testified last year. I didn't have much to offer except my personal opinions because the commission had not taken a (indisc.) position on the future land use planning commission. They finalized their position at a meeting in September of 1977 and that is contained in a Position paper which I will submit for the record for your concurrence as part of this testimony. I have some brief record testimony also which I would like to submit for the record and just highlight that, if that's alright. The need for a continuing commission as well said by Senator Gravel and Representative Cowper, I think that the main point that needs to be made what does a continuing commission offer for the state that the existing federal - state relationship does not offer. I think for me the important thing it offers is a thermo entry for the state through the commission into the federal planning process in the early stage. It also offers a form for mitigating and coordinating effects of single agency management. Whatever comes out of the d-2 legislation we are going to see a substantially stronger position for all federal land management and resource management agencies in Alaska. I think it's to the advantage of the people of Alaska that they have some form in which they don't have to be (indisc.) in which all the agencies are brought together and force to bounce from one position to another. It would be (indisc.) under its new organic act the thing that has extremely strong powers and if Alaskans are going to have any real say in future management of federal lands in the state I think that some form of commission structure is vitally important and therefore I strongly support the concepts expressed in HB 211. The points that Representative Cowper made on the native lands I strongly support also because as both the commission's inventory reveals and the state inventory, the native selected lands are prime lands for wildlife habitat and resource development (indisc.). They are also key strategic lands of transportation and are in effect the strategic lands of the state because of their relationship to the coast line and the rivers, primarily. So it is imperative that they be encouraged to cooperate to the maximum extent in the future system.(indisc.) has not taken a real position on state lands in this and the reason for that is that in dealing with the d-2 situation it did restrict itself to dealing with the federal lands and in dealing with the state land, of course was recently made a good many recommendations

to this committee and I think if you want a position from the commission on whether it feels all state lands should come under a future commission or a portion of the state lands we could certainly attempt to give you that but we have not had one as yet. In any case, to get to the specifics of HB 211 as our recommendations relate to it, the commission has recommended to continue the membership of 10 members with 2 co-chairmans rather than 7 members recommended in HB 211 and also recommends the continuation of the presidential appointment on the federal side and the governor's designation on the state side to continue to provide strong leadership with such a commission. The difference between the assembly chairman and the co-chairman is an important one. As a single chairman I think would be extremely powerful individual. He would probably be appointed by the President with the concurrence of the Governor and Legislature and the advice and consent of the U.S. Senate, and if he was able to get through all those steps then there is no doubt about it he would have a predominant role in the state. Whereas, if you have the two co-chairman, they tend between them to adjust a good many federal state conflicts before they get to the full commission or to the congress or to the legislature, so it depends between a single chairman and co-chairman how strong you would want the future commission to be in its relationship to both governments. The commission agrees with HB 211 in that the commission members do not be institutional or ex-officio. We found that having state commissioners sit on the commission is not in the best interest of the state commission or the commission because he has to represent the administrations point of view in his particular area and very strongly rather then reasonably independent point of view. And we also recommend the appointants not be representatives of special interests because the sub-committee that worked on this felt that special interest representation tended to institutionalize conflict rather than to contribute to problems solution. What the commission is supposed to do is to resolve problems before they become problems that require either legislative action or extreme action by the President or the Governor. They also felt that the commissioner should continue to be part time except for the co-chairman. The general feeling was that full time commissioners would tend to institutionalize its own perspective while part time commissioners were subject to other pressures and open to other viewpoints from the various sectors in which they operate when they are not being commission members. Also part time was felt to be more open to public input then full time. And, the present commission also felt that the commission should serve at the pleasure of the appointed official rather than (indisc.) this position differs from HB 211. The primary reason for this was that it was felt that the commission should relate strongly to whatever political views of either federal administration and state administration was. Of course, if you are appointed for a term then the commission once again has much more independence in itself so once again it depends on how strong you want that commission to be.

Regarding the duties of the commission our recommendations differ only in degress to those contained in HB 211. The major difference Commissioner Holdsworth(ph) went into with you yesterday. We see the commission's role on (indisc.) plans as classified. Whereas management would be continued by the land agencies for any of the federal and state side. That is an important distinction. You don't want to create another bureaucracy in this position to give the management powers well then you have to give him the man power to manage. The idea is to keep the commission very small in policy making and research groups, and certainly no larger then the federal commission. If it does expand why then it would inevitably tend to become another government agency and (indisc.) One of the things that we have felt to be a real power in the present commission in which future commissions should continue, the commission should be (indisc. cough) the Governor and the Legislature and to the President and the Congress, and being an advisory role only you certainly have (indisc.) committee programs (indisc.) if you have program responsibility. We think that needs to be continued and the only exception would be the classification of common management plans. Also in some spelled out roles in cooperative planning insuring both governments that Fish and Game managements would lean towards acceptable manner, the transportation planning would lean toward acceptable manner, research coordination and day assistance coordination are the four areas where we felt we really need a lot of mileage if you can coordinate them strongly and keep the agencies on either side from dealing in the territorial (indisc.) too heavily. The other area strongly stressed is the system of joint classification. As we have seen the future thus far the difference between the commission classifying common management land and the joint classification would be the commission would bring the two governments together to establish joint classification standards and (indisc. cough) the state and then BLM on one side or the other federal agency and the Division of Lands would use those classification standards and work them between the two of them with some commission over sight would arrive at joint classification for those particular areas. So in those areas rather then doing it yourself well the commission would encourage the cooperation existing to the maximum extent possible.In time we would approach what we would call total (indisc) HR 39. We would do it with cooperation between the two governments rather than proposed by HR 39 by standard refuge of park boundaries. (Indisc. cough) Because no matter how much those refuge or park boundaries they are going to protect those refuge and park boundaries you are not going to protect the entire critical areas that are entire watersheds. Eventually you have to get to this strong cooperating system anyway. One thing that is missing from HB 211 is the veto power on the state and federal side. We think it is important that you protect the sovereignty of both governments by incorporating that veto power. One thing that this present commission has that no other federal-state entity we studied has is the veto power of the state and that is very important to retain. It certainly made the present commission operate totally different from any other state organization that I have been associated with, and we did some research on some other organizations

and I will offer that for the record, Commission Memo dated March 15th, 1977, which has a rather comprehensive research on other federal-state entities. When we made our position we examined HB 211 of course, from last year, and we Secretary Andres (ph) amendments to HR39 (indisc. cough) operating management and we also had Senator Steven's Bill on cooperating management and so we considered all of those in reaching our decision. We then had the Seiberling which was contained in committee print 3 of HR39 before us but as I understand it that's changed little from committee print 2, so the comments which we enclosed in our letter to Congressman Seiberling on January 17th of this year would still be germane as to how we feel about that particular language and also that's for the record with this testimony. I am getting a big mound of paper here dealing with cooperative management and hopefully it will shed a little more light in particular areas. One other important area that we feel very strongly about is the executive coordination committees being established by both the state and federal government to review the commission's work. This is especially important at the federal level because you can coordinate all you want to in Alaska and get all the agencies meeting in unison and take it back to Washington you will have to go in and deal with each department separately. It wasn't always that way, the old Federal Appeal Committee for Development Planning Alaska we did have an executive review agency which was chaired by the Secretary of Commerce but which also reported to the White House but we were able to get good use out of that executive review committee during the earthquake relief and during the early stages of the land claim settlement. I think we just erred in not re-establishing that to relate to the present commission. We should have made sure Congress put it in the legislation report and it's not as critical at the state level to have that kind of executive review since the commission works on a continuing basis review level committees where the commission is concerned to review the commissioner's work on a state level also.

We do feel also that you need a more direct relationship between the commission and the land and resource management agencies on both sides. The way we do that is simply forming them together into a technical advisory committee to the commission which would have to come together composed of the land and resource managers on both state and federal sides that would have to come together and either relate to commission for the propositions that were put before them or they could develop propositions which they wish to put before the commission. Right now we don't have that kind of institutionalized dialogue between management agencies and the commissions and we try to institute it constantly but it's not spelled out in the legislation so the agencies can either come together or not if they feel whether they can get away with it or not, and usually they are pretty good about coming together on the issues we've developed but having it in the language would give the commission much stronger coordinating powers and that briefly are the major concepts that we would like to see incorporated in HB 211. We would certainly be willing to either

draft suggested amendments or work with you in any way we can.

CHAIRMAN OSTERBACK.

Representative Malone.

Mr. Malone.

Thank you, Chairman. Well, I would like to start out by asking my basic question on this thing. In your understanding and knowlege of activities that take place in the Congress and also the attitudes that may exist in the different federal bureaucracies, how realistic is this approach if it could work if it were adopted?

MR.

Of course it has been a while since I came on the commission and I can't -- don't know what the relationship was with the previous federal chairman or the previous state chairman of the federal agency, but the commission was able to make some steps forward when the federal administration changed and the d-2 perceptions in the interior and the conveyance of native lands in several other areas. I was the only chairman at that time in the interim between Mr. Sokof (ph) leaving and Mrs. Warnecke (ph) appointment but even though I wasn't the federal chairman, even though I was a state chairman why the door was open and we were able to get initiatives launched last spring that probably would have been delayed until late summer or fall, the spring of '77 I am talking about now, which if it had to have gone through the conventional route through the agencies and the difference, of course, that I was saying that I was going in and saying to the secretary was on native conveyances you've got a problem. The natives are not getting their land fast enough, BLM isn't working fast enough and obviously BLM isn't going to go say that to him, or the Assistant Secretary for Lands and Waters. On the d-2 issue HR 39 had just come out and of course that was Secretary Andres (ph) (indisc) and was able to immediately put before him critical areas on Fish and Game Management and Wilderness and the other points of disagreement with HR 39 so he could start relating to those. It's unfortunate that in the House of Representatives the sub-committee who handled that took its original draft from the Alaska Coalition and represented only that perspective and since the commission didn't agree with the original HR 39 they really hand's used it to the extent that they could. In April they practically threw us out of the hearing and by July they said well, this is good stuff and they started to use it but on the Senate side we have always had an excellent relationship directly and you know, we don't go through administration, we go directly to Congress.

CHAIRMAN OSTERBACK.

Representative Malone.

Mr. MALONE.

Yes I have a number of questions, but I have a follow-up question on that one. Considering that the commission is basically is a (indisc.) of Congress in the first place how come the House at least in the early stages decided to by-pass. (Indisc.)

MR.

The sequence of events is simply that the committee chairman and the sub-committee chairman knew that the commission's position wasn't the position they wanted so they (indisc. blank tape)

MR. MALONE.

How is it they work again at present, how is it they work?

On the Washington level there is no institutionalized coordination on Alaska matters. Right now they've got a group which was set up to coordinate gas lines for the gas pipe line. There is no d-2 coordinating group that brings all departments together to coordinate d-2 matters so the way d-2 is coordinated in the federal government is that in the last days of August and the last week of August and the first week of September the Interior sent out its information for comments and comments came back and they all put it together at a meeting and it was kind of a rushed process. If there had been a continuing executive review committee of the commission's actions why all these things that the commission had developed over the last five years would have been considered by these departments in Washington on a continuing basis, as it was every department just reacted to the Department of Interiors initiative. The only reason things went (indisc.) was that we took it upon ourselves in the spring of '76 to coordinate d-2 with all of the federal agencies concerned, transportation, energy, defense, and so forth, but it would be a lot easier to have them all in the same room rather than to have to go to each one individually but that's what we were up against.

MR. MALONE.

One final question. What would be possible in addition to us getting an advanced copies of proposed amendments of HB 211. Would it be possible for the commission to provide somebody to sit in on a mark up session of the bill?

CHAIRMAN OSTERBACK.

Yes, we could do that.

MR. MALONE.

Thank you.

CHAIRMAN OSTERBACK.

What we discussed, we had a meeting with Senator Mike Gravel and(indisc.) and he will send one of his staff members to work up a mark up session and we have a holiday coming up now. But the thing is you said you wanted to get something in from the legislators what we are all going to back and bring it in and he will take it up before the Senate or down there, correct me if I am wrong, and with the legislators behind he thinks it will carry a lot of weight instead of someone coming in with a different amendment all the time, come up with a package saying this is what the state is backing. Diann?

MS. NELSON.

One thing that we discussed is that we would assign Mr. George (indisc.) and Bill Berrier(ph) and Jack (indisc.) and would work with one member of the Steering Council staff and your office, Walt, and possibly come up with a committee substitute within a week or so. Something that we could bring before this committee as a mark-up copy and bring it back.

CHAIRMAN OSTERBACK.

Representative Malone.

MR. MALONE.

Mr. Chairman, I wonder if that schedule isn't a little optomistic. I don't object to the speed except (indisc. noisy tape)

MS. NELSON.

Can we schedule a meeting for next week in the evening?

(WHEREUPON due to bad noise on the tape I was only able to pick up selected portions of the discussions)

CHAIRMAN OSTERBACK.

What I was going to suggest is that we get everything together for a mark up (Indisc.)

C E R T I F I C A T E

STATE OF ALASKA)
: SS.
FIRST JUDICIAL DISTRICT)

I do hereby certify that I am a Notary Public in and for the State of Alaska and that the foregoing transcript numbered 1 through 31 was transcribed be me or someone under my direction from a tape recorded by a person or persons unknown to me. I further certify that it is as complete and accurate a transcript as was possible based on the quality of the tape and the information furnished to me.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor financially or in any other manner interested in the outcome of the proceeding.

Rita Stanich
Notary Public, State of Alaska
My Commission Expires: 6-4-78

DRAFT D-2 BILL--SENATOR MIKE GRAVEL

George

A BILL

To designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Forest Systems, to create a Federal-State Land Use Planning Commission, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alaska Lands Conservation and Management Act."

SEC. 2 (a) In order to preserve for the benefit, use, education, and inspiration of present and future generations certain natural lands and rivers in the State of Alaska that contain nationally significant natural scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values, the areas described in Title I are, subject to valid e sting rights, hereby declared to be units of the National Park System; the areas described in Title II are, subject to valid existing rights, hereby declared to be units of the National Wildlife Refuge System; the areas described in Title III are, subject to valid existing rights, hereby declared to be units of the National Wild and Scenic Rivers System; lands described in Title IV are, subject to valid existing rights, hereby declared to be added to units of the Nation al Forest System; and lands designated in Title V are, subject to valid existing rights, hereby declared to be units of the National Wilderness Preservation System.

(b) It is the intent of Congress in this Act to preserve unrivaled scenic and geological values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitat for, residen and nonresident wildlife species; to preserve in their natural state unaltered ecosystems; to protect the resources related to subsistence needs; to protect and preserve the historic and archeological heritage of Alaska and the nation; to preserve wilderness resource values and related recreational opportunities; and to maintain opportunities for scientific research in undisturbed ecosystems.

(c) It is also the intent of Congress to provide a management system for the lands which are not located within the conservation system units designated in the Act which will be provide a mechanism for making sound land use decisions on lands owned by one or more governmental or private entities but which contain common resources requiring complementary management decisions and actions.

(d) It is also the intent of Congress to encourage the use and appreciation of the various conservation system units designated by this Act by the public. To the extent that it is compatible with the resources and values for which the unit was established, access and facilities to accommodate visitors and recreationists to and within the designated units would be developed in connection with the management plans for the areas.

and nonresident wildlife species of inestimable value to the citizens of Alaska and the Nation, including those species dependent on vast relatively undeveloped areas; to preserve in their natural state extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystems; to protect the resources related to subsistence needs; to protect and preserve historic and archeological sites, rivers, and lands, and to preserve wilderness resource values and related recreational opportunities within large arctic and subarctic wildlands and on freeflowing rivers; and to maintain opportunities for scientific research and undisturbed ecosystems.

(e)(1) Areas established in titles I ~~and~~ II, +IV of this Act shall, subject to valid existing rights, comprise the lands, waters, and interests therein within the boundaries generally depicted on the maps bearing the following designations:

The boundaries of areas added to the National Park and Wildlife Refuge Systems shall, in coastal areas, not extend seaward beyond the mean high tide line to include lands owned by the State of Alaska unless the State shall have concurred in such boundary extension and such extension is accomplished under the notice and reporting requirements of this Act.

(2) The maps described in subsection (c) of this section shall be on file and available for public inspection in the office of the Secretary of the Interior (hereafter referred to as the "Secretary"), or the Secretary of Agriculture with regard to the National Forest System.

(3) As soon as practicable after enactment of this Act, a map and legal description of each change in land management status effected by this Act in the four national conservation systems, including the National Wilderness Preservation System, shall be published in the Federal Register and filed with the Speaker of the House of Representatives and the President of the Senate, and each such description shall have the same force and effect as if included in this Act: Provided, however, That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Secretary. Whenever possible, boundaries shall follow hydrographic divides or embrace other topographic features in all cases where straight line map boundaries approximate such features. Following reasonable notice in writing to the Congress of his intention to do so, the Secretary of Interior and the Secretary of Agriculture may make minor adjustments in the boundaries of the areas added to or established as units of the National Park, Wildlife Refuge, Wild and Scenic Rivers, and the National Forest Systems by this Act.

TITLE I-NATIONAL PARK SYSTEM

~~Purpose~~ Establishment of New Areas

SEC. 101. (a) The following areas are hereby established as units of the National Park System and shall be administered by the Secretary under the laws governing the administration of such lands and under the provisions of this Act:

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(1) Wrangell-St. Elias Park and Preserve, containing approximately _____acres of Federal lands;

(2) Gates of the Arctic Park, containing approximately _____ acres of Federal lands;

(3) Lake Clark Park and Preserve, containing approximately _____acres of Federal lands;

(4) Kobuk Valley Monument, containing approximately _____ acres of Federal lands;

(5) Cape Krusenstern Monument and Preserve, containing approximately _____acres of Federal lands;

(6) Aniakchak Monument and Preserve, containing approximately _____acres of Federal lands;

(7) Yukon-Charley National Rivers, containing _____acres;

ADDITIONS TO EXISTING AREAS

SEC. 102. (a) The following units of the National Park System are hereby expanded:

(1) Mount McKinley National Park by the addition of _____ acres of Federal land;
(i) the park is hereby redesignated as "Denali National Park, and
(ii) the mountain known as Mount McKinley shall hereafter be known as "Denali". Any law, regulation, map, document, or record of the United States in which such mountain is designated or referred to under the name Mount McKinley shall be held to refer to such mountain under and by the name of "Denali."

(2) Katmai National Monument by the addition of _____ acres of Federal land, and the monument is hereby redesignated as "Katmai National Park" ;

ADMINISTRATIVE PROVISIONS

SEC. 103. (a) The Secretary shall administer the lands, waters and interests therein added to existing units, or established by the foregoing sections of this title as new units, of the National Park System in accordance with the provisions of law applicable to the National Park System, except that the taking of fish and wildlife may be permitted under the provisions of Title VII of this Act, and transportation and utility rights-of-way may be granted by the Secretary across units of the National Park System under the provisions of Title X of this Act.

(b) All valid Native selections or nominations of lands within the boundaries of the Gates of the Arctic National Park or

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the Wrangell-St. Elias National Park,as established under this Act, are hereby recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native Claims Settlement Act and Title VIII of this Act.

TITLE II--NATIONAL WILDLIFE REFUGE SYSTEM

Establishment of new areas

SEC. 201. The following areas are hereby established as units of the National Wildlife Refuge System, and shall subject to valid existing rights, be administered by the Secretary pursuant to the provisions of law governing the administration of such units and under the provisions of this Act:

(1) Selawik Refuge, containing approximately _____acres of Federal lands;

(2)Koyukuk Refuge, containing approximately _____acres of Federal lands;

(3) Innoko Refuge, containing approximately _____acres of Federal lands;

(4) Shishmaref Refuge, containing approximately _____ acres of Federal lands;

(5) Kanuti Refuge, containing approximately _____acres of Federal lands;

(6) Kaiyuh Refuge, containing approximately _____acres of Federal lands;

(7) Alaska Marine Resources Refuge, containing approximately _____acres of Federal lands;

ADDITIONS TO EXISTING REFUGES

SEC. 202. The following units of National Wildlife Refuge System are hereby expanded:

(1) Arctic National Wildlife Range by the addition of approximately _____acres of Federal lands.

(2) Clarence Rhode National Wildlife Range and Hazen Bay National Wildlife Refuge by the addition of approximately _____acres of Federal lands; furthermore, the Clarence Rhode National Wildlife Range and Hazen Bay National Wildlife Refuge are hereby redesignated as the Yukon Delta National Wildlife Refuge.

(3) Cape Newenham National Wildlife Refuge by the addition

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of approximately _____acres of Federal lands;

(4) Kenai National Moose Range by the addition of approximately _____acres of Federal lands;

ARCTIC NATIONAL WILDLIFE RANGE EXCHANGE

SEC. 203. The subsurface estate of approximately 280,000 acres of land described on the map numbered _____within the existing Arctic National Wildlife Range are hereby removed from the Range. After concurrence by the Governor of the State and the Secretary _____acres of lands selected, tentatively aprroved for patent, or patented to the State which are located adjacent to one or more of the areas designated in Title I or II of this Act shall be conveyed to the Federal Government or retained in Federal ownership and shall be added to the respective unit designated in Title I or II. Upon concurrence of these State lands by the Governor and the Secretary, the subsurface estate of those lands described in this section within the Arctic National Wildlife Range shall be conveyed to the State of Alaska.

SEC. 204.(a) The Congress finds that despite the authority of the Secretary to grant leases for the exploration and development of oil and gas resources on units of the National Wildlife Refuge System, oil and gas leases have not been let for all intents and purposes on refuge system lands in Alaska. Furthermore, the Congress finds that with strict regulations governing surface uses within refuge system lands oil and gas exploration and possible development could occur with minimal and acceptable impact on the resources and values for which the unit was established.

(b) The Secretary shall initiate a leasing program for oil and gas resources of lands designed in this Title. In his determination of those lands for which leases would be let he shall seek the recommendations of representatives of the oil and gas industry, conservation groups, the State of Alaska, local governments, Native corporations, and other interested parties. The Secretary shall prescribe such regulations as may be reasonably necessary to insure that exploration and development occurs in a manner which does not result in significant adverse impacts on the resources or values for which the refuge unit was established.

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TITLE III---NATIONAL WILD AND SCENIC RIVERS SYSTEM

Additions to the National Wild and Scenic Rivers System

SEC. 301(a) Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1247(a)) is amended by adding the following new paragraphs at the end thereof:

(16) .....
(17) .....
etc.

(b) Detailed boundaries and development plans referred to in this section shall be established and prepared within one year of enactment of this Act. Such boundaries shall include an area up to one mile from either side of the mean high water level of the river segments designated in Section 301(a)

(c) The units designed in this section would be managed by the federal agency designated as manager of the lands adjacent the designated river.

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TITLE IV--NATIONAL FOREST SYSTEM

SEC. 401. The following units of the National Forest System are hereby expanded:

(1) Tongass National Forest by the addition of ___areas, containing _____acres of Federal lands;

(2) Chugach National Forest by the addition of _____areas, containing _____acres of Federal lands;

TITLE V--DESIGNATION OF WILDERNESS AREAS AND WILDERNESS STUDY AREAS WITHIN UNITS OR ADDITIONS TO UNITS OF THE NATIONAL FOREST SYSTEM

SEC. 501. In furtherance of the purposes of the Wilderness Act, and subject to valid existing rights, the following lands are hereby designated as wilderness and , therefore, as components of the National wilderness Preservation System:

(1) Within the Tongass National Forest the following areas are hereby designated:
(i) the area known as _____comprised of _____ acres of land
(ii) the area known as _____comprised of _____ acres of land
etc.

SEC. 502. In furtherance of the purposes of the Wilderness Act, the Secretary of Agriculture shall review each area designated by this section as to the suitability or nonsuitability of such area for preservation as wilderness and report his findings to the President and to Congress within three years after enactment of this Act:

(1) Within the Tongass National Forest the following areas are hereby designated for study:
(i) the area known as _____comprised of _____ acres of land;
(ii) the area known as _____comprised of _____acres of land;

ADMINISTRATIVE PROVISIONS

SEC. 503. (a) The provisions of this section are enacted in recognition of the unique character of the wilderness in Alaska. Nothing in this section shall be construed to expand, diminish, or modify the provisions of the Wilderness Act or the application or interpretation of such provisions with respect to lands outside of Alaska.

(b) Such measures may be taken as the concerned Secretary finds are necessary for the control of fire, insects, and diseases, subject to such conditions as he deems desirable to maintain the wilderness character of the area.

(c) Customary use of aircraft, motorboats, and snowmobiles where such use has already become established, shall be permitted to continue in areas designated as wilderness, subject to such restrictions as the concerned Secretary determines necessary to maintain the wilderness character of the area.

(d) Within national forest wilderness areas designated by this Act, the Secretary of Agriculture shall permit the taking of fish and wildlife on lands under his jurisdiction in accordance with applicable laws of the United States and the State of Alaska. Subsistence activities described in Title VII of this Act, including access by motorized vehicles shall also be permitted within wilderness areas designated under this Act.

(e) Previously existing public use cabins within national forest wilderness areas de ignated by this Act, may be permitted to continue and may be maintained or replaced subject to such restrictions as the Secretary of Agriculture deems necessary to preserve the wilderness character of the area. Also subject to such restrictions, the Secretary is authorized to permit the construction and maintainance of new cabins and shelters with wilderness areas designated under this Act for the purpose of protection of public health and safety, for the protection and preservation of the wilderness character of the area, or to meet minimum requirements for the administration of the area.

(f) Commercial services may be performed within the wilderness areas designated by this Act to the extent necessary for activities which are proper for realizing the recreational or other wilderness purpose of the areas.

(g) In any case where State-owned or privately owned land or mining claim land is completely surrounded by national forest lands ##### designated by this Act as wilderness areas, the State or private owner or interest holder shall be given such rights as may be necessary to assure adequate access to such State-owned, privately owned land, or ##### mining claim.

(h) In accord with principles of sound fisheries management, the appropriate Secretary is authorized to permit research, fish stocking, enhancement, rehabilitation and development activities and

the development of fish aquaculture and research sites within wilderness areas designated by this Act, ȣȿ/ȟȩ/ȣȩȴȩȓȓȋȟȩȡ/ȴȹ ƀȩ/ȟȩȩȩȿȿȣȳ/ȣȟȣ/ȣȩȿȋȓȩƀȴȩ to study, restore, augment, or sustain fish populations. Structures for any such research or fish aquaculture sites shall consist of only facilities essential to these operations. Such facilities shall be constructed in such manner as to minimize impact on the natural environment and the wilderness values for which the area was established. The Secretary of Agriculture is authorized to allow the State and/or holder of a permit for fish enhancement program or development reasonable access, including possible motorized access, for necessary fish and wildlife management activities. In addition, such reasonable access shall be provided for the evaluation of sites needed for fisheries research, enhancement, rehabilitation, and development and for the construction, operation and maintenance of authorized projects.

SENATOR MIKE GRAVEL

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TITLE VI -- ALASKA FEDERAL-STATE LAND USE PLANNING COMMISSION

Sec. 601. (a) Following designation under Alaska State law of all lands patented or tentatively approved for patent to the State to be cooperatively managed with designated Federal lands, there is hereby established the Alaska Federal-State Land Use Planning Commission (hereinafter referred to as the "Commission").

(b) In addition to the designated State lands, the Commission shall have jurisdiction over all public lands in the State of Alaska under the management of the Bureau of Land Management, including the National Petroleum Reserve in Alaska.

(c) With the approval of the Commission, lands for which patents or interim conveyances have been issued to Native corporations under the terms of the Alaska Native Claims Settlement Act may be placed under the jurisdiction of the Commission pursuant to the procedures and conditions which shall be enacted by the State of Alaska.

Sec. 602. (a) (1) The Commission shall, subject to the provisions of Section 101, be composed of nine members as follows:

(A) One member appointed, after consultation with and concurrence by the Governor of Alaska, by the President of the United States, with the advice and consent of the

Senate, who shall be Chairman of the Commission;

(B) Four members appointed by the President of the United States, with the advice and consent of the Senate;

(C) Four members appointed by the Governor of the State of Alaska with the advice and consent of the State Legislature.

(2) Upon the first vacancy of a position under subparagraph (B) and subparagraph (C) (whether created by expiration of a member's term or otherwise) occurring on or after the date on which 80 per centum or more of all lands for which patents or interim conveyances have been issued have been dedicated by Native corporations for jurisdiction under the Commission, the President and the Governor, in filling those vacancies, shall appoint a Native (as that term is defined in the Alaska Native Claims Settlement Act) to fill the respective vacancy, and thereafter, as long as such lands remain so dedicated, at least one of such members appointed pursuant to subparagraph (B) and subparagraph (C) of subsection (a)(1) shall be a Native.

(b) (1) The Chairman shall be compensated at a rate to be determined by the president not to exceed the rate provided for GS-18 of the General Schedule under Section 5332 of Title 5, United States Code.

(2) All other members of the Commission shall be compensated at a rate to be determined by the President,

after consultation with and concurrence by the Governor of Alaska, not to exceed the rate provided for GS-16 of such General Schedule.

(3) Upon vouchers approved by the Chairman, all members of the Commission shall be reimbursed for necessary expenses incurred by them in carrying out their duties under this Act.

(c) The Commission, with the approval of the Chairman, is authorized to obtain the services of experts and consultants in accordance with Section 3109 of Title 5, United States Code.

(d) Members shall serve for a four-year term except that, of the initial members appointed pursuant to subparagraph (B) of subsection (a)(1), two members shall be appointed for two-year terms, and of the initial members appointed pursuant to subparagraph (C) of subsection (a)(1), two members shall be appointed for two-year terms. A vacancy in the membership shall not affect the Commission's powers but shall be filled in the manner provided in paragraph (2) of subsection (a). Any person appointed to fill a vacancy involving an unexpired term shall serve for the duration of that term. Except to the extent otherwise provided in subsection (a), members may be reappointed to serve additional terms.

(e) Six members of the Commission shall constitute a quorum, except that the Commission may establish a

lesser number for purposes of subsection (g).

(f) All Commission meetings shall be public and shall be duly noticed at least fifteen days prior to the date when the meeting is to take place.

(g) The Commission, or on its authorization, any subcommittee or member thereof, may hold such hearings, take such testimony, receive such evidence, and print such reports as are deemed necessary to carry out the functions specified in this Title.

(h) The Chairman shall have the authority, in accordance with regulations prescribed by the Commission, to create and abolish employments and position, including temporary and intermittent employments; to fix and provide for the qualification, appointment, removal, compensation, pension and retirement rights of Commission employees; and to procure needed office space, supplies and equipment.

(i) The principal office of the Commission shall be located in the State of Alaska.

(j) The federal government shall pay only 50 per centum of the costs and other expenses incurred in each fiscal year by the Commission in carrying out its duties under this Act.

(k) The Commission is authorized to use the services, equipment, personnel and facilities of Federal departments and other agencies, with or without reimbursement. Each department and agency of the Federal government shall cooperate

fully in making its services, equipment, personnel and facilities available to the Commission.

(l) The Commission is authorized to accept donations, gifts and other contributions and to utilize such donations, gifts and contributions in carrying out its functions under this Act.

(m) The Commission shall keep and maintain complete accounts and records of its activities and transactions, and such accounts and records shall be available for public inspection.

(n) The Commission shall, on or before March 1 of each year, prepare and submit to the President, the Governor of Alaska and the Congress an annual report summarizing its activities during the preceding calendar year, together with its recommendations.

Sec. 603. (a) It shall be the function of the Commission:

(1) to review resource inventories prepared by the managing agencies and other affected or concerned Federal and State agencies on lands under the jurisdiction of the Commission; and to initiate and conduct other such inventories and resource studies as may be needed;

(2) to develop comprehensive land use plans with respect to lands under the jurisdiction of the Commission;

(3) to make land classifications pursuant

to such plans, and to approve and to supervise the regulation of uses in accordance with such plans and classifications;

(4) to assure that such classifications would specifically identify lands which are suitable and open for the following primary uses:

(A) oil and gas exploration and possible development;

(B) mineral exploration and possible development;

(C) human habitation, permanent and seasonal;

(D) agricultural and aquaculture development;

(E) timber harvesting;

(F) tourism/recreational development;

(G) primitive or wilderness use;

(H) fish and wildlife habitat; and

(I) other resource uses as may be appropriate.

(5) to assist in the development and review of land-use plans for lands selected by Native corporations under the terms of the Alaska Native Claims Settlement Act which may not be designated for jurisdiction by the Commission; ~~to assist in the development and review of land use plans for State lands not designated for jurisdiction by the Commission;~~ and to assist in the development and review of land-use plans of municipal governments;

(6) to review existing withdrawals of Federal public lands and recommend to the President and Congress such additions to or modifications of such withdrawals as the Commission deems appropriate;

(7) to make recommendations to the President and the Governor regarding the programs and budgets of the Federal and State agencies responsible for the administration of the public lands of the United States and the State of Alaska;

(8) to make recommendations, from time to time, to the President, Congress and the Governor and the Legislature of the State of Alaska as to changes in laws, policies and programs relating to the public lands which the Commission deems necessary or desirable;

(9) to make recommendations to the appropriate officers of the governments of the United States and the State of Alaska to develop general plans which would insure that economic growth and development are orderly, planned and compatible with State and national economic, social and environmental objectives;

(10) to make recommendations to appropriate officers of the United States, the State of Alaska and municipal officials to improve coordination and consultation between the Federal, State and municipal governments in making resource allocations and land use decisions;

(11) to coordinate the implementation by Federal and State agencies the provisions of the following laws as they may affect lands under the jurisdiction of the Commission:

(i) Federal Water Pollution Control Act as amended;
(ii)Clean Air Act as amended;
(iii) Solid Waste Disposal Act;
(iv) National Environmental Policy Act of 1969;
(v) Coastal Zone Management Act of 1972 as amended;
(vi) Safe Drinking Water Act;

In order that Commission may review all pertinent actions in regard to the above mentioned laws, to insure that conflicts do not occur between the rules, regulations, or policies of the various federal and state agencies involved with the implementation of these laws, and to insure that uses being permitted under these laws are consistent with the overall land use plans and classifications developed by the Commission for particular lands under their jurisdiction, the federal agencies authorized with the administration of the various provisions of the above-described laws shall provide the Commission with copies of all orders, notices, or other material initiated by the agency concerning the implementation of the above-mentioned laws affecting any lands under the jurisdiction of the Commission.

Prior to the finalization of any rule, regulation, stipulation, policy or other action affecting uses of lands under the jurisdiction of the Commission, any federal agency authorized to implement terms or provisions of the above-mentioned laws shall solicit and receive comments on the proposed action from the Commission. The agency or Department shall take whatever actions or make modifications as are reasonable and in keeping with the provisions of the above-mentioned laws to obviate conflicts or problems which the Commission may identify in its comments.

(12) to determine the location of specific routes or corridors which would serve identified regional, statewide or national transportation or utility needs; approve rights-of-way across lands under its jurisdiction and make specific recommendations to the appropriate Federal or State officer or private landowner where such rights-of-way would cross lands not under the Commission's jurisdiction, and in

connection therewith the Commission shall evaluate alternative routes and modes and shall seek to recommend prudent and feasible routes and corridors which minimize environmental impacts.

(b) With respect to the uses under paragraph (4) of subsection (a), the Commission shall have the authority to pursue such uses on a lease basis under such terms as it may prescribe or under applicable provisions of the public land laws.

(c) With respect to all Federal lands subject to the jurisdiction of the Commission, the Secretary may veto a decision of the Commission. With respect to all State lands subject to the jurisdiction of the Commission, the Governor of Alaska may veto a decision of the Commission. With respect to any lands owned by Native corporations subject to the jurisdiction of the Commission, either the Secretary or the Governor may veto a decision by the Commission.

(d) Federal, State and Native corporation lands under the jurisdiction of the Commission shall continue to be managed by the respective agencies established under Federal and State law, and in the case of corporation lands, by the respective corporation owner, provided that uses shall be regulated in accordance with classifications made by the Commission. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use management decisions made by an agency shall be in accordance with the laws

and regulations which generally govern the functions of such agency.

(e) Lands under the jurisdiction of the Commission shall be withdrawn from all forms of disposition or appropriation under Federal or State public land laws, including mining and mineral leasing laws, until a land use plan has been completed for the particular area by the Commission and classifications imposed in regard to permissable land uses.

(f) In performing the functions described in Section 103 (a) the Commission shall hold public hearings in the specific locale or region for which specific land use plans, classifications or actions are being proposed or considered.

Sec. 604. Notwithstanding any other provision of law, Federal participation in the Joint Federal-State Land Use Planning Commission for Alaska, established in Section 17(a) of the Alaska Native Claims Settlement Act, shall cease 180 days following the date of enactment of this Act or upon establishment of the Commission provided for in Section 101 of this Title, whichever first occurs. Immediately upon termination of Federal participation, all unexpended funds appropriate to the Joint Commission and all property shall be returned, as appropriate, to the United States and the State of Alaska, unless the Commission provided for in Section 101 of this Title has been established, in which case all Federal funds and property shall be transferred to the Commission.

Sec. 605. (a) On or before the ninety-day period immediately preceding the date of the expiration of the ten calendar year period following the date on which the Commission takes effect, the Secretary of the Interior shall report to the President and the Congress with respect to the Secretary's views and recommendations concerning the desirability or non-desirability of continued Federal participation in the Commission.

(b) Unless otherwise hereafter provided by law, Federal participation in the Commission shall terminate upon the expiration of the ten calendar year period following the date on which the Commission takes effect.

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TITLE VII-SUBSISTENCE

Findings

Sec. 701. The Congress finds and declares that-

(1) The continuation of subsistence uses by Natives of Alaska on the public lands and on their Native lands is essential to their physical, economic, and cultural existence.

(2) The continuation of subsistence uses by some other residents of the State of Alaska on the public lands is essential to their physical, economic, and traditional existence.

(3) The situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply persons dependent on subsistence uses.

(4) Continuation of subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, and by increased accessibility of

(5) In order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act, and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and over management of the public lands to protect and continue subsistence uses on public lands by Alaska Natives and other Alaska residents.

(6) The national interest in the proper regulation, protection, and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by the inhabitants of Alaska require that an administrative structure be established for the purpose of enabling people who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife (including habitat) and of subsistence uses on the public lands in Alaska.

Policy

Sec. 702. It is hereby declared to be the policy of Congress that-

(1) It is the purpose of this title to ensure that management policies on the public lands in Alaska will cause the least adverse impact possible on rural people who traditionally and consistently depend upon

constraints of sound biological management and the purposes for which conservation system units are established, designated, or expanded by or under this Act, the purpose of this title is to provide the opportunity for people engaged in a genuinely subsistence-oriented lifestyle to continue to do so if they desire and to allow such people to decide for themselves their own degree of subsistence dependency and the rate at which acculturation or adjustment to a nonsubsistence way of life may take place.

(2) Subsistence use of wildlife and other renewable resources shall be the first priority consumptive use of all such resources on the public lands of Alaska, and where it is necessary to restrict taking in order to assure the continued viability of a fish or wildlife resource or the continuation of subsistence uses of such resource, the taking of such resource for subsistence uses shall be given preference on the public lands over recreational, sport, or other consumptive uses.

(3) Except as otherwise provided by this Act or other Federal laws, Federal land managing agencies, in managing subsistence activities on the public lands and in protecting the continued viability of all wild renewable resources in Alaska, shall cooperate with

Corporations, appropriate State and Federal agencies, and other nations.

Definition

Sec. 723. As used in this Act, the term ''subsistence uses'' means customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles including clothing, or for the customary trade or barter among subsistence users for personal or family consumption. Such uses may provide nominal cash supplement.

State Regulation

Sec. 724. (a) Except as otherwise provided by this Act and other Federal laws, during an interim period of 18 months beginning on the date of the enactment of this Act, the State of Alaska is authorized to regulate, in a manner not inconsistent with the policies set forth in section 722, the taking of fish and wildlife for subsistence uses on the public lands in Alaska. If the State fails to accept such authority, the Secretary shall regulate such taking during such period in a manner not inconsistent with such plicies.

(b) At the end of the 18-month interim period, the State of Alaska is authorized to regulate, in a manner consistent with the provisions of this Act, the taking of fish and

If the State fails to accept such authority, the Secretary shall regulate such taking in a manner consistent with the provisions of this Act, including applicable provisions of this ~~section concerning State~~ regulation.

(c) If the State wishes to exercise the authority conferred under paragraph (b) of this section, then within 18 months after the date of the enactment of this Act, the Governor of the State of Alaska shall submit to the Secretary a State program which shall include at least the following elements:

~~(1) A management plan which has as its central elements (A) the maintenance of the continued viability of the populations of fish and wildlife species on the public lands, and~~ (1) a system capable of monitoring subsistence and other consumptive uses of such species to ensure that timely and appropriate State action will be taken to carry out the purposes and policies of this title.

(2) The establishment of not less than five or more than twelve fish and game management regions which, taken together, shall include all public lands where the State is exercising regulatory authority under this title. After consultation with the Secretary, the Native Corporations, rural residents, and other

time determine the number and boundaries of such regions taking into account the exterior boundaries of Native Corporations, State fish and game management unit boundaries, ecosystems, the migration and movement of fish and wildlife utilized for subsistence purposes, the boundaries of boroughs, cities, towns, and unincorporated municipalities, and other relevant factors.

(3) A State law or regulation which-

~~(A) provides for the regulation of the taking of fish and wildlife on the public lands by a professionally staffed State agency which has an administrative structure compatible with the provisions of this section and which has adequate enforcement authority;~~

(A) provides priority for subsistence uses over other consumptive uses of fish and wildlife on the public lands; and

(B) provides that, when it is necessary to restrict the taking or other consumptive uses of subsistence resources in order to protect the continued viability of such resources or the continuation of subsistence uses of such resources, restrictions and limitations on and priorities for

basis of the following criteria: (i) customary and direct dependence upon the resource as the mainstay of one's livelihood, (ii) local residency, and (iii) availability of alternative resources.

(4) A system of local and regional fish and game councils within each management region referred to in paragraph (3). Each such council shall be composed of residents of the concerned region and shall have the following functions:

(A) Reviewing, developing, and evaluating proposals for regulations, policies, management plans, and other matters relating to the conservation and utilization of fish and wildlife in such region.

(B) Providing a forum for the expression of opinions and recommendations by persons interested in any phase of fish and game conservation and utilization.

(C) Maximizing local and regional participation in the fish and wildlife decisionmaking process.

(D) Preparing a subsistence management plan ~~for such region~~ or a general fish+wildlife management plan which includes subsistence uses for such region. The plan shall ~~be updated annually and shall~~ contain (i) an identification of current and anticipated subsistence uses of fish and wildlife in

basis of the following criteria: (i) customary and direct dependence upon the resource as the mainstay of one's livelihood, (ii) local residency, and (iii) availability of alternative resources.

(4) A system of local and regional fish and game councils within each management region referred to in paragraph (3). Each such council shall be composed of residents of the concerned region and shall have the following functions:

(A) Reviewing, developing, and evaluating proposals for regulations, policies, management plans, and other matters relating to the conservation and utilization of fish and wildlife in such region.

(B) Providing a forum for the expression of opinions and recommendations by persons interested in any phase of fish and game conservation and utilization.

(C) Maximizing local and regional participation in the fish and wildlife decisionmaking process.

(D) Preparing a subsistence management plan ~~for such region~~ or a general fish+wildlife management plan which includes subsistence uses for such region. The plan shall ~~be updated annually and shall~~ contain (i) an identification of current and anticipated subsistence uses of fish and wildlife in

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(4) A system of local and regional fish and game councils within each management region referred to in paragraph (3). Each such council shall be composed of residents of the concerned region and shall have the following functions:

(A) Reviewing, developing, and evaluating proposals for regulations, policies, management plans, and other matters relating to the conservation and utilization of fish and wildlife in such region.

(B) Providing a forum for the expression of opinions and recommendations by persons interested in any phase of fish and game conservation and utilization.

(C) Maximizing local and regional participation in the fish and wildlife decisionmaking process.

(D) Preparing a subsistence management plan ~~for~~ or a general fish+wildlife management plan which includes subsistence uses for such region~~s~~ ~~such regions~~. The plan shall ~~be updated annually and~~ ~~shall~~ contain (i) an identification of current and anticipated subsistence uses of fish and wildlife in

anticipated subsistence needs for fish and wildlife in such region, (iii) a subsistence management strategy for fish and wildlife resources of such region, and (iv) proposals for policies, standards, guidelines, and regulations necessary to implement the plan.

(5) The ~~assignment of adequate and~~ provision of necessary staff to the regional councils and the distribution of all available, relevant technical and scientific support data to the local and regional councils.

(6) A requirement that the State agency referred to in paragraph (3)(A) or any other rulemaking authority shall adopt recommendations of the regional councils concerning the taking of fish and wildlife within their respective regions unless any such recommendation is not supported by substantial evidence, is violative of recognized principles of sound fish and wildlife management, or would be detrimental to the satisfaction of local subsistence needs.

(7) A requirement that if a recommendation of a regional council is rejected by the State agency referred to in paragraph (3)(A) or any other rulemaking authority, such agency or authority shall make findings of fact detailing the basis for its failure to adopt the

(d) The Secretary shall issue a certificate of approval for the State program and publish such program in the Federal Register if he finds that such program complies with the provisions of this section and is well adapted to achieve the purposes and policies of this Act. If the Secretary is unable to make such finding, he shall so notify the State and shall afford the State an opportunity to modify its program under a procedure similar to the procedure set forth in section 705. If the State fails to submit a State program within the 18-month period established in section 704(b), the State shall be deemed to have failed to accept the authority to regulate the taking of fish and wildlife on public lands in Alaska granted by this section.

Enforcement Duties of Secretary of the Interior

Sec. 705. (a) After issuance of a certificate of approval under section 704(d) of this title, the Secretary of the Interior shall monitor the implementation of the State program. If the Secretary determines that the program or its implementation is not in compliance with the requirements, purposes, or policies of this Act, he shall so notify the State and shall indicate changes in its program or its implementation which he considers necessary to bring the State into compliance.

In his review the Secretary shall consult with the local and regional councils referred to in Section 704(c)(4).

(b) Following any such notification of deficiencies in the State's program by the Secretary, the Secretary shall afford the State a hearing pursuant to the Administrative Procedures Act. If, after such hearing, the Secretary is not satisfied that the State is compliance with the provisions of this Act he shall issue a final notification to the State specifically indicating those provisions which he deems the State not to be in compliance with and indicating specific actions he believes the State need take to be in compliance with the provisions.

(c) If, after a reasonable opportunity, the State fails to make the changes in its program or its implementation as indicated by the Secretary of the Interior under subsection (b) of this section, the Secretary may temporarily suspend, in whole or in part, the certificate of approval issued under Section 704(d). Following any such temporary suspension, the Secretary shall afford the State an opportunity to appeal such temporary suspension. Within 30 days after receipt of such appeal, the Secretary shall afford the State a hearing pursuant to the Administrative Procedures Act, and within 30 days after such hearing, shall make his final decision of such appeal. If the Secretary

finds the State is in compliance with the State program and the requirements, purposes, and policies of this Act, he shall revoke his temporary suspension. If the Secretary finds the State is not in such compliance, he may suspend the certificate in whole or in part. Upon any such suspension, the Secretary of the Interior (or, as to lands under his jurisdiction, the Secretary of Agriculture) shall assume, in accordance with the requirements, purposes, and policies of this Act (including applicable provisions of section 704 pertaining to State regulation), responsibility for the regulation of taking of fish and wildlife on the public lands to which such suspension applies, until such time as the Secretary revokes such suspension or certifies that the State is in compliance with respect to such public lands.

(d) Notwithstanding any other provision of law, the Secretary, after adequate notice and public hearing, may temporarily close any of the public lands in Alaska (including those within a conservation system unit) or any portion thereof to subsistence or other uses when necessary for reasons of public safety or to assure the continued viability of one or more fish or wildlife species.

Cooperative Arrangements

Sec. 706. The Secretary is authorized to enter into cooperative agreements or otherwise cooperate with other

Federal agencies, the State of Alaska, Native corporations, and other appropriate persons and organizations (including, through coordination with the Secretary of State, and other nations) to effectuate the purposes and policies of this title.

Subsistence and Land Use Decisions

Sec. 707. In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the subsistence needs of the persons who would be affected, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy, or disposition of such lands which would significantly restrict subsistence uses shall be effected until the head of such Federal agency-

(1) gives notice to the appropriate local and regional councils described in section 704(c)(4) if such councils have been established,

(2) gives notice of, and holds, a hearing in the vicinity of the area involved, and

(3) determines that such significant restriction of subsistence uses is necessary and unavoidable.

Access

Sec. 708. The Secretary shall ensure that persons engaged in traditional or customary subsistence activities shall have appropriate access to subsistence resources on the public lands.

Snowmobiles and Motorboats

Sec. 709. Notwithstanding any other provision of this Act or other law, the Secretary shall permit appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes, on the public lands, subject only to such reasonable regulations as are necessary to prevent abuse, waste, or damage to terrain or other natural values.

Research

Sec. 710. The Secretary of the Interior and the Secretary of Agriculture shall each undertake research on fish and wildlife and subsistence activities on the public lands, seek data thereon from subsistence users, consult such users frequently, and make findings concerning such research available to the State of Alaska, the local and regional councils described in section 724(b)(5), subsistence users, and other appropriate persons and organizations.

Periodic Reports

Sec. 711. Within five years after the date of the enactment of this Act and every two years thereafter, the Secretary of the Interior, in consultation with the Secretary of Agriculture, shall prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives on the current status of fish and wildlife and subsistence and other uses of those resources on the public lands. The report shall include the following:

(1) An evaluation of the performance of the State of Alaska, if the State is then regulating the management and taking of fish and wildlife under this title.

(2) The status of fish and wildlife populations on the public lands.

(3) The number of persons engaged in subsistence uses and in other uses of fish and wildlife on the public lands.

(4) The status of subsistence uses in the economy and culture of rural Alaska.

(5) Any comments on the report made by the State of Alaska, the local and regional councils described in section 704(c)(4), and other appropriate persons and organizations.

(6) A description of those actions taken, or which

may need to be taken in the future, to permit the continuation of subsistence activities on the public lands, as well as recommendations for any legislation the Secretary deems desirable.

The report shall be published in the Federal Register and made available to the public.

Regulations

Sec. 712. The Secretary of the Interior and the Secretary of Agriculture shall each prescribe such regulations as are necessary and appropriate to carry out their respective responsibilities under this title.

Other Laws

Sec. 713. Nothing in this title shall be deemed to modify or repeal the provisions of the Fur Seal Act of 1966 (16 U.S.C. 1151 et. seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et. seq.), the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et. seq.), the Bald and Golden Eagles Protection Act (54 Stat. 250; 16 U.S.C. 668), the Fish and Wildlife Act of 1956 (70 Stat. 1119), the Migratory Bird Treaty Act (16 U.S.C. 701 et. seq.), or the Airborne Hunting Act (P.L. 92-159, as amended).

Limitations

Sec. 714. (a) Nothing in this title shall be construed as granting any property right in any fish, wildlife, or other resource of the public lands in Alaska.

(b) Nothing in this title shall be construed as permitting any subsistence use of the resources of any portion of the public lands (including any unit of the National Park System) where any such use was prohibited on the date of the enactment of this Act.

Reimbursement to State

Sec. 715(a). Upon the issuance of a certificate of approval described in Section 704(d) of this Title, the Secretary is authorized to reimburse the State agency described in Section 704(c)(3)(A), from funds appropriated for the Department of the Interior, for costs relating to the implementation of the State program. Sums paid under this section shall be in addition to any grants, payments or other sums to which the State is entitled under existing law. The purpose of such reimbursements shall be to assist the State in developing and implementing the State program described in Section 704. Such reimbursements shall not exceed 50 per centum of the costs of the program's development, implementation or support, as verified in such statement as the Secretary determines to be an adequate, accurate account.

(b) No reimbursements shall be paid under this Section for any costs incurred by the State during the period of a temporary or other suspension of the State program under Section 705.

(c) Total payments to the State under this Section shall not exceed the sum of $5 million in any one fiscal year.

(d) The Secretary shall periodically review the financial aspects of implementation of the State program, and shall advise the Congress at least once in every ten years as to the sufficiency of funds authorized by this Section to the proper implementation of the State program.

(e) In the event that adequate funds, are not appropriated for a particular fiscal year, the Secretary and the State shall, after public hearing, prioritize the requirements of this Title consistent with the policy and purposes of the Title and the availability of funds.

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TITLE VIII - Native + State Land Conveyance

Conveyance of Core Township Lands

Sec. 801. (a)(1) Except to the extent that conveyance of a surface estate would be inconsistent with section 22(1) of such Act there is hereby conveyed to and vested in each Village Corporation (other than those Village Corporations to which the provisions of paragraph (2) of this subsection apply) for a village which has, by the date of enactment of this Act, been determined to be eligible for land pursuant to the Alaska Native Claims Settlement Act all of the right, title, and interest of the United States in and to the surface estate in the township or townships withdrawn for that village pursuant to section 11(a)(1)(A) or section 16(a) of such Act in which all or any part of that village is located.

(2) There is hereby conveyed to and vested in each Village Corportion which has, by the date of enactment of this Act, elected to acquire title to any estate pursuant to section 19(b) of the Alaska Native Claims Settlement Act all right, title, and interest of the United States in and to

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those estates in a reserve set aside with respect to such Corporation referred to in such section.

(3) There is hereby conveyed to and vested in the appropriate Regional Corporation all of the right, title, and interest of the United States in and to the subsurface estate to which each Regional Corporation is entitled under the Alaska Native Claims Settlement Act by reason of the vesting of title under paragraph (1) of this subsection.

(b) As soon as possible after the date of enactment of this Act, the Secretary shall issue to the Native Corporations referred to in subsection (a) interim conveyances or patents to the lands identified in such subsection, but title shall be deemed to have passed on the date of enactment of this Act, notwithstanding any delay in the issuance of the interim conveyances or patents.

(c) A Village Corporation's obligation to reconvey lands under section 14(c) of the Alaska Native Claims Settlement Act shall arise only upon receipt of an interim conveyance or patent under subsection (b) of this section or under such Act. For purposes of sections 14(c), 14(f), and 22(g) of the Alaska Native Claims Settlement Act, interim conveyances and patents issued pursuant to this Act shall have the same effect as if issued pursuant to sections 14(a) and 14(b) of the Alaska Native Claims Settlement Act and shall be deemed to have been so issued. Disputes between or among Native

Corporations arising from conveyances under this Act shall be resolved in the same manner as described in section 12(e) of the Alaska Native Claims Settlement Act with respect to disputes over land selection rights and the boundaries of Village Corporations.

(d) With respect to all conveyances made by sections 801 and 802 of this Act, the provisions of the first two sentences of section 14(g) of the Alaska Native Claims Settlement Act, pertaining to valid existing rights, apply as if such conveyances were made under the Alaska Native Claims Settlement Act.

Other Conveyances to Native Corporations

Sec. 802. (a) If a Native Corporation qualified to receive land under the Alaska Native Claims Settlement Act wishes to utilize the expedited conveyance procedure of this section, then, within 180 days after the date of enactment of this Act, such Corporation shall file with the Secretary a document or documents which shall identify such Corporation's priorities for the conveyance of all their entitlement to lands under the Alaska Native Claims Settlement Act, other than those lands to which the provisions of section 801(a) of this Act apply.

(b)(1) Within 180 days after the filing of a priority identification by a Native Corporation under subsection (a) of this section, the Secretary shall-

(A) determine the extent to which each land selection contained in such priority identification is valid under the Alaska Native Claims Settlement Act; and

(B) subject to the provisions of subsection (c) of this section, determine the amount of such Corporation's total land entitlement under such Act, excluding land entitlements of such Corporation to which the provisions of section 821(a) of this Act apply.

Except as provided in paragraphs (2) and (3) of this subsection, or the tenth day following the making of such determinations, all of the right, title, and interest of the United States in and to the lands to which such Corporation is entitled according to such determinations and in accordance with such priority identification shall vest in and be conveyed to such Corporation.

(2) In any case in which the Secretary determines under paragraph (1)(A) of this subsection that a land selection-

(A) which is contained in the pricrity identification of a Native Corporation filed under subsection (a) of this section, and

(B) which appears in such priority identification at a level where the cumulative total of acreages of valid land selections ranked above such selection does not exceed the amount of such Corporation's total land entitlement determined under paragraph (1)(B) of this

subsection,

is ~~valid~~ invalid, total amount of lands conveyed by paragraph (1) of this subsection shall be reduced by an acreage which equals the acreage of the land selection determined to be invalid.

(3) In any case in which the Secretary, before the conveyance of lands to a Native Corporation by paragraph (1) of this subsection, determines that a Native Corporation's land selection described in subparagraphs (A) and (B) of paragraph (2) of this subsection is subject to valid selections under the Alaska Native Claims Settlement Act by one or more other Native Corporations, the total amount of lands conveyed by paragraph (1) of this subsection shall be reduced by an acreage which equals the acreage of the land selection determined to be validly selected by such other Corporations.

(4) Any reduction made under paragraph (2) or (3) of this subsection shall be effective until—

(A) the concerned Native Corporation accepts the Secretary's determination in writing;

(B) a final decision is rendered upon any contest by such Corporation of the Secretary's determination; or

(C) a final settlement or final decision settling the concerned contest among such Corporation and other Native Corporations is rendered.

On the tenth day following the occurrence of any one of the

events listed in the preceding sentence, all right, title, and interest of the United States in and to the lands to which such Corporaton is entitled as a result of such occurrence and in accordance with the priority identification filed by such Corporation under subsection (a) and the provisions of paragraph (1) of this subsection shall vest in and be conveyed to such Corporation.

(5) Within 90 days after the date of a conveyance under paragraph (1) or (4) of this subsection, the Secretary shall issue to the concerned native Corporation itserim conveyances or patents to the lands subject to such conveyance, but title shall be deemed to have passed on the date of such conveyance, notwithstanding any delay in the issuance of this itnerim conveyances or patents.

(c) In any case in which the land entitlement of a Native Corporaton under the Alaska Native Claims Settlement Act (other than the land entitlements of such Corporation to which the provisions of section 801(a) of this Act apply) has not been or cannot be precisely determined on the date of enactment of this Act, the Secretary shall determine such Corporation's minimum entitlement under the Alaska Native Claims Settlement Act and shall publish this figure in the Federal Register within 90 days after the date of enactment of this Act. Such minimum land entitlements shall be redetermined and any change therein published in the Federal

Register not less frequently than every six months thereafter. For purposes of subsection (b) of this section, the land entitlement under the Alaska Native Claims Settlement Act of any such Native Corporation shall be the most recent minimum figure published in accordance with this subsection until the total land entitlement of such Corporation is finally determined.

(d) Within 180 days after the date of each determination and redetermination made under subsection (c) of this section, the Secretary shall issue to the concerned Native Corporation interim conveyances or patents to those additional lands to which such Corporation, as a result of such determination or redetermination and in accordance with the priority identification made by such Corporation under subsection (a) of this section, is entitled under subsection (b) of this section, but title shall be deemed to have passed on the date of such determination or redetermination, notwithstanding any delay in the issuance of the interim conveyances or patents.

(e) Wh

conveyance procedure under Subsection (a) of this Section, the Secretary shall, at the time he determines the entitlement and validity of priority selections pursuant to subsection (b)(1) of this section, reduce the total excess land selections of such corporation to twenty-five percent of the amount of remaining land entitlement to which the corporation has not yet received all right, title and interest of the United States. Upon subsequent receipt by such corporation of all right, title and interest of the United States to other lands toward fulfillment of its entitlement, the excess land selections of such corporation shall be reduced pro rata to maintain a total of excess selections of twenty-five percent of the remaining entitlement which has not yet been conveyed to such corporation.

(e) For purposes of this section and sections 801(c) and 803 of this title, the term ''Native Corporation'' means any Village Corporation, any Regional Corporation, and any native group as such term is defined in section 3(d) of the Alaska Native Claims Settlement Act.

Administrative Provisions

Sec. 823. (a) Any other provision of law to the contrary notwithstanding, no conveyance of lands by section 821(a) of this Act made to a Village Corporation shall be subject to any easement, except an easement required to be reserved pursuant to section 14(g) of the Alaska Native Claims Settlement Act.

(b) With respect to Native lands (other than those lands conveyed by section 821(a) of this Act) hereby or hereafter conveyed, the Secretary shall only reserve those easements which are of a type described in section 14(g) or 17(b)(1) of the Alaska Native Claims Settlement Act.

(c) Whenever, after conveyances have been made pursuant to this Act or the Alaska Native Claims Settlement Act, the Secretary determines that an easement not reserved at the time of conveyance is required for any purpose specified in section 17(b)(1) of the Alaska Native Claims Settlement Act, he is authorized to acquire such easement by purchase or otherwise. The acquisition of such an easement shall be deemed a public purpose for which the Secretary may exercise his exchange authority pursuant to section 22(f) of the Alaska Native Claims Settlement Act.

withdrawn for selection by the Corporation under the Alaska Native Claims Settlement Act and to which no valid third-party rights have attached. To the extent lands described in the preceding sentence are insufficient to satisfy the entitlement of the Corporation to additional land under paragraph (2) of this subsection, the Secretary shall make available for selection by the Corporation other lands of like kind and character from the nearest available public lands which are outside the boundaries of a conservation system unit.

(d) Offers for noncompetitive oil and gas leases pursuant to the Mineral Leasing Act of 1920, as amended, which were filed over-the-counter or by simultaneous drawing but not accepted or approved on or before January 1, 1970, on lands selected by and conveyed to Native Corporations as part of their entitlement under the Alaska Native Claims Settlement Act shall not constitute a valid existing right within the meaning of section 14(g) of such Act or under this Act.

(e) This Act is not intended to modify, repeal, or otherwise affect any provision of the Act of January 2, 1976 (P.L. 94-224; 89 Stat. 1145), and shall not impose any additional restriction on the use or management of those lands described in section 22(k) of the Alaska Native Claims Settlement Act.

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Sec. 805 State of Alaska Land Selections and Conveyances.

(a) In furtherance and confirmation of the State of Alaska's entitlement to certain National forest and other Public lands in Alaska for community development and expansion purposes, Section 6(a) of the Act of July 7, 1958, 72 Stat. 339, as amended, hereinafter referred to as the Alaska Statehood Act, is amended in part by addition of the following provision immediately following the last sentence of said subsection: "The State is hereby provided a ten-year extension of the time limit originally specified in this Act, that is, until January 3, 1994, within which to select its land entitlement under this subsection in its entirety."

(b) In furtherance and confirmation of the State of Alaska's entitlement to certain public lands in Alaska, Section 6(b) of the Alaska Statehood Act is amended in part by addition of the following provisions immediately following the last sentence of said subsection:

(1). The State is hereby provided a ten-year extension of the time limit originally specified in this Act, that is, until January 3, 1994, within which to select its land entitlement under this subsection in its entirety.

(2). The proviso regarding Presidential approval of land selections north and west of that line described in Section 10 of this Act is hereby repealed.

(c) The State of Alaska is hereby granted and shall be entitled to select until January 3, 1994, from surveyed or unsurveyed federal lands which are vacant, unappropriated and unreserved at the

time of their selection, those school indemnity lands to which the Territory of Alaska was entitled under Section 1 of the Act of March 4, 1915, as amended by the Act of March 5, 1952, and the Act of August 27, 1958, 72 Stat. 928; Provided, however, that this entitlement of the State to school indemnity lands is limited to lands in lieu of surveyed sections made unavailable for school reservation purposes by prior Federal disposal, appropriation or reservation for other purposes as of July 7, 1958, and shall not exceed 80,000 acres. The provisions of the Act of February 28, 1891 (26 Stat. 791, 43 USC Sec. 852), as amended, are made applicable to the selection and conveyance of indemnity lands granted by this subsection, insofar as such Act does not conflict with this subsection.

(d) All tentative approvals of State of Alaska land selections pursuant to the Alaska Statehood Act are hereby ratified and confirmed, subject only to valid existing rights and to land conveyances made pursuant to lawful selections filed by Native village corporations on or before December 18, 1974, pursuant to Sections 12(a) or 12(b) of the Alaska Native Claims Settlement Act, 85 Stat. 688 (1971), as amended, and the United States hereby confirms that all right, title and interest of the United States in and to such lands is deemed to have vested in the State of Alaska as of the date of tentative approval.

(1). Upon approval of land survey by the Secretary, such lands shall be patented to the State of Alaska.

(2). If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protection surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election.

(3). Future tentative approvals of State of Alaska Land Selections, when issued, shall have the same force and effect, and shall be treated in the same manner as those existing tentative approvals specified in this subsection.

(e) All valid State of Alaska land selections heretofore made pursuant to the Alaska Statehood Act are hereby confirmed, subject only to valid existing rights, conveyances made pursuant to lawful selections filed by Native village corporations on or before December 18, 1974 pursuant to Sections 12(a) or 12(b) of the Alaska Native Claims Settlement Act, 85, Stat. 688 (1971), as amended, and tentative approval and patent pursuant to Section 6(g) of the Alaska Statehood Act.

(1). Within one year after the date of passage of this Act, the Secretary shall issue tentative approvals to such State selections as required by section 6(g) of the Alaska Statehood Act, and pursuant to subsection (j) of this section. All right, title and interest of the United States shall vest in the State of Alaska upon issuance of such tentative approvals.

(2). Upon approval of land survey by the Secretary, such lands shall be patented to the State of Alaska.

(3). If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election.

(4). Future ~~levid~~ VALID State of Alaska Land Selections, when filed, shall be treated in the same manner as those existing State Land Selections specified in this subsection.

(f) The State, at its option, shall be permitted to file selection applications for lands which are not, on the date of their selection, available lands within the meaning of section 6 of the Alaska Statehood Act. Each such selection application shall remain in effect as long as the State's entitlement under the specific grant remains unfulfilled, and shall become an effective selection upon the date such lands subsequently became available within the meaning of said section 6. Selections by the State made prior to the adoption of this Act shall be treated in the same manner, subject only to valid existing rights and to the provisions of the Alaska Native Claims Settlement Act, 85 Stat. 688 (1971), as amended.

(g) The State of Alaska may select lands exceeding by twenty-five per cent in total area the amount of State entitlement which has not been tentatively approved under each grant or confirmation of lands contained in the Alaska Statehood Act or other law. If its selections under a particular grant exceed such remaining entitlement, the State shall thereupon list all selections for that grant which have not been tentatively approved in desired priority order of conveyance, in blocs no larger than one township in size; Provided, however, that the State may alter such priorities prior to receipt of tentative approval. Upon receipt by the State of subsequent tentative approvals, such excess selections shall be reduced pro rata to maintain a maximum excess selection of twenty-five per cent of the entitlement which has not yet been tentatively approved to the State under each grant.

(1). The State of Alaska may, by written notification to the Secretary, relinquish any previously-filed selections of land prior to receipt by the State of tentative approval.

(2). Section 6(g) of the Alaska Statehood Act is amended in part by addition of the following provision immediately following the last sentence of said subsection: "As to all selections made by the State after January 1, 1979 pursuant to section 6(b) of this Act, the Secretary of the Interior, in his discretion, may waive the minimum tract selection size where such a reduced selection size would result in a better land ownership pattern or provide for improved land or resource management opportunities."

(h) In furtherance of its entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska all right, title and interest of the United States in and to the following described vacant, unappropriated, and unreserved lands:

Description of Lands Listed Here

(i) Lands identified in subsection (h) shall be conveyed to the State subject to valid existing rights. All right, title and interest of the United States in and to such lands shall vest in the State of Alaska as of the date of this Act.

(1). Within one year after the date of passage of his Act, the Secretary shall issue to the State tentative approvals to such lands as required by section 6(g) of the Alaska Statehood Act and pursuant to subsection (j) of this section.

(2). Upon approval of land survey by the Secretary, those lands identified in subsection (h) shall be patented to the State of Alaska.

(3). If the State elects to receive patent to any of the lands which are identified in subsection (h) on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election.

(j) Nothing contained in this section shall relieve the Secretary of the duty to adjudicate conflicting claims regarding the lands specified herein or otherwise selected under authority of the Alaska Statehood Act prior to the issuance of tentative approval, pursuant to the requirements of that Act and this section.

(k) The following withdrawals, classifications, or designations shall not, of themselves, remove the lands involved from the status of "vacant, unappropriated, and unreserved" lands for the purposes of this Act and the Alaska Statehood Act:

(1). Withdrawals for classification pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act, 85 Stat. 688 (1971), as amended;

(2). Withdrawals pursuant to section 17(d)(2) of said Act;

(3). Withdrawals pursuant to section 11 of said Act, and which are not conveyed pursuant to sections 12, 14, or 19 of said Act;

(4). Classifications pursuant to the Classification and Multiple Use Act, 78 Stat. 987 (1974);

(5) Classifications or designations pursuant to the Federal Land Policy and Management Act, 90 Stat. 2743 (1976).

(1) Nothing in this Act shall alter the rights or obligations of any party with regard to section 12 of the Act of Jaunuary 2, 1976, P.L. 94-204, and sections 4 and 5 of the Act of October 4, 1976, P.L. 94-456.

ACTION TO ENFORCE: JURISDICTION

SEC. 806. For a period of three years after the date of enactment of this Act any appropriate Federal district court shall have jurisdiction to hear, consider, and decide any action brought by the State or by any Native Corporation to enforce the provision of this title and to award appropriate attorney and witness fees and other costs of litigation to the prevailing party.

DRAFT

TITLE IX--TRANSPORTATION AND UTILITY RIGHTS-OF-WAY

SEC. 901(a) Notwithstanding any provisions of existing law to the contrary, the Secretary is hereby authorized to permit rights-of-way for a transportation or utility system across any lands designated under Title I, II, III, IV, or V of this Act.

(b) Upon receipt of any application for such transportation or utility right-of-way from any federal, state, or local agency, or any private person or organization, the Secretary shall afford the Commission established in Title VI of this Act the opportunity to review, study, and make recommendations on the application. ~~If, after receiving the recommendations from the~~

(c) In accordance with the provisions contained in Title VI of this Act, the Commission shall make recommendations to the Secretary regarding the approval of rights-of-way for transportation and utility systems across lands designated under Title I, II, III, IV, or V of this Act. Should the Secretary not approve a right-of-way recommended by the Commission he shall issue detailed findings which shall include the following:

(i) information indicating that the system subject to the application can not be constructed in a manner which would avoid significant damage or degradation to the natural resources and values for which the affected conservation system unit was established; and

(ii) findings that the natural values for which the unit was established and which would be potentially damaged or degraded by

the applied for transportation or utility system outweigh those public interest benefits which may be associated with development of the transportation or utility system;and

(iii) demonstration that there exists a feasible and prudent alternative to the applied for transportation or utility system which would result in less potential damage or degradation to the natural values of the conservation system unit involved or would be more compatible with the purposes for which the unit was established.

(d) Nothing contained in Section 603 (c) of Title VI relating to the veto authority of the Secretary over decisions of the Commission shall be construed as negating the Secretary's responsibilities under the terms of Section 901(c) of this Title.

DRAFT

TITLE X—ADMINISTRATIVE PROVISIONS

LAND ACQUISITIONS AND EXCHANGES

SEC. 1001. (a) Except as otherwise provided in this Act, in order to carry out the purposes of this Act, the Secretary is authorized to acquire by purchase, donation, or exchange any lands within the boundaries of any conservation system unit. Land owned by the State, a political subdivision of the State, a Native Corporation, or private owner may only be acquired for such purposes with the consent of the State, political subdivision of the State, Native Corporation, or private owner.

(b) The owner of an improved property on the date of its acquisition, as a condition of such acquisition, may

retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or recreational purposes, as the case may be, for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that such right is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(d) For the purposes of this section, the term "improved property" means: (1) a detached single family dwelling, the construction of which was begun before January 1, 1977 (hereinafter in this section referred to as the "dwelling"), together with so much of the land on which the dwelling is situated, such land being in the same ownership as the dwell-

ing, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or (2) property developed for noncommercial recreational uses, together with any structures accessory thereto which were so used on or before January 1, 1977. In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1977, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date.

(c) The Secretary shall give prompt and careful consideration to any offer made by the owner of any property within a conservation system unit to sell such property, if such owner notifies the Secretary that the continued ownership is causing, or would result in, undue hardship.

(d) In acquiring lands for the purposes of this Act, the Secretary is authorized to exchange lands (including lands within the National Forest System) or interests therein (including Native selection rights) with the corporations organized by the Native groups, Village Corporations, Regional Corporations, and the corporations organized by Natives

residing in Juneau, Sitka, Kodiak, and Kenai, all as defined in the Alaska Native Claims Settlement Act, and other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act (72 Stat. 342)), or any Federal agency. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged, except that if the parties agree to an exchange and the concerned Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

(f) All lands, water, and interests therein acquired by the Secretary and located within the boundaries of any conservation system unit shall become part of such unit and subject to the laws and regulations applicable to such unit.

ACCESS

SEC. 1002. (a) The Secretary shall take such actions within (or outside the boundaries of conservation system units as may be necessary, including acquiring or providing easements or other interests in lands in accordance with the provisions of section 1201, to carry out any or more of the following purposes:

(1) providing access to subsistence lands for purposes of subsistence uses under this Act;

(2) providing access for purposes of administering units of the National Park, National Wildlife Refuge, National Forest, or Wild and Scenic Rivers Systems established or expanded by this Act;

(3) providing public access to conservation system units, consistent with the purposes for which the units are established or expanded;

(4) ensuring continued public access to areas conveyed to the State, particularly in cases where such areas are enclosed by one or more conservation system units, in such manner as is established by this Act and is consistent with the purposes for which the concerned conservation system units were established or expanded; or

(5) ensuring continued access to areas conveyed to the Native Corporations by those persons entitled to such access.

(b) Except as otherwise provided in ~~section 10(c) of the Wild and Scenic Rivers Act, section 607(b), section 710, or section 20 of this Act, or~~ any other provision of this Act, in administering the conservation system units in Alaska, the Secretary shall permit the continuation of customary patterns of travel across such units. Such travel, including the modes of travel, may be conditioned by such reasonable regulations as the Secretary shall promulgate to assure that such travel is consistent with the

purposes for which such unit was established. Before promulgating regulations under this section, the Secretary shall give at least sixty days public notice of the proposed regulations, including at least publication of the proposed regulations in a newspaper or newspapers having general circulation in each State judicial district in Alaska where the unit or units affected by the proposed regulations are located, and shall hold a public hearing or hearings concerning the proposed regulations at one or more locations convenient to the unit or units affected.

ARCHEOLOGICAL AND PALEONTOLOGICAL SITES

SEC. 1003. Notwithstanding any acreage or boundary limitations contained in this Act with respect to the conservation system units described in sections 201(2), 201(6), and 201(10), the Secretary of the Interior may acquire, by purchase, donation, or exchange any significant archeological or paleontological site in Alaska located outside of any such unit and containing resources which are closely associated with such unit. If any such site is so acquired, it shall be included in and managed as part of such unit. Property ~~owned by a State or unit of local government~~ may be acquired under this section only by donation or exchange. Not more than seven thousand five hundred acres of land may be acquired under this section for inclusion in a single conservation system unit. Before acquisition of any property

in excess of one hundred acres under the provisions of this section, the Secretary shall—

(1) submit notice of such proposed acquisition to the Committee on Interior and Insular Affairs of the House of Representatives and the Energy and Natural Resources Committee of the Senate; and

(2) publish notice of such proposed acquisition in the Federal Register.

COOPERATIVE INFORMATION CENTERS

SEC. 1004. (a) The Secretary of the Interior is authorized to establish, after consultation with other appropriate Federal agencies, on not to exceed one thousand acres of ~~Federal~~ State land at a site adjacent to the Alcan Highway, an information and education center for visitors to Alaska. The Secretary, ~~shall seek~~ and the Governor of the State shall jointly participate in the program planning, construction, and operation of the center ~~from appropriate agencies of the State and~~ and shall seek participation of representatives of Native groups in Alaska and may accept contributions of funds, personnel, and planning and program assistance from such State agencies, local agencies, Federal agencies, Native representatives, and other persons for purposes of such planning, construction, and operation. Before establishing any such center on any such site, the Secretary shall notify the appropriate committees of Congress of his intention to do so. The Secretary, and the State shall administer the center and its facilities in

accordance with the Act of August 25, 1916 (39 Stat. 535), and other provisions of law applicable to units of the National Park System and in accordance with such ~~special regulations~~ state laws as ~~he~~ may ~~promulgate~~ be applicable.

(b) The Secretary of the Interior is authorized to establish in both Anchorage and Fairbanks, Alaska, an information and education center for visitors to Alaska. The Secretary shall seek participation from the State, units of local government, and representatives of Native groups in Alaska and may accept contributions from State agencies, local agencies, Federal agencies, Native representatives, and other persons in the same manner and to the same extent as is authorized under subsection (a) in connection with the Alcan Highway Center. Before establishing any such center in any such city, the Secretary shall notify the appropriate committees of the Congress of his intention to do so. The Secretary is authorized to lease or acquire by purchase, donation, or exchange such property in Anchorage and Fairbanks, Alaska, as may be necessary to carry out the purposes of this subsection, except that (1) any property owned by a State or local government may be acquired for such purposes only by donation or exchange, and (2) any property owned by any other person may be acquired for such purposes only with the consent of such person.

ADMINISTRATIVE SITES AND VISITOR FACILITIES

SEC. 1005. (a) In conformity with the management plans prepared under section 1008 and the purposes of assuring the preservation, protection, and proper management of any conservation system unit, the Secretary may establish administrative sites and visitor facilities (1) within the unit, if compatible with the purposes of the unit and the other provisions of this Act, or (2) outside the boundaries of, and in the vicinity of, the unit. To the extent practicable and desirable, the Secretary shall attempt to locate such sites and facilities on Native lands in the vicinity of the unit.

(b) For the purpose of establishing administrative sites and visitor facilities under subsection (a)—

(1) The Secretary and the head of the Federal agency having primary authority over the administration of any Federal land which the Secretary determines is suitable for use in carrying out such purpose may enter into agreements permitting the Secretary to use such land for such purpose.

(2) The Secretary, under such terms and conditions as he determines are reasonable, may lease or acquire by purchase, donation, exchange, or any other method (except condemnation) real property (other than Federal land) which the Secretary determines is suitable for carrying out such purpose.

(3) The Secretary may construct, operate, and maintain such permanent and temporary buildings and facilities as he deems appropriate on land which is within, or in the vicinity of, any conservation system unit and with respect to which the Secretary has acquired authority under this subsection to use the property for the purpose of establishing an administrative site or visitor facility under subsection (a), except that the Secretary may not begin construction of buildings and facilities on land not owned by the United States until the owner of such land has entered with the Secretary into agreements the terms of which assure the continued use of such buildings and facilities to carry out the purposes of this Act.

REVENUE-PRODUCING VISITOR SERVICES

SEC. 1006. (a) Notwithstanding any other provision of law, the Secretary, under such terms and conditions as he determines are reasonable, shall permit any person who, on or before January 1, 1977, was engaged in adequately providing any type of visitor service within any area established or added to a conservation system unit to continue providing such type of service and similar types of visitor services within such area if such service or services are consistent with the purposes for which such unit is established or expanded.

(b) Notwithstanding provisions of law other than those

contained in subsection (a), in selecting persons to provide (and in contracting for the provision of) any type of visitor service for any conservation system unit, the Secretary, ~~in the following order:~~

(1) shall give preference to the Native Corporation which the Secretary determines is most directly affected by the establishment or expansion of such unit by or under the provisions of this Act; and

(2) shall give preference to persons whom he determines, by rule, are local residents.

(c) As used in this section, the term "visitor service" means any service made available for a fee or charge to persons who visit a conservation system unit, including such services as providing food, accommodations, transportation, tours, and guides.

LOCAL HIRE

SEC. 1007. (a) The Secretary shall establish a program under which any individual who, by reason of having lived or worked in or near a conservation system unit, has special knowledge or expertise concerning the natural or cultural resources of such unit and the management thereof (as determined by the Secretary) shall be considered for selection for any position within such unit without regard to—

(1) any provision of the civil service laws or regu-

(2)

lations thereunder which require minimum periods of formal training or experience,

(2) any such provision which provides an employment preference to any other class of applicant in such selection, and

(3) any numerical limitation on personnel otherwise applicable.

Individuals appointed under this subsection shall not be taken into account in applying any personnel limitation described in paragraph (3).

(b) Within one year after the date of the enactment of this Act, and annually thereafter during each of the following ten years, the Secretary shall prepare and submit to the Congress a report indicating the actions taken in carrying out the provisions of subsection (a) of this section together with any recommendations for legislation in furtherance of the purposes of this section.

MANAGEMENT PLANS

SEC. 1008. (a) At any time within five years after the date of the enactment of this Act ~~or, in the case of any conservation system unit established or expanded by title III with respect to which a wilderness review is required under section 601, at the same time the President submits his recommendation concerning such unit under such section~~

~~to the Congress~~, the Secretary shall submit, in writing, to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate plans for managing each of the conservation system units established or expanded by titles I, II, ~~and~~ III, III, and V of this Act. At any time after submitting a plan under this subsection, the Secretary may revise such plan in accordance with the provisions of this section.

(b) The Secretary shall coordinate the development and preparation of management plans for conservation system units which have similar characteristics.

(c) Each plan described in subsection (a) shall identify management practices which will carry out the policies of this Act and will accomplish the purposes for which the concerned conservation system unit was established or expanded and shall include at least the following:

(1) Maps indicating areas of particular importance as to wilderness, natural, historical, wildlife, cultural, archeological, paleontological, geological, recreational, and similar resources and also indicating the areas into which such unit will be divided for administrative purposes.

(2) A description of the activities which will be permitted in such unit and of any restrictions or limitations which will be imposed with respect to such activi-

ties (including the maximum number of individuals who will be permitted to use such unit at any particular time for any particular purpose) and a list of the locations where such activities will be permitted.

(3) A description of the areas of potential or proposed development, indicating types of visitor services and facilities to be provided, the estimated costs of such services and facilities, and whether or not such services and facilities could and should be provided outside the boundaries of such unit.

(4) A plan for access to, and circulation within, such unit, indicating the type and location of transportation routes and facilities.

(5) A description of the programs and methods which the Secretary plans to use for the purposes of (A) encouraging the recognition and protection of the culture and history of the individuals residing, on the date of the enactment of this Act, in such unit and areas in the vicinity of such unit, and (B) providing and encouraging employment of such individuals.

(6) A plan for acquiring land with respect to such unit, including proposed modifications in the boundaries of such unit.

(7) A description (A) of privately-owned areas, if any, which are within such unit, (B) of activities

carried out in, or proposed for, such areas, (C) of the present and potential effects of such activities on such unit, (D) of the purposes for which such areas are used, and (E) of methods (such as cooperative agreements and issuance or enforcement of regulations) of controlling the use of such activities to carry out the policies of this Act and the purposes for which such unit is established or expanded.

(8) A plan indicating the relationship between the management of such unit and activities being carried out in, or proposed for, surrounding areas and also indicating cooperative agreements which could and should be entered into for the purpose of improving such management.

(d) In developing, preparing, and revising a plan under this section, the Secretary shall take into consideration at least the following factors:

(1) The specific purposes for which the concerned conservation system unit was established or expanded.

(2) Protection and preservation of the ecological, environmental, wildlife, cultural, historical, archeological, geological, recreational, wilderness, and scenic character of the concerned unit and of areas in the vicinity of such unit.

(3) Providing opportunities for native Alaskans

residing in the concerned unit and areas adjacent to such unit to continue performing in such unit activities which they have traditionally or historically performed in such unit.

(4) Activities being carried in areas adjacent to, or surrounded by, the concerned unit.

(5) The need to provide facilities & access to accommodate appreciation of the unit's values by the public.

(e) In developing, preparing, and revising a plan under this section, the Secretary shall hold at least one public hearing in the vicinity of the concerned conservation unit, hold at least one public hearing in a metropolitan area of Alaska, and, to the extent practicable, permit the following persons to participate in the development, preparation, and revision of such plan:

(1) Officials of the Forest Service, the Environmental Protection Agency, the Department of Energy, the Alaska Coordinating Council, and other Federal agencies whose activities will be affected by implementation of such plan.

(2) Officials of the State and of political subdivisions of the State whose activities will be affected by implementation of such plan.

(3) Officials of Native Corporations which will be affected by implementation of such plan.

(4) Concerned local, State, and national organizations and interested individuals.

(f) During the period beginning on the date of the enactment of this Act and ending on the date the final plan described in subsection (a) is submitted to the committees of the House of Representatives and the Senate referred to in subsection (a), the Secretary—

(1) shall keep such committees advised of the status of the plans described in subsection (a), of activities being carried out under this section, and of any information which the Department of the Interior has pertaining to any conservation system unit; and

(2) shall, at least once every twelve months, submit to such committees a report indicating the status of the plans described in subsection (a), particular problems being encountered with respect to developing such plans and managing conservation system units, and the anticipated date of submission of such plans.

SEC. 1009. As soon as practicable after this Act takes effect, a map and legal description of each conservation system unit, including each wilderness study area and each wilderness area, shall be filed with the Committee on Interior and Insular Affairs of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate. Each such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the appropriate Offices of (1) the Director of the National Park Service, (2) the Director of the United States Fish and Wildlife Service, and (3) the Chief of the United States Forest Service, and appropriate offices of the

Alaska field directors of such services. Whenever possible, boundaries shall follow hydrographic divides or embrace other topographic features in all cases where straight line map boundaries approximate such features. Following publication of notice in the Federal Register and reasonable notice in writing to the Committee on Interior and Insular Affairs in the House of Representatives and the Committee on Energy and Natural Resources in the Senate of his intention to do so, the Secretary may make minor adjustments in the boundaries of any of the conservation system units.

MAJOR FEDERAL ACTIONS

SEC. 1010. No action concerning any conservation system unit in Alaska which is a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 may be taken by the Secretary unless, in addition to meeting the other requirements of such Act, a report explaining in detail the action (and the basis and reasons therefor) and an environmental impact statement concerning such action, have been submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate at least sixty days prior to the commencement of such action.

DRAFT

TITLE XI--MISCELLANEOUS

MT.MCKINLEY (DENALI) STUDY AND DEVELOPMENT

SEC. 1101. (a) The purpose of this section is to initiate a study process leading to the construction of visitor facilities in and near the expanded Denali National Park designated in Title I of this Act. It is findings of Congress that due to the superlative natural scenery associated with the expanded Denali National Park, the close proximity of this area to most of the residents of Alaska and to major transportation systems utilized by out-of-state visitors to Alaska,&the present lack of access and facilities in or near the designated additions to this unit on the south side that it is deemed necessary and desireable that authorization be made for study and construction of visitor facilities to, adjacent, and within the southern addition to the Denali National Park designated in Title I of this Act.

(b) The Secretary is authorized to enter into cooperative agreements with the State, local governments and local organizations for the purpose of conducting studies and making recommendations regarding the location, design and other factors relating to the development of facilities necessary for the provision visitor services and accommodations to, adjacent and within the Denali National Park area.

(c) Within two years of passage of this Act, the Secretary shall submit a report to Congress containing detailed

proposals for development of visitor facilities and services to, adjacent, and within the designated Denali Park unit. Such report shall include the following:

(1) the findings of an economic evaluation indicating the potential visitation and market which facilities should and could be developed for;

(2) The findings of a transportation study indicating the cost and feasibility of development of a mass transportation system connecting the unit to Anchorage, Alaska, the cost and feasibility of development of a road connecting a new development site with the existing State highway system, the cost and feasibility of connecting a new development site with the existing Alaska Railroad, the cost and feasibility of the development of an airport near the unit;

(3) the findings of an engineering study indicating the cost and feasibility of developing an interpretive center, lodging facilities, related recreational facilities (including trails and a downhill ski area), a tramway and related viewing facilities and other related visitor facilities at or surrounding a site principally located within Denali State Park adjacent the designated expanded unit. Such a study should provide a range of costs and facilities designed to accommodate up to 10,000 overnight visitors and residents with the facilities necessary to accommodate

visitors and residents on a year-round basis.

(4) the findings of environmental study indicating potential impacts of facility development, actions which would mitigate any adverse impacts on the values for which the unit was established, and plans and data for such environmental considerations as sewage disposal, domestic water supply, local climatological information, avalanche or earthquake hazards and other such environmental components;

SEC. 1102. (a) There is hereby authorized to be appropriated the amount of two million dollars ($2,000,000) to carry out the provisions of Section 1101 of this Act for fiscal years beginning after the fiscal year 1978.

(b) There is hereby authorized to be appropriated the amount of $500,000,000 for the construction of mass transit system connecting Anchorage, Alaska, with a visitor center and development site in or near the Denali National Park designated in Title I of this Act, construction of visitor center associated with related visitor facilities within Denali State Park, and the construction of a tramway to provide visitor access from a visitor center and other facilities within Denali State Park to an observation site within Denali National Park.

IDITAROD NATIONAL HISTORIC TRAIL

SEC. 1103. (The language to create a new system of historic trails within the National Trails System and to designate the Iditarod as a national historic trail would come from S.929 sponsored by Senator Gravel) .

SEC. 1104.(a) It is the findings of Congress that under the terms of the Alaska Native Land Claims Settlement Act provision was made for reconveyance of lands to occupants of land located within areas selected and conveyed to Native corporations regardless of prior legal rights, that residents on lands withdrawn under Section 17 (d)(2) of the Alaska Native Claims Settlement Act were denied an opportunity to gain legal title to their primary places of residence, and furthermore, that such residents are not inconsistent with designations of these lands within nationalconservation systems in Alaska.

(b) The Secretary is authorized to convey to any person, upon application within one year from the date of enactment of this Act, the surface estate, not to exceed 5 acres of land, of land occupied by such person as a primary place of residence for a period of time exceeding 5 years commencing prior to enactment of the Alaska Native Claims Settlement Act of 1971 and continuing to the time of enactment of this Act which may be included within the boundaries of units designated in Title I, II, III, or IV of this Act. The Secretary shall make such conveyances unless he finds

that such conveyances would result in direct, significant adverse impact on the values for which the unit was established.

KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK

SEC. ~~1102~~ 1107. The second sentence of subsection (b) (1) of the first section of the Act entitled "An Act to authorize the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes", approved June 30, 1976 (90 Stat. 717), is amended to read as follows: "Lands or interests in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange, and notwithstanding the provisions of subsection 6 (i) of the Act of July 7, 1958 (72 Stat. 339, 342), commonly known as the Alaska Statehood Act, the State may include the minerals in any such transaction.".

NAVIGATION AIDS AND OTHER FACILITIES

SEC. ~~1103~~ 1106. Within the conservation system units, reasonable access to, and operation and maintenance of, existing air and water navigation aids and related facilities and existing facilities for weather, climate, and fisheries research and monitoring shall be permitted in accordance with the laws and regulations applicable to the National Park, Wildlife Refuge, National Forest, and Wild and Scenic Rivers Sys-

SCENIC HIGHWAY STUDY

SEC. 1307. (a) Subject to valid existing rights, all public lands within an area, the centerline of which is the centerline of the "Denali Highway" between Cantwell and Paxson and the "Richardson Highway" between Paxson and Gakona (as those highways are depicted on the official maps of the Department of Transportation of the State of Alaska) and the boundaries of which are parallel to the centerline and one mile distant therefrom on either side, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from operation of the mineral leasing laws of the United States.

(b) During the three year period beginning on the date of enactment of this Act, the Secretary shall study the desirability of establishing a Denali Scenic Highway to consist of all or part of the lands described in subsection (a) of this section. In conducting the studies, the Secretary, through a study team which includes representatives of the National Park Service, the State, and of each Regional Corporation within whose area of operation the lands described in subsection (a) are located, shall consider the scenic and recreational values of the lands withdrawn under this section, and the importance of providing protection to

those values, as well as the desirability of providing a symbolic and actual physical connection between the national parks in south-central Alaska and the desirability of enhancing the experience of persons traveling between those parks by motor vehicles. Members of the study team who are not Federal employees shall receive from the Secretary per diem (in lieu of expenses) and travel allowances at the rates provided for employees of the Bureau of Indian Affairs in Alaska in grade GS–15.

(c) In conducting the studies required by this section, the Secretary shall consult with the State, with each Village Corporation within whose area of operation lands described in this section are located, and with the owners of any lands adjoining the lands described in subsection (a), concerning the desirability of establishing a Denali Scenic Highway. The Secretary, through the National Park Service, shall also give such public notice of the study as he deems appropriate, including at least publication in a newspaper or newspapers having general circulation in the area or areas of the lands described in subsection (a), and shall hold a public hearing or hearings at one or more locations convenient to the areas affected.

(d) Within three years after the date of enactment of this Act, the Secretary shall report to the President the results of the studies carried out pursuant to this section

together with his recommendation as to whether the scenic highway studied should be established, and which of the lands described in subsection (a) should be included therein. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to creation of one or both of the scenic highways, together with maps thereof, a definition of boundaries thereof, an estimate of costs, recommendations on administration, and proposed legislation to create such a scenic highway, if creation of one is recommended.

(e) The lands withdrawn under subsection (a) of this section shall remain withdrawn until such time as the Congress acts on the President's recommendation, but not to exceed two years after the recommendation is transmitted to the Congress.

AUTHORIZATION FOR APPROPRIATION

SEC. 1308. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for fiscal years beginning after the fiscal year 1978.

O

SECTION-BY-SECTION SUMMARY
OF DRAFT CS HB 211 (Dated 4/10/78)

* SECTION I

AS 41.45.010 PURPOSE.

This section sets forth the purpose of this bill. This bill provides for the establishment of a common system of land use planning and classification for certain public and private lands in Alaska. Participation in this system is voluntary for all parties.

The effect of amendments to this section by the House Resources Committee was to; one, emphasize the authority of the Commission to classify land under its jurisdiction and not to manage those lands, and; two, emphasize the voluntary nature of participation in common management under this bill.

AS 41.45.020 POLICY.

This section states that it is state policy to accommodate to the rapidly changing demands upon land in Alaska through a flexible system of land classification for both state and federal land.

The effect of amendments to this section is to emphasize that this bill establishes a system of common classification for certain state, federal, and private lands and not a common management system.

AS 41.45.030 COMMISSION.

This section establishes the Alaska Land Commission.

AS 41.45.040 MEMBERSHIP.

The membership of the Alaska Land Commission is set at six members. Three of the six members are appointed by the Governor and confirmed by the Legislature. The Governor must designate one of the three state appointees to the Commission as state co-chairman.

The membership of the Commission was set at an even number (six) with equal number of state and federal appointees at the recommendation of Senator Ted Stevens, Representative Don Young, and members of the Federal-State Land Use Planning Commission.

AS 41.45.050 TERM.

This section establishes the term of state appointees to the Commission as four years to coincide with the term of the Governor. The effect of this section would be to ensure the accountability of state appointees to the Commission. The provisions of this section were adopted at the recommendation of the staffs of the Federal State Land Use Planning Commission and the Steering Council for Alaska Lands.

AS 41.45.060 COMPENSATION.

This section provides that the salary for the state members of the Commission is set by the Alaska Salary Commission. This amendment would put the state commissioners to the Alaska Land Commission in the same position as commissioners of the Public Utilities Commission and the Pipeline Commission.

AS 41.45.070 DUTIES.

This section enumerates the duties of the Alaska Land Commission:

1) initiate and maintain a process of land use planning and classification for state and federal land in Alaska;
2) classify lands included in common management areas;
3) establish policies and procedures to guide the operation of the Commission;
4) recommend changes in state and federal laws and regulations;
5) review resource inventories prepared for common management areas;
6) recommend procedures which would enhance cooperation between state and federal agencies;
7) recommend procedures to ensure orderly economic growth;
8) recommend changes in state and federal land policies and programs;
9) comment upon inventory, planning, classification, management, and use of state and federal lands and to provide assistance to Native corporations;
10) recommend needed modifications in existing withdrawls of state and federal land;
11) recommend to the appropriate officials amendments to the programs and budgets of state and federal agencies responsible for the administration of land in Alaska; and
12) establish citizens' advisory committees to assist the Commission in fulfilling its legislative mandate and to offer to affected parties the opportunity to comment upon proposed actions of the Commission.

The substance of this section was adopted from the mandate of the existing Federal-State Land Use Planning Commission and the recommendations of Senators Stevens, and Gravel, Representative Young, and the Federal-State Land Use Planning Commission.

AS 41.45.080 POWERS.

The Alaska Land Commission shall have the authority to:

1) classify land within a common management area;
2) enter into common management agreements with private land owners and municipal corporations;
3) enter into agreements with state and federal agencies to accomplish the work of the commission; and
4) hire employees and consultants.

The effect of amendments to this section was to clarify the authority the commission to classify, but not manage, land within common management areas, to authorize the Commission to hire staff and consultants, and to authorize the Commission to enter into agreements with private land owners and municipal corporations.

AS 41.45.090 LAND MANAGEMENT IN COMMON MANAGEMENT AREAS.

The effect of this section is to clearly distinguish between the authority of the state and federal land managing agencies to manage land and the authority of the Alaska Land Commission to classify land within a common management area.

AS 41.45.100 PROPERTY TAX EXEMPTION.

This section provides for an exemption from property taxes and special assessments for those private lands covered by a common management agreement between the land owner and the Alaska Land Commission. Though Native regional and village corporations are cited as private entities which are eligible to receive the benefits of this section, they are not the only class of private land owners eligible to benefit from this section. If the land is withdrawn from a "common management area" before the end of a five year period, all taxes and special assessments against the land must be paid.

The committee was aware of the distinction between property taxes and special assessments for capital improvements and decided to include an exemption from special assments levied by local governments as well as property taxes for the period during which private land is included within a "common management area".

AS 41.45.110 TECHNICAL ASSISTANCE.

This section authorizes state agencies, at their discretion, to provide technical assistance in the form of trespass control, fire suppression, and mineral exploration to private land owners who have land included within a common management area.

AS 41.45.120 HEARINGS.

This section authorizes the Commission to hold hearings, receive testimony and evidence as it determines necessary.

AS 41.45.130 MEETINGS

The effect of this section is to require advance notice of Commission meetings be given and that all Commission meetings be public. This section was recommended by the staff of the Federal-State Land Use Commission.

AS 41.45.140 ANNUAL REPORT.

This section requires the Commission to submit annual report to the Legislature and the Governor on the activities of the Commission during the preceding calendar year.

AS 41.45.150 LAND FOR INCLUSION WITHIN COMMON MANAGEMENT AREAS.

This section establishes a procedure by which state land may be included within a common management area. If the Commission wishes to include state land within a common management area it must submit its recommendation to the Legislature. If the recommendation of the Commission is not disapproved in whole or in part, then it takes effect upon the adjournment of the session. Once state land is included within a common management area the authority of the Commission to classify land supersedes that of the Division of Lands. The state may withdraw any of its lands from a common management area after six months notice to the Commission.

AS 41.45.160 VETO.

This section grants to the Governor the authority to veto a decision of the Commission with respect to state land. The Governor must exercise his veto authority over the action of the Commission within 45 days after the action occurs.

This section was suggested by Senators Stevens and Gravel.

AS 41.45.170 EXECUTIVE COORDINATION COMMITTEE.

The effect of this section is to create a state cabinet level committee to coordinate state involvement with the Commission and its work. This section was suggested by the staffs of the Federal-State Land Use Planning Commission and the Steering Council for Alaska Lands.

AS 41.45.180 PRINCIPAL OFFICE.

The effect of this section is to require that the Commission locate its principal office in Alaska.

AS 41.45.190 FUNDING.

The effect of this section would be to commit the state to pay 50% of the costs of the Commission.

AS 41.45.200 EXPIRATION OF THE COMMISSION.

This section is a sunset provision. Unless the state decides to continue its participation in the Commission, the Commission will expire in ten years. This amendment is recommended by Senator Gravel and the Federal-State Land Use Planning Commission.

AS 41.45.210 JUDICIAL REVIEW.

This section specifically sets forth the right of a citizen to challenge the decision of the commission, if that decision adversely affects the citizen's interest in state land.

* SECTION 2

AS 39.23.060 REVIEW OF COMPENSATION AND BENEFITS; OFFICERS COVERED.

This section amends the existing law relating to the Salary Commission by making the salary of state commissioners to the Alaska Land Commission subject to the purview of the Salary Commission.

* SECTION 3

This section extends the Federal-State Land Use Planning Commission until 120 days after the Alaska Land Commission is established or until April 30, 1981, whichever comes first. The Land Use Planning Commission is scheduled to expire in 1979. This section will provide for the continuation of the Federal-State Land Use Planning Commission until the Alaska Land Commission is established in order to provide for continuity between the commissions.

* SECTION 4 FEDERAL MEMBERSHIP ON THE COMMISSION.

This section invites Congress to join the Legislature in establishing an Alaska Land Commission by authorizing federal participation in the Commission and by providing for the appointment of three members to the Commission.

* SECTION 5 EFFECTIVE DATE CLAUSE.

This clause extends the Federal-State Land Use Planning Commission until 1981 or until the Alaska Land Commission is established. The remainder of this bill takes effect on the same day as similar legislation passed by Congress. If Congress does not pass similar legislation by January 1, 1981, this act expires.

To:

From: Kathy Brown, A.A.
Bush Caucus

Date: April 12, 1977

Subject: House Bill 211 establishing the Alaska Land Commission

This bill will be up in House Resources on Thursday the 13th at 1:30. The bill will need a lot more work in order to satisfy the concerns of the bush caucus. The Resources Committee is under a great deal of pressure to move the bill out. Please review and comment on the attached paste-up of suggested amendments which I cooked up. The suggestions I made were just off the top of my head --- please let me know if there are any further critical changes which I may have overlooked.

Thanks.

IN THE HOUSE

CS FOR HOUSE BILL NO. 211

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Land Commission; and providing for an effective date."

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

* Section 1. AS 41 is amended by adding a new chapter to read:

CHAPTER 45. ALASKA LAND COMMISSION.

Sec. 41.45.010. PURPOSE. The purpose of this chapter is to provide for a common system of planning and classification by the state, [a] AND PRIVATE LANDHOLDERS the United States, of mutually agreed upon areas of [public] land in Alas by establishing land use planning and classification institutions whic provide full protection of [nationally] significant natural values, enab a flexible response to energy and other commodity needs as they arise, and minimize conflicts among landowners and between competing land use

Comment: Throughout the bill I have included "private landholders" wherever there is reference to state and federal land. This is to make clear that Private and Native land owners should be included in any planning and classification scheme the state may enter into with the federal government. They should be considered equal partners with the state on the commission. It is hoped that by doing this, potential conflicts can be avoided or at least minimized.

Sec. 41.45.020. POLICY. The legislature recognizes the best use of the public domain will change with time and that only an active classification system can meet these changing needs. The legislature further recognizes that there is a valid national public interest in public land in Alaska, including state land, as well as a valid interest on the part of the people of Alaska in federal land in Alaska. *

Sec. 41.45.030. COMMISSION. There is established the Alaska Land Commission.

* THE LEGISLATURE ALSO FINDS THAT PARTICIPATION BY PRIVATE LAND HOLDERS IS CRUCIAL TO THE SUCCESS OF AN ACTIVE CLASSIFICATION & PLANNING SYSTEM.

Sec. 41.45.040. MEMBERSHIP. (a) The commission shall consist of six full-time members.

(b) Three members of the commission, one of whom shall be designated as state co-chairman, shall be appointed by the governor and shall serve at his pleasure. * AT LEAST ONE MEMBER SHALL REPRESENT NATIVE CORPORATION LAND HOLDERS IF THE CORPORATIONS COMMIT LANDS FOR CO-MANAGEMENT.

Comment: One member on the Commission will not necessarily give native groups any leverage in political decisions of the Commission. But the native member will provide a means for input from native groups and will help anticipate potential conflicts.

(c) Members appointed by the governor are subject to confirmation by a majority of the members of the legislature in joint session.

Sec. 41.45.050. TERM. The term of office of a state member of th commission is four years and//shall coincide with that of the governor.// A vacancy in the office of a member representing the state shall be filled by appointment by the governor. The appointee selected to fill the vacancy shall hold office for the balance of the full term for whic his predecessor was appointed. An appointee to an unexpired term shall be subject to the same confirmation requirements as any other appointee

Sec. 41.45.060. COMPENSATION. The three members of the commissio appointed by the governor shall receive an annual salary as established under AS 39.23. Members appointed by the governor are entitled to per diem and travel expenses authorized by law for boards and commissions.

Sec. 41.45.070. DUTIES. The commission shall

(1) initiate and maintain a continuing process of land use planning and classification, including but not limited to submitting recommendations to the governor and legislature of Alaska and the Congress of the United States concerning state and federal land to be designated as "common management areas", the identification of land amenable to special use designation, the determination of federal and state land which may be made available for disposal, and recommendations regarding the use of other land remaining in federal and state ownership;

(2) classify land included within common management areas;

(3) establish procedures to govern the performance of the business of the commission, including provision for public hearings to obtain public comment on existing and proposed land use planning and management programs of the state and federal governments;

(4) review and recommend to the federal government, and to the state, AND TO PRIVATE LANDHOLDERS changes in statutes and regulations affecting land in the state which is subject to cooperative management under this chapter which are necessary or desirable;

(5) review resource inventories prepared by the managing agencies of land designated as "common management areas";

(6) make recommendations to appropriate federal and state officials with respect to ways to improve coordination and consultation between the state and federal governments in wildlife management, transportation planning, wilderness review, and other governmental activities which appear to require regional or statewide coordination;

(7) make recommendations to appropriate federal and state officials with respect to ways to insure that economic development is orderly and planned and is compatible with state and national economic, social, and environmental objectives;

(8) make recommendations to appropriate federal and state officials with respect to those changes in laws, policies, and programs relating to public land and resources which the commission considers necessary;

(9) make recommendations to appropriate federal and state officials with respect to the inventory, planning, classification, management, and use of federal and state land, respectively, and to provide such assistance to Native corporations upon their request;

(10) make recommendations to appropriate federal and state officials with respect to needed modifications in existing withdrawals of federal and state public land;

(11) make recommendations to appropriate federal and state officials with respect to the programs and budgets of federal and state agencies responsible for the administration of public land in Alaska; and

(12) [establish citizens'] RECEIVE RECOMMENDATIONS FROM advisory committees to assist the commission in carrying out its duties and to ensure that affected [parties] PERSONS may comment upon actions proposed for consideration by the commission.

Comment: The amendments to this section absolve the commission from the duty of establishing advisory groups in favor of allowing all parties (federal, state and Native groups) to internally establish their own advisory groups for submitting recommendations to the commission.

Sec. 41.45.080. POWERS. The commission may

(1) classify state and federal land within a common management area;

(2) enter into common management agreements with private landowners and municipal corporations;

(3) enter into agreements with agencies of the state and federal government to implement the work of the commission;

(4) employ staff and consultants as necessary to perform the duties established in this chapter.

A new section should be added:

COMMON MANAGEMENT AGREEMENTS

The State and Federal Government may enter into common management agreements which are subject to the following constraints:

1) Agreements must be bilateral; both parties must agree to changes;

2) A Notice of Intent to Request Change in the Agreement must be given six months (?) prior to the proposed date of change.

3) Once an agreement has been reached, the State of Alaska and the U.S. government are bound for five years.

4) By mutual agreement, all parties may change classification of lands without loss of tax exemption to the private landholder

* * * * *

Comment: There were three major concerns expressed by the bush caucus in relevant to this bill. They were 1) representation on the commission should the Native Corporations commit their land for co-management, 2) provision for veto of commission decisions which the Native groups might find contrary to their best interests, and 3) assurance that taxation would not become a tool for blackmailing natives into committing their lands or, once Native lands have been committed, a means of keeping them in an unsatisfactory position under threat of having to pay back taxes.

All of these concerns could be satisfactorily dealt with by adding a new "Common Management Agreements" section. Representation on the commission and veto powers become less important when bilateral agreement is reached before land is committed. The rights of all parties are protected and each party is bound by the agreement for five years. any changes must be mutually agreeable to all. Either party may terminate the agreement with the concurrance of the other parties without payment of back taxes.

Requiring a Notice of Intent to Change the Agreement prior to the proposed date of change allows all parties sufficient time to reach a consensus on whether the change is acceptable or not. It also provides a means of identifying conflicts and issues that will have to be dealt with in subsequent five year agreements.

Sec. 41.45.090. LAND MANAGEMENT IN COMMON MANAGEMENT AREAS. The * NATIVE CEO OR CHIEF EXECUTIVE BODY
agency responsible under law for the management of that land included within a common management area shall retain that authority but shall b subject to the authority of the commission to classify land according t its beneficial uses.

Sec. 41.45.100. PROPERTY TAX EXEMPTION. If a private landowner, including, but not lmited to, any entity established under the Alaska Native Claims Settlement Act, enters into an agreement by which the commission classifies land owned or selected by the private landowner, for a minimum of five years, that land shall be exempt from any property tax or special assessment for capital improvements on the land during the time it is managed by the commission. [If the land is withdrawn from the common management area before the minimum five-year period, then all property taxes or special assessments for capital improvements on the land which would otherwise have been payable shall be due at the time the land is withdrawn.]

Comment: The deleted section is no longer needed since withdrawal from co-management is only possible with the consent of all parties, and therefore the tax penalty is not needed.

// Sec. 41.45.110. TECHNICAL ASSISTANCE. With respect to land which is the subject of a cooperative management agreement, state agencies may provide technical and other assistance in fire suppression, trespass control, and mineral exploration. This assistance may be provided without compensation if the agency determines that to do so would foster the intent of cooperative management and the public good. //

Sec. 41.45.120. HEARINGS. The commission or, on the authorization of the majority of its members, any subcommittee or member of the commission may, for the purpose of carrying out the provisions of this chapter, hold hearings, receive testimony and evidence, and sit and act at those times and places as the commission or subcommittee determines. Hearings shall be held, insofar as practicable, in communities and areas which are to be affected.

Sec. 41.45.130. MEETINGS. All commission meetings shall be public and notice of a meeting shall be given at least 15 days before the date when the meeting is to take place.

Sec. 41.45.140. ANNUAL REPORT. On or before January 10 of each year, the commission shall submit to the President of the United States, Congress, the governor and the legislature a written report with respect to its activities during the preceding calendar year. The report shall also include the activities that the commission contemplates over the next calendar year, and the amount of funding required.

Sec. 41.45.150. LAND FOR INCLUSION WITHIN COMMON MANAGEMENT AREAS. (a) The commission shall establish a process to provide for the identification and submission of recommendations concerning areas in federal and state ownership for inclusion in common management areas. Land designated for inclusion within common management areas shall be submitted by the commission to Congress and the legislature. A recommendation

land shall be presented to the legislature during the first 10 days of any regular session. The recommendation shall become effective at the adjournment of the session unless disapproved, in whole or in part, by a resolution concurred in by a majority of the members of each house of the legislature.

(b) Classification of state land within a common management area supersedes the authority of the director of the division of lands to classify the land under AS 38.05.300.

(c) The state may withdraw any portion of state land in a "common management area" with six months notice to the commission.

Sec. 41.45.160. VETO. With respect to all state land subject to this chapter, the governor may veto a decision of the commission, within 45 days of the action of the commission.

Sec. 41.45.170. EXECUTIVE COORDINATION COMMITTEE. There is established an Executive Coordination Committee composed of the commissioner of natural resources, fish and game, transportation and public facilities, environmental conservation, commerce and economic development, revenue, community and regional affairs, or their designees, and the state co-chairman of the Alaska Land Commission. The committee shall meet regularly in order to coordinate those programs and functions of their departments which could affect the administration of state and federal public land. The governor shall designate the chairman of the committee.

Sec. 41.45.180. PRINCIPAL OFFICE. The principal office of the commission shall be located in Alaska.

Sec. 41.45.190. FUNDING. The state shall pay 50 per cent of the costs and other expenses incurred by the commission in any one fiscal year.

Sec. 41.45.200. EXPIRATION OF THE COMMISSION. (a) On or before the ninth anniversary of the effective date of this Act, the governor shall present to the legislature a report on the desirability of continued state participation in the commission.

(b) State participation in the commission shall terminate on the tenth anniversary of the effective date of this Act, unless otherwise provided by law.

Sec. 41.45.210. JUDICIAL REVIEW. A person aggrieved by a decisio of the commission in any determination involving state land subject to the provisions of this chapter may seek review of the decision in the superior court.

MIKE GRAVEL
ALASKA

United States Senate

WASHINGTON, D.C. 20510

April 4, 1978

The Honorable Hugh Malone, Speaker
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Hugh:

I want to thank you for all your help, attention and indulgence during my recent trip to Juneau. I sincerely hope that under your leadership we shall see some of the things we discussed come to fruition.

One topic of particular concern to me is the creation of a new federal-state land use planning commission. I greatly appreciated the copy of your bill, H.B. 211, which contained provisions for the state side of such a commission to complement federal legislation. Passage of such legislation by the State would be a tremendous lever for passage of federal provisions in the upcoming (d)(2) legislation. In general, your bill appears to contain all the basic elements for the creation of an effective commission and I congratulate you on your efforts.

As you know, I have long advocated a very strong commission which would have classification powers on virtually all federal and state lands outside units of the four conservation systems. I recognize that the dynamics of the Legislature may be such that adoption of all the provisions contained in my (d)(2) bill regarding the commission may not be possible. However, I would like to briefly point out some of the major differences which currently exist between our respective bills and to urge your reconsideration of these issues prior to reporting your bill out of Committee.

H.B. 211 provides for the commission to recommend state and federal lands to be included under their jurisdiction. I like the open-ended feature of this provision as opposed to the demarcation of special 5th system-type areas, but I would take the further step and designate all State lands. The Governor would retain a veto power over decisions affecting these lands so there would be no loss of sovereignty. By designating all

State lands not only would we be gaining a comprehensive, flexible planning process for our lands, but we would be insuring that a maximum amount of federal lands be anteed up to match our commitment. The ability to influence land uses on adjacent federal lands can not be overstated as evidenced by the frustrations we have experienced in the past with our federal landlord-tenant relationship.

While my bill contains language providing for nine commissioners, H.B. 211 provides for three federal and three state members. I had originally contemplated four federal and four state members but decided that a single chairman would provide stronger, more effective leadership. Additionally, an odd number of commissioners would lend itself to more efficient decision-making procedurially through the use of a tie-breaking vote. Because the chairman would be jointly appointed by the Governor and the President, such a person would not necessarily "side" with either the feds or the State and his vote would not necessarily be the tie-breaking vote as witnessed by the voting pattern on the current land use planning commission (which breaks out along resource use philosophies rather than government affiliation).

I do recognize that both the feds and the State may feel uneasy with an odd-number of commissioners and that the chairman could get into a rather schizophrenic relationship with his appointers. If this is going to be a real stumbling block to passage of either the federal or state bill I would be prepared to concede this point. However, I still feel eight rather than six members will be necessary. In addition to the commission responsibilities contained in H.B. 211, my bill directs the commission to study and make recommendations on transportation and utility rights-of-way and to coordinate implementation and environmental protection laws such as the Clean Air Act, Coastal Zone Management Act, and other laws. These responsibilities would be more than sufficient to keep eight commissioners working full-time. I would certainly encourage you to consider expanding the commission's duties to include these responsibilities also.

I commend you for including provisions under which private lands, notably Native corporations, can be brought under the commission. The use of tax incentives will probably prove to be the most effective way to bring in private lands and thereby insure true comprehensive land use planning for Alaska. In addition, I would recommend that the provisions of my bill or the provisions of the existing commission regarding Native representation on the commission be incorporated in your bill to attract the dedication of Native lands under the commission. If a certain percentage of Native lands were dedicated, for example 80%, then the state would appoint a Native as one of its three or four members on the commission.

In Sec. 41.45.090 of H.B. 211 private landowners would enter into an agreement whereby the commission would "manage" these lands. Just as you revised the use of the word "manage" under the duties of the commission, I would suggest that you omit the references to "manage" in this section. Rather, language to the effect of dedicating private lands under the jurisdiction of the commission for the purpose of land use planning and classification by the commission would seem more appropriate. Actual on-the-ground management should probably remain with the private landowner as long as it was consistent with the direction and policies set by the commission.

Under my bill there is no specific provision for opting out of commission's jurisdiction. Federal lands would be permanently dedicated for the life of the commission. With the veto provisions and with the basic commitment to work out problems to the satisfaction of the feds, the State, and any private landowners, I strongly feel there is no reason to want to opt out. Furthermore, I think the purposes of the commission could be seriously threatened if there was not a full and more or less permanent commitment of land under the commission. Although I think a five or ten year nomination of lands could be workable, the six-month notification provision for withdrawal of state lands contained in H.B. 211 appears to avoid a sincere commitment to the process of statewide land use planning. I can not envision a situation where, through hard negotiation, the study of alternatives and the use or threat of the veto, the State could not

secure decisions which were in line with reasonable land use principles and sound resource uses. If such an opt-out provision were to stand we probably could expect no more commitment on the part of the federal government.

A small difference exists between our versions with regard to the terms of the commissioners. I believe that staggered terms would provide a continuity of effort over the long-run and would help allay the fears of those who believe that the federal or the state side would represent a stacked deck totally favoring the policies and philosophies of the appointing Governor or President. Although I think a four-year term coinciding with that of the Governor could be workable, I again would encourage you to reconsider this provision.

The chances of identically complementary legislation emerging from the State Legislature and the Congress on this matter are, of course, slight. Without a doubt we will have to come back either in the Congress or the Legislature or both to make adjustments or modifications to effect the purposes of the two pieces of legislation. Thus, I think we will have opportunities in the future to work out some of these differences. However, I can not stress enough how important it is for the State to "strike the first blow" on this vital issue. State legislation including the major provisions of a new land use planning commission with real authorities over state, federal and hopefully private lands would provide the ultimate proof to the Congress of the State's commitment to and solidarity on joint land use planning and management. State action on this issue in the next month or two would turn the commission from a concept to a reality warranting swift Congressional attention.

Hugh, I again commend you on your efforts and your commitment to securing this vital legislation. I hope you will consider my comments in any further changes in your bill. If I can provide any assistance to you or your staff in drafting language, briefing other legislators or in any other way securing passage of this legislation please let me or Pat Pourchot

---

of my staff know.

With kind regards,

Sincerely,

Mike Gravel

cc: Kay Poland, Chairperson
Senate Resources Committee

Steve Cowper, Chairman
Steering Council on (d)(2) lands

Esther Wunnicke and Walt Parker, Co-Chairmen
Alaska Federal-State Land Use Planning Commission

THIS IS THE
ORIGINAL COPY
OF THE 4/6/78
VERSION OF CSHB 211

Work Order #3396 4-6-78
Utermohle

Original sponsors: Malone, Miller and Specking

IN THE HOUSE

CS FOR HOUSE BILL NO. 211

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Land Commission; and providing for an effective date."

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

* Section 1. AS 41 is amended by adding a new chapter to read:

CHAPTER 45. ALASKA LAND COMMISSION.

Sec. 41.45.010. PURPOSE. The purpose of this chapter is to provide for a common system of planning and classification by the state and the United States of mutually agreed upon areas of public land in Alaska by establishing land use planning and classification institutions which provide full protection of nationally significant natural values, enable a flexible response to national energy and other commodity needs as they arise, and minimize conflicts among landowners and between competing land uses.

Sec. 41.45.020. POLICY. The legislature recognizes the best use of the public domain will change with time and that only an active classification system can meet these changing needs. The legislature further recognizes that there is a valid national public interest in public land in Alaska, including state land, as well as a valid interest on the part of the people of Alaska in federal land in Alaska.

Sec. 41.45.030. COMMISSION. There is established the Alaska Land Commission.

Sec. 41.45.040. MEMBERSHIP. (a) The commission shall consist of six full-time members.

(b) Three members of the commission, one of whom shall be desig-

nated as state co-chairman, shall be appointed by the governor and shall serve at his pleasure.

(c) Members appointed by the governor are subject to confirmation by a majority of the members of the legislature in joint session.

Sec. 41.45.050. TERM. The term of office of a state member of the commission is four years and shall coincide with that of the governor. A vacancy in the office of a member representing the state shall be filled by appointment by the governor. The appointee selected to fill the vacancy shall hold office for the balance of the full term for which his predecessor was appointed. An appointee to an unexpired term shall be subject to the same confirmation requirements as any other appointee.

Sec. 41.45.060. COMPENSATION. The three members of the commission appointed by the governor shall receive an annual salary as established under AS 39.23. Members appointed by the governor are entitled to per diem and travel expenses authorized by law for boards and commissions.

Sec. 41.45.070. DUTIES. The commission shall

(1) initiate and maintain a continuing process of land use planning and classification, including but not limited to submitting recommendations to the governor and legislature of Alaska and the Congress of the United States concerning state and federal land to be designated as "common management areas", the identification of land amenable to special use designation, the determination of federal and state land which may be made available for disposal, and recommendations regarding the use of other land remaining in federal and state ownership;

(2) classify land included within common management areas;

(3) establish procedures to govern the performance of the business of the commission, including provision for public hearings to obtain public comment on existing and proposed land use planning and

management programs of the state and federal governments;

(4) review and recommend to Congress and to the legislature changes in statutes and regulations affecting land in the state which is subject to cooperative management under this chapter which are necessary or desirable;

(5) review resource inventories prepared by the managing agencies of land designated as "common management areas";

(6) make recommendations to appropriate federal and state officials with respect to ways to improve coordination and consultation between the state and federal governments in wildlife management, transportation planning, wilderness review, and other governmental activities which appear to require regional or statewide coordination;

(7) make recommendations to appropriate federal and state officials with respect to ways to insure that economic development is orderly and planned and is compatible with state and national economic, social, and environmental objectives;

(8) make recommendations to appropriate federal and state officials with respect to those changes in laws, policies, and programs relating to public land and resources which the commission considers necessary;

(9) make recommendations to appropriate federal and state officials with respect to the inventory, planning, classification, management, and use of federal and state land, respectively, and to provide such assistance to Native corporations upon their request;

(10) make recommendations to appropriate federal and state officials with respect to needed modifications in existing withdrawals of federal and state public land;

(11) make recommendations to appropriate federal and state officials with respect to the programs and budgets of federal and state

agencies responsible for the administration of public land in Alaska; and

(12) establish citizens' advisory committees to assist the commission in carrying out its duties and to ensure that affected private parties are allowed input into the commission's decision-making process.

Sec. 41.45.080. POWERS. The commission may

(1) classify state and federal land subject to the authority granted in this chapter;

(2) enter into common management agreements with private landowners;

(3) enter into agreements with agencies of the state and federal government to implement the work of the commission;

(4) employ staff and consultants as necessary to perform the duties established in this chapter.

Sec. 41.45.090. LAND MANAGEMENT IN COMMON MANAGEMENT AREAS. The agency responsible under law for the management of that land included within a common management area shall retain that authority but shall be subject to the authority of the commission to classify land according to its beneficial uses.

Sec. 41.45.100. PROPERTY TAX EXEMPTION. If a private landowner, including, but not lmited to, any entity established under the Alaska Native Claims Settlement Act, enters into an agreement by which the commission manages land owned or selected under an Act of Congress by the private landowner, for a minimum of five years, that land shall be exempt from any property tax on the land during the time it is managed by the commission. If the land is withdrawn from the commission's management authority before the minimum five-year period, then all property taxes on the land which would otherwise have been payable shall

be due at the time the land is withdrawn.

Sec. 41.45.110. HEARINGS. The commission or, on the authorization of the majority of its members, any subcommittee or member of the commission may, for the purpose of carrying out the provisions of this chapter, hold hearings, receive testimony and evidence, and sit and act at those times and places as the commission or subcommittee determines. Hearings shall be held, insofar as practicable, in communities and areas which are to be affected.

Sec. 41.45.120. MEETINGS. All commission meetings shall be public and notice of a meeting shall be given at least 15 days before the date when the meeting is to take place.

Sec. 41.45.130. ANNUAL REPORT. On or before January 10 of each year, the commission shall submit to the President of the United States, Congress, the governor and the legislature a written report with respect to its activities during the preceding fiscal year. The report shall also include the activities that the commission contemplates over the next fiscal year, and the amount of funding required.

Sec. 41.45.140. LAND FOR INCLUSION WITHIN COMMON MANAGEMENT AREAS. (a) The commission shall establish a process to provide for the identification and submission of recommendations concerning areas in federal and state ownership for inclusion in common management areas. Land designated for inclusion within common management areas shall be submitted by the commission to Congress and the legislature. A recommendation which includes state land shall be presented to the legislature during the first 10 days of any regular session. The recommendation shall become effective at the adjournment of the session unless disapproved, in whole or in part, by a resolution concurred in by a majority of the members of each house of the legislature.

(b) Classification of state land within a common management area

supersedes the authority of the director of the division of lands to classify the land under AS 38.05.300.

(c) The state may withdraw any portion of state land in a "common management area" with six months notice to the commission.

Sec. 41.45.150. VETO. With respect to all state land subject to this chapter, the governor may veto a decision of the commission, within 45 days of the action of the commission.

Sec. 41.45.160. EXECUTIVE COORDINATION COMMITTEE. There is established an Executive Coordination Committee composed of the commissioners of natural resources, fish and game, transportation and public facilities, environmental conservation, commerce and economic development, revenue, community and regional affairs, or their designees, and the state co-chairman of the Alaska Land Commission. The committee shall meet regularly in order to coordinate those programs and functions of their departments which could affect the administration of state and federal public land. The governor shall designate the chairman of the committee.

Sec. 41.45.170. PRINCIPAL OFFICE. The principal office of the commission shall be located in Alaska.

Sec. 41.45.180. FUNDING. The state shall pay 50 per cent of the costs and other expenses incurred by the commission in any one fiscal year.

Sec. 41.45.190. EXPIRATION OF THE COMMISSION. (a) On or before the ninth anniversary of the effective date of this Act, the governor shall present to the legislature a report on the desirability of continued state participation in the commission.

(b) State participation in the commission shall terminate on the tenth anniversary of the effective date of this Act, unless otherwise provided by law.

Sec. 41.45.200. JUDICIAL REVIEW. A person aggrieved by a decision of the commission in any determination involving state land subject to the provisions of this chapter may seek review of the decision in the superior court.

* Sec. 2. AS 39.23.060 is amended to read:

Sec. 39.23.060. REVIEW OF COMPENSATION AND BENEFITS; OFFICERS COVERED. The commission shall conduct an on-going review of compensation and retirement benefits for members of the legislature; the governor; the lieutenant governor; commissioners, deputy commissioners, and division directors of each executive department; members of the Alaska Public Utilities Commission; members of the Alaska Pipeline Commission; members of the Alaska Transportation Commission; members of the Alaska Commercial Fisheries Entry Commission; state members of the Alaska Land Commission; and the judiciary, to determine the appropriateness of compensation and benefits.

* Sec. 3. AS 41.40.070 is amended to read:

Sec. 41.40.070. TERMINATION OF THE COMMISSION. The commission ceases to exist 120 days after the establishment of the Alaska Land Commission or on April 30, 1981, whichever comes first [ON JUNE 30, 1979].

* Sec. 4. FEDERAL MEMBERSHIP ON THE COMMISSION. Section 1 of this Act contemplates the authorization by Congress of legislation complementing the provisions of this Act. It is the intent of the legislature that Congress provide for the designation of three representatives to serve as members of the Alaska Land Commission.

* Sec. 5. Sections 1, 2, and 4 of this Act take effect on the effective date of legislation enacted by the Congress of the United States providing for the establishment of an Alaska Land Commission and containing provisions which are not in conflict with the provisions of this Act, if such legisla-

tion is passed by congress before January 1, 1981.

EFFECT OF AMENDMENTS TO HB 211

CONTAINED IN THE PROPOSED COMMITTEE SUBSTITUTE FOR HB 211

* Section 1

AS 41.45.010 PURPOSE.

This section is amended by adding new language after "Alaska" on line 13. The effect of this amendment is to enlarge the purpose of the act to include establishment of land use planning and management institutions which will minimize conflicting uses of land, provide for changing circumstances, and protect significant natural values on land in Alaska. This amendment was included at the suggestion of the staff of the Federal-State Land Use Planning Commission.

AS 41.45.020 POLICY.

This section is unchanged.

AS 41.45.030 COMMISSION.

This section is unchanged.

AS 41.45.040 MEMBERSHIP.

This section is amended as follows:

a) the membership is set at six full-time members; and

b) one of the three members appointed by the Governor is to be designated as state co-chairman.

The effect of these amendments is to set the membership of the commission at an even number (six) and to provide for a state co-chairman of the commission. The establishment of the membership of the commission at an even number with state and federal co-chairmen was recommended by Senator Ted Stevens, Representative Don Young and members of the Federal-State Land Use Planning Commission.

AS 41.45.050 TERM.

This section is amended to provide that the term of the state members of the commission coincides with that of the Governor. The effect of this amendment would be to ensure accountability of the state appointees to the commission. This amendment was recommended by the staffs of the Federal-State Land Use Planning Commission and the Steering Council for Alaska Lands.

AS 41.45.060 COMPENSATION.

This section is amended to provide that the salary for the state members of the commission is set by the Alaska Salary Commission. This amendment would put the state commissioners to the Alaska Land Commission in the same position as commissioners of the Public Utilities Commission and the Pipeline Commission.

AS 41.45.070 DUTIES.

This section is amended by substituting "classify" for "manage" (page 2, line 24) and by adding seven new subsections (page 3, lines 4-28). The effect of the first amendment is to make the commission responsible for classifying lands in the "common management areas". The responsibility for managing those lands would remain with the appropriate land management agency (i.e. Bureau of Land Management, Alaska Division of Lands, National Park Service, etc.). The management policies of the managing agencies would be guided by the land classifications of the commission. The second amendment the commission the responsible for participating in an advisory capacity in the land use planning, resource management, land management programs of the various land management agencies. The amendment to limit the commission's authority to land classification instead of land management was recommended by Senators Stevens and Gravel, Representative Young and the Federal-State Land Use Planning Commission. The additional duties of the commission contained in the second amendment were suggested by the Federal-State Land Use Planning Commission.

AS 41.45.080 POWERS.

The amendments to this section gives the commission authority to: a) classify land in the "common management areas" instead of managing them (page 4, line 1), b) authorizes the commission to hire staff and consultants as necessary (page 4, line 7-8), c) deleted the remainder of subsection (2) after "landowner". The effect of the last amendment is to permit the commission to enter into common management agreements with private landowners who own land that is not adjacent to other cooperative management areas. This last amendment was proposed by Representative Cowper.

AS 41.45.090 PROPERTY TAX EXEMPTION.

This entire section contains new language. The effect of this section is to grant an exemption from property taxes for those private lands covered by a common management agreement between the landowner and the commission. Native regional and village corporations are cited as specific private entities which are eligible to receive the benefit of this section. Private land committed to the jurisdiction of the commission must be subject to the commission for five years. If the land is withdrawn from a "common management area" before the end of five years, all taxes for the five year period must be paid.

AS 41.45.100 HEARINGS.

This section is unchanged.

AS 41.45.110 MEETINGS.

This is a new section. The effect of this section is to require advance notice of commission meetings be given and that all commission meetings be public. This amendment was recommended by the staff of the Federal-State Land Use Planning Commission.

AS 41.45.120 ANNUAL REPORT.

This section is unchanged.

AS 41.45.130 LAND FOR INCLUSION WITHIN COMMON MANAGEMENT AREAS.

This section is amended by adding a new subsection (c) which allows the state to withdraw its land from the jurisdiction of the commission following six months advance notice.

AS 41.45.140 VETO.

This is a new section which grants to the Governor the authority to veto a decision of the commission with respect to state land. This amendment was suggested by Senators Stevens and Gravel.

AS 41.45.150 EXECUTIVE COORDINATION COUNCIL.

This is a new section. The effect of this section is to create a state cabinet level committee to coordinate state involvement with the commission and its work. This amendment was suggested by the staffs of the Federal-State Land Use Planning Commission and the Steering Council for Alaska Lands.

AS 41.45.160 PRINCIPAL OFFICE.

This is a new section. The effect of this section will be to require that the commission have its principal office in Alaska.

AS 41.45.170 FUNDING.

This is a new section. The effect of this section would be to commit the State to pay 50% of the costs of the commission.

AS 41.45.170 EXPIRATION OF THE COMMISSION.

This is a new section. This section is a sunset provision. Unless the state decides to continue its participation in the commission, the commission will expire in ten years. This amendment is recommended by Senator Gravel and the Federal-State Land Use Planning Commission.

AS 41.45.180 JUDICIAL REVIEW.

This section is unchanged.

* Section 2

AS 39.23.060 REVIEW OF COMPENSATION AND BENEFITS; OFFICERS COVERED.

This section amends the existing law relating to the Salary Commission by making the salary of state commissioners to the Alaska Land Commission subject to the purview of the Salary Commission.

* Section

This section is amended by providing for the extension of the Federal-State Land Use Planning Commission until 120 days after the Alaska Land Commission is established or until April 30, 1981, whichever comes first. The Land Use Planning Commission is scheduled to expire in 1979 This section will provide for the continuation of the Federal-State Land Use Planning Commission until the Alaska Land Commission is established in order to provide for continuity between the commissions.

* Section 4

FEDERAL MEMBERSHIP ON THE COMMISSION.

This section is unchanged.

* Section 5

EFFECTIVE DATE CLAUSE.

This clause is amended to permit the extension of the Federal-State Land Use Planning Commission until 1981 or until the Alaska Land Commission is established. The remainder of this bill takes effect on the same day as similar legislation passed by Congress. If Congress does not pass similar legislation by January 1, 1981, this act expires.

Suggested Amendments to HB 211

by: Rep. Steve Cowper

p. 3, line 12: Omit all after "landowners".

Add new section:

Sec. 41.45.085. If a private landowner, including any entity established under the Alaska Native Claims Settlement Act, enters into an agreement by which the commission manages land owned or selected under an Act of Congress by such private landowner, for a minimum of five years, such land shall be exempt from any property tax on the land during the time it is managed by the commission. If the land is withdrawn from the commission's management authority before the minimum five-year period, then all property taxes on such land which would otherwise have been payable shall be due at the time the land is withdrawn.

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CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate
COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

February 24, 1978

Honorable Al Osterback
Chairman
House Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Al:

It is my understanding that the House Resources Committee will soon be considering House Bill 211. That legislation deals directly with issues embodied in pending d-2 legislation now before the Congress. The Legislature is aware of my interest in cooperative management of federal, state, and private lands and the creation of a federal-state land classification commission. Legislation I have introduced in the Senate would establish such a commission and provide a procedure for dedicating federal, state and private lands to the classification authority of the commission. For the benefit of the House Resources Committee, a copy of that legislation is enclosed. The specific details dealing with the commission can be found in Title XXXXII, on pages 68-73.

Upon review of House Bill 211, a number of thoughts come to mind, and I would like to take this opportunity to transmit some comments on the bill to you. My thoughts on the legislation before your Committee fall into specific categories and will be dealt with below. I request that this letter and a copy of S. 1787 be made a part of the record the Committee is compiling in consideration of H.B. 211.

Lands Under the Jurisdiction of the Commission

A major question is which lands, federal and state, the Commission will have jurisdiction over. My position on the federal side of this question has been consistent and is reflected in S. 1787. The establishment of a land classification commission is being discussed as part of the consideration of d-2 lands and should be restricted to those lands involved in that process.

Management of remaining federal lands are adequately provided for under the Bureau of Land Management and Federal Land Policy and Management Act of 1976.

My concept of the Commission reflects the need to insure that closely related federal, state, and private lands being considered within the d-2 context are managed compatibly with options for future land use decisions remaining open. Hearings on both sides of Capitol Hill have demonstrated the lack of information on many resources contained within these lands. The creation of a cooperative management program will provide future generations with the ability to determine appropriate uses of lands as such decisions become necessary.

The extent to which state lands should be dedicated to cooperative management is a decision that rests with the Legislature, and I do not wish to comment on any specific acreage or formulas which have been proposed by others. My legislation provides that the State of Alaska must commit a "substantial amount of state land" to a program of cooperative management prior to state participation on a classification commission. This provision was drafted in this manner to insure that the State Legislature makes the decision on state participation and is not presented with a "fait accompli" in which a cooperative management depends upon the State dedicating all of its lands without a meaningful debate on the matter.

Management of Lands Under the Commission's Jurisdiction

House Bill 211 provides that the Commission will manage lands under its jurisdiction. To the best of my knowledge, those advocating the creation of such a commission are unanimous that the commission's duties should involve classification of uses rather than daily management. Existing federal and state agencies are better equipped to continue management of lands under the direction of the commission through classification authority.

My legislation embodies this concept, as does the proposal of the Federal-State Land Use Planning Commission. Further thought to the concept of the commission as a management agency should be given. The commission's strengths can be best achieved if it provides direction to on-the-ground managers.

Commission Membership

The makeup of the commission is important and most parties agree that the commission should consist of an equal

number of state and federal appointees. To insure that the sovereignty of the State of Alaska and the United States is not compromised, it is advisable that the commission be co-chaired by a federal and state appointee. This system has worked well with the existing Federal-State Land Use Planning Commission and should be utilized in the establishment of a new classification commission.

The Committee should also address itself to specific issues regarding the qualifications of appointees, their length of term, and the method of replacement for filling vacancies on the commission. The Federal-State Land Use Planning Commission is presently compiling a list of options regarding these issues, and the Committee may wish to consult the LUPC on these matters.

Functions of the Commission

The specific duties of the Commission are of utmost importance. I envision the commission as a body with classification authority on those lands under its jurisdiction. This will be its most important function. It will draw up land use plans and coordinate and monitor the implementation of these plans.

Additionally, the commission can continue a number of functions now performed by the existing Federal-State Land Use Planning Commission. Among these are providing assistance to the federal and state agencies and private landowners in the area of land use planning and making recommendations as to necessary amendments to existing state and federal public land laws. A full list of the functions I think the commission should perform can be found on pages 71 and 72 of S. 1787.

It should be noted that the commission can play a role of particular importance in regards to transportation and access. Most parties agree that a process to insure reasonable and adequate access is provided across federal and state lands is needed. The commission can become part of that process as the major arbiter of method and means of access when such access becomes necessary. My legislation provides the commission with such authority.

Veto Over Commission Decisions

As stated previously, the protection of the sovereignty

of the State of Alaska and the United States is all-important if the commission concept is to be successful. To insure such sovereignty is not compromised, the Secretary of Interior and the Governor must be given a veto power over federal and state lands, respectively, which are part of a cooperative management program. The rationale for such a veto has been adequately examined and articulated by the existing Federal-State Land Use Planning Commission, in their testimony on the functions of a commission before the House and Senate of the United States Congress and before your Committee.

These comments summarize my thoughts on the concepts being considered in House Bill 211. I would be happy to provide you and other members of the Committee with further details if you are interested. House Bill 211 contains language contemplating complementary legislation to be enacted by the Congress. If I can be of any assistance to the Legislature to insure that federal and state legislation do complement one another, please let me know.

With best wishes,

Cordially,

Ted

TED STEVENS
United States Senator

Enclosure

DRAFT

PROPOSAL BY SENATOR MIKE GRAVEL FOR A FEDERAL-STATE LAND USE PLANNING COMMISSION

TITLE VI

----THE COMMISSION WOULD BE ESTABLISHED UPON THE PASSAGE OF STATE LAW DEDICATING STATE LAND FOR JURISDICTION UNDER THE COMMISSION.

----ALL FEDERAL LAND NOT INCLUDED IN CONSERVATION SYSTEMS OR MILITARY RESERVES WOULD BE PLACED UNDER THE COMMISSION

----THE STATE WOULD LEGISLATE A PROCESS BY WHICH PRIVATE NATIVE CORPORATION LANDS COULD BE VOLUNTARILY PLACED UNDER THE COMMISSION'S JURISDICTION AND RECEIVE CERTAIN ADVANTAGES SUCH AS PROPERTY TAX DEFERMENT.

----THE COMMISSION WOULD BE COMPOSED OF 9 MEMBERS: 1 CHAIRMEN JOINTLY APPOINTED BY PRESIDENT AND GOVERNOR, 4 FEDERAL MEMBERS BY PRESIDENT, AND 4 STATE MEMBERS BY GOVERNOR. 1 FEDERAL MEMBER AND ONE STATE MEMBER WOULD BE NATIVE IF 80% OR MORE OF CORPORATION LAND DEDICATED.

----MEMBERS WOULD BE FULL-TIME AND SERVE STAGGERED 4-YEAR TERMS

----FUNCTIONS AND AUTHORITIES OF THE COMMISSION WOULD INCLUDE:

- ----DEVELOPMENT OF LAND USE PLANS AND LAND CLASSIFICATIONS FOR VARIOUS LAND USES;
- ----INSURING THAT FEDERAL, STATE, AND LOCAL PLANNING AND LAND USES ARE HARMONIOUS
- ----COORDINATE IMPLEMENTATION OF AIR AND WATER POLLUTION LAWS, COASTAL ZONE MANAGEMENT LAW, AND OTHER ENVIRONMENTAL LAWS;
- ----DETERMINE LOCATION OF TRANSPORTATION AND UTILITY SYSTEM RIGHTS-OF-WAY ACROSS FED, STATE, AND PRIVATE LANDS;

-----VETO POWER WOULD BE RETAINED BY THE GOVERNOR AND THE SECRETARY OF INTERIOR OVER THEIR RESPECTIVE LANDS. EITHER THE STATE OR THE SECRETARY WOULD HAVE VETO OVER NATIVE CORPORATION LANDS.

----ON-THE-GROUND MANAGEMENT WOULD BE RETAINED BY THE NORMAL FEDERAL (BLM) AND STATE (DNR) AGENCIES.

----LANDS UNDER THE COMMISSION WOULD BE WITHDRAWN FROM ALL ENTRIES AND APPROPRIATIONS PENDING CLASSIFICATION BY COMM.

----THE COMMISSION WOULD TERMINATE AFTER 10 YEARS UNLESS RENEWED BY CONGRESS.

DRAFT

SENATOR MIKE GRAVEL

STATE LEGISLATIVE NEEDS TO COMPLEMENT FEDERAL LEGISLATION ESTABLISHING AN ALASKA FEDERAL-STATE LAND USE PLANNING COMMISSION

----DESIGNATION OF ALL STATE LANDS AS LANDS TO BE COOPERATIVELY MANAGED UNDER THE JURISDICTION OF A FEDERAL-STATE LAND USE PLANNING COMMISSION.

----IDENTIFICATION OF A SYSTEM BY WHICH NATIVE CORPORATION LANDS AND PERHAPS OTHER PRIVATELY OWNED LANDS COULD BE DEDICATED UNDER THE JURISDICTION OF THE COMMISSION. SUCH INCENTIVES AS TAX DEFERMENTS COULD BE INCLUDED. A TWO-YEAR STUDY OF A POSSIBLE STATE PROPERTY TAX SHOULD ALSO BE INCLUDED.

----IDENTIFICATION OF A SYSTEM BY WHICH STATE MEMBERS WOULD BE APPOINTED, CONDITIONS OF APPOINTMENT, PAY, ETC.

----AUTHORIZATION AND APPROPRIATION OF FUNDS NECESSARY TO COVER ONE-HALF THE COST OF THE COMMISSION.

----FORMALIZATION OF SYSTEM OF OBTAINING INFORMATION, SERVICES, AND INPUT FROM VARIOUS STATE AGENCIES TO THE COMMISSION.

----TO REQUIRE THE SUBMISSION OF ALL LOCAL GOVERNMENT PLANS TO THE COMMISSION FOR COMMENT AND APPROVAL.

----TO REQUIRE THE SUBMISSION OF ALL RULES, ACTIONS BY STATE AGENCIES REGARDING AIR AND WATER POLLUTION LAWS, COASTAL ZONE MANAGEMENT AND OTHER ENVIRONMENTAL LAWS TO THE COMMISSION. THE STATE AGENCIES SHOULD BE REQUIRED TO MODIFY POLICIES, ACTIONS, ETC., WITHIN LEGAL REQUIREMENTS, IN RESPONSE TO COMMISSION COMMENTS AND RECOMMENDATIONS. WHERE APPROPRIATE, AUTHORITIES ASSIGNED TO THE STATE UNDER VARIOUS ENVIRONMENTAL LAWS SHOULD BE ASSIGNED TO THE COMMISSION.

----IF NECESSARY, AUTHORIZE THE APPLICATION OF LEASE SYSTEMS FOR ALL LAND USES ON STATE LANDS.

----TEMPORARILY WITHDRAW ALL STATE LANDS FROM DISPOSAL OR ENTRY PENDING STUDY AND CLASSIFICATION BY THE COMMISSION.

----REQUIRE TERMINATION OF STATE PARTICIPATION IN COMMISSION 10 YEARS FOLLOWING CREATION UNLESS REAFFIRMED BY LEGISLATUIE

SENATOR MIKE GRAVEL

DRAFT

TITLE VI -- ALASKA FEDERAL-STATE LAND USE PLANNING COMMISSION

Sec. 601. (a) Following designation under Alaska State law of all lands patented or tentatively approved for patent to the State to be cooperatively managed with designated Federal lands, there is hereby established the Alaska Federal-State Land Use Planning Commission (hereinafter referred to as the "Commission").

(b) In addition to the designated State lands, the Commission shall have jurisdiction over all public lands in the State of Alaska under the management of the Bureau of Land Management, including the National Petroleum Reserve in Alaska.

(c) With the approval of the Commission, lands for which patents or interim conveyances have been issued to Native corporations under the terms of the Alaska Native Claims Settlement Act may be placed under the jurisdiction of the Commission pursuant to the procedures and conditions which shall be enacted by the State of Alaska.

Sec. 602. (a) (1) The Commission shall, subject to the provisions of Section 101, be composed of nine members as follows:

(A) One member appointed, after consultation with and concurrence by the Governor of Alaska, by the President of the United States, with the advice and consent of the

Senate, who shall be Chairman of the Commission;

(B) Four members appointed by the President of the United States, with the advice and consent of the Senate;

(C) Four members appointed by the Governor of the State of Alaska with the advice and consent of the State Legislature.

(2) Upon the first vacancy of a position under subparagraph (B) and subparagraph (C) (whether created by expiration of a member's term or otherwise) occurring on or after the date on which 80 per centum or more of all lands for which patents or interim conveyances have been issued have been dedicated by Native corporations for jurisdiction under the Commission, the President and the Governor, in filling those vacancies, shall appoint a Native (as that term is defined in the Alaska Native Claims Settlement Act) to fill the respective vacancy, and thereafter, as long as such lands remain so dedicated, at least one of such members appointed pursuant to subparagraph (B) and subparagraph (C) of subsection (a)(1) shall be a Native.

(b) (1) The Chairman shall be compensated at a rate to be determined by the president not to exceed the rate provided for GS-18 of the General Schedule under Section 5332 of Title 5, United States Code.

(2) All other members of the Commission shall be compensated at a rate to be determined by the President,

after consultation with and concurrence by the Governor of Alaska, not to exceed the rate provided for GS-16 of such General Schedule.

(3) Upon vouchers approved by the Chairman, all members of the Commission shall be reimbursed for necessary expenses incurred by them in carrying out their duties under this Act.

(c) The Commission, with the approval of the Chairman, is authorized to obtain the services of experts and consultants in accordance with Section 3109 of Title 5, United States Code.

(d) Members shall serve for a four-year term except that, of the initial members appointed pursuant to subparagraph (B) of subsection (a)(1), two members shall be appointed for two-year terms, and of the initial members appointed pursuant to subparagraph (C) of subsection (a)(1), two members shall be appointed for two-year terms. A vacancy in the membership shall not affect the Commission's powers but shall be filled in the manner provided in paragraph (2) of subsection (a). Any person appointed to fill a vacancy involving an unexpired term shall serve for the duration of that term. Except to the extent otherwise provided in subsection (a), members may be reappointed to serve additional terms.

(e) Six members of the Commission shall constitute a quorum, except that the Commission may establish a

lesser number for purposes of subsection (g).

(f) All Commission meetings shall be public and shall be duly noticed at least fifteen days prior to the date when the meeting is to take place.

(g) The Commission, or on its authorization, any subcommittee or member thereof, may hold such hearings, take such testimony, receive such evidence, and print such reports as are deemed necessary to carry out the functions specified in this Title.

(h) The Chairman shall have the authority, in accordance with regulations prescribed by the Commission, to create and abolish employments and position, including temporary and intermittent employments; to fix and provide for the qualification, appointment, removal, compensation, pension and retirement rights of Commission employees; and to procure needed office space, supplies and equipment.

(i) The principal office of the Commission shall be located in the State of Alaska.

(j) The federal government shall pay only 50 per centum of the costs and other expenses incurred in each fiscal year by the Commission in carrying out its duties under this Act.

(k) The Commission is authorized to use the services, equipment, personnel and facilities of Federal departments and other agencies, with or without reimbursement. Each department and agency of the Federal government shall cooperate

fully in making its services, equipment, personnel and facilities available to the Commission.

(l) The Commission is authorized to accept donations, gifts and other contributions and to utilize such donations, gifts and contributions in carrying out its functions under this Act.

(m) The Commission shall keep and maintain complete accounts and records of its activities and transactions, and such accounts and records shall be available for public inspection.

(n) The Commission shall, on or before March 1 of each year, prepare and submit to the President, the Governor of Alaska and the Congress an annual report summarizing its activities during the preceding calendar year, together with its recommendations.

Sec. 603. (a) It shall be the function of the Commission:

(1) to review resource inventories prepared by the managing agencies and other affected or concerned Federal and State agencies on lands under the jurisdiction of the Commission; and to initiate and conduct other such inventories and resource studies as may be needed;

(2) to develop comprehensive land use plans with respect to lands under the jurisdiction of the Commission;

(3) to make land classifications pursuant

to such plans, and to approve and to supervise the regulation of uses in accordance with such plans and classifications;

(4) to assure that such classifications would specifically identify lands which are suitable and open for the following primary uses:

(A) oil and gas exploration and possible development;

(B) mineral exploration and possible development;

(C) human habitation, permanent and seasonal;

(D) agricultural and aquaculture development;

(E) timber harvesting;

(F) tourism/recreational development;

(G) primitive or wilderness use;

(H) fish and wildlife habitat; and

(I) other resource uses as may be appropriate.

(5) to assist in the development and review of land-use plans for lands selected by Native corporations under the terms of the Alaska Native Claims Settlement Act which may not be designated for jurisdiction by the Commission; ~~to assist in the development and review of land-use plans for State lands not designated for jurisdiction by the Commission;~~ and to assist in the development and review of land-use plans of municipal governments;

(6) to review existing withdrawals of Federal public lands and recommend to the President and Congress such additions to or modifications of such withdrawals as the Commission deems appropriate;

(7) to make recommendations to the President and the Governor regarding the programs and budgets of the Federal and State agencies responsible for the administration of the public lands of the United States and the State of Alaska;

(8) to make recommendations, from time to time, to the President, Congress and the Governor and the Legislature of the State of Alaska as to changes in laws, policies and programs relating to the public lands which the Commission deems necessary or desirable;

(9) to make recommendations to the appropriate officers of the governments of the United States and the State of Alaska to develop general plans which would insure that economic growth and development are orderly, planned and compatible with State and national economic, social and environmental objectives;

(10) to make recommendations to appropriate officers of the United States, the State of Alaska and municipal officials to improve coordination and consultation between the Federal, State and municipal governments in making resource allocations and land use decisions;

(11) to coordinate the implementation by Federal and State agencies the provisions of the following laws as they may affect lands under the jurisdiction of the Commission:

(i) Federal Water Pollution Control Act as amended;
(ii)Clean Air Act as amended;
(iii) Solid Waste Disposal Act;
(iv) National Environmental Policy Act of 1969;
(v) Coastal Zone Management Act of 1972 as amended;
(vi) Safe Drinking Water Act;

In order that Commission may review all pertinent actions in regard to the above mentioned laws, to insure that conflicts do not occur between the rules, regulations, or policies of the various federal and state agencies involved with the implementation of these laws, and to insure that uses being permitted under these laws are consistent with the overall land use plans and classifications developed by the Commission for particular lands under their jurisdiction, the federal agencies authorized with the administration of the various provisions of the above-described laws shall provide the Commission with copies of all orders, notices, or other material initiated by the agency concerning the implementation of the above-mentioned laws affecting any lands under the jurisdiction of the Commission.

Prior to the finalization of any rule, regulation, stipulation, policy or other action affecting uses of lands under the jurisdiction of the Commission, any federal agency authorized to implement terms or provisions of the above-mentioned laws shall solicit and receive comments on the proposed action from the Commission. The agency or Department shall take whatever actions or make modifications as are reasonable and in keeping with the provisions of the above-mentioned laws to obviate conflicts or problems which the Commission may identify in its comments.

(12) to determine the location of specific routes or corridors which would serve identified regional, statewide or national transportation or utility needs; approve rights-of-way across lands under its jurisdiction and make specific recommendations to the appropriate Federal or State officer or private landowner where such rights-of-way would cross lands not under the Commission's jurisdiction, and in

connection therewith the Commission shall evaluate alternative routes and modes and shall seek to recommend prudent and feasible routes and corridors which minimize environmental impacts.

(b) With respect to the uses under paragraph (4) of subsection (a), the Commission shall have the authority to pursue such uses on a lease basis under such terms as it may prescribe or under applicable provisions of the public land laws.

(c) With respect to all Federal lands subject to the jurisdiction of the Commission, the Secretary may veto a decision of the Commission. With respect to all State lands subject to the jurisdiction of the Commission, the Governor of Alaska may veto a decision of the Commission. With respect to any lands owned by Native corporations subject to the jurisdiction of the Commission, either the Secretary or the Governor may veto a decision by the Commission.

(d) Federal, State and Native corporation lands under the jurisdiction of the Commission shall continue to be managed by the respective agencies established under Federal and State law, and in th case of corporation lands, by the respective corporation owner, provided that uses shall be regulated in accordance with classifications made by the Commission. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use management decisions made by an agency shall be in accordance with the laws

and regulations which generally govern the functions of such agency.

(e) Lands under the jurisdiction of the Commission shall be withdrawn from all forms of disposition or appropriation under Federal or State public land laws, including mining and mineral leasing laws, until a land use plan has been completed for the particular area by the Commission and classifications imposed in regard to permissable land uses.

(f) In performing the functions described in Section 103 (a) the Commission shall hold public hearings in the specific locale or region for which specific land use plans, classifications or actions are being proposed or considered.

Sec. 604. Notwithstanding any other provision of law, Federal participation in the Joint Federal-State Land Use Planning Commission for Alaska, established in Section 17(a) of the Alaska Native Claims Settlement Act, shall cease 180 days following the date of enactment of this Act or upon establishment of the Commission provided for in Section 101 of this Title, whichever first occurs. Immediately upon termination of Federal participation, all unexpended funds appropriate to the Joint Commission and all property shall be returned, as appropriate, to the United States and the State of Alaska, unless the Commission provided for in Section 101 of this Title has been established, in which case all Federal funds and property shall be transferred to the Commission.

Sec. 605. (a) On or before the ninety-day period immediately preceding the date of the expiration of the ten calendar year period following the date on which the Commission takes effect, the Secretary of the Interior shall report to the President and the Congress with respect to the Secretary's views and recommendations concerning the desirability or non-desirability of continued Federal participation in the Commission.

(b) Unless otherwise hereafter provided by law, Federal participation in the Commission shall terminate upon the expiration of the ten calendar year period following the date on which the Commission takes effect.

SENATOR GRAVEL'S DRAFT D-2 BILL--TITLE OUTLINE

TITLE I-IV---FOUR SYSTEMS DESIGNATIONS

------NO ACREAGES LISTED

------WILL DEVELOP MODERATE ACREAGE (50-80 MILLION)

-------WILL SEEK TO DRAW BOUNDARIES WHICH INCLUDE ONLY THOSE TRULY NATIONALLY SIGNIFICANT AREAS AND WHICH MINIMIZE CONFLICTS WITH OTHER SIGNIFICANT RESOURCES SUCH AS MINERALIZED AREAS.

------AREAS WOULD NOT TAKE AWAY ANY VALID STATE OR NATIVE SELECTIONS.

------BECAUSE PROPOSED REFUGES INVOLVE SO MUCH POTENTIAL OIL AND GAS SEDIMENTARY BASINS AND BECAUSE SECRETARY OF INTERIOR HAS NOT USED HIS AUTHORITIES TO LEASE FOR THESE RESOURCES ON EXISTING REFUGES IN ALASKA, THE BILL REQUIRES SECRETARY TO ESTABLISH SPECIFIC OIL AND GAS LEASE PROGRAM ON DESIGNATED REFUGES IN ALASKA.

------THE BILL AUTHORIZES A TRADE OF SUBSURFACE RIGHTS ON APPROXIMATELY 3% OF THE EXISTING ARCTIC GAME RANGE FOR STATE LANDS ADJACENT PROPOSED PARK OR REFUGE AREAS. EXPLORATION AND POSSIBLE DEVELOPMENT WOULD BE UNDER SURFACE REGULATIONS OF THE SECRETARY OF THE INTERIOR.

SENATOR GRAVEL'S DRAFT D-2 BILL--TITLE OUTLINE

TITLE V-------WILDERNESS

----------NOT ENOUGH KNOWN ABOUT RESOURCES OR POSSIBLE MANAGEMENT PLANS ON PROPOSED FOUR SYSTEMS LANDS TO DESIGNATE "INSTANT" WILDERNESS AT THIS TIME. NATURAL RESOURCES WILL NOT BE ENDANGERED IF WE WAIT SEVERAL YEARS TO MAKE WILDERNESS DETERMINATIONS; THIS WAS THE ORIGINAL MORTON PROPOSAL.

----------ONE EXCEPTION TO THIS IS SOUTHEAST ALASKA WHERE FOREST SERVICE PLANNING PROCESS NEARING COMPLETION. AFTER THE INFORMATION ALL IN AND ANALYZED THIS SPRING AND AFTER GETTING COMMENTS FROM CONCERNED GROUPS AND INDIVIDUALS IN SOUTHEAST, I PROPOSE TO COME BACK AND ADD IN WILDERNESS OR WILDERNESS STUDY AREAS IN THE TONGASS FOREST IN MY D-2 BILL.

----------INCLUDED IN BILL ARE SPECIAL MANAGEMENT GUIDELINES FOR WILDERNESS TO ALLOW FOR ACCESS AND CABIN USES WHICH ARE PRESENTLY GOING ON,PLUS POTENTIAL AQUACULTURE DEVELOPMENTS.

----------IT IS VERY UNFORTUNATE THAT THE DEPT OF AGRICULTURE BOWED TO POLITICAL PRESSURES AND JUMPED THE GUN ON THEIR WILDERNESS RECOMMENDATIONS FOR SOUTHEAST. THEY CUT THE MARGIN ON AVAILABLE TIMBER YIELD SO CLOSE AS TO ENDANGER THE JOBS AND WHOLE ECONOMY OF SOUTHEAST.

PROPOSAL BY SENATOR MIKE GRAVEL FOR A FEDERAL-
STATE LAND USE PLANNING COMMISSION

TITLE VI

----THE COMMISSION WOULD BE ESTABLISHED UPON THE PASSAGE OF STATE LAW DEDICATING STATE LAND FOR JURISDICTION UNDER T COMMISSION.

----ALL FEDERAL LAND NOT INCLUDED IN CONSERVATION SYSTEMS OR MILITARY RESERVES WOULD BE PLACED UNDER THE COMMISSION

----THE STATE WOULD LEGISLATE A PROCESS BY WHICH PRIVATE NATIVE CORPORATION LANDS COULD BE VOLUNTARILY PLACED UNDER THE COMMISSION'S JURISDICTION AND RECEIVE CERTAIN ADVANTAGES SUCH AS PROPERTY TAX DEFERMENT.

----THE COMMISSION WOULD BE COMPOSED OF 9 MEMBERS: 1 CHAIRMEN JOINTLY APPOINTED BY PRESIDENT AND GOVERNOR, 4 FEDERAL MEMBERS BY PRESIDENT, AND 4 STATE MEMBERS BY GOVERNOR. 1 FEDERAL MEMBER AND ONE STATE MEMBER WOULD BE NATIVE IF 80% OR MORE OF CORPORATION LAND DEDICATED.

----MEMBERS WOULD BE FULL-TIME AND SERVE STAGGERED 4-YEAR TERMS

----FUNCTIONS AND AUTHORITIES OF THE COMMISSION WOULD INCLUDE:

- ----DEVELOPMENT OF LAND USE PLANS AND LAND CLASSIFICATIONS FOR VARIOUS LAND USES;
- ----INSURING THAT FEDERAL, STATE, AND LOCAL PLANNING AND LAND USES ARE HARMONIOUS
- ----COORDINATE IMPLEMENTATION OF AIR AND WATER POLLUTION LAWS, COASTAL ZONE MANAGEMENT LAW, AND OTHER ENVIRONMENTAL LAWS;
- ----DETERMINE LOCATION OF TRANSPORTATION AND UTILITY SYSTEM RIGHTS-OF-WAY ACROSS FED, STATE, AND PRIVATE LANDS;

-----VETO POWER WOULD BE RETAINED BY THE GOVERNOR AND THE SECRETARY OF INTERIOR OVER THEIR RESPECTIVE LANDS. EITHER THE STATE OR THE SECRETARY WOULD HAVE VETO OVER NATIVE CORPORATION LANDS.

----ON-THE-GROUND MANAGEMENT WOULD BE RETAINED BY THE NORMAL FEDERAL (BLM) AND STATE (DNR) AGENCIES.

----LANDS UNDER THE COMMISSION WOULD BE WITHDRAWN FROM ALL ENTRIES AND APPROPRIATIONS PENDING CLASSIFICATION BY COMM.

----THE COMMISSION WOULD TERMINATE AFTER 10 YEARS UNLESS RENEWED BY CONGRESS.

SENATOR GRAVEL'S DRAFT D-2 BILL--TITLE OUTLINE

TITLE VII--SUBSISTENCE

-------PROVISIONS VERY SIMILAR TO THE COMPROMISE PUT TOGETHER IN THE HOUSE SUBCOMMITTEE WHICH RECEIVED WIDE AGREEMENT OR ACCEPTANCE BY THE MANY SIDES OF THE ISSUE.

-------THE STATE WOULD RETAIN PRIME RESPONSIBILITY FOR FISH GAME MANAGEMENT.

-------WHEN FISH AND WILDLIFE RESOURCES WERE SCARCE, SUBSISTENCE USERS WOULD BE GIVEN PREFERENCE IN USING THOSE RESOURCES

-------SUBSISTENCE USERS WOULD BE DEFINED ON THE BASIS OF RESIDENCE AND DEPENDENCE ON THE RESOURCES, NOT RACE OR ETHNIC BACKGROUND.

-------ALL LANDS, INCLUDING NATIONAL PARK LANDS, WOULD BE OPEN FOR SUBSISTENCE USES. ACCESS BY CUSTOMARY MEANS, INCLUDING MOTORIZED VEHICLES, WOULD BE PERMITTED ON ALL LANDS.

-------THE STATE WOULD CREATE A SYSTEM A REGIONAL BOARDS AND LOCAL ADVISORS. REGIONAL BOARDS WOULD HAVE PRIMARY RESPONSIBILITY, SUBJECT TO STATE OVERVIEW, FOR DEVELOPMENT OF FISH AND WILDLIFE POLICIES AND REGULATIONS.

-------THE SECRETARY WOULD MONITOR STATE SUBSISTENCE PROGRAM AND COULD SUSPEND PROGRAM IF SUBSISTENCE PROVISIONS NOT BEING FOLLOWED. STATE WOULD HAVE AMPLE HEARING OPPORTUNITIES AND TIME TO CORRECT PROGRAM.

-------FEDERAL FUNDS WOULD BE AUTHORIZED AND GRANTED TO THE STATE TO OFF-SET THE EXTRAORDINARY COSTS TO SET UP AND RUN THIS SPECIAL SUBSISTENCE PROGRAM

SENATOR GRAVEL'S DRAFT D-2 BILL--TITLE OUTLINE

TITLE VIII--STATE AND NATIVE LAND CONVEYANCE

---------ADOPTS LANGUAGE DEVELOPED BY NATIVE COMMUNITY FOR MORE OR LESS INSTANT CONVEYANCE OF ALL VALIDLY SELECTED NATIVE LANDS TO WHICH THEY ARE ENTITLED UNDER THE PROVISIONS OF ANCSA.

---------ADOPTS LANGUAGE DEVELOPED BY THE STATE FOR SPEEDY CONVEYANCE OF STATE LANDS, INCLUDING ALL THOSE SELECTED TO DATE AND THOSE REMAINING TO BE SELECTED IN THE FUTURE.

---------WOULD ALSO AMEND STATEHOOD ACT TO ALLOW LONGER TIME FOR STATE SELECTIONS (IN REALITY WOULD ONLY BE A SMALL AMOUNT WHICH COULD BE USED TO TIDY UP MISC. OWNERSHIP PATTERNS IN YEARS TO COME), AND ALSO CLEAR UP OTHER SELECTION PROBLEMS.

SENATOR GRAVEL'S DRAFT D-2 BILL--TITLE OUTLINE

TITLE IX--TRANSPORTATION AND UTILITY CORRIDORS

------DUE TO THE VERY LARGE AREAS PROPOSED FOR FOUR SYSTEMS, DUE TO THE JUXTAPOSITION OF THESE AREAS TO STATE AND NATIVE LANDS, AND DUE TO THE PRESENT UNCERTAINTIES AND UNKNOWNS INVOLVED IN POSSIBLE FUTURE RESOURCE DEVELOPMENTS IN ALASKA, IT IS NECESSARY TO ESTABLISH A MECHANISM BY WHICH TO ESTABLISH TRANSPORTATION AND UTILITY CORRIDORS ACROSS FOUR SYSTEM LANDS WHICH MAY BE NEEDED IN THE FUTURE.

-----EXISTING FEDERAL POLICIES AND REGULATIONS SIMPLY CAN NOT BE RELIED ON OR ARE NOT ADEQUATE TO DEAL WITH THESE KINDS OF FUTURE NEEDS, THUS THE LAND USE PLANNING COMMISSION ESTABLISHED IN TITLE VI WOULD TAKE THE LEAD IN THIS CASE.

-----THE COMMISSION WOULD CONDUCT STUDIES OF ALL PROPOSED TRANSPORTATION OR UTILITY SYSTEMS WHICH MAY BE PROPOSED. BASED ON WHAT THEY DETERMINED TO BE THE MOST PRUDENT AND FEASIBLE ALTERNATIVE THEY WOULD GRANT RIGHTS-OF-WAY ACROSS LANDS UNDER THEIR JURISDICTION. WHERE THE ROUTE WOULD CROSS FOUR SYSTEMS LANDS , THEY WOULD MAKE SPECIFIC RECOMMENDATIONS TO THE SECRETARY INVOLVED. UNLESS THE SECRETARY ISSUED SPECIFIC FINDINGS SHOWING THAT THE ROUTE WOULD RESULT IN SIGNIFICANT ADVERSE HARM TO THE PARTICULAR NATURAL RESOURCES INVOLVED AND THAT THERE EXISTED ANOTHER PRUDENT AND FEASIBLE ALTERNATIVE WHICH AVOIDED THESE IMPACTS, THE SECRETARY WOULD GRANT THE RECOMMENDED RIGHT-OF-WAY.

SENATOR GRAVEL'S DRAFT D-2 BILL--TITLE OUTLINE

TITLE X--ADMINISTRATIVE PROVISIONS

-------ADOPTS MUCH OF THE LANGUAGE OF THE HOUSE SUBCOMMITTEE WHICH WAS WIDELY AGREED TO.

-------AUTHORIZES LAND AQUISITION BY DONATION, TRADE, PURCHASE. INHOLDINGS CAN NOT BE CONDEMNED.

-------PROVISION OF ACCESS TO AND IN UNITS OF FOUR SYSTEMS

-------ESTALBISHED ALCAN HIGHWAY VISITOR CENTER

-------PROVIDES FOR LOCAL HIRE IN MANAGEMENT OF FOUR SYSTEMS

-------CALLS FOR DEVELOPMENT OF MANAGEMENT PLANS FOR UNITS

-------AUTHORIZES PURCHASE OF ISOLATED ARCHEOLOGICAL SITES

SENATOR GRAVEL'S DRAFT D-2 BILL--TITLE OUTLINE

TITLE XI--MISCELLANEOUS

--------CALLS FOR SPECIAL STUDY OF DEVELOPMENT OF VISITOR ACCESS AND FACILITIES ON SOUTH SIDE OF PROPOSED DENALI (MT. MCKINLEY) NATIONAL PARK.

--------WITHIN TWO YEARS OF ACT, SECRETARY WOULD REPORT ON ECONOMIC, ENVIRONMENTAL, AND ENGINEERING COSTS, PLANS AND FEASIBILITY OF RANGE OF DEVELOPMENTS

--------$2 MILLION IS AUTHORIZED FOR STUDY

--------$500 MILLION IS AUTHORIZED FOR CONSTRUCTION OF MASS TRANSIT SYSTEM FROM ANCHORAGE, VISITOR CENTER, AND TRAMWAY.

-------USING MY BILL, S. 929, A NEW CATEGORY OF NATIONAL TRAILS WOULD BE ESTABLISHED, NATIONAL HISTORIC TRAILS, AND THE IDITAROD WOULD BE DESIGNATED AS A NATIONAL HISTORIC TRAIL

-------THE SECRETARY OF INTERIOR WOULD BE AUTHORIZED TO CONVEY UP TO 5 ACRES TO INDIVIDUALS WHO OCCUPIED LAND AS A PRIMARY PLACE OF RESIDENCE PRIOR TO ANCSA PASSAGE AND UP TO PRESENT WHICH MAY BE INCLUDED IN FOUR SYSTEMS LAND

-------WOULD ALLOW STATE OR OTHER LANDS TO BE DONATED OR ACQUIRED FOR KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK

------CALLS FOR A SCENIC HIGHWAY STUDY ALONG DENALI HIGHWAY BETWEEN PARKS HIGHWAY AND GLENNALLEN AREA.

SENATOR GRAVEL'S DRAFT D-2 BILL--TITLE OUTLINE

MINERALS

------DID NOT INCLUDE A SPECIAL TITLE IN BILL FOR MINERAL PROVISIONS.

------SPECIAL PROVISIONS DEVELOPED THUS FAR BY HOUSE, AND ADMINISTRATION HAVE BEEN A NIGHTMARE OF COMPLEXITIES AND HAVE NOT BEEN WORKABLE.

------MUCH OF THE PROBLEM CAN BE SOLVED BY NOT PLACING VALUABLE MINERALIZED AREAS IN FOUR SYSTEMS LANDS.

------SOME MINERALIZED AREAS WILL UNDOUBTEDLY BE "LOST" WITHIN FOUR SYSTEM DESIGNATIONS AND WE SHOULD NOT KID OURSELVES INTO THINKING THAT SOME SEVEN-STEP PROCESS ENDING IN CONGRESS WILL ENABLE THE MINERALS TO BE DEVELOPED WITHIN A NATIONAL PARK--CONGRESS HAS ALREADY SPOKEN TO THAT TYPE ISSUE IN THE MINING IN THE PARKS ACT, WHICH DESPITE OUR EFFORTS TO EXCLUDE THE NICKEL DEPOSITS IN GLACIER BAY, SHUT THE DOOR ON US.

------HOWEVER, THE LEGISLATION SHOULD CALL FOR CONTINUED EXPLOR ATION IN ALL AREAS TO GIVE US A CLUE AS TO WHAT WE HAVE; OBVIOUSLY HOWEVER, PRIVATE INDUSTRY WILL BE VERY RELUCTANT TO EXPLORE IN AREAS WHICH ARE CLOSED TO CLAIM STAKING AND WE SHOULD RECOGNIZE THIS. THUS, USGS AND CONTRACT WORK WILL PROBABLY HAVE TO BE RELIED ON.

------IN THE CASE OF OIL AND GAS, MY BILL DIRECTS THE SECRETARY TO INITIATE A LEASE PROGRAM ON WILDLIFE REFUGE LANDS WHERE HE CURRENTLY HAS UNUSED AUTHORITIES.

TESTIMONY
BEFORE
HOUSE RESOURCES COMMITTEE
HOUSE BILL 211
AN ACT ESTABLISHING THE ALASKA LAND COMMISSION
AND PROVIDING FOR AN EFFECTIVE DATE
PRESENTED BY
WALTER B. PARKER
STATE CO-CHAIRMAN
JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION
Friday, February 17, 1978

Mr. Chairman, it is a pleasure to appear before you and testify again on House Bill 211. When I testified last spring, the Land Use Planning Commission position on a future forum of a cooperative planning and management system for Alaska lands had not been finalized. That position was finalized at a meeting in September, 1977, and I would now submit the position paper for the record. Its title is "A Report of the Joint Federal-State Land Use Planning Commission For Alaska on Cooperative Planning, Management, and Organization."

At its September meeting, the Commission had before it the structure represented in H.B. 211 and also the cooperative management structure proposed by Secretary of the Interior Andrus in his amendments submitted to H.R. 39. We also had the cooperative management system proposed in Senator Stevens' Bill, S. 1787. The Commission considered these and other structures in reaching its decisions.

The Land Use Planning Commission has, for a long time, considered that the adjustment of the decisions on land and resources necessitated by the Alaska Statehood Act and the Alaska Claims Settlement Act will probably extend well into

the next decade if not beyond that time. There will be a continuing range of adjustments which must be dealt with and there is no substitute for a continuing strong coordinating mechanism between the Federal and State governments. Thus far, the Commission has defined some areas of concentration in land use planning which are especially acute. These are fish and game management, transportation planning, research coordination, and data collection coordination. We also have underway efforts at achieving some level of joint classification standards for land managers.

It is also important to recognize that Alaska Native corporations are the propritors of some of the State's prime wildlife habitat and resource production areas. Thus, any system of cooperative management must offer incentives to the Native corporations to participate if it is going to be completely successful.

It would be a grave error to assume that the Federal-State relationship always consists of the State seeking to impact Federal planning and programs. There is just as acute a need for the Federal government to coordinate with the State on programs where the State, through its regulatory regime and ownership of State lands and submerged lands, can have a major impact on the success of those Federal programs. Thus, we are very much talking about a partnership on equal footing except in those areas such as defense, foreign policy, endangered species, and others where either the Constitution or the Congress has preempted state rights.

It is equally important to recognize that the equal footing doctrine of the Constitution requires that Alaska be treated substantially as other states in the union in its relationships to the Federal government.

A very carefully structured Federal-State planning process seems to us to offer the best solution to the above problems. Such a process must respect the sovereign rights of each government and act as a coordinator and facilitator of communications between the affected agencies of those governments and between the Congress and the Legislature. It should ensure that each government is well aware of the impact that its actions will have upon the other and make recommendations to each on means by which conflicts can be resolved. Everything else that is subsumed under the phrase "cooperative management," such as joint classifications of lands, common criteria for resource development stipulations, common data systems, and other mechansims are simply a means for furthering as much cooperation as can be achieved between two governments. They are not the essence of the cooperation. The essence of the cooperation comes from the structure of a Federal-State body and the commitment to its success. Above and beyond this, we have the requirement for both governments to relate to the boroughs and municipalities. Much of this has already been stated by the Legislature in coastal zone legislation and it is important that any form of Federal-State cooperative management have strong formal linkages with the coastal zone management program, the North Pacific

Fisheries program, and other forms of coordination that exist between the three levels of government now.

I would now like to deal with the specifics of H.B. 211. The Land Use Planning Commission has recommended a membership of ten members with a Federal co-chairman and a State co-chairman rather than the seven members recommended in H.B. 211. House Bill 211 establishes an executive director elected by the commission. We believe that Presidential appointment on the Federal side and Governor's designation on the State side should be continued to provide strong leadership.

The distinction between a single chairman or co-chairmen, such as is utilized by the present Commission, is an important one. With the co-chairmen principle, the commission operates as a body where a certain level of Federal-State conflict is constantly worked out between the two chairmen prior to placing issues before the full commission. With a single chairman, such conflicts would be worked out between the Governor and the Secretaries of concern in the Federal structure before requiring resolution by the full commission. Thus, a single chairman would undoubtedly have more individual power than either of the two co-chairmen. The Commission has, as I have said before, elected to retain the co-chairmen principle as reflecting the most cooperative arrangement.

The Commission agrees with H.B. 211 in that Commission members should not be ex officio or institutional, that is,

State commissioners or Federal department or agency heads. The Commission has also recommended that appointments not be representatives of special interest groups. The Commission subcommittees that worked on this problem felt that special interest representation tends to institutionalize conflict rather than contribute to problem solution.

We feel that the commissioners should continue to be part-time, except for the co-chairmen. The general feeling was that full-time commissioners would tend to institutionalize their own perspective, while part-time commissioners are subject to other pressures and open to other viewpoints from various sectors which they are able to bring to commission decisions. In essence, part-time is felt to be more open to public input than full-time.

The present Commission also felt that commissioners should continue to serve at the pleasure of the appointing official rather than for terms. In this, its position differs from H.B. 211.

Regarding the duties of the commission, our recommendations differ only in degrees contained in H.B. 211. We have recommended that rather than manage "common management areas," the future commission should have classification powers over such lands, but that they should be managed by the existing line agencies. Classifications powers, of course, would imply a planning process which would lead to ultimate classification. The Commission also recommended that the future commission serve a special role in transportation planning across common management areas.

The present Commission has felt that equal access to the Legislature, the Congress, the Governor, and the President and his Secretaries has been the most powerful feature of the Commission. We have not felt that having only advisory powers in this area has been a weakness. Rather, because we have no land interests or program interests to protect and enhance, we have felt that this advisory role gives us entree into many necessary areas where a more narrowly circumscribed role with stronger program responsibilities would make our advice suspect.

With regard to the power of a future commission, it is the opinion of the present Commission that such powers should continue to be largely advisory but that the classification powers over common management land is an important new power that should be considered. Classification would have two aspects; the first would be those lands which the commission itself would classify, and the second being joint classification areas where the commission would aid the State and Federal governments in establishing joint classification standards with the Federal or State land managers then doing the actual land classification.

We have already begun a substantial dialogue with the Bureau of Land Management and the Division of Lands, and a draft copy of the four proposed joint classification areas which are under consideration is also submitted for the record at this time. The four joint classifications that have been proposed thus far are: (1) Settlement and settlement impact which are lands designated for settlement together

with adjoining rural lands within the sphere of community influence. This category also includes lands adjoining existing or proposed highways or other points of access which may be designated into this category if development of other off-road land uses is in the public interest in the particular area under consideration. (2) Resource management. This category is intended to apply to areas where various forms of resource development would be permited an encouraged. (3) Public preserves. This would apply to areas where the prime purpose of management is to protect the natural environment but where other activities would be permitted if they could be conducted in accordance with the primary objective, and (4) Wildlands, which is intended to apply to areas where the purpose of management would be to maintain lands in a natural state. I wish to emphasize that these four classification areas are still under review and development.

The major powers of the commission should continue, however, to be of a coordinating and facilitating nature. This is adequately represented in H.B. 211.

The Commission considered several other elements regarding a future commission which are not incorporated into H.B. 211.

Any future commission should be created for a period of ten years. This time frame will permit the general land ownership pattern to be set or certainly become less fluid and will provide the time for a number of important decisions to be made. While it is unlikely that the need for cooperative planning and management will decrease during this time, a

Congressional and Legislative review should be provided for by statute to occur during the period of the eighth year of the commission's work. This review would cover the first seven years of experience, would redirect the commission's work if necessary, and would recommend whatever actions were deemed appropriate upon expiration of the commission's mandate two years later. Thus, there would be a built in "sunset" provision.

It is most important to maintain sovereignty by providing for the veto power on the State and Federal sides. The major difference between the present Commission and other State-Federal organizations is that the State has the veto power and is therefore, at the commission level at least, the equal of the Federal government. We examined all other Federal-State organizations that we knew of and could find none other where this situation obtained. We think that it is important to retain this concept in a new commission.

There should be executive coordination committees established by both the State and Federal governments. It is especially important that there be a Federal executive coordinative committee in Washington at the Secretarial level. This committee would meet periodically in order to coordinate those programs and functions of their respective agencies which could affect administration of the lands, water, and resources in Alaska. The problem has been often that things are well coordinated at the State or regional level and then must be coordinated all over again with each

individual agency in Washington. Sometimes this can take several years. Therefore, we felt that it was very important to have this coordination occur on a regular basis so that the Federal government could react to the commission's proposals on a continuing basis.

Because the commission will be working more closely with the State agencies, the need for a State executive coordination committee is not as great as the need for the Federal committee. However, I think it would be effective for those Cabinet members with special concerns in land, water, and resources to meet on a regular basis to review commission proposals.

The commission should have a technical advisory committee consisting of the heads of Federal agencies with land-related responsibilites in Alaska and their State counterparts. Other advisory committees or task forces should be appointed as needed either on an area, issue, or functional basis. We have formed some embryo organizations in these areas and work has been generally effective so far. This technical advisory committee would be similar in composition to the commission proposed by Secretary Andrus. The Commission disagreed with the proposals submitted by the Secretary because it felt that a commission made up of various agency heads could not bring the independent perspective to the commission which was desired. Their perspective is available in the present structure of government and should be coordinated in any case. We strongly feel that the commission should be an independent neutral voice and that the members of such a commission should be picked with this in mind.

The policy of joint and equal funding should be continued. This has been an effective control upon the present Commission, in keeping it within the bounds of its mission, and it also serves to insure that Federal and State interests are balanced and that one government does not out budget the other to secure control of the commission.

I have tried to keep this testimony brief. There are several other areas I would be willing to expand upon at the Committee's discretion. Thank you for the opportunity to appear here today.

REPORT OF THE

JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

COOPERATIVE PLANNING, MANAGEMENT, AND ORGANIZATION

With some five years of first hand experience, the Joint Federal-State Land Use Planning Commission for Alaska remains concerned about Federal-State, intra and interagency cooperative planning and management that occurs in Alaska. After staff work, investigation by a subcommittee, and intensive outside review, the Commission, at its meeting of September 15 and 16, adopted the following recommendations.

The discussion of the recommendation is divided into four parts. First, the basic reasons for cooperative planning and management; second, the reasons for a joint Federal-State commission; third, the powers; and fourth, the organization that such a commission would have. An appendix has been added to the report which translates the Commission recommendation into legislative language. A bibliography is also attached.

I. Reasons for Cooperative Management

Basic reasons for cooperative planning and management in Alaska include:

1. There is a continuing State-Federal re .lionship. This did not begin and will not end with the disposition of the d-2 lands.

2. The land ownership pattern in Alaska is growing evermore complex as a consequence of the implementation of the Alaska Statehood Act and the Alaska Native Claims Settlement Act. Lands owned by the Federal government, the State, Native corporations, and other parties lie adjacent to each other in tracts of varying size which do not necessarily follow rational boundary lines. This intermixture of land ownership can easily jeopardize prudent management. A systematic approach to resources which are similar but owned by different parties must be initated to insure consistent and complementary management.

3. Private and State lands may be the essential buffer zone for certain of the more sensitive areas in Federal control. In other cases, the Federal government will own and regulate the mountain tops while the valleys are in State control, or the Federal government will have the wild and primitive areas while State lands will contain the people. Cooperative management is essential to protect the commonality of interest and to protect the national interest.

4. Resources have been divided by mixed ownership across the surface of the land, and between the surface and subsurface. The State, for example, owns the bed of navigable waterways and tidelands, while the water column within the Federal withdrawals will be controlled by various State and Federal regulations and may be subject to claim under the Federal Reserve Water Rights Doctrine. Ownership of the land surface and the underlying minerals may also be split between private owners and Federal agencies.

5. Migratory wildlife, e.g., caribou, waterfowl, etc., require extensive habitat that will occur on all land ownerships. Habitat must be maintained, and movement must remain free if these species are to survive.

6. Even if parks or refuges are contained ecosystems to the extent possible, there will be elements of the ecosystem that cannot be contained in area boundaries. Protection of entire ecosystems, and the full use of new knowledge about those systems will require extensive cooperation.

7. Issues may have a local significance but are actually regional, statewide or national, and they must be approached from that perspective. These include: (a) Outer Continental Shelf programs; (b) Coastal Zone Management; (c) international fisheries management; (d) marine mammals; (e) energy development; (f) fish and game management; (g) transportation; (h) wilderness study; (i) research; and (j) information systems.

8. The social, economic, and land use interweave is more fundamental in Alaska than in states with a more developed infrastructure. Any change can have an effect across the State.

9. National parks will become destination points for tourists. The State will be called upon to provide access and other infrastructure outside the parks. Close coordination and planning will be necessary to permit the State to provide these services without harmful impacts.

10. Ownership of land in Alaska is concentrated in government and corporate hands. Thus, there is no "grass roots" force to develop means of cooperation.

11. There are extensive federally owned areas in Alaska which remain largely in their natural state, and have natural values that are clearly of national importance. Nonrenewable and renewable resources found on these lands are largely unevaluated, and their possible importance in meeting future national and international needs for energy, minerals, wood

fiber, and food cannot be accurately estimated at this time. The existing Commission has recommended this area be placed in a new classification called Alaska National Lands. Decisions regarding these lands must be made cooperatively, within a national context over time.

12. Land exchanges between Federal and State governments or between governments and Native corporations may offer a viable solution to certain problems. Cooperative planning is needed to provide the broader perspective to undertake such exchanges.

II. Reasons for a Federal-State Commission for Alaska

The trend in Federal programs over the last 15 or so years has been toward greater State-Federal cooperation. Many programs or statutes permit or require cooperation, including Coastal Zone Management, Lakes Act, BLM Organic Act, etc. These and earlier programs such as the river basin commissions have had degrees of success or failure for various reasons. The new joint Federal-State commission in Alaska is designed to enhance the national interest and is particularly important for the following reasons.

1. Alaska is unique in being a one-state region as well as a state in which few land use patterns are set. Alaska offers an opportunity to attempt a vital, close, and unique effort in State-Federal cooperation. Thus, State-Federal cooperative planning and management may be evaluated in isolation from problems which emerge from multistate jurisdictions.

2. A joint Federal-State activity will provide a mechanism to which both the Federal (President, Secretary of Interior, Congress, etc.) and the State government (Governor, Fish and Game Commission, Legislature, etc.) may relate and which will institutionalize communications between the many interests.

3. Many of the decisions to be made in Alaska are too important, too big to be made within the mission of a single agency or even department. A joint commission will provide an umbrella agency allowing a nondepartmental, cross-functional area review, and a joint planning and coordination that must occur.

4. The existing record of many agencies in cooperative management is simply not very good. There are tools in existing laws which may be used in cooperative planning and management, but each lacks a third party, a motivating force to insure that dialogue takes place, and, as appropriate, is acted upon. A joint Federal-State commission provides both the vehicle stimulating Federal-State, interagency, and interdepartmental cooperation in and across functional areas such as transportation and fish and game, and energy and parks, and a means of unifying diverse elements into a coherent whole.

5. One of the major functions of any commission is to provide a public forum for the direct expression of ideas so issues and problems may not be hidden or ignored by line agencies.

6. State participation on the commission will also insure a meaningful State role in the governmental interface with Alaska citizens. In the absence of such participation, the Federal government would interact alone with private citizens, and many State responsibilities and regulatory approaches could be overlooked in the process. As a consequence, a traditional adjunct of American federalism might be jeopardized.

Should the State of Alaska decide not to join in a Federal-State effort, the Land Use Planning Commission recommends that a Federal commission be established which would coordinate Federal activities with particular emphasis on Alaska National Lands and such functional areas as transportation, fish and game management, research, information systems, and wilderness studies.

III. Powers

In order to carry out its intergovernmental, interagency, cooperative planning and management role, the Commission will need a certain limited range of powers.

"Donation" or "Matching" of Lands

Before proceeding with the discussion of "Powers," it is important to note that neither Federal nor State government is giving up, contributing, or donating land. Each is delegating only a portion of its regulatory authority and that subject to a veto by designated officials of the respective governments.

Joint Classification Areas

When land transfers are completed, there will be intermingled Federal, State, and local governmental and private ownership of numerous areas with key natural resources. Whether the public interest is best served by protection of natural values, by the development of needed resources or an appropriate blending, cooperative planning will be essential. With coordination, Federal, State, and private interests can all be served more compatibly; without it, conflicts may be aggravated and all interests frustrated. In those key areas, called Joint Classification Areas or JCAs, where the various interests are similar or complementary, land classification should be conducted jointly by the proposed Federal-State commission. General authority could be granted by Congress and the Alaska Legislature to the commission as part of its comprehensive planning function to identify JCAs and to classify the land.

JCAs would not encompass lands within or recommended as additions to the existing Federal land management systems. The State may also have sound reasons for reserving exclusive control over certain lands, and these would not be incorporated in JCAs. The prerogatives of the different governments should be further preserved by giving each government veto power within its sphere of ownership over joint commission classifications.

Private Lands

Cooperation of private landowners with the State and Federal government will be important in many areas. The commission should have the authority to include private lands in JCAs with the consent of the landholder.

Alaska National Lands

The existing Commission has recommended that Congress establish a new classification system to be called Alaska National Lands. Units of these lands are to be under the day-to-day management of one of the existing Federal agencies, but the Commission would be empowered within guidelines established by Congress to classify these lands. Even if Congress does not create Alaska National Lands, the other powers in this section will be needed if meaningful State-Federal cooperative planning and management is to become a reality.

Should Congress not establish the Alaska National Lands classification, there will remain a demanding need for a joint classification authority to work with JCAs.

Advisory Duties

The new commission should be empowered to continue the advisory functions of the present Commission. Specifically, the commission should be authorized to make recommendations to appropriate officials of both governments with respect to:

--ways to improve coordination and consultation in wildlife management, transportation planning, wilderness review, informative systems, research and other activities requiring regional or statewide coordination.

--programs and budgets of Federal and State agencies responsible for administration of public lands in Alaska.

Should an agency elect not to follow a commission recommendation, that agency shall, within 30 calendar days from the date of receipt of the recommendation, provide the commission a detailed, written report stating in full the reasons for rejecting the recommendation.

Operating Procedures

To avoid the complications of two sets of regulations, State and Federal, which differ, the commission should be authorized to establish its own personnel, property, procedural, etc., rules and regulations.

IV. Organization

Commission Structure

After discussion of several alternatives, the Land Use Planning Commission recommends the following structure for a future commission.

1. The commission should be created for a period of 10 years. This time frame will permit the general land ownership pattern to be set or certainly to become less fluid, and will provide the time for a number of important decisions to be made. While it is unlikely that the need for cooperative planning and management will decrease during this time, a congressional review should be provided for by statute to occur during the eighth year of the commission's work. This review would cover the first seven years of experience, would redirect the commission's work if necessary, and would recommend whatever actions are deemed appropriate upon expiration of the commission's mandate two years later. Thus, the commission would have a built-in "sunset" provision.

2. As indicated under Powers, there is to be a Federal veto over actions affecting Federal lands, and a similar veto provision for State lands. As actions move from the purely advisory mandate of the existing Commission to the classification authority of a new commission, the veto power should reside with the President and Governor. In the event of a veto, the appropriate official shall provide concurrent with the veto a written report stating in detail the reasons for such action.

3. The commission would consist of ten members, all of which would serve at the pleasure of the appointing official. The President would appoint a full-time Federal co-chairman, and four part-time commissioners.

   An equal number of commissioners, including a full-time co-chairman, would be appointed by the Governor.

   Qualifications for Federal members should be established, if possible, which will insure a national perspective. State member qualification should be established by State statute. With respect to both Federal and State members, the subcommittee recommended that appointments not be ex officio or institutional, i.e., State commissioners or Federal department

or agency heads. It was also recommended that appointments not be representatives of special interest groups. The subcommittee felt that special interest representation tends to institutionalize conflict rather than contribute to problem solution.

4. In all matters, the commission should be authorized to advise and work directly with the President, Governor, Presidential and Gubernatorial appointees, Congress, and the Legislature.

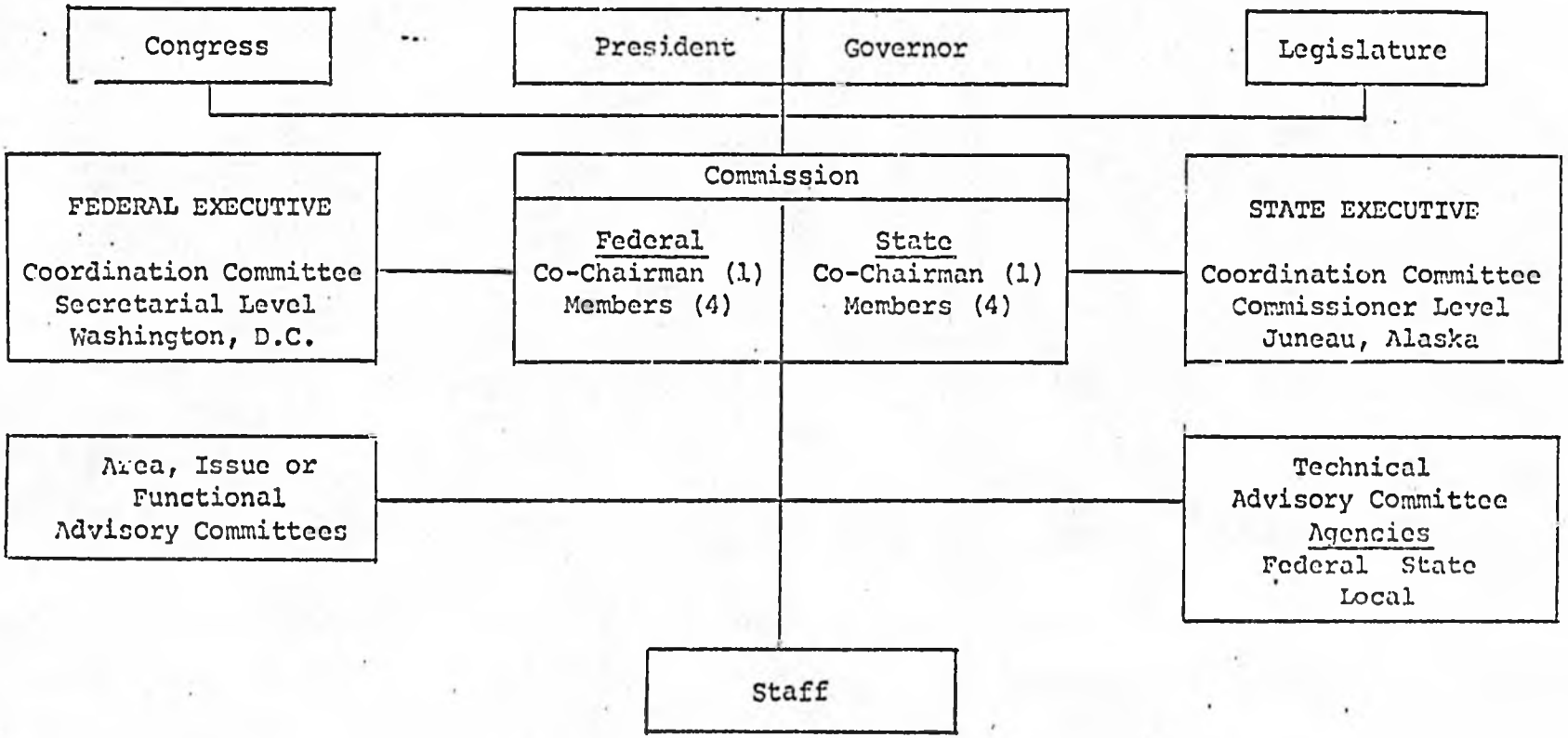
5. The commission should have a standing Technical Advisory committee consisting of the heads of Federal agencies with land related responsibilities in Alaska and their State counterparts. Other advisory committees or task forces should be appointed as needed on either an area, issue, or functional basis.

6. In order to assure a mutual understanding of joint problems, to develop common policy, and to insure that plans are implemented in the field, a Federal Executive Coordination Committee should be established in Washington at the Secretarial level. This committee would meet periodically in order to coordinate those programs and functions of their respective agencies which could affect administration of the lands and waters in Alaska.

7. A State Executive Coordination Committee should be established at the commissioner level by the Governor as the State's counterpart to the Federal Committee. This Committee would also meet periodically to coordinate those programs and functions wherever necessary to insure successful cooperative planning and management, and which interface with Federal lands and interest.

8. The commission's budget should be funded one-half by each government.

JOINT FEDERAL-STATE
COOPERATIVE PLANNING AND MANAGEMENT



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DRAFT FOR COMMENTS

DEVELOPING COMPATIBLE FEDERAL AND STATE LAND PLANNING SYSTEMS

A Staff Report

Joint Federal-State Land Use Planning Commission for Alaska

October, 1977

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Introduction

Throughout the Nation, but particularly in the Western states where Federal ownership accounts for a major share of the land area, state governments are asking for a stronger voice in the planning and management of Federal lands. This assertiveness reflects the growing public awareness of land use and environmental matters. No longer are Federal lands viewed as islands, separate, and apart from other lands. People are realizing that Federal land management decisions in their state can have a powerful influence on surrounding land uses, and on the states' economic and social well-being.

During the September, 1977 Western Governors' Conference, emphasis was placed on the fact that Section 202(c)(9) of the Federal Land Policy and Management Act of 1976 requires that land use plans for Bureau of Land Management lands "shall be consistent with State and local plans to the maximum extent he (the Secretary of the Interior) finds consistent with Federal law and the purposes of this Act." The first resolution adopted by the sixteen governors asked for State and Federal coordination and cooperation in drafting the rules and regulations for the Federal Land Policy and Management Act.[1] Another resolution found that the Bureau of Land Management and the U.S. Forest Service planning systems did not provide adequate accountability, and asked that the rules and regulations for the new Act reduce administrative discretion and add accountability.[2] A number of ways of achieving this objective were set forth, including the establishment of State coordinators within Federal agencies; the exchange of timetables and schedules; and guidelines for combining State and Federal public meetings, review periods, and regulatory requirements.

In Alaska, the mutual interests of State and Federal landowners are especially strong. Alaska's Statehood land grant differs from those of other states not only in terms of the exceptionally large quantity of land involved, but, also, because Alaska was allowed to choose most of its grant "at large" from the unreserved and unappropriated public domain. The State has used its at-large selections to acquire lowlands, river valleys, resource rich regions, and the mountain passes which make natural transportation corridors. Further, the State holds title to the tidelands along the 47,300 miles of Alaska's coast and to the subsurface of all navigable waters. State ownership in Alaska generally encompasses more verdant and productive areas, and areas more suitable for human activity, than lands under Federal ownership. Much of the migratory waterfowl and wildlife of national significance in Alaska depend heavily on State-owned lowlands and tidelands. Thus, State ownership, though it will amount to only 28 percent of the total area of Alaska, as opposed to the Federal government's 60 percent, is of at least equal significance in terms of regional land use planning. In Alaska, development of cooperative Federal-State planning systems offer clear national as well as State benefits.

The recent debate over the Alaskan (d)(2) lands has highlighted the need for coordination between State and Federal landowners. By now it is clear that the land ownership patterns which are being established by Native selections and Federal withdrawals under the Alaska Native Claims Settlement Act and by State selections under the Alaska Statehood Act often divide naturally interrelated areas that should be planned and managed as a single unit. It is paradoxical that states and, by delegation, local governments should have the ability to regulate separate

private landowners to establish rational overall land use patterns, yet there is no comparable mechanism to lend unity to the land use decisions of separate public landowners.

In the future, land exchanges may be used to correct some of the worst problem areas. However, it appears that the only comprehensive means of lending an overall rationale to the planning and management of regions under divided ownership is for the separate landowners and managers to coordinate their planning processes. Doing so should place the primary focus on the total area and enable the development of a unified overall plan rather than separate plans focused on portions of the whole.

Coordinative planning should also serve to clarify and simplify communication between public agencies and the members of the public who use the land. If both levels of government are able to address the planning of a single interrelated area at the same time, using similar terminology for similar regulatory measures, then public land management should be a far more understandable process to the affected public.

Coordinating Federal and State planning processes is a matter of both timing and content. Research, public hearings, and policy decisions should be conducted by the State and Federal governments at the same time for the same region so that there can be a mutual exchange of information and mutual adjustment of planning policies to best fit the requirements of the total area and the interests of the public. Synchronized timing should help prevent situations where one level of government must act as a supplicant or lobbyist to the government with a preestablished plan. Instead, through a synchronized effort, the

focus should be on the total area. Boundaries of ownership should become less important than the nature of the land and the social and economic factors to be considered in developing a sound overall plan.

The second major component of coordinated Federal and State planning has to do with the language and method used in the planning process. This is more than a matter of descriptive terminology. There must be some agreement about the basic system of planning and land use regulation if planning terms and categories are to be compatible. This paper deals with this second component of coordinated land use planning, the use of a common language and method for land use planning. Mutual purposes are described and areas of possible conceptual agreement are suggested. Based on these concepts, a proposed system of planning categories for State and Federal use is outlined.

The Joint Federal-State Land Use Planning Commission for Alaska chose to analyze this subject at this particular time because both the Federal government and the State of Alaska are currently revising their land planning systems. The Department of the Interior is drafting rules and regulations for the 1976 Federal Land Policy and Management Act. Presumably these will spell out a new planning process which will modify the Bureau of Land Management's traditional "management framework planning" process. The ground rules for planning contained in the Federal Land Policy and Management Act are different from those for previous Bureau of Land Management planning programs. For the first time, coordination with State and local governments, with other Federal land managers and with "Indian tribes" is mandatory. Under different ground rules, the planning processes should be different.

Within Alaska, the Bureau of Land Management has recently responded to the planning mandate of the 1976 Act by establishing a regional planning program within each district office. In April, 1977, the State Director of Bureau of Land Management issued a Statement of Policy setting forth strategies and direction for Bureau planning through 1982. A core planning team will be formed within each district office and man weeks of time to be spent on planning were allocated. Within each district, areas were selected for priority attention, generally on the assumption that the most settled and populated areas should be planned first. Presumably, this planning program will eventually be restructured to accord with the rules and regulations which are promulgated in accordance with the Federal Land Policy and Management Act.

On the State side, the Alaska Department of Natural Resources has also adopted a new planning program in recent years. For the first time, the Department of Natural Resources has an active and well-staffed planning organization, equipped to provide the foundation of land planning policy which could lend cohesiveness to diverse land and resource management programs within the various divisions of the Department. Administratively, there has been a shift in emphasis from disposal to classification, and organizational changes have been made to reestablish the role of land planning and classification as the determining factor in any disposal action. As part of this effort, the Department is revising the existing State land classification regulations and plans to complete a proposed draft of new regulations during the coming winter. Thus, at the present time, both the Federal Department of the Interior and State Department of Natural Resources have an opportunity to incorporate changes in their

planning and classification systems which would facilitate intergovernmental coordination.

This report will proceed with a brief review of prior and existing planning and classification systems, a discussion of common purposes and objectives in land categorization, and, finally, recommendations about land planning categories and processes that would accommodate the purposes of both governments.

This analysis of Federal planning systems focuses primarily on planning of lands under the Bureau of Land Management rather than on lands within the national conservation systems. This choice was made because the Bureau of Land Management lands are essentially uncommitted, except to the ongoing principle of management on the basis of multiple use and sustained yield. Further, in Alaska, the Bureau of Land Management often manages those lands most closely interrelated with State or private lands, in regions where cooperative planning is particularly necessary.

The Bureau of Land Management has recently prepared plans for several areas of Alaska using what is called "management framework planning." This system, as it is spelled out in Departmental Manuals, places great emphasis on the process of inventory and analysis preceding the planning decision, but includes very little written policy to guide the decision makers' choice in determining land uses to be included in the plan. Unlike traditional urban land use planning and zoning, the Bureau of Land Management system does not include preestablished land use categories or classifications setting forth groups of compatible uses and policies that might govern such groupings. Thus, instead of assigning areas to various preestablished management categories or classifications, the Bureau of Land Management planner makes his decision on a case-by-case basis, tailoring each decision to fit circumstances as he sees them. Admittedly, his actions are guided by the body of public law governing different uses of the public domain. The Sikes Act, Taylor Grazing Act, Endangered Species Act, 1872 Mining Law, Mineral Leasing Act, Coal Leasing Act, Off-road Vehicle Executive Order 11644, American Antiquities Act, and Wild Horse Act each provide authority and establish guidelines for the management of particular uses; but in deciding which uses can co-exist and, if so, under what circumstances, the management framework planning process leaves the Bureau of Land Management decision maker considerable leeway and discretion.

The Wilderness and Wild and Scenic Rivers Acts differ from the other authorities. Essentially, these Acts establish classification categories governing permitted and prohibited uses within areas so classified.

These two pieces of legislation will be discussed later in this chapter as examples of how the use of planning categories might affect the Bureau of Land Management planning process.

The Bureau's one experience with a formal classification system in Alaska was between 1964 and 1969 during the period when the Classification and Multiple Use Act was in effect. This legislation authorized and directed the Secretary of the Interior to divide and classify areas into lands suitable for disposal and lands suitable for public retention and multiple use management. Thus, as an example, the classification of Alaska's White Mountains planning unit identified eight areas along the Steese highway, totalling approximately 11,000 acres, for entry by private parties under the Federal Homesite and Headquarters Site Legislation. The remaining 6,105,442 million acres were segregated from various forms of appropriation and reserved as public lands under multiple use management.

Though this division into two categories is a very simple and basic form of land use planning, the Classification and Multiple Use Act of 1964 represented a major gain in Bureau of Land Management land use planning authority at that time. No longer was the Federal public domain to be totally open to random entry by private parties under a multitude of Federal laws. Instead, the Act made it possible for the Bureau of Land Management to give an overall direction to the location and pattern of private land acquisition and settlement of the Federal public domain. The 1976 Federal Land Policy and Management Act provides similar planning authority, but with a far greater opportunity to develop a sophisticated and publicly accountable planning system.

In writing, at least, the State's classification regulations are more complex than the Federal Classification and Multiple Use Act. The Alaska Administrative Code outlines 16 different classification categories for a variety of purposes, ranging from very limited uses, such as residential, to general multi-purpose categories such as resource management. However, in actual practice, the most important distinction has been between the group of categories allowing land to be sold to private parties and categories dictating the retention of land in State ownership. Within the 7 categories permitting land sale, the use distinctions have only nominal significance, since State classifications have no power to regulate land use once title is conveyed to a private owner. The retention categories also merge when actual effects are considered. Most of the retention categories allow multiple use, provided the use is consistent with the primary purpose of the classification. The only other real distinctions are that some categories restrict mineral entry to a lease and permit system, whereas others allow mining claims and borough selection is permitted only in the reserved use classification.

The State's Administrative Regulations require that land be classified prior to disposal.[1] Unclassified areas are unavailable for sale or lease of surface rights, though mining claims and mineral leases are allowed.[2] In practice, this restriction has had an effect that is probably quite different from the intention of those who wrote the law. Classification, as it is set forth in the statutes and regulations, apparently was meant to provide the link between land planning and land management. Through planning the overall use pattern best serving the public interest would be determined; lands would be classified on the basis of an areawide plan; under certain classifications lands would be

made available for private ownership. Instead, pressures for disposal have motivated classification actions. Rather than guiding and directing areas of private acquisition and development, classification has generally served as a preliminary to disposal. Rather than blanketing whole regions to provide an overall framework for parcel by parcel decisions, classifications are spotted in areas of activity and large areas are unclassified and open to random entry through mining claims. Recently, however, the Department of Natural Resources and Division of Lands have made extensive administrative changes designed to realign planning, classification, and disposal to accord with the intent of the statutes and regulations.

Both State and Federal systems allow considerable administration discretion in determining uses of public lands, and both the State land classification system and the Federal management framework planning system have been criticized for failing to incorporate meaningful public participation.

The ease with which land plans and classifications can be changed depends in part on the legal requirements for public participation in the classification and reclassification process. A land use plan or land classification pattern which has been carefully wrought through a process of give and take with the public, other agencies, and adjoining landowners will be less vulnerable to administrative change than a plan developed wholly within the bureaucratic structure, particularly if a similar process of public involvement is required to amend the plan or classification pattern.

The State statutes require that affected local governments be consulted about proposed land use prior to sale or lease of State property.[1] Beyond this there is no requirement for public involvement and classifications have been established without public hearing and, until recent years, without requesting comment from other State departments and adjoining landowners. The Director of the Division of Lands has the power to establish classifications, but his determinations have had little durability. Classifications can be and have been readily changed to fit one purpose or another.[2]

The Bureau of Land Management's management framework planning system also grants a high degree of discretion to the administrative decision maker. Though the manual on management framework planning provides extensive detail about the process of collecting and evaluating information for the plan, there are few guidelines for the district manager who serves as decision maker. He is "presented with recommendations, alternatives, and analyses...," and must "weigh these recommendations and analyses and decide which ones to accept, reject, or modify."[3] Thus, the final planning decision is basically a matter of well informed judgment by the individual manager. In the absence of a system of land use categories, the district manager must decide on a case-by-case basis without the aid of preestablished policy governing typical combinations of uses.

The land use plans which have been developed in Alaska under the management framework planning system are in the form of maps with descriptive notations about plan decisions. In some cases, lines indicate approximate areas to which various decisions apply. For example, areas of the map are noted "manage for raptors" or "prohibit off-road vehicles." Occasionally, in other states, the Department of the Interior has formally withdrawn areas of Bureau of Land Management National Resource Lands for specific purposes such as historic conservation, recreation use, or preservation of primitive or natural characteristics. But even these more formal actions were specially designed for each case. Rather than choosing an appropriate category from a preestablished set of categories of policies and regulations, each withdrawal order was drafted specially for each area.

There are advantages to giving the decision maker the flexibility to tailor his plan to fit the individual situation. However, there are also significant drawbacks to this ad hoc approach, particularly when used by public agencies with an obligation to further the larger public interest, even where this may conflict with individual wishes. Without some reference to an established set of categories, there is no assurance that similar lands and situations will be treated similarly. Instead, it is likely that the policies of different district managers will vary considerably, depending on different points of view and the different pressures, both public and bureaucratic, to which the decision maker is subjected. With a variety of different approaches in similar areas, there is the danger that Federal policy will appear unnecessarily complex and inconsistent to the affected public. Since language and terminology are written separately for each situation, wording that means one thing in one area may have a different meaning in another area. Without a clear and specific written definition of the proposed policies under consideration for an area, State and local governments and private parties are handicapped when they attempt to participate in the planning process.

Further, a plan which is essentially a collection of descriptive statements about administrative policy decisions in various areas lacks durability and reliability. What can be decided by administrative fiat at one time can be readily changed or altered at another. Without a certain degree of continuity to planning decisions, affected parties have little assurance that their input is relevant to a significant and lasting decision or, for that matter, little way of knowing when their comments will be considered in the planning process.

As an example of an alternative approach to Federal land planning, it is useful to look at recent experience under the Federal Wilderness and Wild and Scenic Rivers legislation. Essentially, these two Federal laws establish land use categories, each with a set of management policies which can be applied wherever Federal lands are so designated.

On a full set of land use categories, ranging from urban development to minimal land use, wilderness and wild and scenic rivers would fall at one extreme of the spectrum. Nonetheless, the two Federal Acts serve to demonstrate how the possibilities for participatory planning are improved through the use of preestablished categories. In the process of considering a wilderness or wild and scenic river designation, affected parties have a clear statement about the nature of the regulatory measures under consideration. Because the nature and implications of the proposed classification are well defined, communication from the public and from other governmental agencies can be informed and constructive. Since the same set of policies have been used in other areas, there is a basis of previous experience with which to judge the effects of a new proposal.

The Wilderness and Wild and Scenic Rivers Acts set forth policies applicable to areas where the intent is to minimize human use of the land. There is no reason, however, why Federal planning categories could not be devised for use in areas where more extensive land and resource use is desirable. A balanced range of land use categories offers planners and members of the affected public a view of the full spectrum of alternatives before arriving at a decision. Value judgments and political considerations should be reflected in decisions about where and how

extensively various categories are applied; the set of available categories should be as balanced and unbiased as possible.

A full set of categories should probably allow more room for change and amendment than is possible under the Wilderness and Wild and Scenic Rivers Acts. There is need to find a reasonable balance between durability and flexibility in planning decisions. Perhaps such categories should be formulated through Federal regulation rather than by act of Congress. However, as under the Wilderness and Wild and Scenic Rivers Acts, the policies to be considered should be clearly and formally articulated, and the planning decision, once reached should have sufficient durability to warrant the effort required for participation by the affected public and other governmental levels.

Common Purposes

Both the Bureau of Land Management and the Division of Lands are directed by law to plan and manage lands in a way that will accommodate a variety of public purposes and private interests. The 1976 Federal Land Policy and Management Act tracks the original Bureau of Land Management mandate by directing that management be "on the basis of multiple use and sustained yield, unless otherwise specified by law."[1] The State's basic land policy, embodied in the Alaska Constitution, is "to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest."[2]

Both levels of government have seen this legal direction as a strong mandate to allow many uses of the public domain. The State has concentrated its land selections in areas with several overlapping potential uses or natural values. State Statutes prohibit classification which would close over 640 acres "to multiple purpose use" except by act of the State Legislature.[3] A comparable provision in the Federal Land Policy and Management Act provides that Congress must be given an opportunity to review and disapprove of any management decision or action that "excludes one or more of the principal uses or major uses for two or more years" from a tract of 100,000 or more acres.[4] Clearly the orientation of both the Federal Bureau of Land Management and the State Division of Lands is towards management which will permit a wide range of land uses.

Some may argue that the development and use of planning categories is contrary to multiple use objectives. Land use categories, by definition,

allow some uses, and limit or prohibit other uses. However, with or without categories, sorting and regulation of allowable uses is essential to multiple use management. Some uses must be prohibited in certain areas or they will preempt other uses. In fact, sorting and categorizing land uses to separate the location of incompatible activities is a means of increasing the multiple use of the land. Without separation, certain uses preempt the land for other purposes, just as the climax tree growth in a forest eventually overwhelms other species. The definition of multiple use in the Federal Land Policy and Management Act recognizes this concept by stating that multiple use can mean "the use of some land for less than all uses; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources..., and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output."[5]

Multiple and varied land use is a commonly held goal, but what are the more specific Federal and State purposes to be served by a system of planning categories? Discussion with land planners in Alaska at both Federal and State levels, in combination with a review of written material, suggests five commonly held specific objectives:

(1) A need for comprehensive "first cut" planning of whole regions to provide basis and framework for more specific land use planning and management in certain areas. At both Federal and State levels, practicing planners see value in assessing land uses and values on a comprehensive regional basis. The Director of the Alaska Office of the Bureau of Land Management, in a

memorandum expressing the conclusion of a series of meetings with his staff, described the current management framework planning program as a "first cut" to make "broad land use allocations, ...address major statewide land issues, ...and develop land use policies and management direction for Bureau of Land Management on a regional basis."[6] The State Division of Lands has also recently queried staff involved in planning and classification decisions. The immediate intent was to identify problems associated with the existing State classification system, but comments often touched on needed land planning systems as well.[7] Here again, a recurring concern was for a process of preliminary regional planning which would be followed by more detailed planning in specific areas. A number of Division staff also thought there was a need for regional classifications that would establish basic management policies, such as control over mineral entry and extraction.

(2) A need to identify areas within the region as the focus for specific and detailed planning and management. Conversely, a need to identify other areas of the region where a simple holding program and basic maintenance management would be appropriate. At both governmental levels, the choice of areas where staff work should be concentrated is perceived as an important function of the regional planning process. The regional context should help to assure that priorities for detailed planning and management are not simply a response to immediate pressures, but instead, are chosen on the basis of a full assessment of options. Also, regional overview enables

an assessment of the interrelationship between different forms and intensities of land use and activity within the region. Transportation routes, areas for private land acquisition and settlement, watersheds, recreation areas, and other uses could be viewed and evaluated as a total pattern to determine changes of future directions that might reduce conflicts and improve interrelationships.

(3) A need to communicate clearly with private parties and other agencies and governments and to encourage and enable informed and constructive comment. Both the Bureau of Land Management and the Division of Lands are obligated to adopt a planning process which enables constructive participation by others. Under the new Federal Land Planning and Management Act, the Bureau's legal mandate to "provide for meaningful public involvement" is clearer than that of the State. State law only requires that affected communities be consulted about land use before any disposal of nearby State lands. But both entities have an equally strong professional obligation to obtain and consider the advice of affected parties, particularly the users of the public lands and the owners of adjoining lands. Not to do so undermines the reasons for planning. Planning that aims at maximizing public benefit from the land and improving interrelationships between land uses must be attuned to public wishes and aware of the plans of adjoining landowners.

Effective communication requires a clear definition of the public policies which may be applied to the area under consideration. Without such a definition there is no basis for public comment. This principle implies the use of some form of predefined planning or classification categories listing groups of permitted uses and defining alternative land management policies.

(4) A need to achieve a reasonable balance between durability and flexibility in land planning and management. Recent conventional wisdom has held that planning "is a process." Rather than "plans cast in concrete", there should be a flexible planning process that evolves to reflect changing circumstances. This concept is easily carried to an extreme that undermines the reasons for planning in the first place and, in effect, grants unlimited discretion to the planner. In turn, a land planning process that allows extensive administrative discretion is vulnerable to pressures from special interests.

Obviously, an excessively rigid plan is also undesirable. Conditions affecting land use vary over time, and a sound decision under one set of circumstances may lose its basis as circumstances change. Without a means for periodic adjustment, planning can become counter-productive. Thus, at any level of government, land plans should be sufficiently durable so that decisions arrived at in a public contest are reliable and are protected from the whims of special interest and administrative change. Yet the planning system should also have the ability

to make changes or adjustments when there is a sound public reason.

(5) A need to accommodate different and often conflicting public values about the use of the land. Within the basic constraint of the capacity of the land, both Federal Bureau of Land Management and State land managers must seek to accommodate the legitimate, but often conflicting interests of miners, conservationists, hunters, photographers, skiers, snowmobilers, agricultural developers, settlers, etc. Generally, the most workable solution is physical separation, creating a pattern of areas set aside for various management policies accommodating different sets of public values. If different sectors of the public can see that their interests are represented in the pattern, the plan has more durability.

This has occurred with the National Park, Wildlife Refuge and Forest Systems. Over time, each system has developed a constituency of loyal supporters from those people whose interests the system furthers and protects. In turn, a basis of public support gives each system stability and durability. Multiple use systems, without the use of planning categories, run the risk of being seen as all things to all people, offering little security for any one particular interest. Use of a clearly defined system of planning categories, each accommodating a different part of the spectrum of public interest, should counter this tendency and, in turn, add stability to planning decisions.

Kinds of Categories

Systems of land use planning categories typically combine categories applying to activities which use small quantities of land intensively with categories applying to uses which extend over large areas. This distinction between intensive and extensive land uses is important in developing a system of categories for regional planning. Intensive land uses include commercial, industrial, private recreation, and residential uses as well as material and mineral extraction; extensive uses include watershed, wildlife refuge, forests, and natural parklands. Agricultural uses can be either extensive or intensive, depending on the type of cultivation. There is a vast difference between a barley farm and a tomatoe greenhouse.

On a comparative scale, intensive uses require very little land; extensive uses cover large areas. Intensive land uses often have very exacting and specific locational requirements. An industrial or commercial site must have good access to transportation; for many people water frontage is essential to a desirable recreational site; mineral or material development must be located at a deposit where extraction is economically feasible. Another common characteristic of intensive uses is their impact on surrounding land uses, and their tendency to generate significant public costs for services and infrastructure. Industrial or commercial uses may draw heavy traffic and make adjoining residential or recreational lands less desirable. Residential land use requires a relatively high investment of public funds for schools and services such as fire and policy protection. In some locations, a mineral and material site can severly damage the surrounding environment. Land use conflicts typically

occur between intensive uses or when an intensive use is superimposed on an extensive use. In contrast, extensive uses normally extend over large areas, do not involve construction except as an accessory activity and generally have minimal impact on adjoining uses.

The State's existing land classification system is a mixture of categories for these different forms of land use. There are six intensive use categories, "commercial," "industrial," "private recreation," "residential," "material," and "mineral"; and five extensive use categories, "grazing," "timber," "resource management," "watershed," and "unclassified." Four of the State's categories, "agriculture," "utility," "reserve use," and "open-to-entry" fall in the middle ground between the intensive and extensive use. The "utility" classification is an all-purpose disposal category that has been used by the State to provide large tracts for speculative subdividers. The "reserve use" category was originally designed as an intensive use category to apply to specific sites needed for government agency purposes, but it is the classification designating areas for a municipal selection, which can amount to 10% of the State lands under municipal jurisdiction. The open-to-entry category was designed to designate extensive areas within which individuals could select their private recreation sites. It is an extensive classification within which intensive uses could be located. Categories allowing mining claims also operate on this principle.

Though the Federal Classification and Multiple Use Act of 1964 set forth only two formal classification categories, one for disposal and the other for retention for multiple use management, the accompanying regulations included a listing of land classifications which were to be

used to qualify lands for either disposal or retention. Like the categories in the State classification system, these classifications covered uses ranging from intensive, site-specific activities such as residential, commercial, and industrial and mineral extraction to categories for very extensive uses such as watershed protection, wilderness, and fish and wildlife.

The use of classification categories similar to the State and Federal examples described above is common practice in urban zoning. At the scale of an urban community, where most uses are intensive, such systems are workable. But application of a similar system at a regional scale can cause serious distortions. The basic difficulty is simple. Viewed in a regional context, intensive land uses require very little acreage. On maps at a regional scale a realistic portrayal of the land area required for most intensive types of land use is barely visible. Development in the Anchorage bowl occupies less than half a township. The area required for expansion of permanent settlement is also relatively small. As William H. Whyte has noted:

> "A metropolitan area can take care of a great many more people by only a very slight expansion of its radius. Once it is a certain size--say fifty miles across--a slight enlargement of the periphery will vastly increase the acreage, with each additional mile outward adding almost a fifth again as much area."[1]

At a regional scale it is impossible to depict the specific interrelationships that are important in dealing with intensive land uses. Further, used at a regional scale, intensive land use categories tend to be

handled as extensive categories, and areas far beyond realistic requirements designated for intensive use purposes.

In the past, this happened under the State Division of Lands where extensive areas along highways were classified "commercial," "industrial," or more commonly, "utility." The effect can be the equivalent of no planning at all. In areas where designation enabling disposal for commercial or industrial use far exceeds the realistic market demand for that type of land, development continues to occur at random and commercial structures intermingle with residential development. The net effect is that the area is blighted for both residential and commercial purposes. The sprinkling of commercial structures makes the land undesirable as a place to live, and, in turn, commercial development fails to gain the advantage of the added customer drawing power created by adjacency to other businesses.

The problems created by mixing intensive and extensive land use categories in planning on a regional scale could be avoided by writing regional land use categories that cover groups of uses that typically locate together in the same part of the region. For example, instead of commercial, residential, and industrial use categories, perhaps there should be a "settlement impact" category applicable to the whole range of settlement related uses, including the public recreational lands that should be interspersed with settlement. Such a category would be roughly parallel in dimension and level of generality to other extensive use categories applicable at a regional scale.

However, if this approach is used to show broad patterns of land use at a regional scale, it will be important to devise an effective system for planning at a more detailed scale in certain areas where intensive uses cluster and for isolated sites in more remote regions, for example, a mining site or an isolated coastal development. The following section details a proposal for broad regional planning categories combined with subsets of categories for "settlement impact areas" and for areas of intensive resource development, as well as a "conditional use permit" system for isolated intensive uses in remote regions.

Proposed Planning Categories

From the definition of purposes which both Federal and State governments seek to accomplish through their land planning systems, and from the examination of existing systems and categories that have been used previously, it is possible to propose elements of a system that would have utility at both Federal and State levels. In summary, these elements are as follows:

(1) For regional planning, use of broad categories covering extensive areas and including groups of uses. Rather than referring to a single use, or resource such as "residential" or "timber," the proposed regional categories would apply to extensive areas and include groups of land uses that either are compatible or could coexist compatibly, given appropriate regulatory measures. Categories would be differentiated by the degree or intensity of land uses permitted. Each category should be written with a well defined statement of intent and purpose. For clarity, this definition should list those uses which are unequivocally prohibited or permitted under the intent of the category. However, as is explained below, many uses would be permitted on the condition that they conform to a more detailed land use plan, or, for isolated intensive uses, on the condition that they meet certain criteria designed to accord with the intent of the regional category.

(2) Within regional planning categories, reference to subsets of more specific categories or criteria, applicable to spots or

groupings of intensive land uses. For many uses the regional category would simply state that permission or prohibition is on the basis of specific criteria or detailed land use planning developed at a more localized level. This two-tiered approach would make a clear distinction between the regional planning of extensive land uses or groups of land uses, and the area-specific, large scale consideration that should be applied to intensive land uses which may locate within the broader designations.

The two-tiered approach also offers a useful parallel with existing institutional structures. For Federal Bureau of Land Management planning, broad regional categories could be established nationally through the rules and regulations which are soon to be promulgated for the 1976 Federal Land Policy and Management Act. Development of categories and criteria for the more specific planning subsumed under the regional categories could be assigned to Bureau of Land Management State offices or, in a state such as Alaska where there are vast differences between regions, the job might be further delegated to the district office level. At a State level perhaps both the general and the specific categories and criteria should be developed in the central office, but, here again, it may be appropriate to reflect regional differences, and draw on district office experience in the drafting of the subsets of specific categories and criteria.

Since the State statutes, unlike the Federal Land Policy and Management Act, refer to classifications, the State's categories should be for classification. Regional classifications would establish broad management policy. The more specific criteria and classification categories for intensive uses should include adequate detail to guide day-to-day management decisions, for example, to serve as a basis for drafting lease specifications. This would correct a difficulty with the existing State land regulations which require that uses of leased lands be limited to the purpose of the classification, but fail to clearly specify prohibited and permitted uses under most classifications.

(3) Use of "conditional use permit" criteria to regulate intensive land uses which locate on isolated sites in remote areas. For uses such as mineral development or remote coastal development, feasible sites generally cannot be predetermined without the kind of investment that is practical only for the industry itself. Thus, if a public agency designates areas for isolated development prior to the industry's decision, the area is liable to be excessive, or the feasible and desirable site may be missed entirely.

A preferable approach to regulating isolated site development of public lands is by establishing criteria governing the choice of site and the nature of development. Under this system, permits for each use would be issued or denied on the basis of preestablished criteria and conditions. Criteria

would be set in accordance with the purposes and policy of the regional category encompassing the site under consideration.

Through case-by-case evaluation, development can be permitted, permitted with stipulations, or prohibited depending on how the individual site and project align with the criteria. For example, locations identified by State and Federal governments as "areas of environmental concern" could be specially protected by the terms of the criteria and conditions, and in areas of high scenic value mineral development might be restricted to locations that are not visible from roads and hiking trails.

Conditions and criteria should be clearly defined and the process of evaluating development applications against the conditions and criteria should be formally structured and conducted with public notice and hearing. These procedures should help protect the basic principle of equity in land use regulation, that similar situations be treated similarly. Further, by giving industry a clear definition and advance knowledge of the standards that will govern the choice of site and the nature of development, compliance is facilitated.

(4) Establishment of broad regional categories to cover the full spectrum of regulatory options, extending from minimal land use to intensive community development. Decisions about where to apply various categories should be developed with public participation and reflect the values and goals of the public. To this end, categories should be available to represent

various different public interests and values relating to land use. At least four types of regional planning categories should be offered. These are:

Wilderness, a category for areas where man would not alter the natural world. At a Federal level, this category is already formally embodied in the Wilderness Act of 1964. The Federal Land Policy and Management Act of 1976 made the provisions of the Wilderness Act applicable to Bureau of Land Management lands. State regional classification categories should also include wilderness. Though the State will probably be less likely to designate areas as wilderness, the category should be available to provide a balanced range of choice and to facilitate coordinated planning with Federal land managers.

Habitat/Watershed, a category applicable to areas where the primary purpose of management is to protect the natural environment, but where other activities could be permitted if they can be conducted in accordance with this primary objective. In such areas, human activity beyond hunting, fishing, recreation, research and inventory would be permitted or prohibited on a case-by-case basis under specific conditional use permit criteria.

Resource Management, a category applicable to areas where various forms of resource development would be permitted, subject to subarea plans for sustained yield management

of renewable resources and conditional use permitting for intensive uses. Under more detailed planning or classification categories, land uses could be separated into districts for public recreation and fisheries protection, timber cutting and agricultural development. Again, mineral development would be most appropriately managed through a conditional use permitting process. However, under the resource management category, the criteria for a permit would be more liberal than under the habitat/watershed category.

Settlement Impact, a category designed to encompass areas soon to be settled, together with adjoining rural lands within the sphere of community influence. Selected areas adjoining existing or proposed highways and other points of access may be designated under this category, if development or other off-road land uses are appropriate in the particular location. The settlement impact category assumes a subset of land use categories which could be applied at a larger scale. These subcategories should include the traditional community land uses such as industrial, commercial, and residential, as well as categories for the public open space and watershed lands that should surround and intersperse settled areas.

The "settlement impact" category should encourage a balanced combination of areas for private acquisition and development with public lands located so that population

from throughout the community can have ready and convenient access to natural lands. The initial regional designation of settlement impact areas, with the intent of planning the total pattern of public and private lands in a community, should counter previous tendencies by State and Federal governments to identify large areas for disposal without corresponding designation of public recreation lands in and around disposal sites. By including areas which will be impacted by community growth, such as lands to be subjected to intensive recreation use and areas where speculative land sale and subdivision are occurring, the settlement impact category will serve to flag such regions for more detailed planning and management.

At the State level, the settlement impact category could serve to designate areas appropriate for municipal selection. In this case the detailed planning for public lands and for various forms of private development within settlement impact areas should be the responsibility of the municipality.

Some may argue that the Federal and State governments cannot use the same categories for regional planning because the two governments hold differing goals and objectives for their public lands. It is true that there are considerable differences in policy and attitude, despite the fact that the State Division of Lands and the Federal Bureau of Land Management have a similar legal mandate to make wide and varied use of the public lands. As a more local form of government, State land manage-

ment is closer to political pressures from individuals and interest groups who seek rights to State lands for personal use or economic enterprise. Since the Bureau of Land Management serves a national constituency that tends to view Alaska more as a place to recreate in a natural setting, than as a place to settle and develop, Bureau of Land Management policy places greater emphasis on retention for public purposes. The new Federal Land Policy and Management Act begins with a policy of retaining Bureau of Land Management lands in Federal ownership, unless there is a documented national interest in disposal.

However, differences in Federal and State policy do not necessitate a difference in planning categories. Values and policies should be reflected in the way categories are applied to the planning region--in the extent and boundaries of areas assigned to various categories--not in the system of categories itself. In fact, to enable and encourage full consideration of differing values and policies, it is important that the set of categories be well balanced, with categories representing the full spectrum of choices, ranging from full development to no land use.

By avoiding a weighting either towards development or no development, the categories remain neutral and the application of value judgments is made at the point of planning decision with the benefit of comment from the public and other agencies and levels of government.

To achieve balance in its planning categories, each level of government should have, at a minimum, a category under which land would be preserved in its natural state, a category allowing land uses in accordance with a primary objective of protecting the natural environment, a category for

resource development, and a category for settlement and settlement impact areas. The Bureau of Land Management may plan more of its lands for the first two categories while the State may place more emphasis on the latter two categories, but, by using the same basic set of regional categories the two governments should be able to plan interrelated holdings as a unit and, in doing so, greatly improve their communication with the affected public.

Footnotes

Introduction

1. Western Governors' Conference Policy Statement, Resolution #77-1 NRB, September 1, 1977.

2. Western Governors' Conference Policy Statement, Resolution #77-3 NRB, September 1, 1977.

Federal and State Systems

1. 11 AAC 52.030.

2. Ibid.

Administrative Discretion and Public Accountability

1. AS 38.05.300.

2. FSLUPC, Agenda for State Lands, December, 1975, page 24 includes tabulations of classifications and reclassifications from 1969 to 1974.

3. Department of the Interior, Bureau of Land Management, Manual 1068, "Management Framework Plans," .53 Decision Process.

Common Purposes

1. U.S. Public Law 94-579, Title I, Section 102(a)(7).

2. Constitution of the State of Alaska, Article VIII, Section 1.

3. Alaska Statutes, Title 38, ...

4. Public Law 94-579, Title II, Section 202(e)(2).

5. Public Law 94-579, Title I, Section 103(c).

6. Bureau of Land Management State Office, Instruction Memo No. AK-77-98, from State Director to Division Chiefs and Division Managers, April 21, 1977.

7. Alaska Division of Lands, Pam Rogers, Report on State Classification System, September 13, 1977.

Kinds of Categories

1. William H. Whyte, The Last Landscape.

Federal-State
Land Use Planning Commission
For Alaska

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

March 15, 1977

MEMORANDUM

TO: Commission

REVIEWED BY: John W. Katz, Counsel

FROM: Liz Matthews, Legal Extern

SUBJECT: Existing Federal-State Governmental Entities

Introduction

This paper will take a short overview of the major existing Federal-state governmental entities. The first section of the paper presents a discussion of the principal features of each entity. The second section contains information taken from telephone interviews with personnel who work for two of the most interesting Federal-state commissions, the Delaware River Basin Commission and the Appalachian Regional Commission. The final section will identify the issues raised by the previous discussion for the purpose of helping the LUPC to determine the most desirable features of any proposed Federal-state entity in Alaska. Because the primary focus of this survey is on organization and structure, the substantive mandate of each commission will be only briefly touched upon.1/

I have surveyed the existing non-Federal-state regional bodies and have found that they contain interesting features, but none that is not exhibited in the Federal-state entities discussed below. Therefore, due to considerations of time and space, and given the Land Use Planning Commission's orientation, this paper will confine itself to the Federal-state form.2/

PART I

The best known Federal-state entities are those created by multi-state regionalism: the Regional Economic Development Commissions and the River Basin Commissions.3/ The first river basin commissions, such as TVA, were not joint Federal-state in nature; but the growth of interstate compacts led in 1961 to the first interstate compact to which the United States was a party: the Delaware River Basin Compact.4/ Viewed at the time as a daring experiment in federalism 5/, the Delaware River Basin Commission

is perhaps the most powerful of the Federal-state entities. In 1970 the Susquehanna River Basin Compact6/ created an essentially identical commission. The two commissions were established as regional administrative agencies of the signatory parties for water resource management in their respective river basins, and they have broad planning, regulatory, and coordinating powers within their regions. The specific mandate of the commissions is to "...develop and effectuate plans, policies, and projects relating to the water resources of the basin...adopt...uniform policies for water conservation, control, use, and management....[and] encourage the planning, development and financing of water resources projects according to such plans and policies...."7/ They also have power to allocate water resources, and their regulatory powers extend to pollution control and "...all powers necessary or convenient to carry out its express powers or which may be reasonably implied therefrom...."8/

Both compacts set up commissions composed of one member from each party state and one Federal representative. The state members are the governors or their alternates; the Federal member is appointed by the President. Commission action is by majority vote, but commission budgets must be approved unanimously. If the Federal member does not concur in a commission decision, Federal agencies within the basin are released from the requirement that their water resource activities with respect to that decision be in conformance with the commission's plan or regulations. Thus, the Federal representative, through his use of the nonconcurring vote, has significant power in the compact's implementation. Commission members appoint an executive director to serve at their pleasure. He, in turn, has direct appointment power of the staff, subject to commission rules and regulations.

The Delaware River Basin Commission, in particular, has facilitated significant cooperation with both Federal and state agencies.9/ The Federal representative is advised by a field interagency group, and when severe interagency disputes arise, he has recourse to an interdepartmental committee in Washington for a final resolution. The state alternate members have been, for the most part, the heads of state water resource or conservation agencies or have been on the governor's personal staff. This has insured a high level of state input since, under the compact, the alternates have authority to attend commission meetings and to vote in the place of their respective members. The DRBC has also maintained cooperative relationships with some of the larger local jurisdictions in the region, in particular some suburban Philadelphia counties and the Delaware Valley Regional Planning Commission. The Commission also has technical advisors from New York City and Philadephia.10/

In 1965, laws were enacted which created several types of Federal-state entities. Title V of the Public Works and Economic Development Act11/ created the various "Title V" regional economic commissions. The Appalachian Regional Commission was established by separate legislation: the Appalachian Regional Development Act.12/ The "Title II" river basin commissions, created under Title II of the Water Resources Planning

Act13/, arose out of the need for formal state and Federal cooperation in water management on a river basin basis, where most of the Federal water resource planning was being done.

Title II of the Water Resources Planning Act authorizes the President to establish river basin planning commissions. There are at present seven: the Pacific Northwest, the Upper Mississippi, the Missouri, the Ohio, the New England, the Great Lakes, and the Souris-Red-Rainy. Each commission's mandate is to "...serve as the principal agency for the coordination of Federal, state, interstate, local and nongovernmental plans for...its...river basin; prepare...a comprehensive, coordinated, joint plan for...development of water and related resources....recommend long-range schedules of priorities for the collection and analysis of...data...and...undertake such studies...as are necessary...."14/ Membership includes a Federal co-chairman appointed by the President, one member appointed by the head of each interested Federal agency, one member appointed by the governor of each state, and one member from any interested interstate compact agency. International representatives are included on the Pacific Northwest Commission, and coordination with international commissions is required in the case of the Great Lakes Commission. The state members elect a vice-chairman to represent them. The decision-making process operates by consensus, as provided in the Act:

> "...Every reasonable endeavor shall be made to arrive at a consensus...; but failing this, full opportunity shall be afforded each member for the presentation...of individual views: Provided, that at any time the commission fails to act by reason of absence of consensus the position of the chairman, acting in behalf of the Federal members, and the vice-chairman, acting under instruction of the state members, shall be set forth in the record...."15/

The unusual voting procedure stipulated by the Act places a premium on the exchange of information among Federal and state agencies rather than on regulation or management. This cumbersome procedure is perhaps appropriate under the mandate of the Act to "serve as the principal agency for the coordination of Federal, state, interstate, local, and nongovernmental plans...."16/

The Title II commissions have a relatively small staff. The Great Lakes River Basin Commission is the largest with 15 members. They depend on Federal and state agencies for their basic data, and the central staff has no way to force these scattered work groups to meet planning deadlines.17/

Section 207 of the Water Resources Planning Act states that each commission shall prepare and submit a budget, which in turn is further subject to the approval of the Water Resources Council. Section 207 also provides that each commission shall recommend what share of its budget should be paid by the Federal government. In practice, funding has developed into a system of matching grants, where the Federal government pays half of the operating costs and the state pays the rest.

The impact of most Title II commissions on state and Federal water policy has been variable. The New England River Basins Commission has had the most success, primarily because it receives substantial political support from the New England Governor's Conference, and because the New England States have a long history of working together.18/ Given their different legislative mandates, it is difficult to compare the performance of the Delaware River Basin Commission with Title II commissions, but the conclusion is unavoidable that the interstate compact commission is a much more efficient river basin planning tool.

Another well-known entity is the Appalachian Regional Commission, created in 1965 by the Appalachian Regional Development Act.19/ Its mandate is to promote the economic development of the Appalachian region by, among other things, developing comprehensive plans, sponsoring research and projects, reviewing Federal, state, and local programs, and providing a forum for consideration of regional problems. Membership consists of the Federal co-chairman appointed by the President and 13 state representatives, one from each state, who may be the governors or their designee. The Act authorizes a part-time state co-chairman who is elected by the state members. However, from the beginning, the states created the position of "states regional representative," who serves as their full-time permanent liaison on the Commission.

The Federal co-chairman has a small staff entirely federally funded. His main function is to coordinate the Commission's programs with other Federal agencies. The state's regional representative acts as the functional equivalent of the Federal co-chairman in the day-to-day affairs of the Commission. The representative's principal responsibility is to carry out policy directives of the governors and the state co-chairman. The representative has his own staff paid for by the member states, and he has a good deal of influence. The Commission has a relatively small but high caliber staff with offices in Washington, D.C. It is funded equally by the Federal government and the states.

Decisions by the Commission require a majority, including the affirmative vote of the Federal co-chairman. This veto power has seldom, if ever, been used, but it must have an effect on deliberations. In practice, much of the Commission's authority has been delegated to the "executive committee," a unit composed of the executive director (nonvoting), the Federal co-chairman, and the state's regional representative.

The Commission meets once a month. Between meetings, the "troika" executive committee takes charge of the day-to-day administration, as well as reviewing project proposals, program allocations, and state development plans. At each Commission meeting, the executive committee reports on its actions.

Over the years the Appalachian Regional Commission has developed a life of its own while still managing to be an effective agent of its Federal and state members. While the fairly rapid turnover in gubernatorial

membership due to changes in state administrations has harmed its performance as a policy-making body, the positions of executive director and state regional representative have remained relatively constant. Strong Federal and state ties, frequent meetings, and the efficient executive committee help make the Appalachian Regional Commission one of the most active Federal-state entities today.20/

The "Title V" regional commissions were created under Title V of the Public Works and Economic Development Act of 1965 21/, and their mandate is substantially the same as that of the Appalachian Regional Commission. There are seven in all: Coastal Plains, New England, Four Corners, Upper Great Lakes, Ozarks, Old West, and Pacific Northwest. The composition of each is identical under the Act: a Federal co-chairman appointed by the President, one member from each state who may be the governor or his designee, and a state vice-chairman elected by the state members from among their number. Decisions require the affirmative vote of the Federal co-chairman, as well as a majority of the state members. Each state member is to have an alternate appointed by the governor, and the President is to appoint an alternate for the Federal co-chairman. The alternate votes in the event of absence, removal, or resignation of the state or Federal co-chairman. The commissions meet on a quarterly basis, with the governors usually attending personally. The state members definitely recognize the affirmative vote requirement of the Federal co-chairman as a veto power. Although seldom used, its influence is felt.22/

The Federal government was authorized to pay the full costs of the commissions' operating expenses for the first two years. After that, the states were required to pay 50 percent. An amendment passed in 1967 (§ 509) authorizes the Secretary to provide funds to each Federal co-chairman to use as supplementary grants to help states or other entities to raise matching funds for Federal grant-in-aid programs.

The Federal co-chairman's role on the commission as both a member and an official of the Federal government is somewhat bifurcated. The Federal co-chairmen have their own staffs, located in Washington, and their main concern seems to be the commission's relationship with Federal agencies. The state co-chairman's office is rotated among the governors, and is not a full-time position. The Coastal Plains Regional Commission has followed the example of the Appalachian Regional Commission and created the position of state's regional representative. State alternates appointed by the governors keep up contact and interest between the governors' offices and the commissions. On the New England Regional Commission, alternates have considerable impact on programs. But, turnover is a problem with alternates; they are changed at least as often as new governors are elected, which makes for a problem in continuity.

In most regional commissions, there is an executive committee which has responsibility for supervising staff operations. The committee is composed of the Federal co-chairman, the state co-chairman, and the executive director (a nonvoting member). Usually, the governor who is

serving as state co-chairman does not become involved, so that the committee is not often a tool of leadership.

The Title V commissions have a dual staff system. The staff of the Federal co-chairman, which averages about five members, is responsible to him only. The commission staff, averaging about 19, operates separately and is responsible to the commission as a whole.

For the purposes of this paper, there is no need to discuss in detail the composition and structure of the Joint Federal-State Land Use Planning Commission, but only to note a few unique features. Since Alaska is, in many respects, a one-state region, it has the only joint Federal-single-state commission, thus avoiding some of the complexities with which the multi-state commissions must deal. The Federal and State representation is much more exactly balanced on the LUPC than elsewhere. Further, the LUPC is the only commission in which both the State and the Federal co-chairman have a veto.

Two forms of single state-Federal entities have been proposed in the past few years. Neither has become law, although both still have a good chance of doing so. The proposed Nantucket Sound Islands Trust is the result of Senator Edward M. Kennedy's (D.-Mass.) efforts, beginning in 1971, to achieve legislation to preserve the unique characteristics of a particular area of Massachusetts: the Nantucket Sound Islands.23/ As put forward in S. 67 (January 15, 1975), the Trust would create three Federal-state trust commissions: the Nantucket Trust Commission, the Martha's Vineyard Commission, and the Elizabeth Islands Commission.

The Nantucket Trust Commission is typical. There would be seven members who would serve three year staggered terms: one to be appointed by the Secretary of the Interior, one by the Governor of Massachusetts, two by the Board of Selectmen of Nantucket, two elected by the town meeting of Nantucket, and one appointed by the Nantucket Planning Board.24/ The chairman would be elected by the members themselves for a term not to exceed two years. Each commission would have its own staff and advisory committee. There would be a coordinating committee with three members from each commission. All three commissions would be eligible for grant programs administered by the Departments of Interior, Commerce, and Labor. The Nantucket Islands Trust legislation was reported out of the Senate Interior Committee in August, 1976, but was not enacted before the 94th Congress ended.

S. 632, the 1972 version of the Land Use Policy and Planning Act, contained a proposal to establish Ad-Hoc Federal-State Joint Committees to deal with jurisdictional and other problems concerning the planning and management of Federal lands and adjacent non-Federal lands. Membership would include representatives of the affected Federal agencies, to be appointed by the appropriate Secretary; representatives of affected user groups, including recreation and conservation interests, to be appointed by the Secretary of the Interior after consultation with the appropriate governor; officials of the affected state agencies, to be appointed by

the governor; and officials of local government units, to be appointed by the Secretary of the Interior after consultation with the governor. This provision was omitted from the next version of the Land Use Policy and Planning Act.

Two types of joint authorities were created by the Great Lakes Fishery Act of 1956 (16 U.S.C. 931 et. seq.), which was generated by the Convention on Great Lakes Fisheries between the United States and Canada. On the Great Lakes Fishery Commission, a United States-Canadian body, the United States is represented by three commissioners appointed by the President and serving at his pleasure without compensation. One must be an official of the United States Government, and two must be residents of the Great Lakes states. One of the two latter persons must be a state official. The United States section thus created is to appoint an advisory committee for each of the Great Lakes, upon which each bordering state may be represented by not more than four members. These members are selected from a list proposed by the governor, giving consideration to the interests of state agencies, commercial and sport fishing interests, and the public at large. Members of the advisory committees serve without compensation.

The Alaska Joint Federal-State Fish and Wildlife Advisory Team was created by §202 of the Trans-Alaska Pipeline Authorization Act.25/ to give environmental advice to the Alaska Pipeline Office (Federal) and the State Pipeline Coordinator's Office. A team of approximately 30 professionals, mostly biologists, were appointed by various interested State and Federal agencies. These staffers are paid by their respective agencies, which are then reimbursed by Alyeska. There is a Federal coordinator and a State coordinator; each has an assistant-alternate and a veto power, which is rarely used. The team serves as a technical advisor only.26/ One of the team's main strengths is its capacity to promote effective coordination between the State and Federal agencies which donate employees.

PART II

The following questions were asked of the Appalachian Regional Commission and the Delaware River Basin Commission in telephone interviews of February 10, 1977. Their reponses are as indicated, in the order in which the questions were asked.

1. Which members are full-time, if any?

   Appalachian: The Federal co-chairman is full-time.

   Delaware: Under the statute, the Federal member is the only full-time commissioner. In practice, the Federal co-chairman, who is the Secretary of the Interior, serves through an alternate. Every commissioner has an alternate, and the alternates are extremely important. While the Commission only meets annually, the alternates meet every month or oftener; sometimes they meet twice a week when the work load requires it.

2. Is there an alternate for every member?

Appalachian: Yes, all the governors have alternates who act for them in day-to-day administration but who have no authority to vote in the place of the governors on final policy decisions.

Delaware: Answer included in No. 1.

3. Who comprises your staff?

Appalachian: There is a staff of 110 in Washington, D.C., comprised of separate state and Federal staffs of about nine persons each, with the balance working under the executive director.

Delaware: Approximately 50 professionals.

4. How often do you meet and what are your views regarding this scheduling?

Appalachian: Every two to three months, which is no problem because the alternates are constantly available.

Delaware: Answer included in No. 1.

5. Is there an executive committee?

Appalachian: There was an executive committee until very recently, but at the moment, due to a change in personnel, its decisions are being made at Commission meetings instead. There will probably be another.

Delaware: There is an informal kind of executive committee which is called the "Directorate." It is composed of the Secretary, the public information officer, the chief engineer, and the general counsel. It meets whenever necessary on an ad hoc basis.

6. Do you have more than one office? If so, where are they located?

Appalachian: Yes, there is the main office in Washington, D.C., one in every state, and one in each of 69 local development districts.

Delaware: The main Commission office is in West Trenton, New Jersey. The Federal member has his office in Washington, D.C., and each state has its own local office in the individual states.

7. To what extent is the public involved in your proceedings?

Appalachian: The Commission travels from state to state to each of the local development districts and holds public hearings.

Delaware: A press release goes out to all the basin-wide media regularly, giving notice of future proceedings. The Commission also maintains a mailing list of interested parties. Public attendance

is very good. It is felt that this public input is very healthy and that the Commission is very responsive to it. Very often major project changes are made in response to the public hearing process.

8. What powers does your Commission have and do you feel they are sufficient to carry out the work which needs to be done?

Appalachian: No response.

Delaware: The Delaware River Basin Commission does not have the power of subpoena. Otherwise, the Commission has full enforcement powers. The Commission is both a legislative body and a quasi-judicial body, with the ability to hold adversary proceedings. After a decision at one of these proceedings, a party can take his action directly to the courts; there is no "exhaustion of remedies" problem. The Commission feels that it helps create a sense of public reponsiveness by providing a forum where private citizens can be heard in an adversary hearing without the expense of an attorney.

9. Do you use Federal or state procurement regulations or neither?

Appalachian: The Commission goes through the Department of Commerce.

Delaware: The Commission is not subject to Federal administrative procedures in any way. The Commission has its own regulations.

10. Is your staff comprised of Federal or state employees, or neither?

Appalachian: They are not civil service employees, but they have benefit schemes that are comparable to civil service personnel.

Delaware: The staff is composed of neither Federal nor state employees.

11. Do you relate to your respective legislative bodies directly, or must you go through the executive branch?

Appalachian: Directly.

Delaware: Directly.

12. What is your funding process and how does it work?

Appalachian: Funding is on a fifty-fifty basis. It is felt that the fact that the Commission is funded directly and is relatively independent, rather than being dependent on the Department of Commerce like the Title V commissions, is important to the Commission's success.

Delaware: The Delaware River Basin Compact specifies that the states and the Federal government will share the funding "equitably." By agreement, at present 77 percent of the Commission's funding comes from the states and 23 percent from the Federal government. The states feel that this correctly reflects the proper balance and helps give the Commission its necessary independence.

13. How are Federal-state relations on your Commission?

Appalachian: Answer included in No. 12.

Delaware: Federal-state relations are excellent. The individual states have good input; the smallest state has as much a say in Commission affairs as the largest state.

PART III

Subject to caveats respecting the fairly short operating history of most Federal-state entities and the varying mandates and functions of the existing entities, the following issues appear relevant in analyzing these entities or any proposed Federal-state land use entity for Alaska.

1. Should the agency be cast in the form of a commission? (Most of the questions listed below assume an affirmative answer.)

2. With what powers should the commission be vested? Should such powers be advisory only?

3. Should the commission be composed of full-time members, full-time co-chairmen and part-time members, or part-time members and a full-time executive director?

4. How many Federal and state commissioners should there be?

5. Should certain members of the commission be required to have particular professional or other qualifications? Within the Alaska context, should there be a requirement that one or more members be Natives?

6. Should commissioners be appointed to fixed terms or serve at the pleasure of the appointing authority?

7. Should there be alternatives and for whom?

8. Should there be a veto over commission decision-making? If so, should the veto reside in the Federal and state co-chairmen, acting separately, or in the Secretary of the Interior and the Governor, respectively?

9. Which is better, to meet fairly often for shorter periods or to meet less often and have longer meetings?

10. Is there need for an executive committee or its equivalent?

11. What mechanisms should be established to obtain public input? An advisory committee?

12. How should the commission be funded?

13. How should the commission be staffed?

14. Is it preferable to avoid using either Federal or state employment regulations and procurement procedures?

15. Should the commission have an office in Washington, D.C.?

16. Should a Federal agency coordinating body be established at the Secretarial level in Washington to assist the commission in performing its duties?

17. Should the commission be temporary or permanent?

Footnotes

1/ A study of these commissions from a planner's perspective is contained in Between State and Nation, Martha Derthick and Gary Bombardier. The Brookings Institute, Washington, D.C., 1974.

2/ For a brief discussion of the basic types of non-Federal-state planning bodies, see "A Federal-State Land Classification and/or Joint Management Coordination Board," memorandum to the Federal-State Land Use Planning Commission for Alaska, J. David Dorris, Land Systems Planner, June 17, 1975.

3/ For an excellent study of these types, see Multistate Regionalism, a Commission Report, The Advisory Commission on Intergovernmental Relations, April 1972. (U.S. Government Printing Office, Washington, D.C., 20402, Stock Number 5204-0041.)

4/ P.L. 87-328, 75 Stat. 688. The compact is not printed in the United States Code. Copies of the compact can be obtained from the Delaware River Basin Commission, 25 Scotch Road, Trenton, New Jersey.

5/ "Federal-State Compact: A New Experiment in Co-operative Federalism," Frank P. Grad, 63 Columbia Law Review 825, (1963).

6/ P.L. 91-575, 84 Stat. 1509.

7/ Delaware River Basin Compact, §3.6(h).

8/ Delaware River Basin Compact, §3.1.

9/ Multistate Regionalism, supra, p. 95.

10/ Multistate Regionalism, supra, p. 95.

11/ 42 U.S.C. §3181 et. seq.

12/ 40 U.S.C. App. §101.

13/ 42 U.S.C. §1962.

14/ 42 U.S.C. §1962(b).

15/ 42 U.S.C. §1962b-2.d.

16/ 42 U.S.C. §1962b-(b)(1).

17/ Multistate Regionalism, supra, p. 97.

18/ Multistate Regionalism, supra, p. 97.

19/ 40 U.S.C. App. §101.

20/ "Interstate Regional Instrumentalities: a New Piece in an Old Puzzle," David Bradstreet Walker, Journal of the American Institute of Planners, November, 1972, pp. 359-367.

21/ 42 U.S.C. §3181.

22/ Multistate Regionalism, supra, p. 53.

23/ See "An Islands Trust: Leading Edges in Land Use Laws." K. Dun Gifford, 11 Harvard Journal on Legislation 417, 1971.

24/ A similarly structured commission presently in existence is the Lake Tahoe Regional Planning Commission. See "Regional Government for Lake Tahoe," 22 Hasting Law Journal 705, 1971.

25/ 87 Stat. 54 (1973).

26/ The Federal-State Joint Boards of the Federal Communications Commission (47 U.S.C. §410) represent an application of this principle in a very different field. They are each composed of four state commissioners and three Federal commissioners, and deal with problems concerning common carrier communications.

TESTIMONY OF THE HONORABLE STEVE COWPER
BEFORE THE HOUSE NATURAL RESOURCE COMMITTEE
ON
H.B. 211
AN ACT ESTABLISHING THE ALASKA LAND COMMISSION

First I would like to commend the authors of HB 211 for taking the initiative in introducing this legislation. It serves as a message to congress and the Federal Government that Alaska in on the side of balanced and comprehensive land use planning and management.

President Carter issued his environmental message to Congress on May 23rd of last year. An entire section of that message was devoted to "Improving Government". In that part of his speech the President said, "In the past, our environmental policies have not always used the most practical tools, nor the least costly; they have sometimes imposed burdensome bureaucratic regulations...and they have occasionally ignored the need for different solutions in different areas of our diverse country. There is room for improvement." I submit that HB 211 creates a practical tool for land planning and management which recognizes the sovereignty of the State and Federal governments, but transcends chauvinism and political boundaries in order that the land and the wildlife may be managed on an ecosystematic basis. The Alaska Land Commission can reduce both State and Federal land and wildlife management costs by fostering co-operation and communication and thus minimizing unnecessary overlap, implementations of conflicting programs, and duplicate spending. This legislation fulfills the need for "a different solution here in Alaska", where traditional systems likely will prove to be less than optimal. HB 211 IS an improvement.

The (d)(2) Steering Council for Alaska Lands has adopted a policy statement an amendatory language aimed at (d)(2) legislation now before Congress, which is compatible with HB 211. I shall be happy to leave that language with you, and urge your favorable consideration of that language. The Councils' language by the way, embraces concepts set forth in the Hammond, Stevens, and Young's (d)(2) bill; in the Joint Federal Land Use Planning Commission (d)(2) proposal; and in Senator Gravel's proposal.

There are those of us, myself included, who don't buy the environmental battle which pits the preservationists and developers against one another. I believe that it is possible to protect the great Alaskan landscape and at the same time assure adequate growth and development and utilization of our vast resources. Such a "balancing act" requires that new, co-operative land management approaches be developed by the State of Alaska, the Federal Government and our Native citizens. Each of the groups will be major landholders in the Alaska of the future. The most conspicious landowner will be the Federal Government. Even after all the State and Native selections are made, the Federal Government, which now holds over 96% of Alaska under its control, will still control over 200 million acres. Much of the land ownership will be intermixed, and, for the forseeable future, at least, co-ordination of Federal, State, and private land use decision-making will be a necessity if rational management of Alaska's resources is to occur.

The passage of HB 211, and companion legislation in Congress, would provide a mechanism for balancing, Federal, State, and private interests in the Alaskan landscape. It would give the people of Alaska a say in decisions that would otherwise be made by a remote Federal bureaucracy in Washington. Such an Alaska Land Commission would give the State greater influence over Federal land management activities that it would otherwise have. In the past, such Federal land management activities were not particularly noteworthy. Now, however we have entered the era of intensive management and control of the public domain. This new era is symbolized

by the passage of the Federal Land Policy Management Act in the 94th Congress. An Alaska Land Commission as proposed here will give the people of Alaska a direct and meaningful way to make our concerns known to the federal policy makers, and assure that our land is managed in the best long term interest of Alaska.

The existing record of many agencies in co-operative management is simply not very good. There are tools in existing laws which may be used in co-operative planning and management, but each lacks a third party, a motivating force to insure that dialogue takes place, and, as appropriate, is acted upon. A joint commission provides both a vehicle stimulating federal-state, interagency and interdepartmental co-operation in areas such as transportation, fish and game management, minerals and energy, and a means of unifying diverse elements into a coherent whole.

If federal intervention in land use now seems an inevitable fact of life, it behooves the State of Alaska to insure we get something in return. I cannot help but feel that the approach advocated in HB 211, which is supported by the (d)(2) proposals of our Congressional delegation and Governor, the Land Use Planning Commission's (d)(2) proposal, and the (d)(2) Steering Council's amendments, is our best hope for the future. To quote Julius Caesar, "Take care how your present decrees may effect posterity."

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

M E M O R A N D U M 9 March 1977

SUBJECT: Federal Energy Administration Hearing
23 March 1977 -- Anchorage

TO: House Resources Committee Members

FROM: Al Osterback, Chairman
House Resources Committee Al Osterback jr

Attached is the schedule for the Joint Senate-House Resources meetings during the week of March 21-25, 1977.

Please note the Federal Energy Administration Hearing in Anchorage on Wednesday, March 23, 1977. I would like all House Resources Committee Members to go. If you like, Jeanne will make your travel arrangements, so let her know if you are going as soon as possible.

I am planning to leave on Tuesday, March 22 and return the evening of Wednesday, March 23.

Thank you.

Alaska State Legislature

House

JUNEAU ALASKA

JOINT SENATE - HOUSE RESOURCES HEARINGS

March 21 - 25, 1977

SCHEDULE

MONDAY, MARCH 21 COURTROOM A, COURT BUILDING 9:00 A.M.

JOINT HEARINGS, GAS AND OIL TAXATION AND RELATED MATTERS

AGENDA TO BE ANNOUNCED

* *

TUESDAY, MARCH 22 COURTROOM A, COURT BUILDING 9:00 A.M.

JOINT HEARINGS CONTINUED

* *

WEDNESDAY, MARCH 23

FEDERAL ENERGY ADMINISTRATION HEARINGS IN ANCHORAGE

FEDERAL COURTHOUSE - ROOM 284

* *

THURSDAY, MARCH 24 ROOM 126 9:00 A.M.

JOINT HEARINGS CONTINUED

* *

FRIDAY, MARCH 25 ROOM 126 9:00 A.M.

JOINT HEARINGS CONTINUED

Alaska State Legislature

House

JUNEAU ALASKA

HOUSE RESOURCES COMMITTEE

8 March 1977

SCHEDULE

Wednesday - 9 March 1977, Joint House - Senate Resources Committee Meeting at 3:00 p.m. in the 5th Floor Conference Room of the State Office Building.

HB 211 Alaska Land Commission

Thursday - 10 March 1977, at 1:15 p.m. in Rm. 118 of the Capitol Bldg.

HB 264 Fisheries Enhancement

HB 289 Appropriation for Transplanting Caribou

Tuesday - 15 March 1977 at 1:15 p.m. in Rm. 118 of the Capitol Bldg.

HJR 27 Native rep. on North Pacific Fishery Management Council

SJR 12 U.S. Congress Regarding (D)(2) Land Withdrawal

Thursday - 17 March 1977 at 1:15 p.m. in Rm. 118 of the Capitol Bldg.

HCR 32 Redesignation of Bristol Bay Area to Region

HJR 29 Rel ing to Federal Oil Spill Liability Legislation .

MEMORANDUM
LEAGUE OF WOMEN VOTERS OF ALASKA

TO: House Resources Committee DATE: March 9, 1977

FROM: Joy Jamison, lobbyist for the League of Women Voters of Alaska

SUBJECT: HB 211, Establishing the Alaska Land Commission.

The League of Women Voters of Alaska supports the concept of a State Land Use Board with authority to formulate, implement and enforce a comprehensive plan for the use of all land in the State of Alaska. Citizen participation, education, communication and on-going evaluation must be essential elements in the comprehensive planning process. The public should be given alternatives with possible consequences of their choices on any given question calling for public input.

The goal of a State Land Use Plan should be the optimum use of the land as determined after considering environmental, social and economic interests against all available information concerning each area.

Land Use decisions should be made and enforced by the lowest level of government immediately concerned with the land in question, but such decisions must comply with the State Land Use Plan. Evaluation of social, environmental and economic impact should be required of all major public and private developments. Geographical regional planning should be established.

The Land Use Board should identify and plan for areas of critical concern to the state and for areas where land use decisions would have statewide impact. The Board should also compile and catalog resource inventories, not only to aid them in their decisions, but to be available to all citizens when preparing impact statements, appeals or testimony.

The Land Use Board should be an instrument to ensure coordination and cooperation among state, federal and private land owners. The state and federal governments should research and, if feasible, establish innovative resource management systems and cooperative uses of the land.

In view of the above statement of position, the League of Women Voters of Alaska supports HB 211. However, we urge the inclusion of required qualifications for commission members, as well as the executive director (AS 41.45.040). Members need not be land use planning experts, but should be knowledgeable and representative of the social, economic, environmental and political factors involved. Ex-officio members from federal agencies should be included to ensure communication among agencies concerned with planning for uses of the land.

We feel it is imperative to include some mechanism for coordinating with existing state and federal land management agencies (Alaska Division of Lands, BLM, USFS, etc.) since there will be other land such as national forests, state and national parks, etc. that are not included in the "common management areas".

We further urge that an appeals or arbitration procedure be established.

STATEMENT BY CONGRESSMAN YOUNG ON HB 211

I would like to thank you for the opportunity to comment on HB 211, a bill which would create the Alaska Land Commission for the purpose of managing cooperative lands in the State of Alaska.

As you know, I have supported the cooperative management system embodied in S. 787, a bill introduced to the U.S. Senate by Senator Ted Stevens. I think that cooperative management is a feasible alternative to the type of single-use land units now in existence on federal lands. I am pleased to see that the Alaska State Legislature has taken the initiative in proposing the establishment of a Commission that would work with these cooperative lands. It is indeed unfortunate that some Members of Congress have not taken the same initiative.

I do think that there are some changes which could be made in the bill to make it a more effective document. I trust that you will take these comments in the constructive vein in which they are offered.

Section ,040, dealing with membership, states that the Commission will consist of 3 members appointed by the State. It is envisioned that an additional 3 members will be appointed by the Federal Government. The last member of the Commission is to be appointed by majority vote of the first 6 members. This is a reduction in the number of members suggested by Governor Hammond, Senator Stevens, and myself. Although the number of members may not be important, I am concerned that the equal membership of 4 State and 4 Federal envisioned in S. 1787 is not maintained in this bill. Furthermore, the equal veto power of the Governor and the Secretary of Interior has not been included in this bill. I think that it is important to realize that the State and the Federal Government should be considered as equals in regard to cooperative land. By having an independent member and without veto power, this equality is considerably diminished.

One further point should be made in regard to membership. A number of people have suggested that Native Corporations and private landholders should have the option of being included in a cooperative management scheme. Although HB 211, in section .080, allows the Commission to enter into agreements with private landholders, there is no incentives for private landholders to take advantage of this offer.

I would suggest that, if a landholder does commit his lands to the cooperative management scheme, he be given a tax incentive and at least an advisory role in Commission decisions.

The final point I wish to discuss is section .070. This section empowers the Alaska Land Commission to "Manage land included within common management areas." I feel that it is a mistake to grant these powers to the Commission. Land management in Alaska is already divided between the State, at least three agencies of the federal government, and private landholders. By creating another management entity, we are merely confusing an already clouded management pattern. A recent case that was brought to my attention will illustrate my point. A gentleman wrote to me expressing his troubles with various agencies. He was living on land that had been selected by a particular Native village corporation. Although the Village was more than happy to let him live there, he was unable to construct a trail from his cabin to the main road because the land it would cross was in limbo due to conflicting ownership questions between the State and the Federal Government. After wading through paperwork at the federal level, he was finally referred to the State, who told him that patent on the land had not yet been granted and that the Federal government would have to issue the necessary permits. Can we honestly expect one more managing agency, which presumably will make decisions by majority vote, to help alleviate this sort of confusion?

Once again, let me say that I am glad to see the Legislature taking positive steps towards resolving the complex land issues we are dealing with. I do hope, however, that you will take these comments to heart and do what is necessary to establish a workable cooperative land management system in Alaska.

Address further inquiries directly to Congressman Don Young,
1210 Longworth House Office Building, Washington, D.C. 20515

STATE OF ALASKA

Legislative Affairs Agency

Alaska National Interest (D–2) Lands

A History and Review

of Legislation

PREPARED BY

LEGISLATIVE AFFAIRS AGENCY

RESEARCH DIVISION

AUGUST 1977

ALASKA NATIONAL INTEREST (D-2) LANDS

A HISTORY AND REVIEW

OF LEGISLATION

PREPARED BY THE

LEGISLATIVE AFFAIRS AGENCY

RESEARCH DIVISION

AUGUST 1977

FOREWORD

This report was prepared by Mr. George Utermohle of the Research Division staff at the request of Representative Mike Miller, chairman of the Legislative Council. This report expands upon an earlier and less extensive analysis of the d-2 issue prepared by Mr. Utermohle at my direction, and given limited distribution in July of this year. We believe the current report provides an accurate and concise summary of the major d-2 proposals now before Congress, and summarizes in tabular form all legislation relating to this issue.

A limited number of additional copies of this report are available from the Legislative Affairs Agency, Pouch Y, Juneau, Alaska 99811.

Gregg Erickson
Director of Research
August 1977

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ALASKA NATIONAL INTEREST (D-2) LANDS

A HISTORY AND REVIEW OF LEGISLATION

PART I. D-2 LAND: A BACKGROUND REPORT

ALASKA STATEHOOD

Prior to 1959, virtually all land in Alaska was owned by the federal government. When Alaska became a state, it was granted the right to select a maximum of 104 million acres by 1984 as its statehood entitlement. The object of this large statehood entitlement was to provide the new state with title to lands which would provide a base for economic stability and development. During the early years of statehood, the state selected its entitlement slowly and deliberately because it was not financially prepared to immediately assume the costs associated with ownership of millions of acres and because it appeared that there was ample time in which to make selections.

NATIVE LAND CLAIMS

Concurrent with, but separate from the drive for Alaska statehood, was the movement for a settlement of the aboriginal land claims of Alaskan Natives. While the land claims issue had long been overshadowed by the statehood issue, once statehood was granted, the land claims became a prominent issue. In the early 1960s, Alaska's Native groups were becoming more active in demanding a resolution of their claims than ever before. In December, 1966 Secretary of Interior Udall, in response to the threat of numerous law suits by Native groups, placed a moratorium on the transfer of any federal lands from federal ownership in Alaska which were affected by a Native land claim. This action by Secretary Udall became known as the "land freeze". While the land freeze was in effect, the state could not receive approval of or patent to its selections in those areas affected by the freeze. The pressure for a settlement of the Native land claims increased when large quantities of oil were discovered at Prudhoe Bay in 1968 and 1969. With the prospect that any pipeline carrying Prudhoe Bay oil to market would traverse lands affected by Native land claims, it became evident that the claims had to be settled before a pipeline could be constructed. The Alaskan Natives' land claims thus had become an issue of national significance. Congress sought to finally resolve the issue by passing the Alaska Native Claims Settlement Act (ANCSA).

THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

The Alaska Native Claims Settlement Act (P.L. 92-203) took effect on December 18, 1971. The settlement act awarded to Alaska's Natives $962 million in cash and almost 44 million acres of land. The selection of Native land was to occur within four years after the act became effective and was to have precedence over state selections.

As a result of the Alaska Statehood Act and the Native Claims Settlement Act approximately 148 million acres of federal domain in Alaska would be transferred to state or private ownership. An additional 149 million acres still remained in the vacant, unappropriated, and unreserved public domain in Alaska. In order to decide what would be done with the remaining public domain, Congress included a provision for land use planning in the Alaska Native Claims Settlement Act. This provision was included as Section 17:

Section 17(a) - established the Joint Federal-State Land Use Planning Commission for Alaska;

Section 17(b) - authorized the Commission to identify public easements across Native corporation land;

Section 17(c) - exempted from selection by the Native corporations any land which the Secretary of the Interior may withdraw as utility and transportation corridors;

Section 17(d)(1) - authorized the Secretary of the Interior to withdraw unreserved public land from all forms of appropriation, except locations for metalliferous minerals, if it is necessary to protect the public interest in those lands; (Lands withdrawn under this provision of the act are known as "d-1 lands".)

Section 17(d)-(2) - authorized the Secretary of the Interior to withdraw from all forms of appropriation or selection up to 80 million acres of unreserved public land which were suitable for addition to or creation as units of the National Park, Forest, Wildlife Refuge and Wild and Scenic Rivers Systems. (Lands withdrawn under this provision of the act are known as "d-2 lands".)

The Secretary of the Interior had until March, 1972 to designate d-2 lands and until December, 1973 to determine their suitability for designation as parks, refuges, forests, and wild and scenic rivers.

D-2 LANDS

In March of 1972 the Secretary of the Interior designated 79 million acres as d-2 lands and an additional 47 million acres as d-1 lands. The State of Alaska immediately filed a suit against the Secretary

because some of the land designated as d-2 land had been selected by the State for the acquisition under its statehood selection rights. In January, 1972, before the Secretary made his d-2 designations, the State had selected the remainder of its statehood entitlement (77 million acres) in order to establish its claim to the land which the State wanted. In an out of court settlement in September, 1972 the State relinquished approximately half of its January selections and the Secretary of the Interior surrendered some of his March d-2 designations, in order to permit state selection. Other d-2 lands were shifted to d-1 status.

During 1973 and early 1974 the State selected 2.4 million acres from the 11 million acres of public domain which still remained unaffected by Native claims or d-1 and d-2 designations. However, in March, 1974 the Secretary of the Interior withdrew all the remaining public domain for d-1 classification. This withdrawal halted further state selections because the State could not select land designated as d-1 or d-2.

In December, 1973, the second anniversary of the effective date of the act, the Secretary of the Interior submitted his recommendation to Congress for lands to be added to the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems. The Secretary's recommendation included proposals for 28 areas involving 83.5 million acres. All lands designated as d-2 lands in 1972, but which were not included in the 1973 recommendation to Congress, reverted to d-1 land status.

The Secretary of the Interior's recommendation for parks, forests, refuges, and wild and scenic rivers in Alaska was introduced in Congress in early 1974 by Senator Jackson (Wash.). Since then several bills have been introduced each year which would affect d-1 and d-2 lands. (See pages 5 through 9 for a list of the bills currently being considered by Congress.)

Congress has until December, 1978 to act upon the establishment of national parks, forests, wildlife refuges, and wild and scenic rivers from d-2 lands. After that time d-2 lands will revert to d-1 land status if they have not been added to the four systems. Congress may extend the deadline for action on the d-2 land beyond December, 1978 if it wishes, but the House and Senate committees working on this issue are preparing to act on d-2 land legislation before the end of 1977. The d-2 land issue would then go to conference committee where the final decisions will be made in 1978.

In the House of Representatives the subject of d-2 lands will be handled primarily by the Subcommittee on General Oversight and Alaska Lands of the Committee on Interior and Insular Affairs. This subcommittee is chaired by Representative Seiberling (Ohio). The Subcommittee on Fisheries and Wildlife Conservation and the Environment of the House Merchant Marine and Fisheries Committee will also be involved in formulation of d-2 legislation because it has jurisdiction over matters relating to wildlife refuges. The chairman of this subcommittee is Representative Leggett (Calif.). The House subcommittees have held committee briefings, overview hearings, and general hearings during the

spring and summer of 1977. In the Senate the d-2 lands issue will be handled by the Committee on Energy and Natural Resources (formerly the Committee on Interior and Insular Affairs) chaired by Senator Jackson (Wash.). The House subcommittees and the Senate committee dealing with d-2 lands have or will visit Alaska this summer or fall. The substantive work on the d-2 bills will begin during the fall of 1977.

The Alaska delegation in Congress and Governor Hammond have held meetings on the d-2 lands issue in order to formulate a State position. The result of these discussions has been a bill which was introduced in June, 1977 by Senator Ted Stevens. This legislation has been referred to as the "Alaska Consensus" Bill, although the state's other senator, Mike Gravel, has not supported it.

The Carter administration has not taken a position on the issue. This administration is not likely to introduce legislation, but will attempt to influence the substance of the d-2 legislation while the bills are in committee. The Department of the Interior is reviewing its past d-2 proposals in order to assure that they conform with the policy of the Carter administration. This review is due to be completed in September, 1977. The Department of the Interior's position will be very influential in affecting the outcome of the d-2 issue.

Another factor in determining the outcome of d-2 legislation is the report to Congress by the Joint Federal-State Land Use Planning Commission for Alaska. The Commission which was established by the Alaska Native Claims Settlement Act made its recommendations to Congress in spring, 1977. The Commission's recommendations contained proposals for smaller additions to the existing National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems than contained in many of the bills before Congress. In addition, a new system of land management, the Alaska National Lands System, is proposed. This new land management system would be unique to Alaska. It would be designed to allow a high degree of flexibility in managing the lands by balancing protection of exceptional scenic, wildlife, and other values of these lands with the development and utilization of the resources which may exist on these lands. A proposal for cooperative management of federal, state, and private land is included in the Commission's recommendations.

The outcome of the d-2 land issue is more complicated than it would appear from a listing of each bill and the total acreage affected. Such listings, though useful for descriptive purposes, actually obscure the significance of each proposal. The location and amount of land placed into each of the federal land management systems varies with each proposal and thus the overall implications of each bill before Congress differ greatly. It is important to remember that much more is involved in the d-2 lands issue than just land. The final d-2 legislation passed by Congress will not only designate so many million acres of land as national parks, wildlife refuges, etc., but will also affect in some way or another, state management of wildlife resources, the subsistence life style of Native Alaskans, state selection of its remaining statehood entitlement, mineral and agricultural development, outdoor recreation, and any other human activity which is directly related to land and natural resources.

PART II. LEGISLATION CURRENTLY BEFORE CONGRESS

WHICH AFFECTS LAND IN ALASKA

U.S. HOUSE OF REPRESENTATIVES

H.R. 39 Rep. Udall (Ariz.)
The "Alaska National Interest Lands Conservation Act" establishes or enlarges 14 national parks, 14 wildlife refuges, and 23 wild or scenic rivers in Alaska. The bill also includes an authorization to enlarge the Chugach and Tongass National Forests by a maximum of 1,600,000 acres. The total area affected by these designations is 116,170,000 acres.

This bill also designates 30,470,000 acres of existing national parks, wildlife refuges, and national forests along with the 116,170,000 acres of parks, refuges, and wild and scenic rivers established by the Act as wilderness areas. The total area designated as wilderness in Alaska by H.R. 39 is 146,640,000 acres.

Surface management of the National Petroleum Reserve is transferred to the Fish and Wildlife Service.

Subsistence activities are permitted to continue on those areas affected by this Act.

State selections within areas affected by this Act are revoked. The state will be able to select areas of approximately equal acreage.

(H.R. 39 is reviewed in more detail on pages 11-18.)

H.R. 1207 Rep. Roe (N.J.)
The "Endangered American Wilderness Act of 1977" establishes eleven wilderness areas and seven wilderness study areas throughout the nation. This bill designates 405,000 acres of the Tongass National Forest as the West Chichagof-Yakobi Wilderness Area.

H.R. 1454 Rep. Alexander (Ark.)
This bill creates the Lake Clark National Park and authorizes a study of the park's wilderness potential.

H.R. 1652 Rep. Dingell (Mich.)
The "Alaska Refuges Act" establishes ten national wildlife refuges totaling 67,900,000 acres in Alaska. Among the refuges established are the North Slope Refuge, Bristol Bay Refuge, Yukon Flats Refuge, Gulf of Alaska Refuge, and the Kuskokwim Refuge.

H.R. 1720 Rep. Sebelius (Kan.)
This bill designates 2,603,547 acres of Katmai National Monument as wilderness.

H.R. 1907 Rep. Udall (Ariz.)
This bill designates parts of 39 national wildlife refuges and 12 national forests throughout the country as wilderness areas. Among the areas affected are ten wildlife refuges in Alaska.

H.R. 1974 Rep. Udall (Ariz.)
This bill is the same as H.R. 39.

H.R. 2082 Rep. Leggett (Calif.)
This bill revises the laws relating to the National Wildlife Refuge System and adds 70,750,000 acres to the Refuge System by enlarging two existing refuges and establishing 19 new refuges.

H.R. 2876 Rep. Udall (Ariz.)
This bill is the same as H.R. 39.

H.R. 3454 Rep. Udall (Ariz.)
The "Endangered American Wilderness Act of 1977" designates 13 wilderness areas and seven wilderness study areas. Among the areas established is the West Chichagof-Yakobi Wilderness Area consisting of 405,000 acres in Southeast Alaska. This bill is similar to H.R. 1207.

H.R. 4264 Rep. Udall (Ariz.)
This bill is the same as H.R. 3454.

H.R. 5505 Rep. Quillen (Tenn.)
This bill is the same as H.R. 39.

H.R. 5542 Rep. Udall (Ariz.)
This bill is identical to H.R. 3454.

H.R. 5605 Rep. Seiberling (Ohio)
This bill establishes the Admiralty Island National Preserve as a unit of the National Park System.

H.R. 6564 Rep. Murphy (N.Y.)
The "Alaska Conservation Act of 1977" establishes or enlarges eleven units of the National Park System, nine units of the National Wildlife

Refuge System, and four units of the National Forest System. Two national wild rivers and one national scenic river are also established. The total area affected by this bill is approximately 83,500,000 acres. This bill is similar to the Secretary of the Interior's proposal of December, 1973.

U.S. SENATE

S. 164 Sens. Stevens and Gravel (Alaska)
This bill establishes the Seward National Recreation Area consisting of 1,400,000 acres in the Chugach National Forest on the northeastern Kenai Peninsula.

S. 315 Sen. Jackson (Wash.)
This bill establishes wilderness areas in 26 national parks throughout the nation. In Alaska 2,600,000 acres of Katmai National Monument are designated as wilderness.

S. 499 Sen. Jackson (Wash.)
The "Alaska Conservation Act of 1977" establishes or enlarges eleven national parks, nine wildlife refuges, and four national forests. Two wild rivers and one scenic river are also established. The total area affected by this bill is approximately 83,500,000 acres. This bill is similar to the Secretary of the Interior's proposal of December, 1973.

S. 500 Sen. Jackson (Wash.)
The "Alaska National Interest Lands Conservation Act" establishes or enlarges 14 national parks, 14 wildlife refuges, and 23 wild or scenic rivers in Alaska. The bill also includes an authorization to add 1,600,000 acres to the Tongass and Chugach National Forests. The total area affected by these designations is 116,470,000 acres.

This bill also designates 30,970,000 acres of existing national parks, wildlife refuges, and national forests along with the 116,470,000 acres of proposed parks, refuges, and wild and scenic rivers as wilderness areas. The total area designated as wilderness is about 147,440,000 acres.

Surface management of the National Petroleum Reserve is transferred to the Fish and Wildlife Service.

Subsistence activities are permitted to continue on those areas affected by this Act.

State selections within areas affected by this Act made after December, 1971 are revoked. The State will be able to select areas of approximately equal acreage.

This bill is very similar to H.R. 39, but contains "technical improvements" proposed by the "Alaska Coalition", a group of conservationist organizations, and by staff counsel.

S. 1180 Sen. Church (Id.)
The "Endangered American Wilderness Act of 1977" designates ten wilderness areas and seven wilderness study areas throughout the nation. The West Chichagof-Yakobi area of the Tongass National Forest which comprises 405,000 acres is designated as a wilderness study area.

S. 1500 Sen. Metcalf (Mont.)
The "Alaska National Interest Lands Conservation Act" establishes or enlarges 14 national parks, 14 wildlife refuges, and 23 wild or scenic refuges in Alaska. This bill also authorizes an additional 1,600,000 acres for the Chugach and Tongass National Forests. The total area affected by these designations is 116,370,000 acres.

This bill also designates 27,570,000 acres of wilderness areas in existing national parks, wildlife refuges, and national forests, as well as in the 116,370,000 acres of proposed parks, refuges, and wild and scenic rivers. Ten areas in the Tongass National Forest totaling 550,000 acres are designated as wilderness study areas. The total area affected by S. 1500 is 145,490,000 acres.

The responsibility for surface management of the National Petroleum Reserve is transferred to the Fish and Wildlife Service.

Subsistence activities are permitted to continue on those areas affected by this Act.

State selections within areas affected by this Act which were made after December, 1971 are revoked. The State will be able to select areas of approximately equal acreages to compensate for those selections which are revoked.

Land which had been set aside for Native selection and which was not selected by a Native corporation will be added to the proposed national interest lands if the land lies within the boundaries.

This bill has evolved from H.R. 39 and S. 500. It is basically the same bill, but contains "technical improvements" to the previous versions.

S. 1546 Sen. Abourezk (S.D.)
This bill establishes the Admiralty Island National Preserve as a unit of the National Park System.

S. 1787 Sen. Stevens (Alaska)
The "Alaska National Interest Lands Act" establishes or enlarges seven national parks, eight national wildlife refuges and three national

forests. Three wild rivers are also established. The total acreage added to the four national conservation systems is 25,210,000 acres.

Additional areas of federal land are designated as Federal Cooperative Lands. The Federal Cooperative Lands are to be managed by either the Park Service, Fish and Wildlife Service, or Forest Service under the direction of the Alaska Land Classification Commission. The Commission shall be composed of four federal appointees and four state appointees. The Commission shall determine the appropriate uses for the land under its jurisdiction through its authority to classify the federal cooperative lands. A total of 56,890,000 acres of Federal Cooperative Lands is proposed.

The state must designate a significant proportion of state land as Alaska Cooperative Lands to be administered by the Alaska Land Classification Commission before the Commission can become operational.

This Act establishes a trust fund which receives a portion of state and federal revenues derived from national interest lands. This fund would be used to purchase land for inclusion in parks, refuges, and wild and scenic rivers outside of Alaska.

State and Native land selection rights are affirmed by this Act.

(S. 1787 is reviewed in more detail on pages 19-37.)

PART III. H.R. 39

"ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT"

(Introduced by Representative Morris Udall)

SYNOPSIS

H.R. 39 as introduced by Representative Udall is meant to be a comprehensive land preservation package for Alaska and is offered as a countermeasure to that proposed by the Secretary of the Interior for the disposition of lands in Alaska which have been classified as National Interest Lands under Section 17(d)(2) of the Alaska Native Claims Settlement Act. Mr. Udall acknowledges that this bill affects vast areas of Alaska when compared with the contiguous United States, but he considers these areas as "merely samples of the vast and diverse federally owned landscapes of Alaska." In August, however, after hearings in Alaska, Mr. Udall was quoted as saying that some reduction in the amount of land that would be withdrawn under his bill would be appropriate.

This bill is directed at the allocation of National Interest Lands among the four national conservation systems (National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, and the National Forest System) but also addresses Native subsistence issues and other administrative policies on the affected lands. The major provisions of the bill are summarized below.

116.17 million acres are dedicated as new units of the four national conservation systems.

-- 64.1 million acres are added to the National Park System

-- 46.4 million acres are added to the National Wildlife Refuge System

-- 4.07 million acres are added to the National Wild and Scenic Rivers System

-- A maximum of 1.6 million acres may be added to the existing National Forest System by Presidential Order.

All 116.17 million acres dedicated as new units of the four national conservation systems as well as 30.47 million acres of existing units of the national conservation systems are designated as units of the National Wilderness Preservation System. The total acreage of wilderness established by this bill is 146.4 million acres.

Surface management of the national petroleum reserve (Naval Petroleum Reserve No. 4) becomes the responsibility of the U.S. Fish and Wildlife Service.

Subsistence uses of natural resources are authorized to continue on the lands affected by this Act under regulations promulgated by the Secretary of the Interior. The regulations issued by the Secretary may prescribe the hunting season, bag limits, and methods of taking. Subsistence uses of resources have precedence over all competing consumptive uses. Subsistence users are defined in general terms by the Act. The right to subsist is granted to those who fit the definition of subsistence user and their direct descendents as long as they continue to fit the definition.

Hunting (undefined as to whether it is sport, commercial, or subsistence) will be permitted on the 12.6 million acres of national preserves established by the Act.

All lands designated by this Act as national parks, monuments, preserves, wildlife ranges, wildlife refuges, and national wild and scenic rivers are closed to further entry for mining and prospecting purposes. Existing claims and other existing mining rights are allowed to continue as long as regulations applicable to mineral location and mining activities on federal lands are followed.

Lands within the areas affected by this Act available for selection by Native village corporations but which are not selected shall be incorporated into the appropriate unit. The amount of land affected by this provision is unknown.

State land selections within the areas affected by this Act are revoked. Areas of approximately equal acreage will be made available to the State for selection.

The Secretary of the Interior is authorized to pursue cooperative agreements with state and private landowners who have land adjacent to units established by this Act in order to preserve the environments of the units.

SECTION-BY-SECTION SUMMARY

SECTION 1 (a) This subsection lists the titles of the Act and the national conservation systems which are affected.

(b) The intent of Congress is "to preserve unrivaled scenic and geologic values associated with natural landscapes; to provide for the maintenance of sound populations of, habitat for, resident and nonresident wildlife species...; to protect and preserve cultural values of indigenous peoples and the resources related to their subsistence needs; to protect and preserve historic and archeologic sites, rivers, and lands, and to preserve wilderness resource values and related recreational opportunities...; and to maintain opportunities for scientific research and undisturbed ecosystems."

(c) This subsection designates which maps are to be used to describe National Park Service, National Wildlife Refuge, and National Wild and Scenic River areas affected by this Act. These maps are to be available for public inspection in the office of the Secretary of the Interior. As soon as practicable after the passage of this Act, the Secretary shall publish in the Federal Register a map and legal description of each change in land management status.

TITLE I NATIONAL PARK SYSTEM

PART A ESTABLISHMENT OF NEW AREAS

SECTION 101 This section creates eleven additional national parks, monuments, and preserves affecting 56.0 million acres of federal land in Alaska. The specific areas established as part of the National Park System are given in Table 2b on page 45.

PART B ADDITIONS TO EXISTING AREAS

SECTION 102 This section adds a total of 8.1 million acres to existing national parks and monuments and redesignates the expanded Katmai National Monument and the expanded Glacier Bay National Monument as Katmai National Park and Glacier Bay National Park, respectively. The additional acreage allocated to each unit is given in Table 2b on page 45.

PART C ADMINISTRATIVE PROVISIONS

SECTION 103 This section requires the Secretary of the Interior to administer the new units established by this Title as part of

the National Park System except that hunting may be permitted under provisions of Section 702 of this Act.

TITLE II NATIONAL WILDLIFE REFUGE SYSTEM

PART A ESTABLISHMENT OF NEW AREAS

SECTION 201 This section establishes twelve new wildlife refuges or ranges on 31.7 million acres in Alaska. A list of the new units established and the acreages involved are given in Table 2c on page 47.

PART B ADDITIONS TO EXISTING AREAS

SECTION 202 This section adds 14.7 million acres to existing national wildlife ranges as well as merging or renaming certain units of the National Wildlife Refuge System. The additional acreage allocated to each unit is given in Table 2c on page 47.

TITLE III NATIONAL WILD AND SCENIC RIVERS SYSTEM

PART A ESTABLISHMENT OF NEW RIVERS

SECTION 301 This section establishes all or part of 23 rivers as wild rivers or scenic rivers. These wild or scenic rivers are to be managed by the National Park Service. Those rivers affected by this section and the acreage involved are listed in Table 2d on page 51.

PART B ADMINISTRATIVE PROVISIONS

SECTION 302 (a) This subsection authorizes the Secretary of the Interior to establish boundaries for wild and scenic rivers of at least two miles on each side of the river except that village corporation lands along the Anaktuvuk River, Melozitna River, Susitna River, Coleville River, and Gulkana River are excluded from inclusion in the system. The Secretary is further authorized to seek cooperative agreements with owners of non-federal land adjoining the wild and scenic rivers.

(b) This subsection requires the Secretary to establish the boundaries for the wild and scenic rivers within three years after the Act is passed.

TITLE IV NATIONAL FOREST SYSTEM

Within one year after the effective date of this Act, the President shall, after consultation with the Secretary of Agriculture and the Secretary of the Interior, add a maximum of 1.6 million acres to the Tongass and Chugach National Forests.

TITLE V NATIONAL PETROLEUM RESERVE IN ALASKA

Surface management of the National Petroleum Reserve (formerly Naval Petroleum Reserve, Number Four) shall be the responsibility of the U.S. Fish and Wildlife Service until Congress decides otherwise.

TITLE VI DESIGNATION OF WILDERNESS AREAS

SECTION 601 This section designates all lands added to the National Park System, National Wildlife Refuge System, and the Wild and Scenic Rivers System by this Act as components of the National Wilderness Preservation System. The total acreage affected by this section is approximately 116.17 million acres.

SECTION 602 This section designates a total of 7.3 million acres from existing portions of the National Park System as components of the Wilderness Preservation System.

SECTION 603 This section designates portions of nine existing wildlife refuges or ranges as components of the National Wilderness Preservation System. The total acreage affected is approximately 19.5 million acres.

SECTION 604 Six areas within the national forests in Alaska are designated as components of the National Wilderness Preservation System. The total acreage affected is approximately 5.0 million acres. Native village corporation lands within the areas designated as wilderness are excluded from the proposals.

SECTION 605 All wilderness lands designated by this Act are to be administered according to the Wilderness Act except that the responsibility for management is transferred to the Secretary of the Interior.

TITLE VII GENERAL ADMINISTRATIVE PROVISIONS

SECTION 701 (a) This subsection authorizes the Secretary of the Interior to permit the continuation of subsistence uses of fish and wildlife resources within the areas established by this Act. The Secretary is further authorized to establish regulations prescribing the hunting season, the number and species of game to be harvested, and the conditions under which subsistence uses are conducted. The Secretary may designate "Subsistence Management Zones" on those lands in and adjacent to national interest lands. The "Subsistence Management Zones" need not coincide with the boundaries of the national interest lands. In each "Subsistence Management Zone" the Secretary shall establish a "Regulatory Subsistence Board" consisting of ten subsistence users. These boards shall review all subsistence permit applications and advise the Secretary on matters of concern to subsistence users and other residents of the "Subsistence Management Zone". The Secretary is not obligated to comply with the recommendations of the boards.

(b) Subsistence uses of national interest lands shall receive preference over any competing consumptive use of resources. The Secretary may curtail subsistence uses of resources if it is necessary to protect the resource, but, unless an emergency exists, the Secretary must consult with the subsistence boards.

(c) Subsistence users are defined as those "people who exercise and continue to exercise customary, consistent, and traditional use of subsistence resources...and their direct descendants." Subsistence users will be permitted to continue subsistence activities "if they are primarily and directly dependent...upon local natural resources for either food, shelter", etc.

(d) This subsection requires the Secretary to conduct research on the use of subsistence resources, seek data from subsistence users, and make findings of the research available to the public.

(e) The Secretary is required to report to Congress on the effect of all hunting and fishing upon the flora and fauna of the national interest lands within ten years after this Act becomes effective and every five years thereafter. The Secretary must consult with the subsistence boards and the Alaska Department of Fish and Game.

SECTION 702 The Secretary may permit hunting in National Preserves established by this Act. The Secretary shall designate the zones and seasons for hunting by regulation and shall consult with the Department of Fish and Game, except in emergencies.

SECTION 703 (a) This subsection withdraws from appropriation under the mining laws and from operation of mineral leasing laws all lands designated as National Parks, National Monuments, National Preserves, National Wildlife Ranges, National Wildlife Refuges, and Wild and Scenic Rivers by this Act. Valid existing rights on these lands are reaffirmed.

(b) This section authorizes the Secretary to validate existing mineral leases, patents, or claims within his existing authority. All mining claims within these units must proceed toward patent within three years or they will lapse. The Secretary has the right of first refusal for mining inholdings which are offered for sale.

SECTION 704 (a) All lands lying within the units established by this Act which are subject to selection by Native village corporations but which are not selected shall be incorporated in the appropriate unit.

(b) Land selections by the State of Alaska which lie within the units established by this Act are revoked. An approximately equal acreage will be made available to the State for selection.

SECTION 705 The Secretary of the Interior and the Secretary of Agriculture are authorized to acquire lands or interest in lands within units established by this Act which are under their respective supervision.

SECTION 706 The Secretary of the Interior is authorized to purchase land outside of the boundaries of the Yukon-Charley National Preserve, Kobuk Valley National Monument, and Chukchi-Imuruk National Monument for the protection of archeological sites or construction of administrative or visitor facilities.

SECTION 707 (a) Whenever it is convenient and desirable for both parties, the administrative and visitor facilities for the areas established by this Act shall be located on adjacent Native-owned land.

(b) Before entering into any contract for provision of revenue-producing visitor services, the Secretary must grant the Native village or regional corporation the right of refusal to provide such services.

SECTION 708 (a) The Secretary of the Interior is authorized to identify Areas of Ecological Concern adjacent to any unit established by this Act. These areas contain resources that are part of the total ecosystem, geologic formation, or reflect a cultural heritage related to any unit of the national interest lands. For those lands within Areas of Ecological Concern, the Secretary may seek agreements with other federal agencies, the state, and private land holders that will assure the management and development of those lands in a manner consistent with preservation of the environmental quality of the units established by this Act.

(b) All federal agencies must consult with the Secretary of the Interior prior to undertaking any action in an area included in an Area of Ecological Concern.

(c) The Secretary is authorized to seek cooperative management agreements with the State of Alaska and its political subdivisions for lands adjacent to the units of the National Park System, National Refuge System, National Wild and Scenic River System, and the National Forests. Within three years the Secretary must report to Congress on whether the agreements have been consummated and whether the appropriate land use controls have been instituted by the state.

SECTION 709 The U.S. Fish and Wildlife Service and the National Park Service are required to cooperate on resource studies and planning in the National Parks, Wild and Scenic Rivers, and National Wildlife Refuges.

SECTION 710 The Fish and Wildlife Service, National Park Service, and Bureau of Outdoor Recreation are authorized to maintain regional offices in Alaska.

SECTION 711 The appropriation of such funds as are necessary to carry out the purpose of this Act is authorized.

PART IV. S. 1787

"ALASKA NATIONAL INTEREST LANDS ACT"

(Introduced by Senator Ted Stevens)

SYNOPSIS

This bill has been offered as an alternative to the Udall bill, H.R. 39, and the 1973 proposal of the Secretary of the Interior. By introducing this bill, Senator Stevens is proposing solutions to the conflicts surrounding the d-2 lands issue that are considered to be more favorable to the interests of the state and the people of Alaska. The significant proposals of S. 1787 include the designation of only 25.21 million acres as parks, refuges, wild and scenic rivers, and forests and the creation of a new land management mechanism by which certain federal, state and private land would be managed by a federal-state land commission.

S. 1787 is the result of consultations between Alaska's congressional delegation and Governor Hammond in an effort to reach an "Alaskan consensus" on the d-2 lands issue. Senator Gravel participated in the initial discussions but ultimately withdrew from the effort due to differences of opinion as to what provisions the bill should contain.

The major provisions of the bill are given below.

A total of 25.21 million acres is dedicated as units of the four national conservation systems.

- -- 10.45 million acres are added to the National Park System
- -- 8.04 million acres are added to the National Wildlife Refuge System
- -- 1.00 million acres are added to the National Wild and Scenic Rivers System
- -- 5.72 million acres are added to the National Forest System.

Another 56.89 million acres of federal land in Alaska are designated as Federal Cooperative Lands. These federal lands, as well as a significant portion of state lands, are to be managed by the Alaska Land Classification Commission. This commission will be a permanent joint state and federal commission with a structure similar to the existing Joint Federal-State Land Use Planning Commission for Alaska but with authority to implement its land management decisions on those lands subject to its jurisdiction.

Before the Alaska Land Classification Commission can become operational, the State of Alaska must commit a significant portion of its land to the care of the commission. The Secretary of the Interior shall determine what constitutes a significant portion of state land.

Private land owners may participate in the cooperative management system by dedicating their undeveloped land to cooperative management by the Alaska Land Classification Commission for a ten-year period. Exemptions from real property taxes, for those private lands which are dedicated as private cooperative lands, are possible if the state decides to grant them.

The State of Alaska retains jurisdiction over the management of fish and wildlife on those federal lands affected by this bill.

A review of the wilderness potential of all federal lands affected by this bill must be completed within five years after the effective date of this Act.

A trust fund is established from a portion of the state and federal revenues derived from the federal land affected by this bill. This fund will provide money to purchase privately owned lands in the "lower 48" states for addition to parks, refuges, and other areas.

State and Native land selections shall not be affected by the designation of National Interest Lands. Within 90 days after the effective date of this Act the Secretary of the Interior must make available for state selection all federal land not established as d-2 areas or part of existing federal reserves.

"ALASKA NATIONAL INTEREST LANDS ACT"

SECTION BY SECTION SUMMARY

SECTION 1 This section gives the Act its title.

SECTION 2 (a) This subsection lists the congressional findings, which declare that it is necessary to manage Alaska's national interest lands in order to protect values of national interest, to continue to catalog resource values on national interest lands in Alaska, and to promote cooperative management of federal, state, and private land.

(b) The purpose of this Act is to protect the national interest in federal lands in Alaska and to promote a program of flexible cooperative land management.

SECTION 3 This section defines the key words and phrases used in the Act.

TITLE I ANIAKCHAK CALDERA NATIONAL MONUMENT

SECTION 101 (a) The Aniakchak Caldera National Monument comprising 180,000 acres is established.

(b) A map and legal description of the monument should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 102 Aniakchak Caldera National Monument is to be administered as a unit of the National Park System.

TITLE II CAPE KRUSENSTERN NATIONAL MONUMENT

SECTION 201 (a) The Cape Krusenstern National Monument comprising 190,000 acres is established.

(b) A map and legal description of the monument should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 202 The Cape Krusenstern National Monument is to be administered as a unit of the National Park System.

TITLE III KOBUK SAND DUNES NATIONAL MONUMENT

SECTION 301 (a) The Kobuk Sand Dunes National Monument comprising 100,000 acres is established.

(b) A map and legal description of the monument should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 302 The Kobuk Sand Dunes National Monument is to be managed as a unit of the National Park System.

TITLE IV GATES OF THE ARCTIC NATIONAL PARK

SECTION 401 (a) The Gates of the Arctic National Park comprising 3,550,000 acres is established.

(b) A map and legal description of the park should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 402 The Gates of the Arctic National Park is to be administered as a unit of the National Park System.

TITLE V KATMAI NATIONAL PARK

SECTION 501 (a) The Katmai National Monument addition comprising 400,000 acres is established and the monument is designated as a national park.

(b) A map and legal description of the park should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 502 The Katmai National Park is to be managed as a unit of the National Park System.

TITLE VI MOUNT MCKINLEY NATIONAL PARK ADDITION

SECTION 601 (a) The Mount McKinley National Park Addition comprising 1,130,000 acres is established.

(b) A map and legal description of the addition should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 602 The Mount McKinley National Park Addition is to be administered as a unit of the National Park System.

TITLE VII WRANGELL-SAINT ELIAS NATIONAL PARK

SECTION 701 (a) The Wrangell-Saint Elias National Park comprising 4,900,000 acres is established.

(b) A map and legal description of the park should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 702 The Wrangell-Saint Elias National Park is to be managed as a unit of the National Park System.

TITLE VIII ALASKA COASTAL NATIONAL WILDLIFE REFUGE

SECTION 801 (a) The Alaska Coastal National Wildlife Refuge comprising 150,000 acres is established.

(b) A map and legal description of the refuge should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 802 The Alaska Coastal National Wildlife Refuge is to be administered as a unit of the National Wildlife Refuge System.

TITLE IX INNOKO NATIONAL WILDLIFE REFUGE

SECTION 901 (a) The Innoko National Wildlife Refuge comprising 600,000 acres is established.

(b) A map and legal description of the refuge should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 902 The Innoko National Wildlife Refuge is to be managed as a unit of the National Wildlife Refuge System.

TITLE X KAIYUH NATIONAL WILDLIFE REFUGE

SECTION 1001 (a) The Kaiyuh National Wildlife Refuge comprising 190,000 acres is established.

(b) A map and legal description of the refuge should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 1002 The Kaiyuh National Wildlife Refuge is to be managed as a unit of the National Wildlife Refuge System.

TITLE XI KANUTI NATIONAL WILDLIFE REFUGE

SECTION 1101 (a) The Kanuti National Wildlife Refuge comprising 430,000 acres is established.

(b) A map and legal description of the refuge should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 1102 The Kanuti National Wildlife Refuge is to be managed as a unit of the National Wildlife Refuge System.

TITLE XII KOYUKUK NATIONAL WILDLIFE REFUGE

SECTION 1201 (a) The Koyukuk National Wildlife Refuge comprising 1,580,000 acres is established.

(b) A map and legal description of the refuge should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 1202 The Koyukuk National Wildlife Refuge is to be managed as a unit of the National Wildlife Refuge System.

TITLE XIII SELAWIK NATIONAL WILDLIFE REFUGE

SECTION 1301 (a) The Selawik National Wildlife Refuge comprising 730,000 acres is established.

(b) A map and legal description of the refuge should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 1302 The Selawik National Wildlife Refuge is to be managed as a unit of the National Wildlife Refuge System.

TITLE XIV SHISHMAREF NATIONAL WILDLIFE REFUGE

SECTION 1401 (a) The Shishmaref National Wildlife Refuge comprising 760,000 acres is established.

(b) A map and legal description of the refuge should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 1402 The Shishmaref National Wildlife Refuge is to be managed as a unit of the National Wildlife Refuge System.

TITLE XV YUKON DELTA NATIONAL WILDLIFE REFUGE

SECTION 1501 (a) The Yukon Delta National Wildlife Refuge comprising 3,600,000 acres is established.

(b) A map and legal description of the refuge should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 1502 The Yukon Delta National Wildlife Refuge is to be managed as a unit of the National Wildlife Refuge System.

TITLE XVI COLLEGE FJORD ADDITION TO THE CHUGACH NATIONAL FOREST

SECTION 1601 (a) The College Fjord Addition to the Chugach National Forest comprising 720,000 acres is established.

(b) A map and legal description of the addition should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 1602 The College Fjord Addition to the Chugach National Forest is to be administered as a unit of the National Forest System.

TITLE XVII NELLIE JUAN ADDITION TO THE CHUGACH NATIONAL FOREST

SECTION 1701 (a) The Nellie Juan Addition to the Chugach National Forest comprising 280,000 acres is established.

(b) A map and legal description of the addition should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 1702 The Nellie Juan Addition to the Chugach National Forest is to be administered as part of the National Forest System.

TITLE XVIII PORCUPINE NATIONAL FOREST

SECTION 1801 (a) The Porcupine National Forest comprising 2,590,000 acres is established.

(b) A map and legal description of the forest should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 1802 The Porcupine National Forest is to be administered as a unit of the National Forest System.

TITLE XIX YUKON FLATS NATIONAL FOREST

SECTION 1901 (a) The Yukon Flats National Forest comprising 2,130,000 acres is established.

(b) A map and legal description should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 1902 The Yukon Flats National Forest is to be administered as a unit of the National Forest System.

TITLE XX BIRCH CREEK NATIONAL WILD RIVER

SECTION 2001 (a) The Birch Creek National Wild River comprising 200,000 acres is established.

(b) A map and legal description of the wild river should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 2002 The Birch Creek National Wild River is to be administered as a wild river within the Wild and Scenic Rivers System.

TITLE XXI CHARLEY NATIONAL WILD RIVER

SECTION 2101 (a) The Charley National Wild River comprising 400,000 acres is established.

(b) A map and legal description of the wild river should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 2102 The Charley National Wild River is to be administered as a wild river within the Wild and Scenic Rivers System.

TITLE XXII NOATAK NATIONAL WILD RIVER

SECTION 2201 (a) The Noatak National Wild River, comprising 400,000 acres, is established.

(b) A map and legal description of the wild river should be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 2202 The Noatak National Wild River is to be administered as a wild river within the Wild and Scenic Rivers System.

TITLE XXIII KATMAI FEDERAL COOPERATIVE LANDS

SECTION 2301 (a) The Katmai Federal Cooperative Lands, comprising 1,590,000 acres, is established.

(b) A map and legal description of the Katmai Federal Cooperative Lands shall be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 2302 (a) The National Park Service shall manage the Katmai Federal Cooperative Lands in accordance with the regulations of the park service and the Alaska Land Classification Commission. If a conflict should arise between the regulations of the park service and the regulations of the Commission, the Commission shall prevail.

(b) The Katmai Federal Cooperative Lands may be opened to all uses allowed under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXIV GATES OF THE ARCTIC FEDERAL COOPERATIVE LANDS

SECTION 2401 (a) The Gates of the Arctic Federal Cooperative Lands, comprising 3,550,000 acres, is established.

(b) A map and legal description of the Gates of the Arctic Federal Cooperative Lands shall be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 2402 (a) The National Park Service shall manage the Gates of the Arctic Federal Cooperative Lands in accordance with the regulations of the park service and the Alaska Land Classification Commission. If a conflict should arise between the regulations of the park service and the regulations of the Commission, the Commission shall prevail.

(b) The Gates of the Arctic Federal Cooperative Lands may be opened to all uses allowed under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXV MOUNT MCKINLEY FEDERAL COOPERATIVE LANDS

SECTION 2501 (a) The Mount McKinley Federal Cooperative Lands, comprising 1,960,000 acres, is established.

(b) A map and legal description of the Mount McKinley Federal Cooperative Lands shall be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 2502 (a) The National Park Service shall manage the Mount McKinley Federal Cooperative Lands in accordance with the regulations of the park service and the Alaska Land Classification Commission. If a conflict should arise between the regulations of the park service and the regulations of the Commission, the Commission shall prevail.

(b) The Mount McKinley Federal Cooperative Lands may be opened to all uses allowed under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXVI WRANGELL-ST. ELIAS FEDERAL COOPERATIVE LANDS

SECTION 2601 (a) The Wrangell-St. Elias Federal Cooperative Lands, comprising 8,740,000 acres, is established.

(b) A map and legal description of the Wrangell-St. Elias Federal Cooperative Lands shall be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 2602 (a) The National Park Service shall manage the Wrangell-St. Elias Federal Cooperative Lands in accordance with the regulations of the park service and the Alaska Land Classi-

fication Commission. If a conflict should arise between the regulations of the park service and the regulations of the Commission, the Commission shall prevail.

(b) The Wrangell-St. Elias Federal Cooperative Lands may be opened to all uses allowed under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXVII LAKE CLARK FEDERAL COOPERATIVE LANDS

SECTION 2701 (a) The Lake Clark Federal Cooperative Lands, comprising 3,490,000 acres, is established.

(b) A map and legal description of the Lake Clark Federal Cooperative Lands shall be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 2702 (a) The National Park Service shall manage the Lake Clark Federal Cooperative Lands in accordance with the regulations of the park service and the Alaska Land Classification Commission. If a conflict should arise between the regulations of the park service and the regulations of the Commission, the Commission shall prevail.

(b) The Lake Clark Federal Cooperative Lands may be opened to all uses allowed under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXVIII CHARLEY RIVER FEDERAL COOPERATIVE LANDS

SECTION 2801 (a) The Charley River Federal Cooperative Lands, comprising 990,000 acres, is established.

(b) A map and legal description of the Charley River Federal Cooperative Lands shall be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 2802 (a) The National Park Service shall manage the Charley River Federal Cooperative Lands in accordance with the regulations of the park service and the Alaska Land Classification Commission. If a conflict should arise between the regulations of the park service and the regulations of the Commission, the Commission shall prevail.

(b) The Charley River Federal Cooperative Lands may be opened to all uses allowed under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXIX INNOKO FEDERAL COOPERATIVE LANDS

SECTION 2901 (a) The Innoko Federal Cooperative Lands, comprising 1,240,000 acres, is established.

(b) A map and legal description of the Innoko Federal Cooperative Lands shall be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 2902 (a) The Fish and Wildlife Service shall manage the Innoko Federal Cooperative Lands in accordance with the regulations of the Fish and Wildlife Service and the Alaska Land Classification Commission. If a conflict should arise between the regulations of the Fish and Wildlife Service and the regulations of the Commission, the Commission shall prevail.

(b) The Innoko Federal Cooperative Lands may be opened to all uses allowed under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXX CHANDALAR FEDERAL COOPERATIVE LANDS

SECTION 3001 (a) The Chandalar Federal Cooperative Lands, comprising 8,270,000 acres, is established.

(b) A map and legal description of the Chandalar Federal Cooperative Lands shall be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 3002 (a) The Fish and Wildlife Service shall manage the Chandalar Federal Cooperative Lands in accordance with the regulations of the Fish and Wildlife Service and the Alaska Land Classification Commission. If a conflict should arise between the regulations of the Fish and Wildlife Service and the regulations of the Commission, the Commission shall prevail.

(b) The Chandalar Federal Cooperative Lands may be opened to all uses allowed under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXXI SHISHMAREF-IMURUK FEDERAL COOPERATIVE LANDS

SECTION 3101 (a) The Shishmaref-Imuruk Federal Cooperative Lands, comprising 1,840,000 acres, is established.

(b) A map and legal description of the Shishmaref-Imuruk Federal Cooperative Lands shall be published in the Federal

Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 3102 (a) The Fish and Wildlife Service shall manage the Shishmaref-Imuruk Federal Cooperative Lands in accordance with the regulations of the Fish and Wildlife Service and the Alaska Land Classification Commission. If a conflict should arise between the regulations of the Fish and Wildlife Service and the regulations of the Commission, the Commission shall prevail.

(b) The Shishmaref-Imuruk Federal Cooperative Lands may be opened to all uses allowed under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXXII CAPE NEWENHAM FEDERAL COOPERATIVE LANDS

SECTION 3201 (a) The Cape Newenham Federal Cooperative Lands, comprising 240,000 acres, is established.

(b) A map and legal description of the Cape Newenham Federal Cooperative Lands in accordance with the regulations of the Fish and Wildlife Service and the Alaska Land Classification Commission. If a conflict should arise between the regulations of the Fish and Wildlife Service and the regulations of the Commission, the Commission shall prevail.

SECTION 3202 (a) The Fish and Wildlife Service shall manage the Cape Newenham Federal Cooperative Lands in accordance with the regulations of the Fish and Wildlife Service and the Alaska Land Classification Commission. If a conflict should arise between the regulations of the Fish and Wildlife Service and the regulations of the Commission, the Commission shall prevail.

(b) The Cape Newenham Federal Cooperative Lands may be opened to all uses allowed under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXXIII NOATAK FEDERAL COOPERATIVE LANDS

SECTION 3301 (a) The Noatak Federal Cooperative Lands, comprising 11,470,000 acres, is established.

(b) A map and legal description of the Noatak Federal Cooperative Lands shall be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 3302 (a) The Fish and Wildlife Service shall manage the Noatak Federal Cooperative Lands in accordance with the regulations of the Fish and Wildlife Service and the Alaska Land Classification Commission. If a conflict should arise between the regulations of the Fish and Wildlife Service and the regulations of the Commission, the Commission shall prevail.

(b) The Noatak Federal Cooperative Lands may be opened to all uses allowed under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXXIV YUKON DELTA FEDERAL COOPERATIVE LANDS

SECTION 3401 (a) The Yukon Delta Federal Cooperative Lands, comprising 1,500,000 acres, is established.

(b) A map and legal description of the Yukon Delta Federal Cooperative Lands shall be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 3402 (a) The Fish and Wildlife Service shall manage the Yukon Delta Federal Cooperative Lands in accordance with the regulations of the Fish and Wildlife Service and the Alaska Land Classification Commission. If a conflict should arise between the regulations of the Fish and Wildlife Service and the regulations of the Commission, the Commission shall prevail.

(b) The Yukon Delta Federal Cooperative Lands may be opened to all uses allowed under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXXV ANDREAFSKY FEDERAL COOPERATIVE LANDS

SECTION 3501 (a) The Andreafsky Federal Cooperative Lands, comprising 3,500,000 acres, is established.

(b) A map and legal description of the Andreafsky Federal Cooperative Lands shall be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 3502 (a) The Fish and Wildlife Service shall manage the Andreafsky Federal Cooperative Lands in accordance with the regulations of the Fish and Wildlife Service and the Alaska Land Classification Commission. If a conflict should arise between the regulations of the Fish and Wildlife Service and the regulations of the Commission, the Commission shall prevail.

(b) The Andreafsky Federal Cooperative Lands may be opened to all uses allowed under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXXVI ILIAMNA FEDERAL COOPERATIVE LANDS

SECTION 3601 (a) The Iliamna Federal Cooperative Lands, comprising 2,800,000 acres, is established.

(b) A map and legal description of the Iliamna Federal Cooperative Lands shall be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 3602 (a) The Fish and Wildlife Service shall manage the Iliamna Federal Cooperative Lands in accordance with the regulations of the Fish and Wildlife Service and the Alaska Land Classificaiton Commission. If a conflict should arise between the regulations of the Fish and Wildlife Service and the regulations of the Commission, the Commission shall prevail.

(b) The Iliamna Federal Cooperative Lands may be opened to all uses allowed under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXXVII CHUGACH FEDERAL COOPERATIVE LANDS

SECTION 3701 (a) The Chugach Federal Cooperative Lands, comprising 1,770,000 acres, is established.

(b) A map and legal description of the Chugach Federal Cooperative Lands shall be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 3702 (a) The National Forest Service shall manage the Chugach Federal Cooperative Lands in accordance with the regulations of the Forest Service and the Alaska Land Classification Commission. If a conflict should arise between the regulations of the Forest Service and the regulations of the Commission, the Commission shall prevail.

(b) The Chugach Federal Cooperative Lands may be opened to all uses allowed under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXXVIII PORCUPINE FEDERAL COOPERATIVE LANDS

SECTION 3801 (a) The Porcupine Federal Cooperative Lands, comprising 3,400,000 acres, is established.

(b) A map and legal description of the Porcupine Federal Cooperative Lands shall be published in the Federal Register and filed with th appropriate congressional committees as soon as practicabie.

SECTION 3802 (a) The National Forest Service shall manage the Porcupine Federal Cooperative Lands in accordance with the regulations of the Forest Service and the Alaska Land Classification Commission. If a conflict should arise between the regulations of the Forest Service and the regulations of the Commission, the Commission shall prevail.

(b) The Porcupine Federal Cooperative Lands may be opened to all uses allowed under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXXIX YUKON RIVER FEDERAL COOPERATIVE LANDS

SECTION 3901 (a) The Yukon River Federal Cooperative Lands, comprising 540,000 acres, is established.

(b) A map and legal description of the Yukon River Federal Cooperative Lands shall be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

SECTION 3902 (a) The National Forest Service shall manage the Yukon River Federal Cooperative Lands in accordance with the regulations of the Forest Service and the Alaska Land Classification Commission. If a conflict should arise between the regulations of the Forest Service and the regulations of the Commission, the Commission shall prevail.

(b) The Yukon River Federal Cooperative Lands may be opened to all uses under the public land laws except those laws which permit conveyance of the land from federal ownership. Valid existing rights shall be continued.

TITLE XXXX ALASKA COOPERATIVE LANDS

SECTION 4001 (a) In compliance with procedures established by Alaska State Law, state land may be committed for inclusion in a system of Alaska Cooperative Lands. The State of Alaska and the Secretary of the Interior shall determine the location and boundaries of the Alaska Cooperative Lands by mutual agreement. The Secretary of the Interior must find that a sub-

stantial proportion of state land is committed to the Alaska Cooperative Lands before the system becomes operational. The Alaska Cooperative Lands will be classified and managed by the Alaska Land Classification Commission. The State may exchange land at a later time for land initially included in the system, following consultation with the Commission and concurrence of the Secretary of the Interior.

(b) A map and legal description of those lands dedicated as Alaska Cooperative Lands shall be published in the Federal Register and filed with the appropriate congressional committees as soon as practicable.

TITLE XXXXI PRIVATE COOPERATIVE LAND

SECTION 4101 (a) Private landowners in the State of Alaska may dedicate their land as private cooperative lands for a period of ten years if the Alaska Land Classification Commission approves. Private cooperative lands shall be classified by the Commission and managed by the landowner.

(b) If the State of Alaska agrees, private cooperative lands may be exempted from state and local real property taxation as long as the land is not developed or leased to a third party.

(c) Private cooperative lands shall be open to all uses except those which are not permitted by the Commission. The landowner may remove his land from the private cooperative lands at any time, but if the landowner should remove his land prior to the expiration of a ten year period, the landowner shall be liable for accrued property taxes plus the interest due for delinquent taxes on the land.

TITLE XXXXII ALASKA LAND CLASSIFICATION COMMISSION

SECTION 4201 (a) When the Secretary of the Interior determines that the State of Alaska has dedicated a substantial proportion of its land to the Alaska Cooperative Lands, the Alaska Land Classification Commission shall be established. The Commission shall consist of eight members, one of which must be an Alaskan Native appointed by the President, with four members appointed by the Governor and four members appointed by the President. Co-chairmen shall be designated by the President and Governor respectively.

(b) The members of the Commission serve at the pleasure of the appointing authority. A vacancy in the membership shall be filled in the same manner as the original appointment.

(c) The Federal Co-chairman shall be compensated at a rate not to exceed that for a GS-18. The other federal appointees shall be compensated at a rate not to exceed that of GS-16. The state appointees shall be compensated as provided for in state law.

(d) Five members of the Commission constitute a quorum.

(e) The Secretary of the Interior, the Secretary of Agriculture, or the Governor of Alaska may veto a decision of the Commission which affects land under their respective jurisdiction.

(f) The two co-chairmen when acting jointly may hire and dismiss employees of the Commission and procure office space, supplies, and equipment.

(g) The Commission is authorized to use the services, equipment, and personnel of federal and other agencies.

(h) The Commission may accept donations and grants and utilize them to support its work.

(i) The Commission shall keep accounts and records.

(j) The federal government shall pay 50 percent of the expenses of the Commission.

(k) The principal office of the Commission shall be in Alaska.

(l) All Commission meetings shall be public.

(m) The Alaska Land Classification Commission shall:

1) inventory the land under its jurisdiction,

2) develop land use plans,

3) classify land pursuant to the land use plans,

4) assist in the development of land use plans for Native corporations,

5) review existing state and federal land withdrawals,

6) recommend changes in state or federal land law, policies, and programs,

7) make recommendations for orderly economic growth, and

8) suggest means of improving coordination of state and federal land use decisions.

(n) The Joint Federal-State Land Use Planning Commission for Alaska shall dissolve four months after the Alaska Land Classification Commission is established.

(o) If the State of Alaska fails to designate a significant proportion of state land as Alaska Cooperative Lands, those lands designated as federal cooperative lands shall be subject to the full jurisdiction of those agencies designated to manage them, as stated in Titles XXIII through XXIX of this Act.

TITLE XXXXIII MANAGEMENT AND ADMINISTRATION

SECTION 4301 The Alaska Land Classification Commission shall take action as necessary to guarantee access across the lands affected by this Act.

SECTION 4302 Mineral exploration and development shall continue on national interest lands classified for this purpose. Locatable minerals shall be developed under a location-lease system which is yet to be proposed.

SECTION 4303 (a) Minor revision in the boundaries of the national interest lands may be made following a publication of a notice in the Federal Register and notification of the appropriate congressional committees.

(b) The Secretary of the Interior, Secretary of Agriculture, and the Commission are prohibited from administratively enlarging or establishing units of the Park System, Refuge System, Forest System, or Wild and Scenic Rivers System in Alaska.

SECTION 4304 Fish and wildlife management on national interest lands shall be the responsibility of the State of Alaska. Subsistence harvests of fish and game shall take priority over other consumptive uses if a conflict should arise over resource allocation.

SECTION 4305 Long term leases may be granted for agricultural development on national interest lands where permitted by the Commission.

SECTION 4306 The appropriate federal land management agencies shall conduct a wilderness review of the national interest lands within five years. The Commission is authorized to conduct the wilderness review of federal cooperative lands.

SECTION 4307 Federal revenues derived from the lands affected by this Act as well as 50 percent of the state's share of revenues from those lands shall be placed in a fund to be used to purchase privately owned land in the "Lower 48" states for park, refuge, and wild and scenic rivers purposes.

SECTION 4308 State land selections are not to be adversely affected by the designation of national interest lands. For a period of at least 21 months following the passage of this Act the

state shall be eligible to make land selections from all federal land in Alaska except those lands dedicated to a particular use. Most of the land made available to the state shall be d-1 lands and relinquished Native selections.

SECTION 4309 Native land selections are not to be adversely affected by national interest land designations. Those Native land selections which lie within a designated national interest land but which are relinquished shall be incorporated into the national interest lands.

SECTION 4310 The Secretary of the Interior, Secretary of Agriculture, and the Commission are authorized to formulate cooperative management agreements among themselves and with any government unit (state, local, or international) or private individual.

SECTION 4311 The federal agencies managing the national interest lands may acquire land within their boundaries; however, state, local government or private lands cannot be acquired without the consent of the appropriate owner. The exchange of lands of equal value may be used to acquire land within the national interest lands. In certain instances the Congress may veto land exchanges.

TITLE XXXXIV MISCELLANEOUS

SECTION 4401 The Secretary of the Interior, Secretary of Agriculture, and the Alaska Land Classification Commission are authorized to issue regulations.

SECTION 4402 This Act shall supercede all conflicting provisions of federal law.

SECTION 4403 The invalidity of any provision of this Act shall not affect the remaining provisions.

SECTION 4404 Funds such as are necessary to carry out the provisions of this Act are authorized.

TITLE XXXXV LOCATION-LEASE SYSTEM FOR HARDROCK MINERAL EXPLORATION AND DEVELOPMENT

(The provisions of this title had not been made available as of 26 August 1977.)

PART V. TABULAR COMPARISON OF ACREAGES

AFFECTED BY LEGISLATION CURRENTLY BEFORE CONGRESS

Table 1. COMPARATIVE SUMMARY

Table 2. PROPOSED ADDITIONS TO THE FOUR NATIONAL CONSERVATION SYSTEMS

a. Summary
b. National Park System
c. National Wildlife Refuge System
d. National Wild and Scenic Rivers System
e. National Forest System

Table 3. PROPOSED FEDERAL COOPERATIVE MANAGEMENT OR 'FIFTH SYSTEM' AREAS

Table 4. PROPOSED 'INSTANT' WILDERNESS AREAS

a. Summary
b. National Park System
c. National Wildlife Refuge System
d. National Wild and Scenic Rivers System
e. National Forest System

Table 5. PROPOSED WILDERNESS STUDY AREAS

Table 1.

COMPARATIVE SUMMARY OF ACREAGES AFFECTED BY LEGISLATION CURRENTLY BEFORE CONGRESS

HOUSE BILL NUMBER AND PRIME SPONSOR

PROPOSED DESIGNATIONS	HR 39 UDALL	HR 1207 ROE	HR 1454 ALEXANDER	HR 1652 DINGELL	HR 1720 SEBELIUS	HR 1907 UDALL	HR 2082 LEGGETT	HR 5605 SEIBERLING	HR 6564 MURPHY
	MILLION ACRES								
PARKS, REFUGES, FORESTS, AND WILD AND SCENIC RIVERS	116.17	0.00	2.61	67.90	0.00	17.75	70.75	1.04	83.45
WILDERNESS AREAS	146.64	0.40	0.00	0.00	2.60	37.46	0.00	1.04	0.00
WILDERNESS STUDY AREAS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
OTHER SPECIAL DESIGNATIONS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL ACREAGE AFFECTED *	148.24	0.40	2.61	67.90	2.60	55.21	70.75	1.04	83.45

SENATE BILL NUMBER AND PRIME SPONSOR

PROPOSED DESIGNATIONS	S 164 STEVENS	S 315 JACKSON	S 499 JACKSON	S 500 JACKSON	S 1180 CHURCH	S 1500 METCALF	S 1546 ABOUREZK	S 1787 STEVENS	FSLUPC ** PROPOSAL
	MILLION ACRES								
PARKS, REFUGES, FORESTS, AND WILD AND SCENIC RIVERS	1.40	0.00	83.45	116.47	0.40	116.37	1.04	25.21	44.01
WILDERNESS AREAS	0.00	2.60	0.00	147.44	0.00	144.94	1.04	0.00	0.00
WILDERNESS STUDY AREAS	0.00	0.00	0.00	0.00	0.40	0.55	0.00	0.00	0.00
OTHER SPECIAL DESIGNATIONS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	56.89	46.70
TOTAL ACREAGE AFFECTED *	1.40	2.60	83.45	149.04	0.40	146.54	1.04	82.10	90.71

* -- THE 'TOTAL ACREAGE AFFECTED' IS ADJUSTED FOR OVERLAPPING DESIGNATIONS

** -- FSLUPC = FEDERAL-STATE LAND USE PLANNING COMMISSION

[prepared by:
legislative affairs agency--research division]
(18 AUG 77)

Table 2a.

PROPOSED ADDITIONS TO THE FOUR NATIONAL CONSERVATION SYSTEMS IN ALASKA

SUMMARY

	BILL NUMBER AND PRIME SPONSOR									
	HR 39 UDALL	HR 1454 ALEXANDER	HR 1652 DINGELL	HR 1907 UDALL	HR 2082 LEGGETT	HR 5605 SEIBERLING	S 499 JACKSON	S 1500 METCALF	S 1787 STEVENS	FSLUPC * PROPOSAL
	MILLION ACRES									
NATIONAL PARK SYSTEM										
EXISTING PARKS	8.10	0.00	0.00	0.00	0.00	0.00	5.05	8.00	1.53	3.77
NEW PARKS	56.00	2.61	0.00	0.00	0.00	1.04	27.21	56.30	8.92	15.95
TOTAL	64.10	2.61	0.00	0.00	0.00	1.04	32.26	64.30	10.45	19.72
NATIONAL WILDLIFE REFUGE SYSTEM										
EXISTING REFUGES	14.70	0.00	19.01	14.30	7.08	0.00	8.92	14.70	0.00	2.17
NEW REFUGES	31.70	0.00	48.89	3.45	63.67	0.00	22.65	31.70	8.04	16.65
TOTAL	46.40	0.00	67.90	17.75	70.75	0.00	31.57	46.40	8.04	18.82
NATIONAL WILD AND SCENIC RIVERS SYSTEM										
NEW WILD RIVERS	3.59	0.00	0.00	0.00	0.00	0.00	0.50	3.59	1.00	0.37
NEW SCENIC RIVERS	0.48	0.00	0.00	0.00	0.00	0.00	0.32	0.48	0.00	0.32
TOTAL	4.07	0.00	0.00	0.00	0.00	0.00	0.82	4.07	1.00	0.69
NATIONAL FOREST SYSTEM										
EXISTING NATIONAL FORESTS	1.60	0.00	0.00	0.00	0.00	0.00	0.50	1.60	1.00	4.78
NEW NATIONAL FORESTS	0.00	0.00	0.00	0.00	0.00	0.00	18.30	0.00	4.72	0.00
TOTAL	1.60	0.00	0.00	0.00	0.00	0.00	18.80	1.60	5.72	4.78
GRAND TOTAL	116.17	2.61	67.90	17.75	70.75	1.04	83.45	116.37	25.21	44.01

* -- FSLUPC = FEDERAL-STATE LAND USE PLANNING COMMISSION

(prepared by:
legislative affairs agency--research division)
(15 AUG 77)

Table 2c. PROPOSED ADDITIONS TO THE FOUR NATIONAL CONSERVATION SYSTEMS IN ALASKA

NATIONAL WILDLIFE REFUGE SYSTEM

BILL NUMBER AND PRIME SPONSOR

	HR 39 UDALL	HR 1454 ALEXANDER	HR 1652 DINGELL	HR 1907 UDALL	HR 2082 LEGGETT	HR 5605 SEIBERLING	S 499 JACKSON	S 1500 METCALF	S 1787 STEVENS	FSLUPC PROPOSAL
EXISTING REFUGES				MILLION ACRES						
KENAI N. MOOSE RANGE	0.00	0.00	0.00	0.00	0.28	0.00	0.00	0.00	0.00	0.04
CLARENCE RHODE N. W. RANGE	6.30	0.00	19.01	6.50	0.00	0.00	5.16	6.30	0.00	0.00
ARCTIC N. W. RANGE	8.40	0.00	0.00	7.80	6.80	0.00	3.76	8.40	0.00	1.89
CAPE NEWENHAM N. W. REFUGE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.24
SUBTOTAL EXISTING REFUGES	14.70	0.00	19.01	14.30	7.08	0.00	8.92	14.70	0.00	2.17
NEW REFUGES				MILLION ACRES						
ALASKA PENINSULA N. W. RANGE	1.20	0.00	0.00	0.00	2.50	0.00	0.00	1.20	0.00	0.00
COPPER RIVER DELTA N. W. REFUGE	0.90	0.00	0.00	0.00	1.30	0.00	0.00	0.90	0.00	0.35
SELAWIK N. W. RANGE	2.50	0.00	0.00	0.00	0.00	0.00	1.40	2.50	0.73	1.48
YUKON FLATS N. W. RANGE	12.30	0.00	3.71	0.00	16.80	0.00	3.59	12.30	0.00	2.33
KOYUKUK N. W. RANGE	3.70	0.00	2.94	0.00	3.00	0.00	4.43	2.90	1.58	2.53
INNOKO N. W. RANGE	2.30	0.00	0.00	0.00	3.40	0.00	0.00	3.00	0.60	1.99
TOGIAK N. W. RANGE	3.50	0.00	0.00	3.45	3.94	0.00	2.74	3.50	0.00	0.00
ILIAMNA N. W. RANGE	2.90	0.00	0.00	0.00	2.80	0.00	2.85	2.90	0.00	0.00
ALASKA COASTAL N. W. REFUGES	0.30	0.00	0.00	0.00	0.13	0.00	0.05	0.30	0.15	0.18
KANUTI N. W. REFUGE	0.80	0.00	0.00	0.00	0.80	0.00	0.00	1.00	0.43	0.43
KAIYUH N. W. REFUGE	0.30	0.00	0.00	0.00	0.30	0.00	0.00	0.20	0.19	0.19
NOWITNA N. W. REFUGE	1.00	0.00	0.00	0.00	1.00	0.00	0.00	1.00	0.00	0.00
NOATAK N. ARCTIC RANGE	0.00	0.00	0.00	0.00	8.30	0.00	7.59	0.00	0.00	0.00
NORTH SLOPE N. W. REFUGE	0.00	0.00	14.72	0.00	0.00	0.00	0.00	0.00	0.00	0.00
KOTZEBUE N. W. REFUGE	0.00	0.00	7.68	0.00	0.00	0.00	0.00	0.00	0.00	0.00
BRISTOL BAY N. W. REFUGE	0.00	0.00	5.89	0.00	0.00	0.00	0.00	0.00	0.00	0.00
GULF OF ALASKA N. W. REFUGE	0.00	0.00	5.12	0.00	0.00	0.00	0.00	0.00	0.00	0.00
KUSKOKWIM N. W. REFUGE	0.00	0.00	6.27	0.00	0.00	0.00	0.00	0.00	0.00	0.00
GULKANA N. W. REFUGE	0.00	0.00	2.24	0.00	0.00	0.00	0.00	0.00	0.00	0.00
SNAG CREEK N. W. REFUGE	0.00	0.00	0.32	0.00	0.00	0.00	0.00	0.00	0.00	0.00
SHISHMAREF N. W. REFUGE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.76	1.50
YUKON DELTA N. W. REFUGE	0.00	0.00	0.00	0.00	3.50	0.00	0.00	0.00	3.60	5.67

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(prepared by:
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(15 AUG 77)

Table 2c. (continued) PROPOSED ADDITIONS TO THE FOUR NATIONAL CONSERVATION SYSTEMS IN ALASKA

NATIONAL WILDLIFE REFUGE SYSTEM

	BILL NUMBER AND PRIME SPONSOR									
	HR 39 UDALL	HR 1454 ALEXANDER	HR 1652 DINGELL	HR 1907 UDALL	HR 2082 LEGGETT	HR 5605 SEIBERLING	S 499 JACKSON	S 1500 METCALF	S 1787 STEVENS	FSLUPC PROPOSAL
NEW REFUGES (continued)	MILLION ACRES									
UTUKOK N. WILDLAND	0.00	0.00	0.00	0.00	7.50	0.00	0.00	0.00	0.00	0.00
TESHEKPUK LAKE N. WILDLAND	0.00	0.00	0.00	0.00	1.80	0.00	0.00	0.00	0.00	0.00
ADMIRALTY ISLAND N. WILDLAND	0.00	0.00	0.00	0.00	1.20	0.00	0.00	0.00	0.00	0.00
AFOGNAK N. WILDLAND	0.00	0.00	0.00	0.00	0.50	0.00	0.00	0.00	0.00	0.00
YAKUTAT N. WILDLAND	0.00	0.00	0.00	0.00	1.80	0.00	0.00	0.00	0.00	0.00
TETLIN N. WILDLAND	0.00	0.00	0.00	0.00	3.10	0.00	0.00	0.00	0.00	0.00
SUBTOTAL NEW REFUGES	31.70	0.00	48.89	3.45	63.67	0.00	22.65	31.70	8.04	16.65
TOTAL FOR ALL REFUGES	46.40	0.00	67.90	17.75	70.75	0.00	31.57	46.40	8.04	18.82

[prepared by:
legislative affairs agency--research division]
(15 AUG 77)

Table 2d.

PROPOSED ADDITIONS TO THE FOUR NATIONAL CONSERVATION SYSTEMS IN ALASKA

NATIONAL WILD AND SCENIC RIVERS SYSTEM

BILL NUMBER AND PRIME SPONSOR

NEW WILD RIVERS	HR 33 UDALL	HR 1454 ALEXANDER	HR 1652 DINGELL	HR 1907 UDALL	HR 2082 LEGGETT	HR 5605 SEIBERLING	S 499 JACKSON	S 1500 METCALF	S 1787 STEVENS	FSLUPC PROPOSAL
	MILLION ACRES									
ANAKTUVUK RIVER	0.40	0.00	0.00	0.00	0.00	0.00	0.00	0.40	0.00	0.00
BIRCH CREEK	0.20	0.00	0.00	0.00	0.00	0.00	0.20	0.20	0.20	0.00
NOWITNA RIVER	0.08	0.00	0.00	0.00	0.00	0.00	0.00	0.08	0.00	0.00
UNALAKLEET RIVER	0.05	0.00	0.00	0.00	0.00	0.00	0.10	0.05	0.00	0.10
MELOZITNA RIVER	0.20	0.00	0.00	0.00	0.00	0.00	0.00	0.20	0.00	0.00
HOLITNA-HOHOLITNA RIVERS	0.23	0.00	0.00	0.00	0.00	0.00	0.00	0.23	0.00	0.00
SUSITNA RIVER	0.20	0.00	0.00	0.00	0.00	0.00	0.00	0.20	0.00	0.00
NELCHINA-TAZLINA RIVERS	0.08	0.00	0.00	0.00	0.00	0.00	0.00	0.08	0.00	0.00
NUYAKUK RIVER	0.06	0.00	0.00	0.00	0.00	0.00	0.00	0.06	0.00	0.00
UTUKOK RIVER	0.30	0.00	0.00	0.00	0.00	0.00	0.00	0.30	0.00	0.00
SITUK RIVER	0.02	0.00	0.00	0.00	0.00	0.00	0.00	0.02	0.00	0.00
KOYUK RIVER	0.20	0.00	0.00	0.00	0.00	0.00	0.00	0.20	0.00	0.00
IKPIKPUK RIVER	0.30	0.00	0.00	0.00	0.00	0.00	0.00	0.30	0.00	0.00
KISARILIK RIVER	0.20	0.00	0.00	0.00	0.00	0.00	0.00	0.20	0.00	0.00
COLVILLE RIVER	0.50	0.00	0.00	0.00	0.00	0.00	0.00	0.50	0.00	0.00
KUK-KETUK RIVERS	0.10	0.00	0.00	0.00	0.00	0.00	0.00	0.10	0.00	0.00
YUKON RIVER (RAMPART SECTION)	0.30	0.00	0.00	0.00	0.00	0.00	0.00	0.30	0.00	0.00
MIDDLE KUSKOKWIM RIVER	0.10	0.00	0.00	0.00	0.00	0.00	0.00	0.10	0.00	0.00
STIKINE RIVER	0.05	0.00	0.00	0.00	0.00	0.00	0.00	0.05	0.00	0.00
COPPER RIVER (ILIAMNA)	0.02	0.00	0.00	0.00	0.00	0.00	0.00	0.02	0.00	0.00
BEAVER CREEK	0.00	0.00	0.00	0.00	0.00	0.00	0.20	0.00	0.00	0.00
NOATAK RIVER	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.40	0.00
CHARLEY RIVER	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.40	0.00
ANIAKCHAK RIVER	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.07
ALAGNAK RIVER	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.09
KANEKTOK RIVER	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.11
SUBTOTAL NEW WILD RIVERS	3.59	0.00	0.00	0.00	0.00	0.00	0.50	3.59	1.00	0.37

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[prepared by:
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(15 AUG 77)

Table 2d. (continued) PROPOSED ADDITIONS TO THE FOUR NATIONAL CONSERVATION SYSTEMS IN ALASKA

NATIONAL WILD AND SCENIC RIVERS SYSTEM

	BILL NUMBER AND PRIME SPONSOR									
	HR 39 UDALL	HR 1454 ALEXANDER	HR 1652 DINGELL	HR 1907 UDALL	HR 2082 LEGGETT	HR 5605 SEIBERLING	S 499 JACKSON	S 1500 METCALF	S 1787 STEVENS	FSLUPC PROPOSAL
NEW SCENIC RIVERS	MILLION ACRES									
FORTYMILE RIVER	0.32	0.00	0.00	0.00	0.00	0.00	0.32	0.32	0.00	0.32
DELTA RIVER	0.03	0.00	0.00	0.00	0.00	0.00	0.00	0.03	0.00	0.00
GULKANA RIVER	0.13	0.00	0.00	0.00	0.00	0.00	0.00	0.13	0.00	0.00
SUBTOTAL NEW SCENIC RIVERS	0.48	0.00	0.00	0.00	0.00	0.00	0.32	0.48	0.00	0.32
TOTAL FOR ALL WILD AND SCENIC RIVERS	4.07	0.00	0.00	0.00	0.00	0.00	0.82	4.07	1.00	0.69

(prepared by:
legislative affairs agency--research division)
(15 AUG 77)

Table 2e.

PROPOSED ADDITIONS TO THE FOUR NATIONAL CONSERVATION SYSTEMS IN ALASKA

NATIONAL FOREST SYSTEM

BILL NUMBER AND PRIME SPONSOR

	HR 39 UDALL	HR 1454 ALEXANDER	HR 1652 DINGELL	HR 1907 UDALL	HR 2082 LEGGETT	HR 5605 SEIBERLING	S 499 JACKSON	S 1500 METCALF	S 1787 STEVENS	FSLUPC PROPOSAL
EXISTING NATIONAL FORESTS				MILLION ACRES						
TONGASS N. FOREST	0.00 *	0.00	0.00	0.00	0.00	0.00	0.00	0.00 *	0.00	2.01
CHUGACH N. FOREST	0.00 *	0.00	0.00	0.00	0.00	0.00	0.50	0.00 *	1.00	2.77
SUBTOTAL EXISTING NATIONAL FORESTS	1.60 *	0.00	0.00	0.00	0.00	0.00	0.50	1.60 *	1.00	4.78
NEW NATIONAL FORESTS				MILLION ACRES						
PORCUPINE N. FOREST	0.00	0.00	0.00	0.00	0.00	0.00	5.50	0.00	2.59	0.00
WRANGELL MOUNTAINS N. FOREST	0.00	0.00	0.00	0.00	0.00	0.00	5.50	0.00	0.00	0.00
YUKON-KUSKOKWIM N. FOREST	0.00	0.00	0.00	0.00	0.00	0.00	7.30	0.00	0.00	0.00
YUKON FLATS N. FOREST	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2.13	0.00
SUBTOTAL NEW NATIONAL FORESTS	0.00	0.00	0.00	0.00	0.00	0.00	18.30	0.00	4.72	0.00
TOTAL FOR ALL NATIONAL FORESTS	1.60	0.00	0.00	0.00	0.00	0.00	18.80	1.60	5.72	4.78

* -- A MAXIMUM OF 1.6 MILLION ACRES MAY BE ADDED TO THE CHUGACH AND TONGASS NATIONAL FORESTS BY PRESIDENTIAL ORDER.

[prepared by:
legislative affairs agency--research division]
(15 AUG 77)

Table 3. PROPOSED FEDERAL COOPERATIVE MANAGEMENT OR 'FIFTH SYSTEM' AREAS IN ALASKA

MANAGEMENT AREA	BILL NUMBER AND PRIME SPONSOR S 1787 STEVENS MILLION ACRES	 FSLUPC * PROPOSAL MILLION ACRES
KATMAI	1.59	0.00
GATES OF THE ARCTIC	3.55	0.00
MOUNT MCKINLEY	1.96	0.00
WRANGELL-ST. ELIAS	8.74	0.00
LAKE CLARK	3.49	3.49
CHARLEY RIVER	0.99	0.00
CATHEDRAL SPIRES	0.00	0.40
CHITINA	0.00	1.05
NEPESNA	0.00	2.87
NUNAMIUT	0.00	1.98
INNOKO	1.24	0.00
CHANDALAR	8.27	5.56
SHISHMAREF-IMURUK	1.84	0.00
CAPE NEWENHAM	0.24	0.00
NOATAK	11.47	11.87
YUKON DELTA	1.50	0.00
ANDREAFSKY	3.50	3.54
ILIAMNA	2.80	0.00
BECHAROF	0.00	0.88
CHUGACH	1.77	0.00
PORCUPINE	3.40	5.49
YUKON RIVER	0.54	0.00
NOWITNA	0.00	3.52
YUKON MOUNTAINS	0.00	6.05
TOTAL	56.89	46.70

* -- FSLUPC = FEDERAL-STATE LAND USE PLANNING COMMISSION

(prepared by:
legislative affairs agency--research division)
(15 AUG 77)

Table 4a. PROPOSED 'INSTANT' WILDERNESS AREAS IN ALASKA

SUMMARY

	BILL NUMBER AND PRIME SPONSOR						
	HR 39 UDALL	HR 1207 ROE	HR 1907 UDALL	HR 3454 UDALL	HR 5605 SEIBERLING	S 315 JACKSON	S 1500 METCALF
	MILLION ACRES						
NATIONAL PARK SYSTEM							
EXISTING PARKS	15.42	0.00	0.00	0.00	0.00	2.60	14.75
NEW PARKS	56.00	0.00	0.00	0.00	1.04	0.00	56.30
TOTAL	71.42	0.00	0.00	0.00	1.04	2.60	71.05
NATIONAL WILDLIFE REFUGE SYSTEM							
EXISTING REFUGES	37.91	0.00	37.46	0.00	0.00	0.00	35.71
NEW REFUGES	28.20	0.00	0.00	0.00	0.00	0.00	28.20
TOTAL	66.11	0.00	37.46	0.00	0.00	0.00	63.91
NATIONAL WILD AND SCENIC RIVERS SYSTEM							
NEW WILD RIVERS	3.59	0.00	0.00	0.00	0.00	0.00	3.59
NEW SCENIC RIVERS	0.48	0.00	0.00	0.00	0.00	0.00	0.48
TOTAL	4.07	0.00	0.00	0.00	0.00	0.00	4.07
NATIONAL FOREST SYSTEM							
TONGASS NATIONAL FOREST	4.44	0.40	0.00	0.40	0.00	0.00	4.91
CHUGACH NATIONAL FOREST	0.60	0.00	0.00	0.00	0.00	0.00	1.00
TOTAL	5.04	0.40	0.00	0.40	0.00	0.00	5.91
GRAND TOTAL	146.64	0.40	37.46	0.40	1.04	2.60	144.94

[prepared by:
legislative affairs agency--research division]
(15 AUG 77)

Table 4b. PROPOSED 'INSTANT' WILDERNESS AREAS IN ALASKA

NATIONAL PARK SYSTEM

	BILL NUMBER AND PRIME SPONSOR						
	HR 39 UDALL	HR 1207 ROE	HR 1907 UDALL	HR 3454 UDALL	HR 5605 SEIBERLING	S 315 JACKSON	S 1500 METCALF
EXISTING PARKS				MILLION ACRES			
MOUNT MCKINLEY N. PARK	6.60	0.00	0.00	0.00	0.00	0.00	6.60
KATMAI N. MONUMENT	5.22	0.00	0.00	0.00	0.00	2.60	5.22
GLACIER BAY N. MONUMENT	3.60	0.00	0.00	0.00	0.00	0.00	2.93
SUBTOTAL	15.42	0.00	0.00	0.00	0.00	2.60	14.75
NEW PARKS				MILLION ACRES			
GATES OF THE ARCTIC N. PARK	13.60	0.00	0.00	0.00	0.00	0.00	13.60
YUKON-CHARLEY N. PRESERVE	3.20	0.00	0.00	0.00	0.00	0.00	3.20
KOBUK VALLEY N. MONUMENT	1.90	0.00	0.00	0.00	0.00	0.00	1.90
CAPE KRUSENSTERN N. MONUMENT	0.90	0.00	0.00	0.00	0.00	0.00	0.90
WRANGELL-ST. ELIAS N. PARK	14.00	0.00	0.00	0.00	0.00	0.00	14.00
CHISANA N. PRESERVE	1.80	0.00	0.00	0.00	0.00	0.00	1.80
LAKE CLARK N. PARK	7.50	0.00	0.00	0.00	0.00	0.00	7.50
KENAI FJORDS N. MONUMENT	0.60	0.00	0.00	0.00	0.00	0.00	0.60
ANIAKCHAK CALDERA N. MONUMENT	0.40	0.00	0.00	0.00	0.00	0.00	0.40
CHUKCHI-IMURUK N. MONUMENT	4.50	0.00	0.00	0.00	0.00	0.00	4.50
NOATAK N. PRESERVE	7.60	0.00	0.00	0.00	0.00	0.00	7.90
ADMIRALTY ISLAND N. PRESERVE	0.00	0.00	0.00	0.00	1.04	0.00	0.00
SUBTOTAL	56.00	0.00	0.00	0.00	1.04	0.00	56.30
TOTAL	71.42	0.00	0.00	0.00	1.04	2.60	71.05

(prepared by:
legislative affairs agency -research division)
(15 AUG 77)

Table 4c. PROPOSED 'INSTANT' WILDERNESS AREAS IN ALASKA

NATIONAL WILDLIFE REFUGE SYSTEM

	BILL NUMBER AND PRIME SPONSOR						
	HR 39 UDALL	HR 1207 ROE	HR 1907 UDALL	HR 3454 UDALL	HR 5605 SEIBERLING	S 315 JACKSON	S 1500 METCALF
EXISTING REFUGES				MILLION ACRES			
CLARENCE RHODE N. W. RANGE	9.10	0.00	9.30	0.00	0.00	0.00	9.10
ARCTIC N. W. RANGE	17.35	0.00	16.75	0.00	0.00	0.00	17.35
CAPE NEWENHAM N. W. REFUGE	3.75	0.00	3.70	0.00	0.00	0.00	3.75
ALEUTIAN ISLAND N. W. REFUGE	2.37	0.00	2.37	0.00	0.00	0.00	2.37
HAZEN BAY N. W. REFUGE	0.01	0.00	0.01	0.00	0.00	0.00	0.01
IZEMBEK N. W. RANGE	0.30	0.00	0.30	0.00	0.00	0.00	0.30
KENAI N. MOOSE RANGE	1.27	0.00	1.27	0.00	0.00	0.00	1.27
NUNIVAK N. W. REFUGE	3.50	0.00	3.50	0.00	0.00	0.00	1.30
SEMIDI N. W. REFUGE	0.26	0.00	0.26	0.00	0.00	0.00	0.26
SUBTOTAL	37.91	0.00	37.46	0.00	0.00	0.00	35.71
NEW REFUGES				MILLION ACRES			
ALASKA PENINSULA N. W. RANGE	1.20	0.00	0.00	0.00	0.00	0.00	1.20
COPPER RIVER DELTA N. W. REFUGE	0.90	0.00	0.00	0.00	0.00	0.00	0.90
SELAWIK N. W. RANGE	2.50	0.00	0.00	0.00	0.00	0.00	2.50
YUKON FLATS N. W. RANGE	12.30	0.00	0.00	0.00	0.00	0.00	12.30
KOYUKUK N. W. RANGE	3.70	0.00	0.00	0.00	0.00	0.00	2.90
INNOKO N. W. RANGE	2.30	0.00	0.00	0.00	0.00	0.00	3.00
ILIAMNA N. W. RANGE	2.90	0.00	0.00	0.00	0.00	0.00	2.90
ALASKA COASTAL N. W. REFUGES	0.30	0.00	0.00	0.00	0.00	0.00	0.30
KANUTI N. W. REFUGE	0.80	0.00	0.00	0.00	0.00	0.00	1.00
KAIYUH N. W. REFUGE	0.30	0.00	0.00	0.00	0.00	0.00	0.20
NOWITNA N. W. REFUGE	1.00	0.00	0.00	0.00	0.00	0.00	1.00
SUBTOTAL	28.20	0.00	0.00	0.00	0.00	0.00	28.20
TOTAL	66.11	0.00	37.46	0.00	0.00	0.00	63.91

(prepared by:
legislative affairs agency--research division)
(15 AUG 77)

Table 4d. PROPOSED 'INSTANT' WILDERNESS AREAS IN ALASKA

NATIONAL WILD AND SCENIC RIVERS SYSTEM

BILL NUMBER AND PRIME SPONSOR

	HR 39 UDALL	HR 1207 ROE	HR 1907 UDALL	HR 3454 UDALL	HR 5605 SEIBERLING	S 315 JACKSON	S 1500 METCALF
NEW WILD RIVERS				MILLION ACRES			
ANAKTUVUK RIVER	0.40	0.00	0.00	0.00	0.00	0.00	0.40
BIRCH CREEK	0.20	0.00	0.00	0.00	0.00	0.00	0.20
NOWITNA RIVER	0.08	0.00	0.00	0.00	0.00	0.00	0.08
UNALAKLEET RIVER	0.05	0.00	0.00	0.00	0.00	0.00	0.05
MELOZITNA RIVER	0.20	0.00	0.00	0.00	0.00	0.00	0.20
HOLITNA-HOHOLITNA RIVERS	0.23	0.00	0.00	0.00	0.00	0.00	0.23
SUSITNA RIVER	0.20	0.00	0.00	0.00	0.00	0.00	0.20
NELCHINA-TAZLINA RIVERS	0.08	0.00	0.00	0.00	0.00	0.00	0.08
NUYAKUK RIVER	0.06	0.00	0.00	0.00	0.00	0.00	0.06
UTUKOK RIVER	0.30	0.00	0.00	0.00	0.00	0.00	0.30
SITUK RIVER	0.02	0.00	0.00	0.00	0.00	0.00	0.02
KOYUK RIVER	0.20	0.00	0.00	0.00	0.00	0.00	0.20
IKPIKPUK RIVER	0.30	0.00	0.00	0.00	0.00	0.00	0.30
KISARILIK RIVER	0.20	0.00	0.00	0.00	0.00	0.00	0.20
COLVILLE RIVER	0.50	0.00	0.00	0.00	0.00	0.00	0.50
KUK-KETIK RIVERS	0.10	0.00	0.00	0.00	0.00	0.00	0.10
YUKON RIVER (RAMPART SECTION)	0.30	0.00	0.00	0.00	0.00	0.00	0.30
MIDDLE KUSKOKWIM RIVER	0.10	0.00	0.00	0.00	0.00	0.00	0.10
STIKINE RIVER	0.05	0.00	0.00	0.00	0.00	0.00	0.05
COPPER RIVER (ILIAMNA)	0.02	0.00	0.00	0.00	0.00	0.00	0.02
SUBTOTAL	3.59	0.00	0.00	0.00	0.00	0.00	3.59
NEW SCENIC RIVERS				MILLION ACRES			
FORTYMILE RIVER	0.32	0.00	0.00	0.00	0.00	0.00	0.32
DELTA RIVER	0.03	0.00	0.00	0.00	0.00	0.00	0.03
GULKANA RIVER	0.13	0.00	0.00	0.00	0.00	0.00	0.13
SUBTOTAL	0.48	0.00	0.00	0.00	0.00	0.00	0.48
TOTAL	4.07	0.00	0.00	0.00	0.00	0.00	4.07

[prepared by:
legislative affairs agency--research division]
(15 AUG 77)

Table 4e. PROPOSED 'INSTANT' WILDERNESS AREAS IN ALASKA

NATIONAL FOREST SYSTEM

	BILL NUMBER AND PRIME SPONSOR						
	HR 39 UDALL	HR 1207 ROE	HR 1907 UDALL	HR 3454 UDALL	HR 5605 SEIBERLING	S 315 JACKSON	S 1500 METCALF
TONGASS NATIONAL FOREST				MILLION ACRES			
DUNCAN CANAL WILDERNESS	0.00	0.00	0.00	0.00	0.00	0.00	0.12
ADMIRALTY ISLAND WILDERNESS	1.03	0.00	0.00	0.00	0.00	0.00	1.03
YAKUTAT FORELANDS WILDERNESS	0.30	0.00	0.00	0.00	0.00	0.00	0.30
MISTY FJORDS WILDERNESS	2.40	0.00	0.00	0.00	0.00	0.00	2.40
WEST CHICHAGOF-YAKOBI WILDERNESS	0.40	0.40	0.00	0.40	0.00	0.00	0.40
STIKINE-LE CONTE WILDERNESS	0.30	0.00	0.00	0.00	0.00	0.00	0.30
ETOLIN ISLAND WILDERNESS	0.00	0.00	0.00	0.00	0.00	0.00	0.23
KARTA WILDERNESS	0.00	0.00	0.00	0.00	0.00	0.00	0.05
TEBENKOF WILDERNESS	0.00	0.00	0.00	0.00	0.00	0.00	0.07
SUBTOTAL	4.44	0.40	0.00	0.40	0.00	0.00	4.91
CHUGACH NATIONAL FOREST				MILLION ACRES			
NELLIE JUAN WILDERNESS	0.60	0.00	0.00	0.00	0.00	0.00	1.00
SUBTOTAL	0.60	0.00	0.00	0.00	0.00	0.00	1.00
TOTAL	5.04	0.40	0.00	0.40	0.00	0.00	5.91

(prepared by:
legislative affairs agency--research division]
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Table 5. PROPOSED WILDERNESS STUDY AREAS IN ALASKA

NATIONAL FOREST SYSTEM

	BILL NUMBER AND PRIME SPONSOR	
	S 1180 CHURCH	S 1500 METCALF
TONGASS N. FOREST	MILLION ACRES	
ADMIRALTY ISLAND W. S. A.	1.04	0.00
DALL ISLAND W. S. A.	0.00	0.16
IDAHO INLET-MUD BAY W. S. A.	0.00	0.10
KADAKE W. S. A.	0.00	0.02
NORTH KRUZOF W. S. A.	0.00	0.01
PAVLOF HARBOR W. S. A.	0.00	0.02
ROCKY PASS W. S. A.	0.00	0.07
SAINT JAMES BAY W. S. A.	0.00	0.03
SALMON BAY W. S. A.	0.00	0.02
SARKAR LAKES W. S. A.	0.00	0.03
SWEETWATER-HONKER DIVIDE W. S. A.	0.00	0.09
TOTAL	1.04	0.55

[prepared by:
legislative affairs agency--research division]
(17 AUG 77)

TESTIMONY TO JOINT RESOURCES COMMITTEES
ALASKA STATE LEGISLATURE
March 9, 1977

Presented by
Walter B. Parker
State Co-Chairman

Joint Federal-State
Land Use Planning Commission
For Alaska

The Federal-State Land Use Planning Commission for Alaska is the only governmental entity of its particular type in the United States. The Commission was created by the Congress and the Alaska Legislature to serve as a coordinating mechanism and public forum for working out the implementation of the provisions of the Alaska Native Claims Settlement Act. The Commission was given specific roles in the review of easements and in providing technical planning assistance to regional and village corporations. It was also directed to provide recommendations to the Secretary of the Interior on national interest lands and to the Governor and the Alaska Legislature on State land selections.

Since these early directions, the Commission has received further requests from the Congress to provide an analysis of the many bills submitted on national interest (d)(2) lands and also to provide its own proposals for these lands. Additional problems which must be solved and which are underway involve systems and institutional mechanisms for insuring access to Alaska's energy and other mineral resources. We are also developing recommendations for cooperative institutions in wildlife management, data gathering, and information transfer systems. The Commission has strongly felt that only through strong cooperative management mechanisms can the future welfare of this State be assured.

In the controversy over the allocation of the great public land domain in Alaska--many have said that we must create the maximum possible number of National Parks, Wildlife Refuges, and other Federally designated units that provide the highest possible level of protection to the public lands--others have said that we must not inhibit the future growth and development of Alaska by too early a designation of restrictive land policies.

Management designations of national interest lands in Alaska are not simple choices between placing maximum acreages in protective categories or placing maximum acreages in categories open to all types of resource extraction and development. Instead, these management designations require the positioning of these lands in relation to all of Alaska and in relation to the use and ownership designations already made possible by Congress in providing selection rights to Alaska Natives and the State of Alaska. Throughout its deliberations, the Commission has carefully considered the national interest lands in this manner and kept four major objectives in mind:

to provide the highest possible level of enduring protection to the last significant wildlife populations of the United States---

to significantly increase national guarantees of wilderness oriented recreation and experience---

to provide a higher overall level of protection for certain lands that will either allow their later designation as wilderness or permit resource development to be undertaken with the highest possible level of protection for other values---

to establish land use planning and other management institutions which will better coordinate the needs of the citizens of the State and the national interests in Alaska.

The Commission has developed its position to meet these goals while allowing the necessary flexibility for Alaska's resident population to work out their future and inhibiting as little as possible Alaska's role as a source of resources to meet the Nation's present and future needs. When the Commission has discerned conflicting values in its assessments it has aimed toward solutions that would further the major goals stated above.

As the Commission was developing its proposals for Alaska's national interest (d)(2) lands, three key questions emerged which needed to be answered in the consideration of these lands:

1. Are wildlife, recreational, and scenic values of national importance adequately protected?

2. Are national energy objectives or needs for strategic minerals significantly inhibited?

3. Are conflicts with other values and uses with adjoining lands minimized?

In answering these questions it became clear that for much of the (d)(2) lands, none of the existing systems were fully adequate as a method of management. In Alaska, the nation was facing conditions and circumstances which were very different from those for which the existing systems had been designed. In summary, these circumstances are as follows:

1. The relative absence of existing land use patterns and trends in Alaska and the limited knowledge of the subsurface resources of the land which, together, make it premature to determine primary values or to choose between primary or multiple use systems for much of the (d)(2) lands at this time.

2. The unique national value of Alaska's scenic expanses. Alaska is the only part of the nation where large natural areas still exist.

3. State ownership in regions where unified natural systems extend across lands held by both Federal and State governments. In Alaska, State ownership is on a par with Federal ownership, not in terms of gross acreage, but in terms of State holdings of key lowlands, transportation corridors, and wildlife habitat that are vitally related to Federal lands.

In recognition of these unique circumstances, the Commission eventually adopted an approach which would assign lands to existing systems only when they had a clear and undisputable value for those systems. Other lands which also had high national value, but which combined scenic and wildlife values with other features such as subsistence useage and mineral potential, were assigned to a new management system, the Alaska National Lands. Thus, the Commission's proposal allocates 43 million acres to National Park, Wildlife Refuge, and Forest Systems, and 47 million acres to a new system, the Alaska National Lands.

In short, the Commission's recommendation, like that of the Governor's, places special emphasis on the creation of a lasting land management institution that will fit the special circumstances of Alaska. Such an institutional structure must be designed to:

1. Allow for a process of decision making over time so that land use choices can be made when new events and information make it timely and appropriate to render a decision.

2. Incorporate this decision making process within a planning entity with a high enough public profile to insure that land use decisions are responsive to changed circumstances, without sacrificing responsibility to the national interest.

3. Provide the high level of environmental protection that is warranted by the unique national value that is found in Alaska's great expanse of natural land.

4. Maintain sufficient flexibility so that environmental protection measures serve to guide rather than to totally preclude resource development in the national interest.

5. Provide for coordinated State and Federal land planning with an option for voluntary participation by private corporate owners of related lands.

Applying the above criteria resulted in the Commission developing a proposal which designates major additions to the National Park System in Alaska with emphasis on the creation of two great new parks in the Wrangell Mountains and the Brooks Range (Gates of the Arctic), plus additions to the large existing park units at Mount McKinley and Katami, and four smaller new units. The proposal recommends 13 new units and additions to five existing units to the Wildlife Refuge System with the aim of providing an enduring base for protection of Alaska's wildlife values and protection of those migratory waterfowl species which summer

in Alaska and other migratory species such as marine mammals. Seven additions are recommended for the National Forest System and five rivers are recommended for designation as part of the Wild and Scenic Rivers System. (See Appendix A for details.)

After designating key core areas for inclusion in the traditional Federal management systems, the Commission was faced with the problem of designation of several areas of outstanding scenic, wildlife, and other natural values which did not readily fit within the traditional systems. The Commission was also faced with the problem of establishing a coordinative mechanism to relate Federal, State, and Native land and resource management systems for the next several years as the provisions of the Alaska Native Claims Settlement Act are implemented. This led the Commission to the development of its so-called "fifth system" or Alaska National Lands. The title was chosen to clearly show that these are lands of national interest in Alaska and that it is a proposed management system unique to Alaska. Twelve very large units of Alaska National Lands throughout the State are proposed by the Commission. (See Appendix A for details.)

The Alaska National Lands System would represent a new approach to Federal land management. Instead of building determinations about primary values, or choices between primary use or multiple use into the system itself, as has been done with the existing Federal land management systems, Congress, in adopting the Commission's proposal would be establishing an institution equipped to handle such decisions as they become appropriate and timely in the future. This approach, substituting a continuing planning institution for absolute determinations on public lands at this time, is based on a recognition that our foresight in Alaska is limited, and that circumstances affecting the areas proposed for Alaska National Lands can change radically in the future.

One of the major problems with which the Commission had to wrestle was recognizing traditional hunting and fishing and other subsistence uses of Alaska's lands by Alaskan residents. These uses are the only permitted uses on Alaska National Lands prior to classification. Regulation of taking of fish and wildlife would be governed by the regulations of the State of Alaska, but, since these lands are recommended for retention in Federal ownership, the full strength and ability of Federal wildlife management can be brought to bear as well as that of the State, thus insuring as much as possible, maximum protection for such wildlife while allowing its continued utilization insofar as populations permit.

The Commission was also faced with the problem that much of the value of the subsurface estate in Alaska was unknown. The Alaska National Lands concept allows exploration of the lands to determine whether resources of significant national value are present but requires such exploration to be conducted under the highest possible environmental stipulations. Thus, if a potential resource of great value is located, the national options are still present for a choice for wilderness, recreation, or resource exploitation.

The Alaska National Lands are not intended as multiple use lands in the traditional sense. Otherwise, the Commission would have recommended designation in one of the multiple use systems already provided by the Congress. Neither are Alaska National Lands intended as a holding pattern for future designation in a traditional system. They are seen by the Commission as a new Federal system unique to Alaska. They are a system which allows a high degree of flexibility but which requires choices between wilderness and resource development to be made in a measured way under the oversight of a Federal-State commission. Congress could always, at some future date, change designation of Alaska National Lands to a traditional system, either preservation or multiple use oriented, but it is the intent of the Commission that these lands remain as Alaska National Lands and it is the Commission's position that they can best be managed under this concept for the foreseeable future. In consideration of Alaska National Lands, it must always be remembered that they were chosen for their scenic, recreational, and wildlife values, not for their subsurface values.

A keystone of the Alaska National Lands System would be a continuing joint Federal-State entity. This body would have responsibility for oversight of the Alaska National Lands with authority to plan and classify under Congressional guidelines when such actions become timely. Day-to-day management would be assigned to an existing land management agency. As a high profile body operating under Congressional guidelines, the entity would be structured to combine responsiveness to changed circumstances with a paramount responsibility for protecting national environmental values. Such a combination has been asked for by many of the parties and groups concerned with the (d)(2) lands.

The structure of the Federal-State entity which might classify and provide policy guidance over Alaska National Lands has not been formally agreed upon by the full present Commission. One point that I wish to emphasize at this time, is that an ongoing Federal-State entity would have a larger role than simply classifying and providing policy guidance over Alaska National Lands. Its principal role would be to serve as a focus for cooperative management systems which would affect all Alaska lands, Federal, State, and private.

The size of the Commission should be such that the major representatives on both sides, Federal and State, would be adequately represented.

The question of leadership of such a commission is probably the most difficult one to resolve. A single chairman such as proposed in House Bill 211 would undoubtedly provide the strongest type of leadership to the staff and be in a position to place firm policy recommendations for the full commission. He would have to relate to both Federal and State governments equally. Whether such single leadership, in contrast to the present system of Co-Chairmen from each government, would be acceptable to the two sovereign governments concerned is something that will need a good deal of further discussion with the Governor and the Secretary of

the Interior and other Federal leaders. Another option which exists is that leadership of staff be taken care of by an executive director who reports to the entire commission. In that way, a Federal co-chairman representing the President and a State co-chairman representing the Governor could be part-time positions, as are the other commissioners and would not be involved in day-to-day staff decisions. This alternative would not envision the executive director as a voting member of the commission.

The present Commission is involved in developing an Alaska resource information system which it sees as the data gathering arm of any future Federal-State entity. I wish to emphasize that the Alaska resource information system is needed for its own sake and could operate independently of any future Federal-State entity. It is viewed as the cornerstone of any cooperative future ventures. Its primary purpose is to insure that all non-proprietorial data is available to everyone with a need for land management data as easily as possible. That major data systems at both the national and State levels are able to interchange information quickly and easily and are operating from relatively common data bases. More than any other factor, this will make true cooperative management a reality.

Another system which we have just begun to explore is the formation of an Alaska science council which will serve as a scientific advisior to the Governor and a future Federal-State entity plus providing a strong local arm of the National Academy of Science and the National Science Foundation. This body would serve as a forum for providing scientific policy input to the commission and also for developing scientific policy for Alaska and the Arctic on its own. This body also can exist independently of any ongoing Federal-State entity but we do see it as an integral part of any future improved system or coordinated land and resource management in Alaska.

The Commission strongly feels that any future ongoing Federal-State entity is the most rational way to reconcile the State and national interests over the short, middle, and long-term futures in Alaska. We will continue to have a continuing series of problems on resource development that will affect land management long into the future, long after we have settled the boundaries of the major land managers and landowners. Such an entity will have the capacity to influence major Federal policy in a way that the State government operating by itself will not have because it will have strong Federal representation involved in the formulation of that policy. The Federal government, likewise, will benefit by having a forum to which its disputes with the State policy can be resolved.

A Federal/State Transportation Planning Organization has already been formed to aid the Commission in resolving the corridor and other transportation problems connected with Alaska's development. This group can operate separately as a coordinator of Federal/State transportation

problems or in conjunction with the Commission as necessary. It represents a long step forward in formalizing cooperative Federal/State relationships. Its basic structure is to bring together the leaders of the major Federal and State transportation agencies at the policy level with their respective planning officers operating as an intergovernmental intermodal planning group. When necessary to coordinate transportation efforts with land use planning, the policy group is expanded to include representatives of the Federal and State land management agencies plus the two Co-Chairmen of the present Land Use Planning Commission.

The Commission is also beginning to put together recommendations on how a more formalized overall cooperative effort between fish and wildlife managers and land managers might be structured. This would provide an umbrella under which many of the cooperative agreements now being developed between both Federal and State agencies and private landowners might be brought together into more comprehensive agreements on a regional basis. The Commission's position on fish and game management has long been that regulation of seasons, bag limits, and means of taking must remain with the State of Alaska and regulations must be promulgated under existing State statutes on all lands. Habitat management and its coordination between the various land managers is an area that is less clear and one that we will give a great deal of attention to in the immediate future with recommendations to both governments forthcoming as soon as a consensus can be reached.

Thus, if an ongoing Federal/State entity succeeds the Commission, there would be in place, structures for insuring a high level of cooperation in resource and land information, transportation planning, fish and wildlife management, and coordination of scientific research.

Twenty years ago, all of Alaska was owned by the Federal government with transfers from that ownership in small parcels to homesteaders, mining claimants, and other applicants under the public land laws. Aborginal claims had not been addressed.

Today, the State's land entitlement has been established in the Alaska Statehood Act. Native Claims have been settled in the Alaska Native Claims Settlement Act. Alaska can now have a land use and management pattern where: key natural areas are placed in one of the conservation systems; private lands for occupation and settlement are in areas best suited for those uses; and resource lands are either in State, Native, or other private ownership; or, if on Federal lands, in a system of management which allows development coupled with environmental control.

When the issues of subsistence, mining location, and transportation or access are addressed, with new institutions for assuring continued Federal-State coordination and cooperation, Congress will have established in Alaska in two decades, a pattern of land ownership, use, and management which will best serve the long-term interests of the Nation and Alaska.

The Commission has developed its proposal for a new fifth system of Alaska National Lands as a keystone of the new ownership and management pattern. It is intended to meet national interests but maintains some real flexibility for State interests. It is a new concept--one that the Commission will strongly promote and continue to refine unless a better alternative is offered for a strong Federal-State cooperative management system.

NORTHEASTERN ALASKA

Yukon Flats Withdrawal and Adjoining Uplands to the North

THE COMMISSION RECOMMENDS TWO LARGE AREAS TOTALLING APPROXIMATELY 2.3 MILLION ACRES AS A NATIONAL WILDLIFE REFUGE TO PROTECT HIGH DENSITY WETLAND WATERFOWL HABITATS AND SOME ADJOINING UPLAND HABITAT AND WILDLIFE VALUES.

SOME 5.5 MILLION ACRES OF SCENIC UPLANDS, UPLAND WILDLIFE, HABITAT, AND MEDIUM DENSITY LOWLAND WATERFOWL HABITAT ARE RECOMMENDED FOR INCORPORATION IN THE PROPOSED ALASKA NATIONAL LANDS SYSTEM TO BE MANAGED BY THE U.S. FOREST SERVICE.

TWO OF THE FREE-FLOWING STREAMS, THE PORCUPINE AND SHEENJEK, HAVE BEEN STUDIED AS POSSIBLE WILD OR SCENIC RIVERS AND ARE RECOMMENDED FOR POTENTIAL DESIGNATION PENDING EVALUATION DURING CLASSIFICATION OF THE NEW MANAGEMENT UNIT. THE RAMPART SECTION OF THE YUKON RIVER, DOWNSTREAM FROM THE YUKON FLATS, IS ALSO RECOMMENDED FOR POTENTIAL SCENIC RIVER DESIGNATION PENDING CLARIFICATION OF LAND STATUS IN THE AREA AND FURTHER STUDY AND CLASSIFICATION OF SURROUNDING LAND OR USES OF THE RIVER.

Upper Yukon River and Adjoining Uplands to the South and West

HAVING DETERMINED THAT THESE VALUES ARE OF NATIONAL INTEREST, THE COMMISSION RECOMMENDS THAT A RIVER CORRIDOR OF APPROXIMATELY 540,000 ACRES, ABOUT 100 RIVER MILES LONG AND AN AVERAGE OF 9 MILES WIDE, BE SET ASIDE AS A UNIT OF THE NATIONAL PARK SYSTEM. HUNTING, FISHING, AND TRAPPING, WHICH PRESENTLY OCCUR, ARE RECOMMENDED TO CONTINUE IN THE PROPOSED RIVER PARKLAND IN ACCORDANCE WITH STATE REGULATIONS AND IN COORDINATION WITH FEDERAL INTERESTS.

THE COMMISSION ALSO RECOMMENDS A 6.1-MILLION-ACRE ALASKA NATIONAL LANDS UNIT IN THE YUKON-TANANA UPLANDS TO BE MANAGED BY THE BUREAU OF LAND MANAGEMENT.

THREE OF THE FREE-FLOWING STREAMS, BIRCH AND BEAVER CREEKS AND THE CHARLEY RIVER, HAVE BEEN STUDIED AS POSSIBLE WILD RIVERS, AND ARE RECOMMENDED FOR POTENTIAL DESIGNATION PENDING CLASSIFICATION OF THE ALASKA NATIONAL LAND UNIT. THE CHARLEY RIVER DRAINAGE IS PROPOSED AS A PRIORITY WILDERNESS STUDY AREA TO INSURE THAT ITS NATURAL FEATURES ARE NOT ALTERED PENDING A DECISION ON POSSIBLE WILDERNESS DESIGNATION.

Areas Adjoining the Arctic National Wildlife Range

THOSE LANDS, TOTALLING 1.9 MILLION ACRES, DIRECTLY RELATED HYDROLOGICALLY AND ECOLOGICALLY TO THE EXISTING RANGE, ARE RECOMMENDED AS RANGE ADDITIONS. THOSE LANDS FARTHER WEST, TOTALLING 5.6 MILLION ACRES, AROUND THE CHANDALAR RIVER WITH SIMILAR VALUES, BUT LESS DIRECTLY RELATED TO THE RANGE, ARE

RECOMMENDED FOR INCORPORATION AS A UNIT OF THE ALASKA NATIONAL LANDS SYSTEM. THE U.S. FISH AND WILDLIFE SERVICE IS RECOMMENDED AS THE MANAGER OF THIS RESERVE.

FOUR OF THE FREE-FLOWING STREAMS, THE CANNING-MARSH FORK, IVISHAK, WIND, AND SHEENJEK, HAVE BEEN STUDIED AS POSSIBLE WILD AND SCENIC RIVERS AND ARE RECOMMENDED FOR POTENTIAL DESIGNATION PENDING EVALUATION IN THE WILDLIFE RANGE AND CLASSIFICATION OF THE LANDS IN THE PROPOSED NEW MANAGEMENT UNIT.

NORTHWESTERN ALASKA

Central Brooks Range

TO PROVIDE PROTECTION OF THE NATURAL VALUES OF NATIONAL INTEREST IN THE CENTRAL BROOKS RANGE, THE COMMISSION RECOMMENDS:

1. TWO LARGE AREAS WITHIN THE RANGE BE DESIGNATED UNITS OF THE NATIONAL PARK SYSTEM (5.2 MILLION ACRES);

2. TWO RIVERS WITHIN THE PROPOSED PARK UNITS, THE ALATNA RIVER AND THE NORTH FORK OF THE KOYUKUK-TINAYGUK, BE DESIGNATED WILD RIVERS:

3. LANDS BETWEEN THE TWO PROPOSED PARK UNITS NOT CONVEYED TO THE ARCTIC SLOPE NATIVE CORPORATIONS BE INCORPORATED WITHIN THE ALASKA NATIONAL LANDS SYSTEM (2.0 MILLION ACRES); BECAUSE OF THE VALUES RELATED TO THE PROPOSED ADJACENT PARK UNITS, THE NATIONAL PARK SERVICE IS RECOMMENDED AS THE MANAGER OF THIS UNIT; AND

4. FIVE RIVERS--KILLIK, NOATAK, ANAKTUVUK, JOHN, AND UPPER KOBUK--FLOWING THROUGH OR FROM THE PROPOSED PARK, ALASKA NATIONAL LANDS AND ADJOINING LANDS BE DESIGNATED POTENTIAL WILD OR SCENIC RIVERS FOR FURTHER EVALUATION IN ACCORDANCE WITH CLASSIFICATION OF THE ALASKA NATIONAL LANDS UNIT AND OTHER ADJOINING LANDS.

Noatak-Kobuk

THE COMMISSION HAS FOUND THESE VALUES TO BE OF NATIONAL INTEREST AND MAKES THE FOLLOWING RECOMMENDATIONS FOR THEIR PROTECTION:

1. DESIGNATION OF THE GREAT KOBUK SAND DUNES AND THE IMMEDIATE SCENIC ENVIRONMENTS (110,000 ACRES) AS A UNIT OF THE NATIONAL PARK SYSTEM.

2. DESIGNATION OF THE CAPE KRUSENSTERN (190,000 ACRES) AS A UNIT OF THE NATIONAL PARK SYSTEM TO PROTECT ITS ARCHAEOLOGICAL VALUES, UNIQUE GEOLOGIC FEATURES, AND ITS COASTAL BIRD AND OTHER HABITATS.

3. INCORPORATION INTO THE ALASKA NATIONAL LANDS SYSTEM OF THE LOWER AND MIDDLE SECTIONS OF THE NOATAK AND KOBUK RIVER DRAINAGES, THE BAIRD MOUNTAINS, AND THE DRAINAGES OF SEVERAL SMALLER RIVERS FLOWING INTO THE CHUKCHI SEA (11.9 MILLION ACRES). BECAUSE THE AREA IS AN IMPORTANT HABITAT FOR THE ARCTIC CARIBOU HERD AND SUSTAINS A VARIETY

OF OTHER WILDLIFE, THE U.S. FISH AND WILDLIFE SERVICE IS RECOMMENDED AS THE MANAGER FOR THIS RESERVE.

4. A PORTION OF THE NOATAK RIVER DRAINAGE IS RECOMMENDED AS A WILDERNESS STUDY AREA. THREE OF THE MANY FREE-FLOWING STREAMS, THE NOATAK, SALMON, AND WULIK RIVERS, HAVE BEEN STUDIED AS POSSIBLE WILD OR SCENIC RIVERS AND ARE RECOMMENDED FOR POTENTIAL DESIGNATION PENDING CLASSIFICATION OF THE RESERVE LANDS.

Selawik

THE COMMISSION RECOMMENDS DESIGNATION OF THIS AREA (1.5 MILLION ACRES) AS A WILDLIFE REFUGE TO PROTECT HABITAT AND PERPETUATE WILDLIFE POPULATIONS.

HUNTING, FISHING, AND TRAPPING WOULD CONTINUE UNDER STATE WILDLIFE MANAGEMENT REGULATIONS IN COORDINATION WITH FEDERAL WILDLIFE AND HABITAT MANAGEMENT.

Cape Lisburne and Cape Thompson

THE COMMISSION RECOMMENDS THAT THESE VALUES OF NATIONAL INTEREST BE PROTECTED BY DESIGNATING TWO SMALL NATIONAL WILDLIFE REFUGE UNITS, ONE AT CAPE LISBURNE OF 63,000 ACRES, INCLUDING THE DRAINAGES OF ADJOINING UPLANDS, AND 11,000 COASTAL ACRES AT CAPE THOMPSON.

IN RECOGNITION OF THE IMPORTANCE OF WILDLIFE IN THESE PROPOSED UNITS FOR MEETING THE SUBSISTENCE NEEDS OF LOCAL RESIDENTS, THE COMMISSION HAS RECOMMENDED THAT CONTINUED HUNTING, FISHING, AND TRAPPING BE ALLOWED UNDER STATE REGULATIONS UNLESS RESTRICTED BY THE U.S. FISH AND WILDLIFE SERVICE TO PROTECT MIGRATORY SPECIES.

Seward Peninsula

IN RECOGNITION OF THE IMPORTANT TERRESTRIAL WETLAND AND COASTAL HABITATS FOR MIGRATORY BIRDS AND MARINE MAMMALS, THE COMMISSION RECOMMENDS WILDLIFE REFUGE DESIGNATION FOR TWO UNITS, TOTALLING 1.5 MILLION ACRES.

THE COMMISSION FINDS THAT REINDEER GRAZING IS GENERALLY COMPATIBLE WITH PROTECTION OF HABITAT VALUES, AND RECOMMENDS THAT CONTINUED GRAZING BE ALLOWED UNDER REGULATION.

Koyukuk

THE COMMISSION RECOMMENDS THAT THIS AREA (2.5 MILLION ACRES) BE DESIGNATED A WILDLIFE REFUGE TO PERPETUATE THE VALUABLE WETLAND HABITATS AND WILDLIFE.

Kanuti Flats

THE COMMISSION RECOMMENDS AN AREA OF APPROXIMATELY 430,000 ACRES AS A WILDLIFE REFUGE TO PROTECT PRIME HABITAT AND WILDLIFE.

Bering Sea Islands

THE COMMISSION RECOMMENDS THAT FAIRWAY ROCK, SLEDGE ISLAND, AND PUNUK ISLANDS BE ADDED TO THE NATIONAL WILDLIFE REFUGE SYSTEM. IN THE EVENT THAT EGG AND BESBORO ISLANDS ARE NOT CONVEYED TO ALASKA NATIVE CORPORATIONS, THEY ARE ALSO RECOMMENDED FOR REFUGE DESIGNATION.

Other Wild and Scenic Rivers

TWO RIVERS WITHIN NATIONAL PETROLEUM RESERVE-ALASKA, THE IKPIKPUK AND UTUKOK, AND THE KOYUK RIVER ON THE SEWARD PENINSULA ARE RECOMMENDED FOR DESIGNATION AS POTENTIAL WILD AND SCENIC RIVERS PENDING FURTHER STUDY, EVALUATION, AND EVENTUAL CLASSIFICATION OF SURROUNDING LANDS.

SOUTHWEST ALASKA

Yukon-Kuskokwim Delta

THE COMMISSION RECOMMENDS THAT THE HIGH DENSITY WATERFOWL HABITAT ON PUBLIC LANDS WEST AND SOUTH OF THE YUKON RIVER, WEST OF THE KUSKOKWIM RIVER, AND WEST OF 161° WEST LONGITUDE BE ADDED TO THE WILDLIFE REFUGE SYSTEM (5.7 MILLION ACRES). AN AREA OF 3.5 MILLION ACRES NORTH OF THE DELTA AROUND THE ANDREAFSKY RIVER DRAINAGE CONTAINING MEDIUM TO HIGH DENSITY WATERFOWL AND UPLAND WILDLIFE HABITAT IS RECOMMENDED FOR INCLUSION IN THE ALASKA NATIONAL LANDS SYSTEM. BECAUSE THE AREAS CONTAIN UPLANDS AND LOWLANDS CLOSELY RELATED TO THE WATERFOWL AND THE WILDLIFE HABITAT OF THE YUKON DELTA. THE U.S. FISH AND WILDLIFE SERVICE IS RECOMMENDED AS THE MANAGER OF THIS UNIT.

Innoko Flats/Kaiyuh Slough

THE COMMISSION RECOMMENDS THAT THESE AREAS, TOTALLING ABOUT 2.2 MILLION ACRES OF NATIONALLY SIGNIFICANT WILDLIFE HABITAT, BE PROTECTED BY THEIR DESIGNATION AS UNITS OF THE NATIONAL WILDLIFE REFUGE SYSTEM.

Nowitna

IN RECOGNITION OF THE VARIETY OF VALUES PRESENT IN THIS AREA, THE COMMISSION RECOMMENDS 3.5 MILLION ACRES IN THE NOWITNA DRAINAGE BE INCORPORATED IN THE ALASKA NATIONAL LANDS SYSTEM AND THAT THE NOWITNA RIVER BE DESIGNATED AS A POTENTIAL SCENIC RIVER, PENDING FURTHER EVALUATION IN THE CLASSIFICATION PROCESS OF SURROUNDING LANDS. ADMINISTRATION OF THE NOWITNA UNIT BY THE U.S. FOREST SERVICE IS RECOMMENDED.

Unalakleet River

THE COMMISSION RECOMMENDS THAT A 60-MILE-LONG CORRIDOR ABOVE PRIVATE LANDS ALONG THE COAST BE DESIGNATED AS A WILD RIVER WITHIN THE NATIONAL WILD AND SCENIC RIVERS SYSTEM.

THE COMMISSION RECOGNIZES THE IMPORTANCE OF WILDLIFE FOUND ALONG THE RIVER IN MEETING THE SUBSISTENCE NEEDS OF LOCAL RESIDENTS, AND RECOMMENDS THAT HUNTING, FISHING, AND TRAPPING BE PERMITTED UNDER STATE REGULATIONS.

ALASKA PENINSULA - BRISTOL BAY

Areas adjoining Katmai National Monument

TO EXTEND PROTECTION TO THE NATURAL VALUES OF LANDS ADJACENT AND RELATED TO THE KATMAI NATIONAL MONUMENT, THE COMMISSION PROPOSES NORTHERN AND SOUTHERN ADDITIONS TOTALLING 1.1 MILLION ACRES. FURTHER, THE COMMISSION BELIEVES THE PROPOSED EXPANDED MONUMENT WITH ITS COMPLEX OF SCENIC GEOLOGIC FEATURES, WILDLIFE HABITAT, AND OTHER NATURAL VALUES, MERITS

REDESIGNATION BY CONGRESS AS A NATIONAL PARK. THE COMMISSION ALSO RECOMMENDS THAT A GROUP OF SO TINY ISLANDS, JUTE ISLANDS, PINNACLE ROCK AND COASTAL HEADLANDS NEAR JUTE PEAK AND CAPE AKLEK IN OR NEAR PUALE BAY TOTALLING 25,875 ACRES BE INCORPORATED AS A UNIT OF THE NATIONAL WILDLIFE REFUGE SYSTEM TO PROTECT SEABIRD ROOKERIES AND SEA MAMMAL HABITAT. SOME 0.88 MILLION ACRES OF SIGNIFICANT HABITAT FOR BEAR DENNING AND CON-EN_ RATION, CARIBOU, MOOSE, AND FISH, AND SCENIC VALUES BETWEEN KATMAI NATIONAL MONUMENT AND BECHAROF LAKE, ARE RECOMMENDED FOR INCORPORATION IN THE ALASKA NATIONAL LANDS SYSTEM WITH MANAGEMENT BY THE U.S. FISH AND WILDLIFE SERVICE.

Aniakchak Caldera National Monument

TO PRESERVE AND PROTECT GEOLOGICAL AND BIOLOGICAL PHENOMENA AND SCENIC VALUES OF THIS VOLCANIC AREA, THE COMMISSION PROPOSED THAT THE CALDERA AND PORTIONS OF THE VOLCANO'S OUTER SLOPES BE DESIGNATED A UNIT OF THE NATIONAL PARK SYSTEM. THE ANIAKCHAK RIVER IS RECOMMENDED FOR DESIGNATION AS A WILD RIVER.

CONTINUATION OF HUNTING IN THE PROPOSED WILD RIVER AREA IS RECOMMENDED UNDER STATE REGULATIONS.

Area Adjoining Cape Newenham National Wildlife Refuge

THE COMMISSION RECOMMENDS THAT THIS AREA OF 240,000 ACRES BE ADDED TO THE EXISTING CAPE NEWENHAM NATIONAL WILDLIFE REFUGE TO PROTECT WILDLIFE AND HABITAT.

Pacific Coast Islands Bordering the Alaska Peninsula

THE COMMISSION RECOMMENDS THAT A NUMBER OF THESE ISLANDS (EXCLUDING SELECTIONS CONVEYED TO ALASKA NATIVES) BE PROTECTED IN THREE UNITS OF THE NATIONAL WILDLIFE REFUGE SYSTEM TOALLING ABOUT 56,000 ACRES.

Withdrawn Areas Not Included in Commission Proposals

WILD RIVER DESIGNATION IS RECOMMENDED FOR AN APPROXIMATE 46-MILE SEGMENT OF THE MAINSTREAM OF THE ALAGNAK RIVER STARTING AT KUKAKLEK LAKE, AND THE 11-MILE NONVIANUK RIVER, THE PRINCIPAL TRIBUTARY.

THE COMMISSION ALSO RECOMMENDS THAT THE COPPER RIVER AT THE HEAD OF ILIAMNA LAKE, AND THE KARLUK RIVER IN THE KODIAK NATIONAL WILDLIFE REFUGE, BE DESIGNATED POTENTIAL WILD AND SCENIC RIVERS, PENDING OUTCOME OF LAND STATUS PATTERNS AND FURTHER EVALUATION OF FEASIBILITY.

FROM THE EASTERN TOGIAK AREA, THE COMMISSION HAS IDENTIFIED THE TOGIAK RIVER AS HAVING NATURAL FEATURES OF POTENTIAL NATIONAL INTEREST, AND RECOMMENDS DESIGNATION AS A POTENTIAL ADDITION TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM PENDING FURTHER EVALUATION.

FROM THE WESTERN SECTION OF THE TOGIAK WITHDRAWAL, THE COMMISSION RECOMMENDS WILD RIVER DESIGNATION FOR THE KANEKTOK RIVER WHICH HEADS IN THE AHKLUN MOUNTAINS AND FLOWS WESTERLY INTO KUSKOKWIM BAY (SOUTHWESTERN ALASKA PRESENTATION AREA). FROM KAGATI LAKE ABOUT 59 MILES OF THE MAIN STREAM OF THIS CLEAR-WATER, FREE-FLOWING RIVER ARE PROPOSED.

TAKING OF FISH AND GAME ALONG THE RIVER FOR SUBSISTENCE PURPOSES IS RECOGNIZED AS A LOCALLY IMPORTANT USE, AND CONTINUED HUNTING, FISHING, AND TRAPPING UNDER STATE REGULATIONS ARE RECOMMENDED.

Other Potential Wild and Scenic Rivers

WITHIN THIS PART OF ALASKA, THE COMMISSION ALSO RECOMMENDS THAT THE NUYAKUK RIVER, AND A SEGMENT OF THE MULCHATNA RIVER AND ITS TRIBUTARY THE CHILIKADROTNA, BE STUDIED BY THE STATE OF ALASKA FOR POSSIBLE LEGISLATIVE DESIGNATION BY THE STATE AND INCLUSION IN THE NATIONAL WILD AND SCENIC RIVERS SYSTEM.

CENTRAL ALASKA

Wrangell-Chugach

RECOGNIZING THIS RICH DIVERSITY OF NATURAL VALUES, THE COMMISSION MAKES THE FOLLOWING RECOMMENDATIONS FOR THEIR PROTECTION. THE MAIN MOUNTAIN AND GLACIER COMPLEXES ARE PROPOSED AS A NEW UNIT OF THE NATIONAL PARK SYSTEM CONTAINING 9.7 MILLION ACRES. TWO UNITS IN THE ALASKA NATIONAL LANDS SYSTEM ARE RECOMMENDED, ONE IN THE CHITINA VALLEY (1.0 MILLION ACRES). THE NATIONAL PARK SERVICE IS THE RECOMMENDED MANAGER FOR BOTH OF THESE UNITS BECAUSE OF THE RELATIONSHIP OF THEIR SCENIC, HABITAT, TRANSPORTATION, AND RECREATIONAL VALUES TO THE PROPOSED PARK. THE COMMISSION RECOMMENDS THAT PORTIONS OF THE LOWER COPPER RIVER AND CHUGACH MOUNTAINS (1.3 MILLION ACRES) BE INCORPORATED WITHIN THE EXISTING CHUGACH NATIONAL FOREST: AND THAT PRIME WATERFOWL, MIGRATORY BIRD, AND SEA MAMMAL HABITAT NEAR THE COPPER RIVER DELTA IN THE EXISTING CHUGACH NATIONAL FOREST BE DESIGNATED A NATIONAL WILDLIFE REFUGE UNIT (350,000 ACRES). FOUR RIVERS--THE CHITINA, LOWER COPPER, BREMNER, AND NABESNA--ARE RECOMMENDED FOR DESIGNATION AS POTENTIAL WILD AND SCENIC RIVERS PENDING FURTHER STUDY AND CLASSIFICATION OF ADJOINING LANDS.

Areas Adoining Mt. McKinley National Park

IN RECOGNITION OF THESE NATURAL VALUES AND THEIR INTEGRAL RELATIONSHIP TO THOSE OF THE PARK, THE COMMISSION RECOMMENDS THE ADDITION OF A SOUTHERN UNIT TO THE PARK TO COMPLETE THE SCENIC AND GEOLOGICAL COMPLEX AND TO INCLUDE ADDITIONAL LANDS FOR VISTOR USE. A SECOND ADDITION EXTENDING THE PARK TO MORE NATURAL BOUNDARIES IN THE NORTH IS PROPOSED TO COMPLETE A WILDLIFE ECOSYSTEM OF NATIONAL IMPORTANCE. THESE TWO ADDITIONS TOTAL 2.7 MILLION ACRES.

Lake Clark

THE COMMISSION FINDS THESE NATURAL VALUES TO BE OF NATIONAL INTERST AND RECOMMENDS THAT 3.5 MILLION ACRES BE INCORPORATED WITHIN THE ALASKA NATIONAL LANDS SYSTEM. BECAUSE OF ITS RELATIVE ACCESSIBILITY TO ALASKA'S URBAN AND TOURIST CENTERS, THE COMMISSION BELIEVES RECREATION SHOULD BE RECOGNIZED AS A PRIMARY USE OF THE PROPOSED UNIT IN THAT THE NATIONAL PARK SERVICE BE DESIGNATED AS THE MANAGER. THE TLIKAKILA RIVER AND THE UPPER FEDERALLY OWNED SEGMENTS OF THE MULCHATNA AND CHILIKADROTNA RIVERS ARE RECOMMENDED BY THE COMMISSION FOR DESIGNATION AS POTENTIAL WILD AND SCENIC RIVERS, WITH FURTHER STUDY, EVALUATION, AND CLASSIFICATION OF SURROUNDING LANDS TO AID IN FINAL RECOMMENDATIONS.

ON THIS BASIS, THE COMMISSION RECOMMENDS INCLUSION OF CERTAIN OF THE PRIVATE LANDS WITHIN THE LAKE CLARK UNIT BOUNDARIES ON THE BASIS OF THEIR SIGNIFICANT NATURAL VALUES, AND ENCOURAGES CONTINUED EFFORTS TO MINIMIZE THE AMOUNT OF PRIVATE INHOLDINGS WITHIN THE PROPOSED UNIT BY LAND EXCHANGES AND OTHER APPROPRIATE MEANS.

Kenai Peninsula and Prince William Sound

Areas adjacent to the Chugach National Forest

THE COMMISSION RECOMMENDS THAT THREE AREAS OF HIGH SCENIC VALUES AND SCIENTIFIC INTEREST BE ADDED TO THE CHUGACH NATIONAL FOREST.

THE COMMISSION ALSO RECOMMENDS THE NELLIE JUAN RIVER BE DESIGNATED A POTENTIAL WILD RIVER, AND THAT FURTHER STUDY AND EVALUATION ALONG WITH CLASSIFICATION OF SURROUNDING LANDS AID IN FINAL RECOMMENDATION

Peninsulas and Islands of the Kenai Peninsula

THE COMMISSION ALSO RECOMMENDS THAT THE SOUTHERN TIPS OF AIALIK AND HARRIS PENINSULAS, AND THE CHISWELL AND PYE ISLANDS TOTALLING ABOUT 19,630 ACRES BE ADDED TO THE NATIONAL WILDLIFE REFUGE SYSTEM.

Area Adjacent to the Kenai National Moose Range

THE COMMISSION RECOMMENDS THAT THIS AREA OF 40,000 ACRES BE ADDED TO THE EXISTING KENAI NATIONAL MOOSE RANGE TO ENCLOSE THE ENTIRE WATER-SHED, AND RELATED SCENIC, WILDLIFE, AND WILDERNESS VALUES WITH A BETTER NATURAL BOUNDARY.

Fortymile River Complex

THE COMMISSION RECOMMENDS THAT CERTAIN FORKS AND SEGMENTS OF THE FORTYMILE RIVER SYSTEM BE DESIGNATED "WILD," "SCENIC," OR "RECREATIONAL" RIVERS UNDER THE NATIONAAL WILD AND SCENIC RIVERS ACT. THE PROPOSAL INCLUDES A 4-MILE-WIDE CORRIDOR CONTAINING ABOUT 375 MILES OF RIVER AND 320,000 ACRES OF THE IMMEDIATE ENVIRONMENT. RECOMMENDED DESIGNATIONS INCLUDE 265 RIVER MILES AS "SCENIC," 161 MILES AS "WILD," AND 9 MILES AS "RECREATIONAL."

Other Wild and Scenic River Potential

THE COMMISSION RECOMMENDS THAT THE KENAI-RUSSIAN, DELTA, AND GULKANA RIVERS BE DESIGNATED POTENTIAL WILD AND SCENIC RIVERS WITH FURTHER STUDY AND EVALUATION AND CLASSIFICATION OF SURROUNDING LANDS TO AID IN FINAL RECOMMENDATIONS.

ALSO THE COMMISSION RECOMMENDS THAT THE STATE OF ALASKA STUDY KROTO CREEK (DESHKA) AND THE CHENA, CHATANIKA, TALACHULITNA, AND TAZLINA RIVERS FOR FEASIBILITY, POSSIBLE STATE LEGISLATIVE DESIGNATION, AND INCLUSION IN THE NATIONAL WILD AND SCENIC RIVERS SYSTEM.

SOUTHEASTERN ALASKA

Areas Adjoining Tongass National Forest

RECOGNIZING THE NATURAL VALUES OF THIS AREA, AS WELL AS THE MINERAL POTENTIAL, THE COMMISSION MAKES THE FOLLOWING RECOMMENDATIONS.

1. THE IMMEDIATE NORTHWESTERN SLOPES AND VALLEYS OF MT. FAIRWEATHER, (30,000 ACRES), BE ADDED TO THE GLACIER BAY NATIONAL MONUMENT. THIS PROPOSED ADDITION WOULD INCORPORATE THE REMAINING PORTION OF THIS SCENIC MOUNTAIN AND ITS IMMEDIATE VALLEY ENVIRONS, WITHIN U.S. OWNERSHIP IN THE MONUMENT.

2. ADD THE REMAINING PART OF THE ALSEK RIVER UNIT (1 MILLION ACRES) TO THE TONGASS NATIONAL FOREST.

FROM THE MANY POTENTIALLY SUITABLE RIVERS IN SOUTHEAST ALASKA, THE COMMISSION HAS IDENTIFIED FOUR AT THIS TIME WHICH IT RECOMMENDS FOR DESIGNATION AS POTENTIAL WILD AND SCENIC RIVERS. THE SITUK NEAR YAKUTAT, ALSEK, HASSELBORG CREEK ON ADMIRALTY ISLAND, AND THE LOWER REACH OF THE STIKINE AS IT BREACHES THE COAST RANGE ARE PROPOSED FOR FURTHER STUDY IN THE CONTEXT OF CLASSIFICATION OF SURROUNDING LANDS.

STATEWIDE SUMMARY-GEOGRAPHIC RECOMMENDATIONS

In order to protect natural areas and systems of varying characteristics of national interest in Alaska, the Commission recommends the following new units or additions to existing reserves in the following land conservation systems:

	Acres (million)
NATIONAL PARK SYSTEM: Aniakchak Caldera (0.18), Cape Krusenstern (0.19), Gates of the Arctic (5.22), Kobuk Sand Dunes (0.10), Wrangell-St. Elias (9.72), Yukon River (0.54), Glacier Bay National Monument addition (0.03), Katmai National Monument additions (1.08), Mount McKinley National Park additions (2.69)	19.75
NATIONAL WILDLIFE REFUGE SYSTEM: Arctic National Wildlife Range additions (1.89), Cape Newenham National Wildlife Refuge addition (0.24), Kenai National Moose Range addition (0.04), Kodiak National Wildlife Refuge islands addition (440 acres)(0.00), Copper River Delta (0.35), Innoko (1.99), Kaiyuh (0.19), Kanuti (0.43), Koyukuk (2.53), Selawik (1.48), Shishmaref (1.50), Yukon Delta (5.67), Yukon Flats (2.33), Alaska Coastal: Chukchi (Capes Lisburne and Thompson)(74,000 acres), Bering Sea (1,700 acres), Shumagin Islands (71,907 acres), Barren Islands (10,020 acres), Aialik (19,630 acres), Total Alaska Coastal (0.18)	18.82
NATIONAL FOREST SYSTEM: Chugach National Forest additions: College Fiord (0.72), Copper River (1.25), Kenai Fiords--Harding Icefield (0.52), Nellie Juan (0.28), Total additions (2.77)	
Tongass National Forest additions: Alsek River (1.03), Juneau Icefield (0.48), Kates Needle (0.47), Total additions (1.98)	4.75
"ALASKA NATIONAL LANDS" SYSTEM: Andreafsky (3.54), Becharof (0.88), Cathedral Spires (0.40), Chandalar (5.56), Chitina (1.05), Lake Clark (3.49), Nabesna (2.87), Noatak (11.87), Nowitna (3.52), Nunamiut (1.98), Porcupine (5.49), Yukon Mountains (6.05)	46.70
NATIONAL WILD AND SCENIC RIVER SYSTEM: Alatna (upper)*, North Fork Koyukuk-Tinayguk*, Aniakchak (0.07), Unalakleet (0.10), Fortymile (0.32), Alagnak (0.09), Kanektok (0.11) *Acreage included in parkland proposals	0.69
TOTAL ACREAGE - ALL SYSTEMS	90.71*

Of 54 selected rivers, 7 are currently recommended for designation as indicated above. Entire courses, mainstreams, or certain segments of 35 rivers are recommended for designation as potential wild, scenic, or recreational rivers. Similarly 8 other rivers flowing through a mixture of Federal and Native corporation selected lands, are also recommended for potential designation. These 43 rivers will be subject to study or further evaluation for feasibility. Approximately 2.01 million acres of land and water outside large area proposals would be involved in these study rivers. In addition, entire

courses, mainstreams, or certain segments of 14 rivers primarily or partly on State-owned or selected lands are recommended for study or further evaluation by the State for possible designation. Approximately 1.0 million acres would be involved in these study rivers.

* Federal lands and some Native corporation selected lands. Does not include corporate lands in the vicinity of Anaktuvuk Pass or on the Yukon-Kuskokwim Delta. Acreage of included corporation land selections is unsettled.

	Acres (million)		
	Proposed	Existing	Total
Primary purpose lands			
National Park System	19.75	7.55	27.30
National Wildlife Refuge System	18.82	19.91	38.73
National Wild & Scenic Rivers (recommended & proposed)	2.70	-0-	2.70
Alaska National Lands	46.70	-0-	46.70
Total	87.97	27.46	115.43
Multiple purpose lands			
National Forest System	4.75	19.71	24.46
National Resource Lands (est. remaining Federal public lands after State selections are completed)	57.67	-0-	57.67
Total	62.42	19.71	82.13
Lands closed to hunting			
National Park System	18.92	7.55	26.47
Lands closed to mineral development			
National Park System	19.75	7.55	27.30
National Wildlife Refuge System (open only at Secretarial discretion)	18.82	19.91	38.73
Wild Rivers (bed and bank)	**	-0-	
Total	38.57	27.46	66.03
Lands that may be open to mineral development in whole or part following classification			
National Forest System	4.75	19.71	24.46
Alaska National Lands	46.70	-0-	46.70
Scenic and Recreational Rivers	**	-0-	
National Resource Lands	-0-	57.67	57.67
Total	51.45	77.38	128.83

Final Alaska Land Allocation Under Commission Proposal at Present

	Total land and inland waters	375.30
Federal		
National Park System	27.30	
National Wildlife Refuge System	38.73	
National Forest System	24.46	
National Wild and Scenic River System	2.70	
Alaska National Lands	46.70	
National Resource Lands (BLM)	57.67	
National Petroleum Reserve-Alaska	22.76	
Military Reserves	2.40	
Department of Tranportation	0.11	
Subtotal	222.83	

Private (Native=43.7 Former Federal Lands=1.0 Former State Lands=0.45*)	45.15
State - general and special entitlements (Total 104.45**)	104.00
inland navigable waters and submerged lands	3.32
Total State	375.30

* Estimate of former State land involved may be high.

** State could be entitled to another estimated 1.1 million acres pursuant to the Cook Inlet Region land settlement which would reduce the Federal National Resource Lands figure accordingly.

February, 1977

"The D-2 Book"

LANDS OF NATIONAL INTEREST IN ALASKA

FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

PRELIMINARY DRAFT
SUBJECT TO CHANGE

We too often find ourselves preoccupied with attempting to divine what will be our state ten, twenty-five, even fifty years hence. But what we often fail to realize is that every decision made, every voice heard and not heard, and every success and failure drastically affect that future. Instead of speculating on what the world might be like in the year 2000, we would do well to consider what mechanisms, what people, and what decisions must be attended to today in order to shape all the years to come.

--Leonard J. Duhl, Daedalus

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PREFACE

Section 17(d)(2) of the Alaska Native Claims Settlement Act has stimulated discussion of national interests in Alaska's vast public land domain. Some people have said that we must create the maximum possible number of national parks, wildlife refuges, and other federally designated units that will provide the highest possible level of protection. Others have said that we must not inhibit the future growth and development of Alaska by a premature designation of lands in restrictive categories.

Management designations of national interest lands in Alaska are not simple choices between placing maximum acreages in protective categories or placing maximum acreages in categories open to all types of multiple use. Lands proposed for new national units must be seen in a statewide context. Those lands and values already protected by existing national conservation systems in Alaska must also be considered, as well as the lands selected by the State of Alaska under terms of the Alaska Statehood Act and those lands to be transferred into private corporate ownership of Alaska Natives. Throughout its deliberations, the Commission has carefully considered the national interest lands from this perspective and has kept four major objectives in mind:

To provide the highest possible level of enduring protection to major wildlife populations and undisturbed wildlife habitat of the United States.

To significantly increase national guarantees for wilderness-oriented recreation and experience, often amid scenic grandeur.

To provide a higher overall level of protection for certain lands that will either allow their later designation as wilderness or permit resource development to be undertaken with the highest possible level of protection for other values.

To establish land use planning and other management institutions which will, through coordination, permit full protection of values of national interest, enable responses to national needs as they arise, and minimize conflicts among major landholders.

The Commission has developed a set of recommendations that meet these goals while allowing the necessary flexibility for Alaska's resident population to decide their future. It has strived to maintain Alaska's role as a source or resources to meet the Nation's present and future needs. When the Commission has discerned conflicting values in its assessments it has aimed toward solutions that would further the major goals stated above.

As the Commission has been developing its proposals for Alaska's national interest (d)(2) lands, three key questions have emerged which need to be answered in the consideration of these lands:

1. Are wildlife, wilderness, and scenic values of national importance adequately protected?

2. Are national energy objectives or needs for strategic minerals significantly inhibited?

3. Are conflicts with other values and uses and adjoining landholders minimized?

Applying the above criteria, the Commission has identified major proposed additions to the National Park System in the creation of six new park units, additions to two existing parks. The proposal recommends 13 new units and additions to five existing units to the Wildlife Refuge System with the aim of providing an enduring base for protection of Alaska's wildlife values. Seven additions are recommended for the National Forest System and seven rivers are recommended for designation as part of the Wild and Scenic Rivers System.

After designating key core areas for inclusion in the traditional Federal management systems, the Commission was faced with the problem of designation of several areas of outstanding scenic, wildlife, and other natural values which did not readily fit within the traditional systems. The Commission was also faced with the problem of establishing a coordinative mechanism to relate Federal, State, and Native land and resource management systems for the next several years as the provisions of the Alaska Native Claims Settlement Act are implemented. This led the Commission to develop its so-called "fifth system," or Alaska National Lands. The title was chosen to clearly show that these are lands of national interest in Alaska and that it is a proposed classsification system unique to Alaska. Twelve large units of Alaska National Lands throughout the State are proposed by the Commission.

One of the major problems with which the Commission had to wrestle was the recognition of traditional hunting and fishing and other subsistence uses of Alaska's lands by Alaskan residents. These uses will be permitted on Alaska National Lands and on certain units proposed for other systems. Regulation of the taking of fish and wildlife will be governed by State of Alaska regulations, but, since these lands are recommended for retention in Federal ownership, the full strength and ability of Federal wildlife management can be brought to bear as well as that of the State. Thus, wildlife will be insured maximum protection as much as possible while allowing its continued utilization insofar as populations permit.

The Commission is also concerned that much of the value of the Alaska's subsurface estate is unknown. The Alaska National Lands concept allows exploration of the Alaska National Lands to determine whether resources of significant national value are present. Such exploration would be required to be conducted under the highest possible environmental stipulations. Thus, if a potential resource of great value is subsequently located, the national options are sill present for a choice between maximum protection of natural values or resource exploitation.

The Alaska National Lands are not intended as multiple use lands in the traditional sense. Otherwise, the Commission would have recommended designation in one of the multiple use systems already provided by the Congress. Neither is Alaska National Lands System intended as a holding pattern for future designation in a traditional system. It is seen by the Commission as a new Federal system unique to Alaska. It is a system which allows a high degree of flexibility but which requires choices between wilderness and resource development to be made in a measured way under the oversight of a Federal-State commission. Congress could always, at some future date, change designation of Alaska National Lands to a traditional system, either oriented toward preservation or multiple use; but it is the intent of the Commission that these lands remain as Alaska National Lands and it is the Commission's position that they can best be managed under this concept for the foreseeable future. In consideration of Alaska National Lands, it must always be remembered that they were chosen for their scenic, wilderness, wildlife, and recreational values, and not for their developable resource values.

The Commission has carefully considered the institutions under which Alaska's lands will be governed in the future. It has been instrumental in developing a Federal-State transportation planning organization with which to deal with the problems of access to Alaska's energy and other mineral resources. It is developing a similar institution for wildlife management along the same general patterns. These cooperative management institutions are intended to stand by themselves and yet can also work closely with a continuing Federal-State commission if such is deemed necessary by Congress for future coordination and land management.

In a Federal system there must always be a constant adjustment of values between the Federal and State governments. Alaska has been rent by several of these adjustments simultaneously, and this position on (d)(2) lands has been developed in a state of highly charged emotions and great controversy. It is hoped that it will provide the basis for more harmonious and logical adjustments of future Federal and State interests by completing the great triad of land dispositions--State, Native, and National interests--that began with Alaska's Statehood in 1958, and continue through the implementation of the Alaska Native Claims Settlement Act.

LEGISLATIVE HISTORY OF (d)(2) LANDS

By December 19, 1978, Congress has the task of determining what, if any additions to the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems will be made in Alaska. The direction for these congressional determinations is provided in the Alaska Native Claims Settlement Act which became effective December 18, 1971.1/

For the Alaska Native, the importance of the Act is unprecedented; it resolves their long-disputed land rights; and in exchange for extinguishing their aboriginal claims, compensates them with title to 44 million acres of land and $962.5 million. But of equal importance, the Act endorses the principle of Native self-determination and represents the opportunity for Alaska Natives to become a significant force in controlling their own destiny.

But the Alaska Natives were not the only group which benefited under Alaska Native Claims Settlement Act. The final version of the Act was the result of a long, carefully bargained-for compromise which coordinated four main interest groups--the State of Alaska, the Federal Government, the Natives, and the conservation--oriented among them all. The State had an interest in seeing the "land freeze" lifted so as to complete its land selections under the Statehood Act and facilitate the development of Alaska's energy resources at Prudhoe Bay. Conservation groups feared that this very development was a fast-approaching threat to Alaska's unique natural values and sought built-in safeguards. And, although the Federal government also had an interest in seeing the trans-Alaska pipeline built, Congress felt the obligation to see Native land claims equitably and permanently settled, and finally, to complete the land distribution begun in 1958 with the Alaska Statehood Act. Such were the diverse forces that shaped the Settlement Act as it finally emerged.

Although numerous bills for settlement of Alaska Native land claims had been introduced in the 4 years preceding the passage of the Land Claims Act, it was not until the introduction of Senate bill 35 in the 92nd Congress that provision was made establishing a Federal-State land use planning commission and directing the study and designation of Federal lands in Alaska to protect their natural values. Section 24(c) of that bill directed the Secretary of the Interior

> ...after consultation with the Planning Commission, (to) conduct detailed studies and investigations of all unreserved public lands in Alaska...which are suitable under existing statutory and administrative criteria for inclusion as recreation, wilderness, wild rivers, or wildlife management areas within the National Park and the National Wildlife Refuge Systems....

In the 92nd Congress, House of Representatives bill 10367 was reported out by the House Interior Committee without providing for either a land use planning commission or the withdrawal of national interest lands. When H.R. 10367 was being considered by the House of Representatives, the Saylor-Udall amendment was introduced calling for the designation of 50 million acres of national interest lands in addition to nearly 50 million acres of land previously classified for conservation systems.

Forty-eight million acres of land in Alaska had already been withdrawn in national forests, parks, and wildlife refuges. The amendment was rejected, and H.R. 10367 passed the House on October 20, 1971. Senate bill 35, as an amendment to H.R. 10367, passed the Senate on November 2, 1971.

The Conference Committee Report on H.R. 10367 (December 14, 1971) reflects some of the compromises made in hammering out the final version of the Settlement Act:

> "...there is general agreement on the principles of law involved and...there is general agreement on the structural elements which constitute the settlement....there are, of course, wide differences of opinion on specific issues: on amounts of money and land; on elements of the settlement; on some of the institutions established...the specific resolutions proposed...represent a compromise. These compromises were, however, recognized as being essential to the development of a conference report which will do justice to the Native People, insure a viable and economically healthy State Government, and allow the fulfillment of the reasonable expectations and legitimate interests of all Alaskans and all Americans....2/

It was agreed to grant the Natives $500 million to be taken from revenue from mineral resource development of Federal lands, most of which would have gone to the State under existing law. Normally the State would receive 90 percent, and the Federal Government 10 percent of such revenues; under the Act, 2 percent goes to Alaska Natives before the State's 90 percent is computed.3/ The State also agreed not to make any further selections toward fulfillment of its 103.5-million-acre entitlement under the Statehood Act until the Native lands were selected, while State selections made before the date of the Secretarial Order imposing a "land freeze" amounting to about 26 million acres were excluded from Native selection.4/

Sections 17(c) and 17(d)(3) provided for the creation of the proposed trans-Alaska oil pipeline corridor. In 17(d)(1) the Secretary was given new legislative authority (in addition to his authority under the Pickett Act and the inherent authority of the President) to withdraw all unreserved public lands in Alaska

> "...to insure that the purposes of this Act...are achieved, that the larger public interest in the public lands of Alaska is protected, and that the immediate and unrestricted operation of all the public land laws 90 days after date of enactment... does not result in a land rush, in massive filings under the Mineral Leasing Act, and in competing and conflicting entries and mineral locations...."5/

The planning commission proposed in the Senate bill was retained; it was modified by reducing the membership to 10 members and its proposed

regulatory and enforcement powers eliminated, making it a purely advisory body.

Conservation interests early recognized that not only were there other prime park, wildlife refuge, and forest lands in Alaska which in the national interest should be reserved from disposal to private individuals under the public land laws or to the State of Alaska under its selection rights, but that there were necessary additions to existing national interest lands to assure their boundaires and to assure a comprehensive conservation system throughout Alaska.

The withdrawal, study, and designation of some lands in Alaska for conservation management seemed to many a necessary counterbalance to the transfer of some 44 million acres of Federal public lands into private ownership. The land transfers into the corporate, private ownership of Alaska Natives were being made under terms which allowed little direction as to their location by either State or Federal agencies. These transfers, and those to the State of Alaska under the Alaska Statehood Act, were of a magnitude never before equalled in the United States.

It was also realized by those familiar with Alaska that recent major oil discoveries meant Alaska could no longer rely on remoteness, geographic barriers, or other physical obstructions to insure the protection of its natural values. Congress took explicit action to protect these values by including Section 17(d)(2) in the Alaska Native Claims Settlement Act.

The Alaska Native Claims Settlement Act, as a compromise between the House and Senate bills, included in Section 17 the establishment of the Joint Federal-State Land Use Planning Commission, and in Section 17(d)(2), gave direction to the Secretary of the Interior to:

> ...withdraw from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, and from selection by Regional Corporations pursuant to section 11, up to, but not to exceed, eighty million acres of unreserved public lands in the State of Alaska, including previously classified lands, which the Secretary deems are suitable for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems....

The subsection also provided a procedure and set time limits for terminating these withdrawals, and for transmitting recommendations to Congress.

With the passage of the Alaska Natives Claims Settlement Act, Congress also recognized that in addition to it obligations to treat fairly with the orignial inhabitants of Alaska--the Aleuts, Indians, and Eskimos which make up the Native population of Alaska--and to fulfill its statutory promise in the Statehood Act to the State of Alaska, there was an obligation to protect the national interest lands in Alaska.

Footnotes/Legislative History of (d)(2) Lands

1/ Public Law 92-203, AS 41.40.010 passed by Alaska State Legislature July 6, 1972.

2/ Joint Statement of the Committee of Conference, Conference Report on H.R. 10367, p. 34.

3/ Conference Report, p. 35.

4/ Conference Report, p. 39. The "land freeze" referred to is pursuant Mr. Udall's Public Land Order No. 4582. (1969.)

5/ Conference Report, p. 45.

AN APPROACH TO DECISIONS ON NEW NATIONAL INTEREST LANDS IN ALASKA

By December 18, 1978, Congress has the task of determining what, if any, Alaska lands will be designated as national interest lands for their outstanding wildlife, scenic, and other natural values. When the Federal-State Land Use Planning Commission commenced in August, 1972, its first task was to review temporary withdrawals made by the Secretary of the Interior in March, 1972, following passage of the Claims Act. The lands withdrawn were those which appeared at that time most likely to contain critical habitats, outstanding scenic areas, and other natural values. Boundary changes were recommended by the Commission: to add other areas of like character which had not been included in the March withdrawals; to assure natural boundaries; and to eliminate some areas with high potential for development of nonrenewable resources. The Secretary's withdrawals for study were made final on September 19, 1972.1/ During the next year the Commission held over 30 hearings throughout Alaska and in Seattle, Denver, San Francisco, and Washington, D.C., on the use of the (d)(2) lands. A 30-member resource planning team composed of Federal and State professionals from many disciplines, also compiled a resource inventory for the entire State.2/ In August, 1973, the Commission made its use recommendations to the Secretary. In December 1973, the Secretary made his first proposals to the Congress.3/

Various systems and tools available for protection of natural values were assessed by the Commission. In the course of its analysis, the Commission, while recognizing the primary national interest signified by Section 17(d)(2) to be the protection of natural values, took cognizance of national needs and policies for resources, particularly energy resources and important minerals. Potential conflicts deriving from the Alaska Native Claims Settlement and the designation of large areas in restrictive management categories were identified, and alternative resolutions studied.

Three key questions which guided the development of the Commission's proposed policies and which the Commission believes should be asked of all proposals for (d)(2) and related lands:

1. Are natural areas and values of national importance adequately protected?

2. Is the achievement of national energy and mineral objectives significantly inhibited?

3. Are conflicts with other values and uses and with adjoining landholders minimized?

Protection of Natural Areas and Values

Alaska has many prime scenic areas and extensive wildlife and waterfowl habitat as well as unique geologic features and ecosystems. Protected by remoteness and a sparse population, most of Alaska has remained roadless and largely undeveloped. All but the most heavily populated areas of the State could be considered wilderness by national standards.

The difficulty faced by those nominating, withdrawing, and studying the (d)(2) question and by Congress in making the (d)(2) determinations is to choose from this wilderness reservoir those superlative and unique scenic, habitat, and natural areas of national importance. There appears to be general agreement among all proposals of the prime areas to be designated. There is less agreement on size of the areas and their management.

National interests cannot be met simply by designating new units of the conservation systems. For example, wildlife and waterways know no boundaries, and they are not dependent on the Federal Government alone for their protection. The primary interest in the protection of natural values is best served by policies developed in concert with adjoining landholders and coordinated planning and management.

National Needs for Energy and Minerals

The major national interests to be met in Alaska, apart from natural values, are those for energy resources and important minerals. Decisions to place lands with potentially important mineral and energy resources into conservation systems could foreclose opportunities for their later development and hinder the attainment of national energy and mineral stockpile goals.

Much of Alaska's petroleum resource is not affected by proposals for new national interest lands in Alaska. Several of the State's petroleum provinces are located on Federal lands where their development could proceed, such as those lying under National Petroleum Reserve-Alaska and those on the Outer Continental Shelf. Other provinces are found on State and private lands.

With limited exploration to date, much of Alaska's mineral potential is unknown. Although some areas thought to be highly mineralized were excluded from areas withdrawn for study, lands now under discussion for inclusion in the national conservation systems have significant mineral potential. In the focal core areas of (d)(2) lands, placement in a protective category many mean foregoing the discovery and development of these resources. The choice to prefer the natural values over potential mineral values, in these instances, is a deliberate one. In so choosing, it is recognized that the natural attributes are without price.

In natural areas removed from these core areas, it may be possible by management and classification to provide protection for the natural values, while not foreclosing the possibility that energy and mineral resources can be developed to meet future needs. Decisions to develop resources in these natural areas should be made only if the resource can be developed without harm to the environment or if it is determined that adequate supplies of the resource are not available elsewhere for the Nation, and viable substitutes do not exist.

It must be remembered that national interests in both the protection of natural values and in the develoment of other resources can be met by lands not under Federal ownership and management. Care must be taken in

designating new national conservation units that resource developments on other lands are not unintentionally frustrated and the ability to respond to national needs as they arise is not critically reduced.

Potential Conflicts

In addition to the conflict between protection of natural values and mineral and energy development, the Commission has identified two major issues that have been specifically addressed in its analysis. They are the taking of fish and game by many of Alaska's residents to meet their subsistence needs, and the future expansion of Alaska's currently limited transportation system. The Commission in seeking means of averting and reducing these and other conflicts has identified needs for and means of coordination among Alaska's major landholders and has searched for planning mechanisms with the capability to respond to needs and conflicts that cannot now be anticipated. If present land management systems and tools are used in a context of broad ongoing coordinated planning, it is the Commission's conclusion that:

1. Natural values of national importance will be adequately protected.

2. The Nation's needs for energy and minerals can be met.

3. Conflicts among land users and owners can be largely avoided.

Footnotes/An Approach To Decisions On New National Interest Lands In Alaska

1/ 78.8 million acres were withdrawn.

2/ Alaska Resources Inventory (91 volumes of narrative on 17 subject fields, with 800 map overlays) and Resources of Alaska: A Regional Summary, prepared by the Resource Planning Team, Federal-State Land Use Planning Commission, December 1974.

3/ 83.47 million acres were contained in the Secretary's proposal for inclusion in one of the conservation systems; some (d)(1) lands were included.

THE STATUS OF ALASKA LANDS

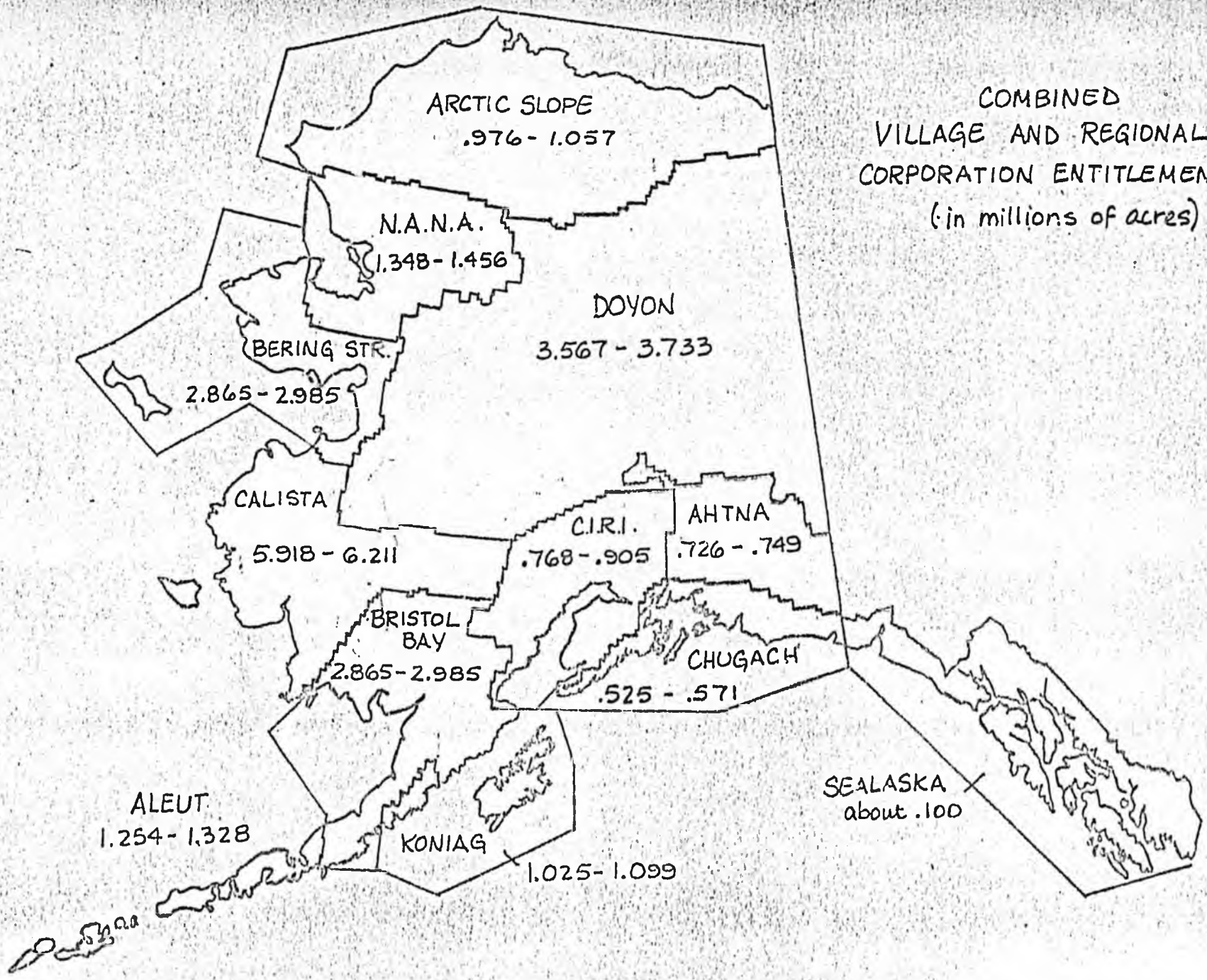
After the Alaska Native Claims Settlement is fully implemented, Alaska's lands will be divided among three major landowners--the Federal government, the State of Alaska, and Alaska Natives as private corporations. The resulting land pattern will be one of patchwork ownership in most regions of the State. Most natural transportation routes will traverse State, private, and Federal lands; most wildlife and waterfowl habitats will not be under one jurisdiction. Land uses and management will vary significantly even on those lands under one ownership.

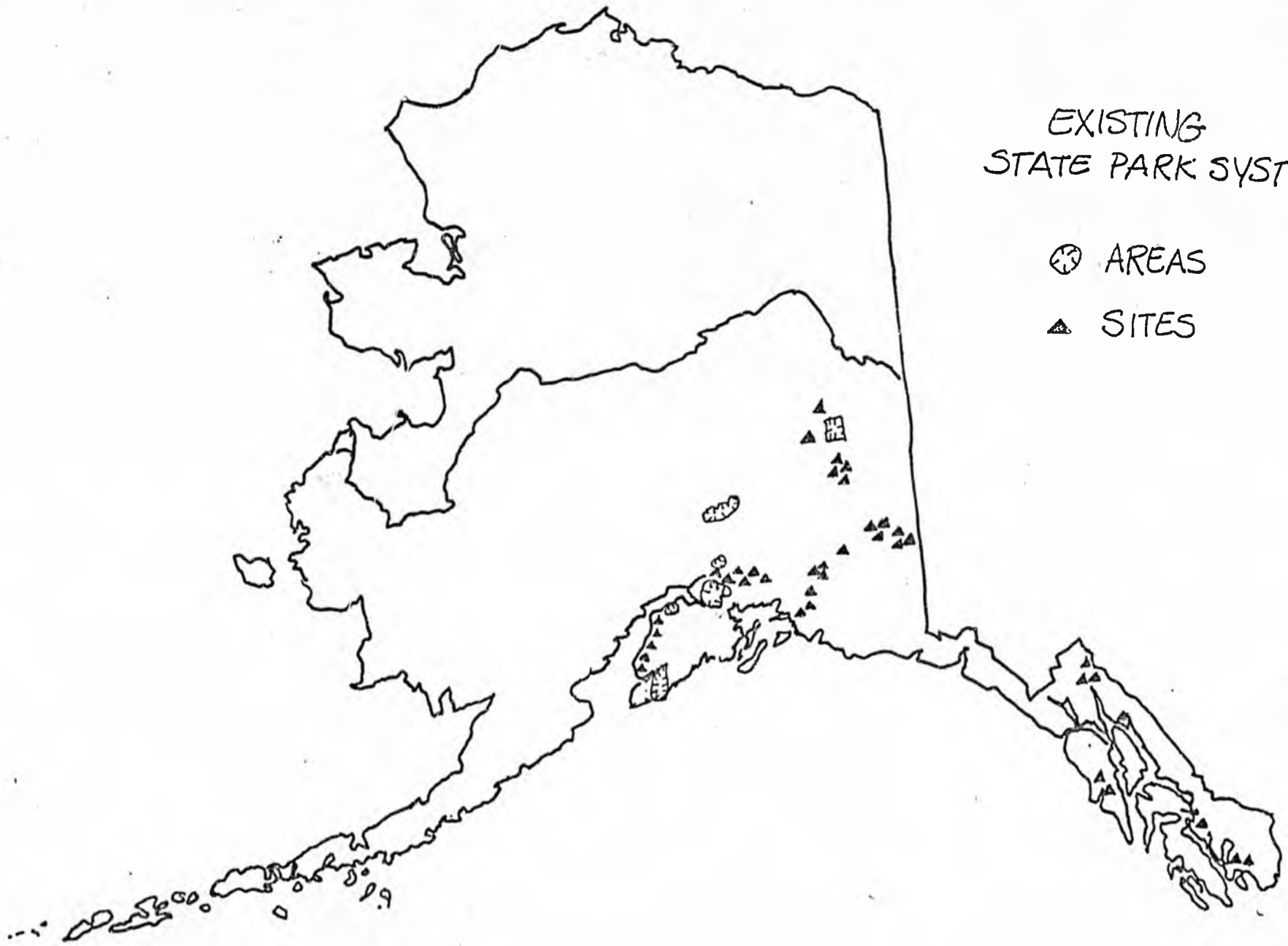
Private Lands and the Native Land Claims Settlement

Alaska Native corporations have selected those lands which have been traditionally used by them near villages along the coast and major rivers; and lands they have identified for their commercial resource values. Twelve landholding regional corporations will hold the surface and subsurface estates to a total of approximately 16.6-18.9 million acres that they have selected. Lands entitled to at least 192 village corporations total approximately 18.9-20.3 million acres. The surface estate to these village lands will be owned by the village, while the subsurface estate will be vested in the regional corporation of the area in which the village is located. An additional 2 million acres will be distributed among the various regional corporations for cemetery sites and other special purposes. In addition to this total entitlement of about 40 million acres, several villages have chosen to acquire title to their former reservations. In total, Alaska Native corporations will own about 44 million acres. The accompanying maps show the boundaries and the approximate projected entitlement of each Native region.

It should be underscored that once fee simple title is transferred these lands will be privately owned by the Native coporations and not held in any kind of reservation status. Although stocks in these corporations cannot be sold until 1991, corporations may divest themselves of land at any time after transfer of title. Corporate land may also be distributed among individual stockholders.

Several corporations have exercised selection rights on potential oil-bearing lands or on other lands where the presence of timber and metallic and industrial minerals were known or suspected. In the event of a major oil discovery, not only would the owning corporation be benefited, but monies derived would be distributed among the State's entire Native population through the revenue-sharing provisions of Section (7)(i) of the Act.1/ Just as the Statehood Act shifted primary responsibility for the economic and social well-being of Alaska's residents to the State, so the Claims Act shifted responsibility for economic well-being of Alaska Natives to the Natives themselves. One major consequence of the Claims Act is a massive redistribution of financial and natural resource wealth and associated political power to them.


COMBINED
VILLAGE AND REGIONAL
CORPORATION ENTITLEMENTS
(in millions of acres)
ARCTIC SLOPE
.976 - 1.057
N.A.N.A.
1.348 - 1.456
DOYON
3.567 - 3.733
BERING STR.
2.865 - 2.985
CALISTA
5.918 - 6.211
C.I.R.I.
.768 - .905
AHTNA
.726 - .749
BRISTOL
BAY
2.865 - 2.985
CHUGACH
.525 - .571
SEALASKA
about .100
ALEUT
1.254 - 1.328
KONIAG
1.025 - 1.099


EXISTING
STATE PARK SYSTEM
AREAS
SITES

The designation of new national interest lands in Alaska could effect the economic viability of Alaska Natives in two ways:

(1) The location and management designations of some national interest lands may restrict the transport of resources from Native lands to markets.

(2) Some management designations may inhibit reliance on fish and game resources to meet subsistence needs of Alaska Natives and other rural residents. While many lands have been selected by Native corporations because of their importance to subsistence, the range over which fish and game resources are taken extends well beyond those lands that will be in private ownership.

State Lands

In 1959, at statehood, about 99 percent of Alaska was federally owned. Over 80 percent of that Federal land was under the jurisdiction of the Bureau of Land Management as unreserved public domain. Lands reserved for particular purposes, including parks, forest, and wildlife refuges made up the balance of the Federal lands. Less than one percent of the State was in private ownership.

In the admission of Alaska as the 49th state, Congress was confronted with how this vast territory, with its small population and remoteness from the centers of trade and commerce, could become a viable member of the Union. It was believed by most that the viability of such a new state must come from its natural resources. To give the new state a resource base, Congress provided in the 1958 Statehood Act that 102.5 million acres of general grant lands from the "vacant, unappropriated and unreserved" lands of Alaska could be selected by the new state within 25 years. Alaska was also entitled to University and Mental Health lands granted before statehood, to 400,000 acres from the public domain, and 400,000 acres from the national forests for community development and recreation. Alaska also gained title to submerged offshore lands to the limits of the territorial sea and submerged lands of inland navigable lakes and streams.

To date, some 67 million acres have been selected. The remaining entitlement must be chosen by 1984, 25 years after statehood. While the State has never formally articulated a policy for land selections, it is clear from the pattern that has emerged that three principal objectives have been emphasized:

(1) provision of lands to meet existing and future settlement needs;

(2) control of lands along major highway corridors; and

(3) selection of lands with high potential for natural resource development.

Revenues deriving from petroleum development on State selected lands are already a major source of revenue for the State and are expected to remain so for many years to come. As shown on the accompanying map, the State has classified and designated substantial acreage it has selected in protective categories, such as parks, game sanctuaries, and critical habitat areas closed to hunting.

Designation of new national interest lands may effect State land interests in several ways. Some designations could restrict access to market for resources developed on State lands. Inasmuch as State selections may be made almost entirely from unreserved Federal public domain, the designation of new national interest lands, as well as Native selections, diminish State selection opportunities. However, Alaskan economic development can proceed independently of federally owned resources and Federal resource disposal policies, if other Federal actions do not unduly inhibit development on State and Native lands.

The Federal Estate in Alaska

All Federal lands in Alaska either have been withdrawn as reserves for particular purposes, including national conservation system units, military reserves, and National Petroleum Reserve-Alaska, or are currently withdrawn for Native selection or for classification. There are currently no public domain lands in Alaska open to entry under most public land laws. Nearly 60 percent of Alaska will remain in Federal ownership once the entitlements to Alaska Natives and the State have been satisfied.

There has already been designated in Alaska, either by Act of Congress or Executive Order, nearly 48 million acres for the protection of natural values. The reservation by Presidental Order of the Afognak "Timberland Reserve" in 1892, followed by designation in 1907 of the Tongass National Forest which encompasses most of southeastern Alaska, were the first reservations in Alaska of what have come to be called "national interest lands." An additional large unit of the National Forest System, the Chugach National Forest, and three large units of the National Park System--Mount McKinley National Park, and Katmai and Glacier Bay National Monuments--had been designated by the time Alaska became a state in 1959. There are also now 18 units of the National Wildlife Refuge System--the two most commonly known being the Kenai National Moose Range on the Kenai Peninsula, and the 9-million-acre Arctic National Wildlife Range which was created in 1960 by Secretarial Order. Sixteen generally smaller units of the Refuge System on the coasts of Alaska have been established to protect migratory waterfowl and sea mammals, particularly those for which the United States has international treaty obligations. These previous withdrawals from public domain lands give Alaska 11 percent of all national forests, 25 percent of all national parks, and over 70 percent of all lands reserved for national wildlife ranges and refuges. To date there are seven areas of 51,287 acres designated under the Wilderness Act in Alaska with more proposals for wilderness designation pending congressional action. The established areas are all in the Wildlife Refuge System.

The Federal estate in Alaska is not limited to existing reserves and the (d)(2) withdrawals. Over 103 million acres of Federal lands are currently withdrawn for classification under Section 17(d)(1) of the Claims Act, including some 45 million acres in Native withdrawals, which will fall back into (d)(1) status when Native selections have been finalized. Most of the Section 17(d)(1) withdrawals for classification are made under authority of the Pickett Act, which requires that the lands remain open to mineral entry for metalliferous minerals. Withdrawal under the inherent authority of the President, on the other hand, permits the closing to mineral entry. These (d)(1) lands may, in the future, be classified for State selection for other uses, including disposal under the public land laws.

Summary

Twenty years ago almost all of Alaska was owned by the Federal Government, with transfers from that ownership in small parcels to homesteaders, mining claimants, and other applicants under the public land laws. Aboriginal claims had not been addressed.

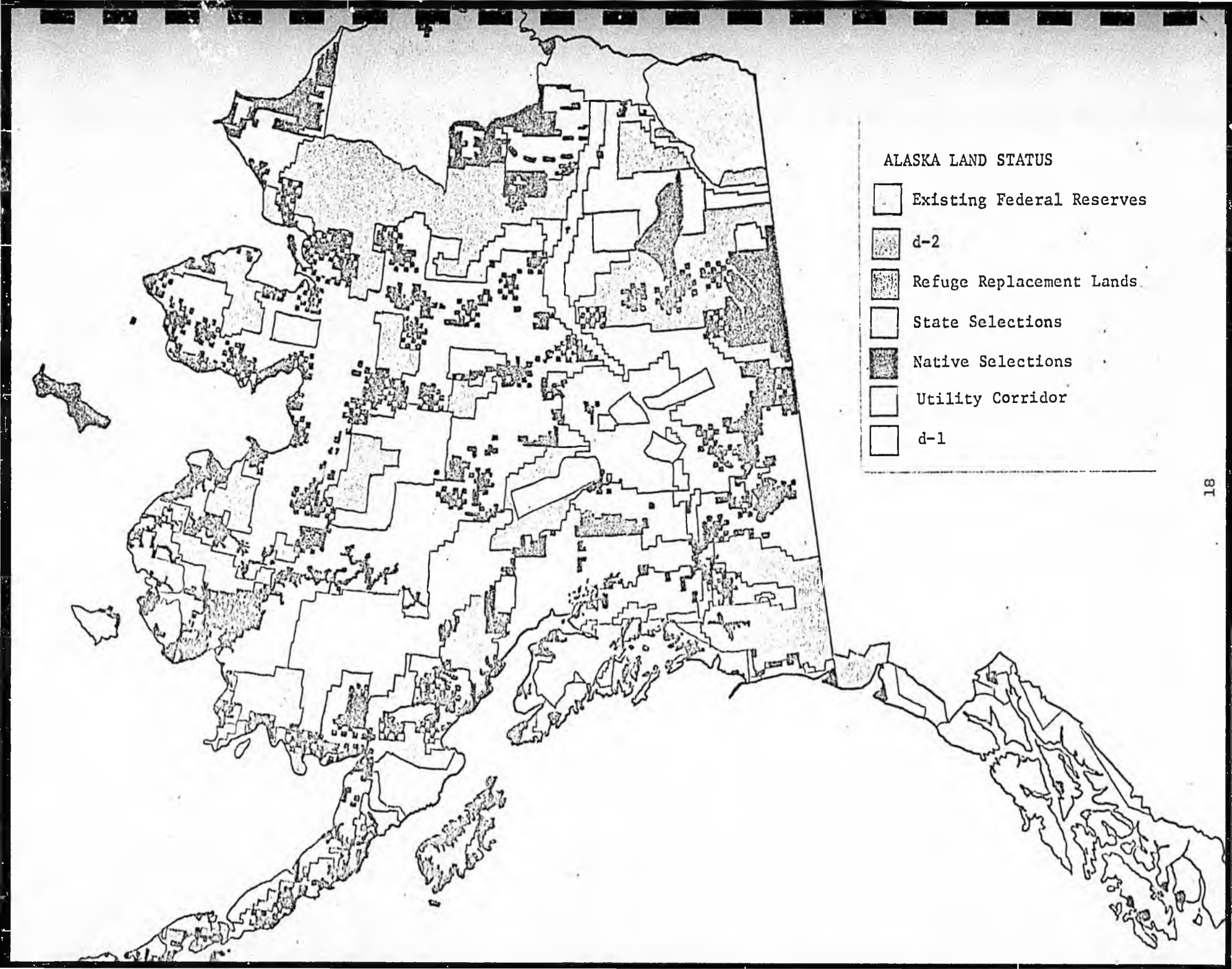
Today, the State's land entitlement has been established in the Alaska Statehood Act. Native claims have been settled in the Alaska Native Claims Settlement Act. Alaska can now have a land use and management pattern where: key natural areas are placed in one of the conservation systems; private lands for occupation and settlement are in areas best suited for those uses; and resource lands are either in State, Native or other private ownership or, if on Federal lands, in a system of management which allows development coupled with environmental controls.

With the issues of subsistence, mining location, and transportation or access addressed, with new institutions for assuring continued Federal-State coordination and cooperation, Congress will have established in Alaska, in two decades, a pattern of land ownership, use, and management which will best serve the long-term interests of the Nation and Alaska.

Footnote:

1/ Section 7(i) of the Alaska Native Claims Settlement Act provides:

> Seventy per centum of all revenues received by each Regional Corporation from the timber resources and subsurface estate patented to it pursuant to this Act shall be divided annually by the Regional Corporation among all twelve Regional Corporations organized pursuant to this section according to the number of Natives enrolled in each region.


ALASKA LAND STATUS
Existing Federal Reserves
d-2
Refuge Replacement Lands
State Selections
Native Selections
Utility Corridor
d-1

ALASKA LAND VALUES AND USES

Preface

This chapter presents basic information about Alaska's natural values and renewable and nonrenewable resources. Those natural values of potential national interest have been identified in a statewide context. The State's resources that may be required to meet national needs have also been identified.

The current allocation of these primary values and resources among major public and private landowners is shown. Those natural values already protected in existing units of the national conservation systems and by the State of Alaska are identified. Areas where resource development is currently restricted are noted, as are past, current, and projected development trends. Some basic economic factors affecting the development of resources in Alaska and their related land use implications are also cited. Finally, the chapter shows in broad terms the relationships of these values and resources to proposals for new national interest withdrawals now under discussion. The general information compiled here provides a statewide context in which all proposals for new national interest reserves can be evaluated.

WILDERNESS

Most of Alaska could be considered primitive or characterized as wilderness in a national context. Applying the definition in the Wilderness Act of 1964, nearly all roadless tracts of 5,000 acres or more remain in their natural state. Alaska has more numerous and far larger primitive areas well in excess of 5,000 acres than do the conterminous states.

While most of Alaska remains largely in its natural state, development on private corporate and State-owned lands and resource development interests on Federal lands may significantly reduce the acreage now meeting wilderness standards. Consequently, decisions on the protection of Alaska's wilderness values may need to be more focused than would be necessary elsewhere in the Nation. These decisions will probably derive from findings on which of the many areas remaining in their natural state have unique or outstanding values that merit their special protection or designation as wilderness. The information on natural values and resources that follow in this section provides a basis to determine which lands merit retention in their natural state.

At present, approximately 75,000 acres on eight small national wildlife refuges on remote islands have been designated wilderness. Other opportunities for wilderness study and designation are myriad and exist in all regions of Alaska. Proposals for wilderness areas in existing national parks and wildlife refuges comprising some 6.1 million acres have already been submitted to Congress. Proposals for another estimated 16.8 million

acres on parks and refuges have been deferred because of possible new additions and ongoing changes in land status and planning needs. A total of 2.6 million acres in seven wilderness study areas have also been identified on the Tongass and Chugach National Forests. Finally, the recently enacted Federal Land Policy and Management Act of 1976 permits the classification of lands remaining in the large Federal public domain in Alaska as wilderness. The State of Alaska has established the Kachemak Bay State Wilderness Park encompassing over 200,000 acres and has developed management plans for other large State parks that identify wilderness zones.

Proposals now under discussion for new national interest land reservations in Alaska generally provide for wilderness study. One proposal, however, calls for the immediate designation of 5.4 million acres of wilderness on existing national forest lands. Proposed additions and new units of the national conservation systems and other new management systems, which could be subject to wilderness review, range from 67 million acres to 115 million acres. Under all proposals, wilderness review of land would occur in the Brooks, Alaska, and Aleutian Ranges; the Wrangell, Chugach, and St. Elias Mountains; and the Yukon River and other interior river drainages.

WILDLIFE

Due to Alaska's long winters, its wildlife habitats are frequently not as productive as in many other states. With the exception of waterfowl and seabirds, population densities are generally lower, for example, than those in Michigan. As a result, larger areas are generally required to maintain Alaska's terrestrial wildlife populations. Many of the animal species are far-ranging; e.g. large caribou herds use millions of acres.

Important waterfowl and wildlife populations and their habitats are currently protected in 18 national wildlife refuges (17 of which are also designated State Game Refuges), 1 national park, 2 monuments, and 2 national forests. The State and Alaska Native corporations have selected land with important waterfowl and wildlife habitat. On State lands, tidelands, and waters, the Alaska Department of Fish and Game manages or regulates a small but expanding system of 7 State wildlife refuges and sanctuaries, and 10 critical habitat areas. In addition, the Department has identified 46 areas where full or partial closures on the taking of fish and wildlife are in effect to protect key wildlife populations.

Unlike most wildlife populations in other states, Alaska's wildlife are considered an important food source for a large segment of the State's rural population. The taking of waterfowl, large mammals, furbearers, and fish also supports a relatively small but steady tourist industry and a significant commercial fishing industry.

Waterfowl and Seabirds

Twenty percent of the entire North American waterfowl population uses 70.4 million acres of breeding habitat in Alaska. This includes over 12 million ducks (pintail, canvasback, widgeon, scaup, and others), 1 million geese, 70,000 swans, and 150,000 cranes. The greatest waterfowl concentrations occur along the coast and certain interior river drainages. Geese migrate to Alaska from a number of southern wintering areas west of the Mississippi River, and some ducks from the entire North American continent summer in the State. Twenty areas of wetland habitats with high density nesting qualities, at least 50 major seabird colonies and 31 key migratory bird nesting, resting, feeding, staging, and molting areas are presently identified within the State. About half of the key migratory bird areas, portions of four of the high density nesting areas, and about two thirds of the seabird colonies are already protected in units of the national conservation systems. The State, which has selected major portions of these important habitat areas, has established refuges and critical habitat areas for waterfowl and fishery protection, and others are currently proposed.

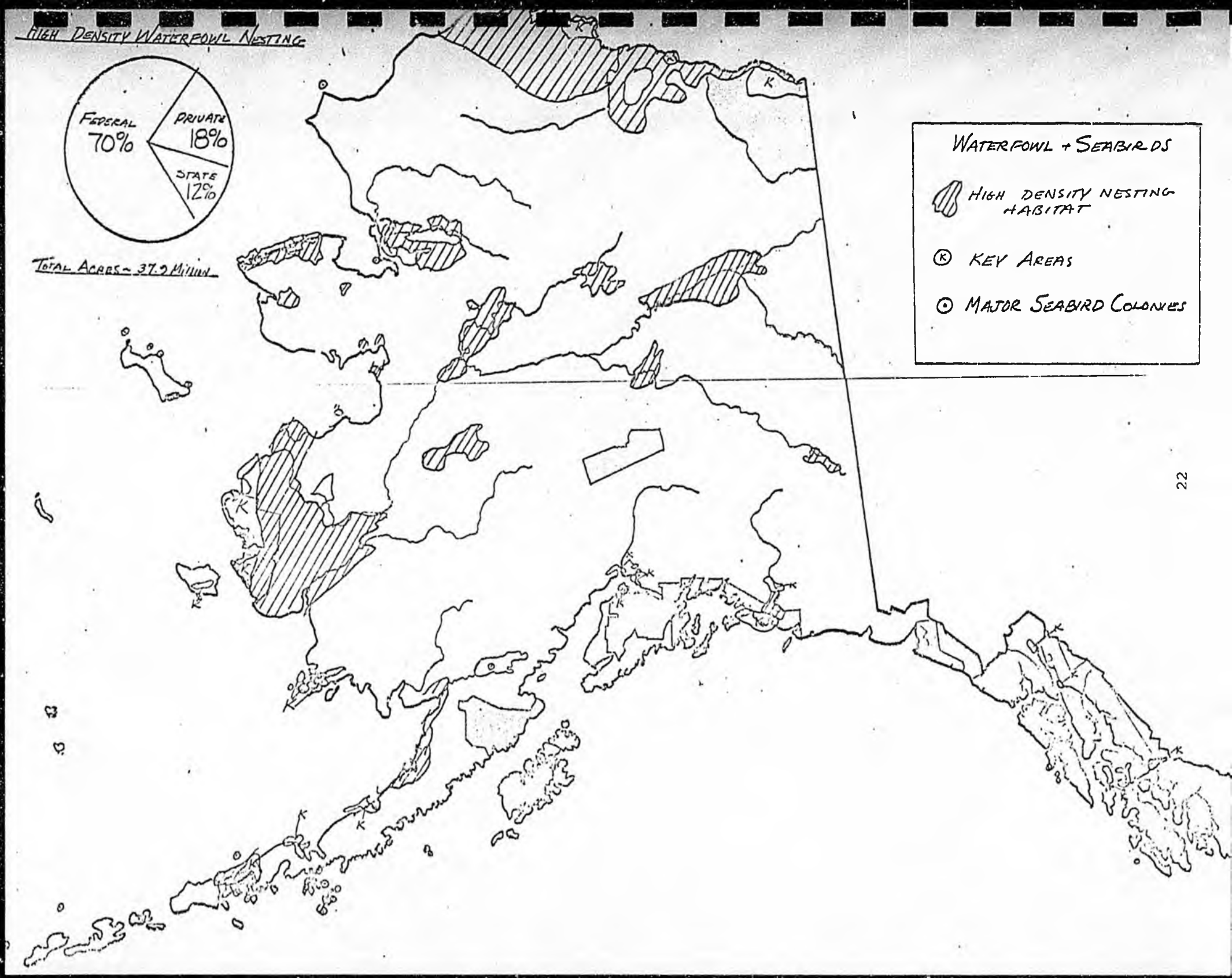
Alaska has about 37.9 million acres of high density waterfowl habitat, of which 2.9 million acres are in existing national wildlife refuges. Another 0.5 million acres are located in established national forests. Proposals before Congress have contained from 10 percent to nearly all of Alaska's high density habitat in new proposed refuges.

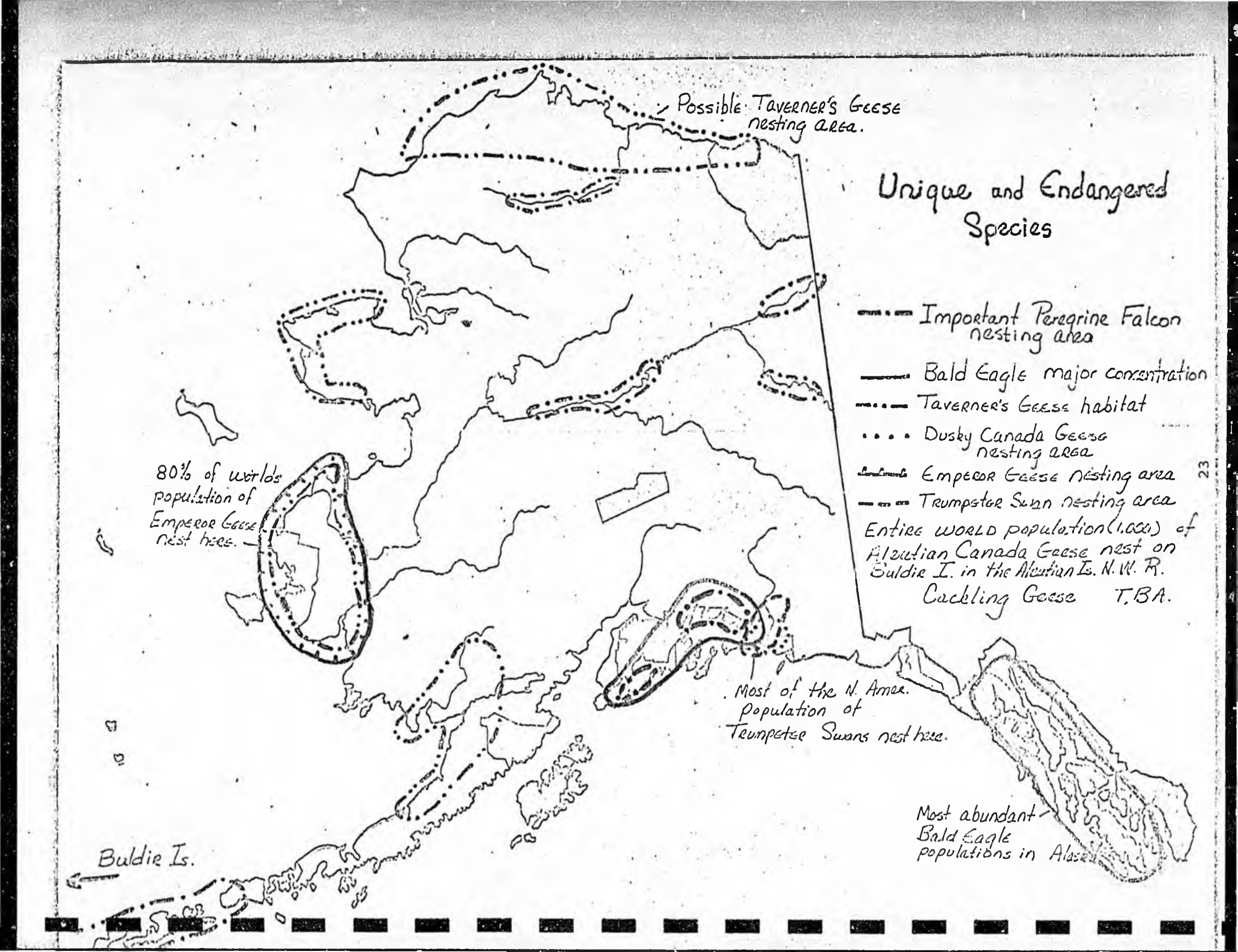
Unique and Endangered Species

Habitat for several threatened or endangered species exist in Alaska, including the Aleutian Canada goose and American and Arctic peregrine falcon. Significant peregrine falcon habitat and populations exist at scattered locations shown on the map. They tend to live in areas where high hills or cliffs overlook waterfowl and shorebird nesting and rearing areas.

The bald eagle, endangered in the rest of the United States, has abundant populations in Alaska. They are especially abundant in the Chugach and Tongass National Forests, but extend throughout the State except in the far north and northwest. The State-managed Chilkat Refuge in southeastern Alaska was reserved specifically to protect a key area known for concentrations of bald eagles.

All of the Continent's trumpeter swans, Aleutian, cackling, taverners, emperor, and dusky Canada geese nest in Alaska. They each nest at sites that are identified on the accompanying map. While most of the nesting habitats for these birds are on Federal lands or in existing units of the national conservation systems, much of the taverners and emperor geese nesting areas have been selected by Alaska Native corporations.


HIGH DENSITY WATERFOWL NESTING
FEDERAL 70%
PRIVATE 18%
STATE 12%
TOTAL ACRES ~ 37.2 MILLION
WATERFOWL + SEABIRDS
HIGH DENSITY NESTING HABITAT
KEY AREAS
MAJOR SEABIRD COLONIES

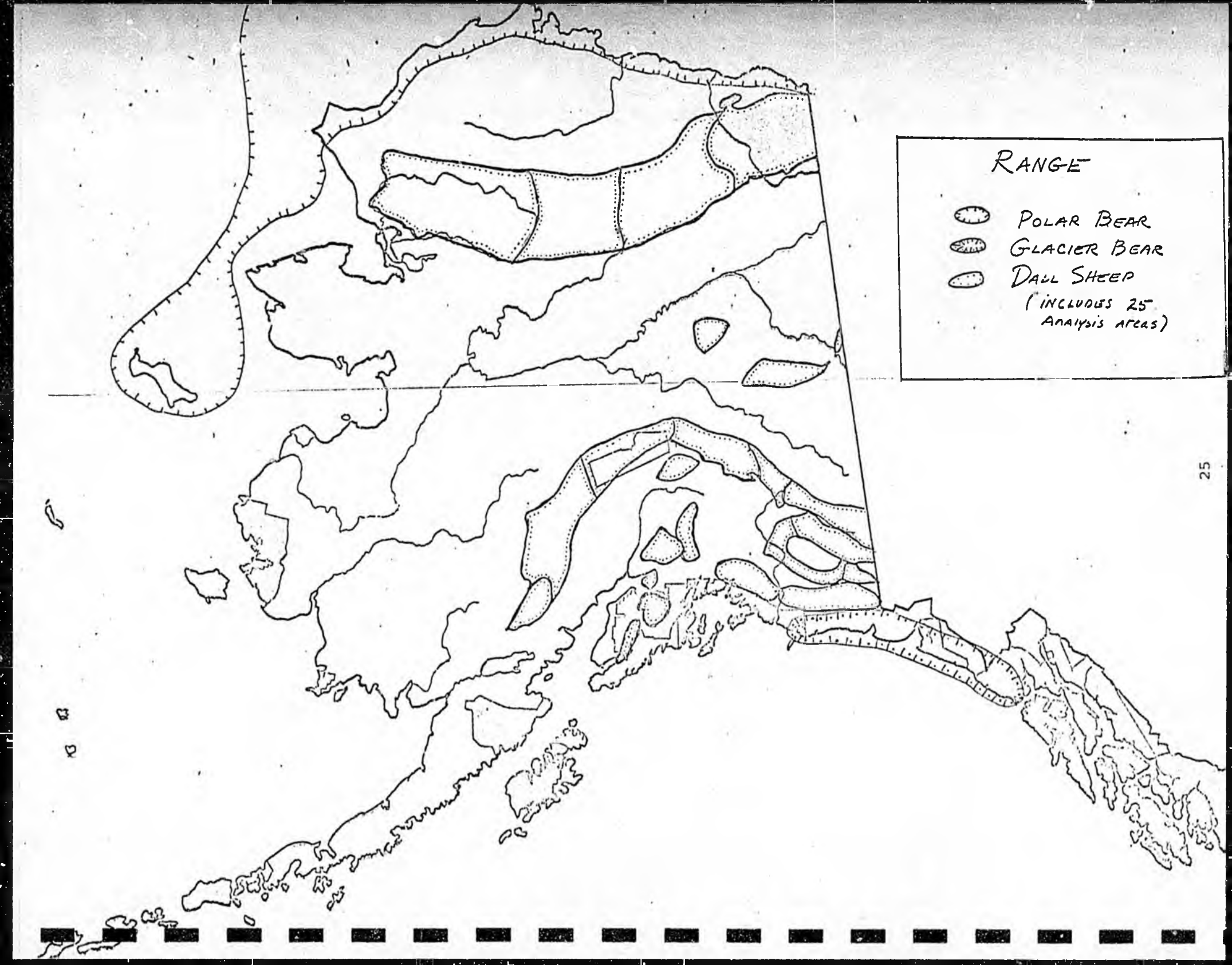

Possible Taverner's Geese nesting area.
Unique and Endangered Species
Important Peregrine Falcon nesting area
Bald Eagle major concentration
Taverner's Geese habitat
Dusky Canada Geese nesting area
Emperor Geese nesting area
Trumpeter Swan nesting area
Entire world population (1,000) of Aleutian Canada Geese nest on Buldir I. in the Aleutian Is. N.W.R.
Cackling Geese T.B.A.
80% of worlds population of Emperor Geese nest here.
Most of the N. Amer. population of Trumpeter Swans nest here.
Most abundant Bald Eagle populations in Alaska
Buldir Is.

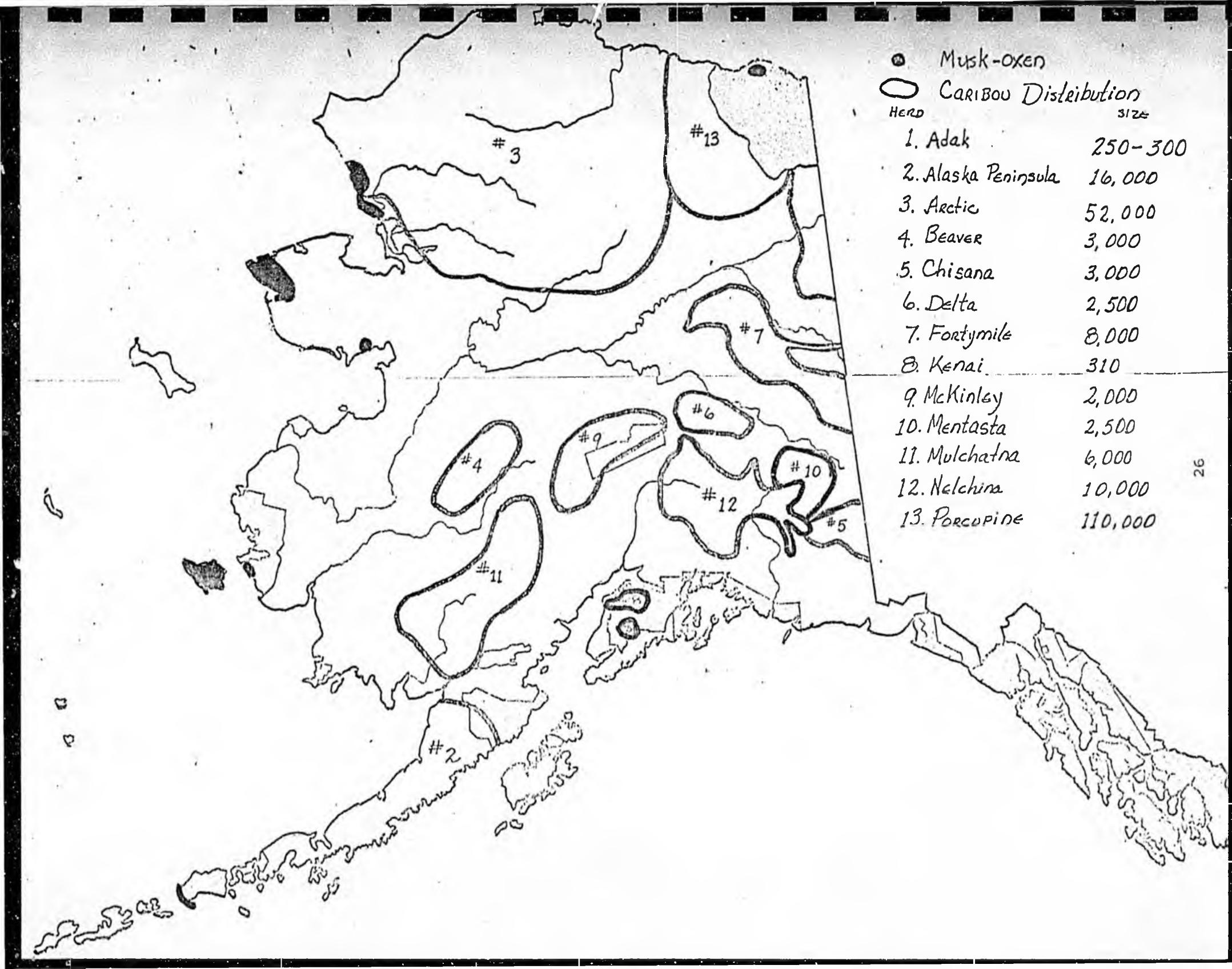
Terrestrial Mammals

The Nation's only caribou, Dall sheep, polar bear, glacier bear, and musk-oxen are found in Alaska. The world's Dall sheep populations are found only in mountain ranges of Alaska and northwest Canada as shown on the map. Of 25 areas of sheep range distinguished for analysis, four are in existing State or national parks, wildlife refuges, and forests. Some of Alaska's best sheep habitat is in the Wrangell Mountains, which have been proposed for various management systems including parks and forests. Most proposals include varying amounts of sheep habitat in the Brooks Range, the Alaska Range, and the Chugach Mountains. Denning areas suitable for polar bear are found all along the northern and northwestern Arctic Coast, as shown on the map. One wildlife refuge proposal would include additional coastal polar bear habitat, primarily from National Petroleum Reserve-Alaska. The threatened glacier bear roams Gulf of Alaska coastal areas from Glacier Bay to the Copper River as shown on the map. Portions of its range are included in parks or forest additions in many legislative proposals.

Alaska's musk-oxen are now distributed in five small herds each having about 15-25 animals, and a larger herd of several hundred on Nunivak Island National Wildlife Refuge. These animals were reintroduced to Nunivak from Greenland after the State's original populations were exterminated in the late 1800's. All of Alaska's musk-oxen are descendants of this reintroduced Nunivak herd. Six major and seven minor caribou herds with a current total estimated population of 238,000 range in every region except southeastern Alaska. Caribou populations fluctuate greatly, with a total population usually between 200,000 and 600,000. Many Alaska residents, especially Native Alaskans, depend upon caribou for food and other necessities. About 38 percent of the ranges of three herds, the Porcupine, McKinley, and Kenai, are already protected in park and refuge units. Range for herds on the Alaska Peninsula and Aleutian Islands are contained in two wildlife refuges. (Three of the herds also use an additional 35 million acres of range in Canada.) Proposed parks and wildlife refuges contain from 5 to 29 percent of Alaska's 145.8 million acres of caribou range. The trans-Alaska oil pipeline traverses portions of the range of several caribou herds and a second proposed corridor traverses additional caribou range.

Wolves are found throughout most of Alaska and on most Federal, State and private lands. Similarly, brown-grizzly bear are present everywhere in the State except the Yukon-Kuskokwim delta. Populations are found in all of Alaska's existing national parks and forests and most of the wildlife refuges, as well as on most State and private land. The State-managed McNeil Game Sanctuary north of Katmai National Monument has been reserved specifically to protect brown bear and habitat. Black bear are common in most of the State's forested areas. Additional bear and wolf habitat would be contained in a number of the proposed units of national conservation systems that are under discussion in Congress.


RANGE
POLAR BEAR
GLACIER BEAR
DALL SHEEP
(INCLUDES 25 ANALYSIS AREAS)
25


Musk-oxen
Caribou Distribution
HERD SIZE
1. Adak 250-300
2. Alaska Peninsula 16,000
3. Arctic 52,000
4. Beaver 3,000
5. Chisana 3,000
6. Delta 2,500
7. Fortymile 8,000
8. Kenai 310
9. McKinley 2,000
10. Mentasta 2,500
11. Mulchatna 6,000
12. Nelchina 10,000
13. Porcupine 110,000
#1
#2
#3
#4
#5
#6
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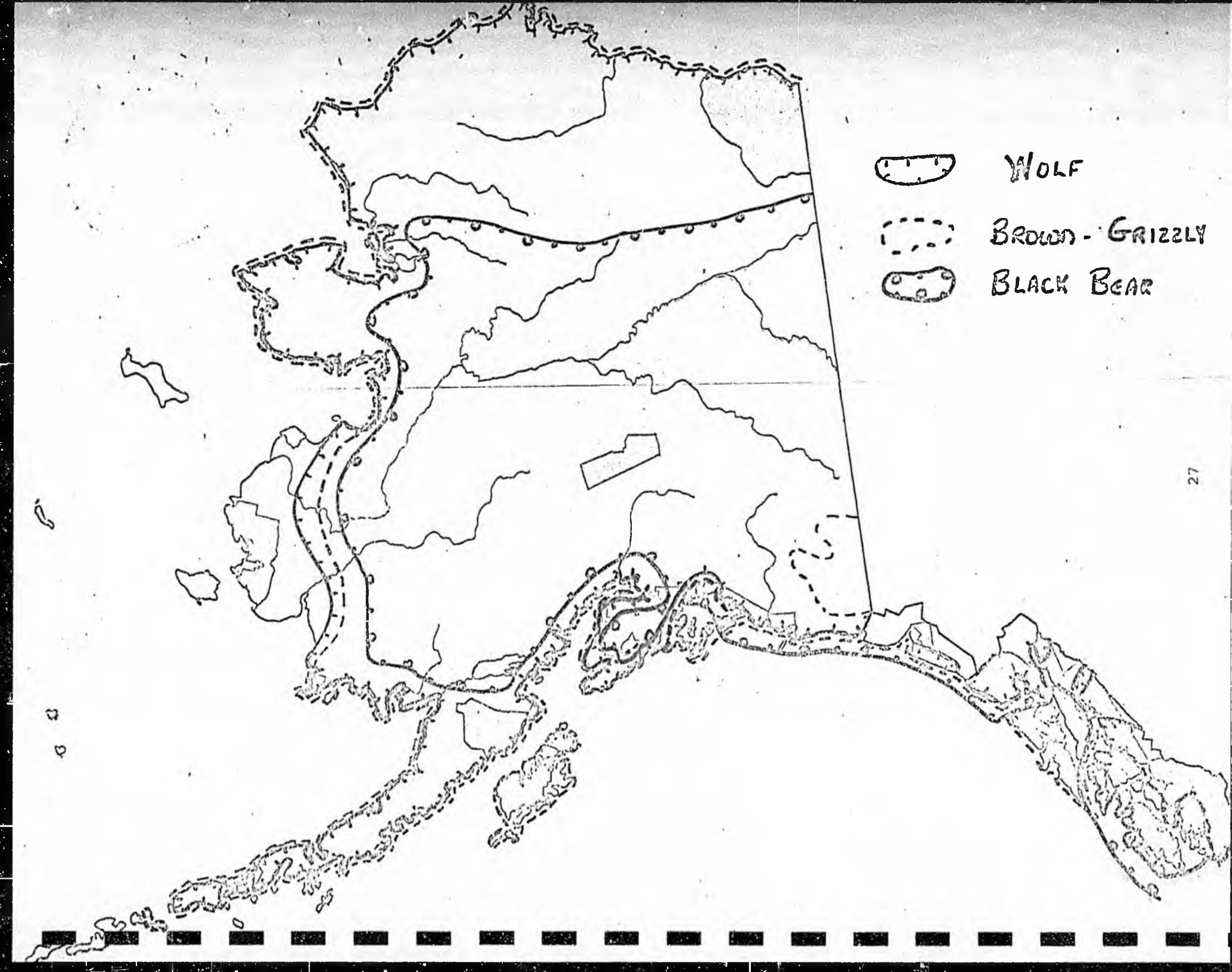

WOLF
BROWN - GRIZZLY
BLACK BEAR

Marine Mammals

Twenty-seven species of marine mammals, including whales, are found along Alaska's coastline. Most marine mammals are managed by the Federal Government under the Marine Mammals Act, with the exception of the walrus whose management has been returned to the State. Walrus Island, a State wildlife sanctuary, was established specifically to protect an important walrus rookery. The State has petitioned for the management of nine other marine mammals species, and a decision is pending. The valuable northern fur seal is managed according to international treaty on critical habitat in the Pribilof Islands. The once decimated sea otter is again relatively common along the Aleutian Islands and the Gulf of Alaska coast. Large portions of Alaska's coast and marine mammal habitat have been selected by Native-owned corporations. Many of these Natives hunt a variety of marine mammal species for food, clothing, and handicrafts. At least five coastal wildlife refuges have been designated in Alaska that contain important marine mammal habitat. About 10-15 percent of the coast will be privately owned including many of Alaska's important coastal habitat areas. Much of the remaining Federal marine mammal coastline habitat is contained within the range of proposed refuges and parks.

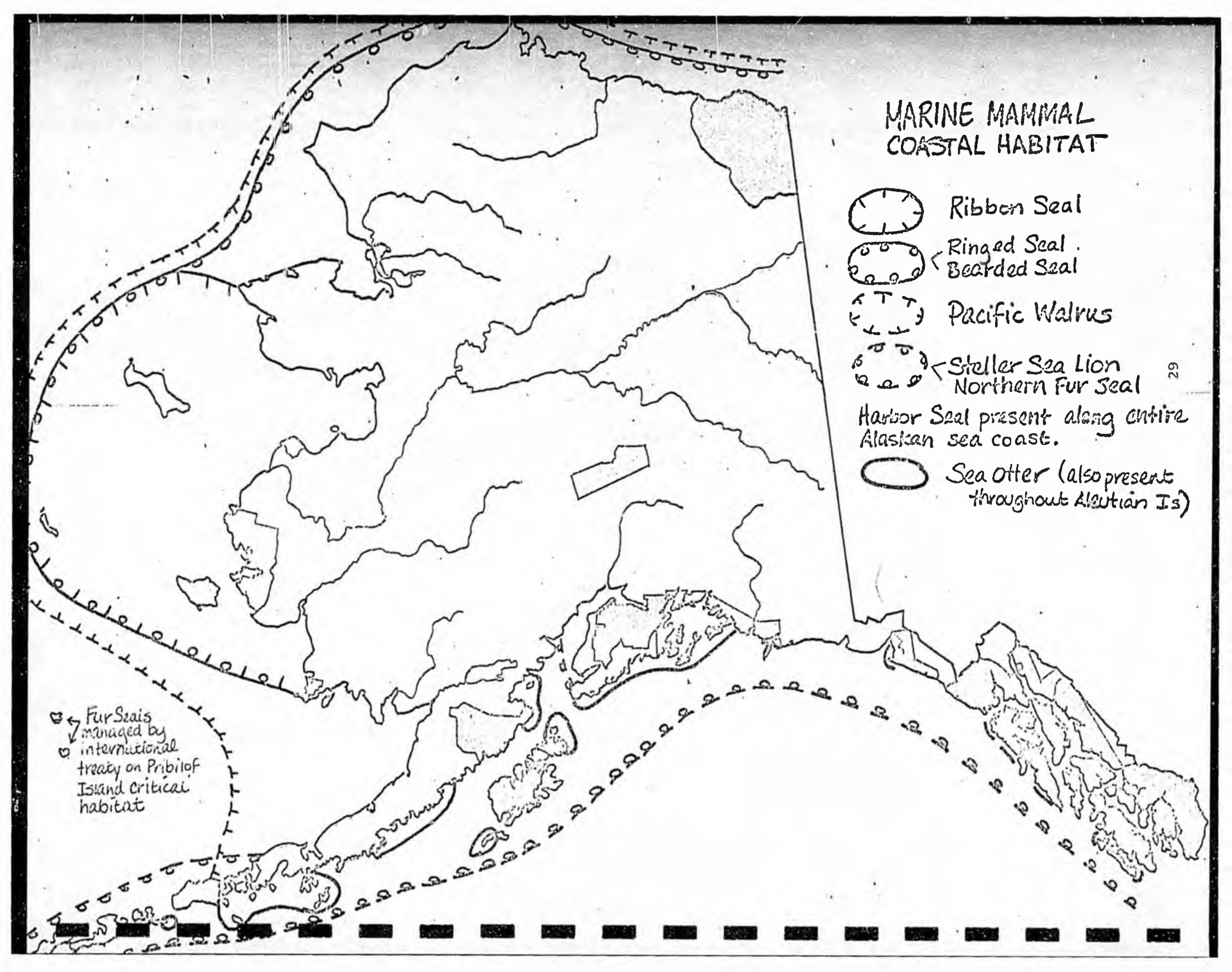
Fish

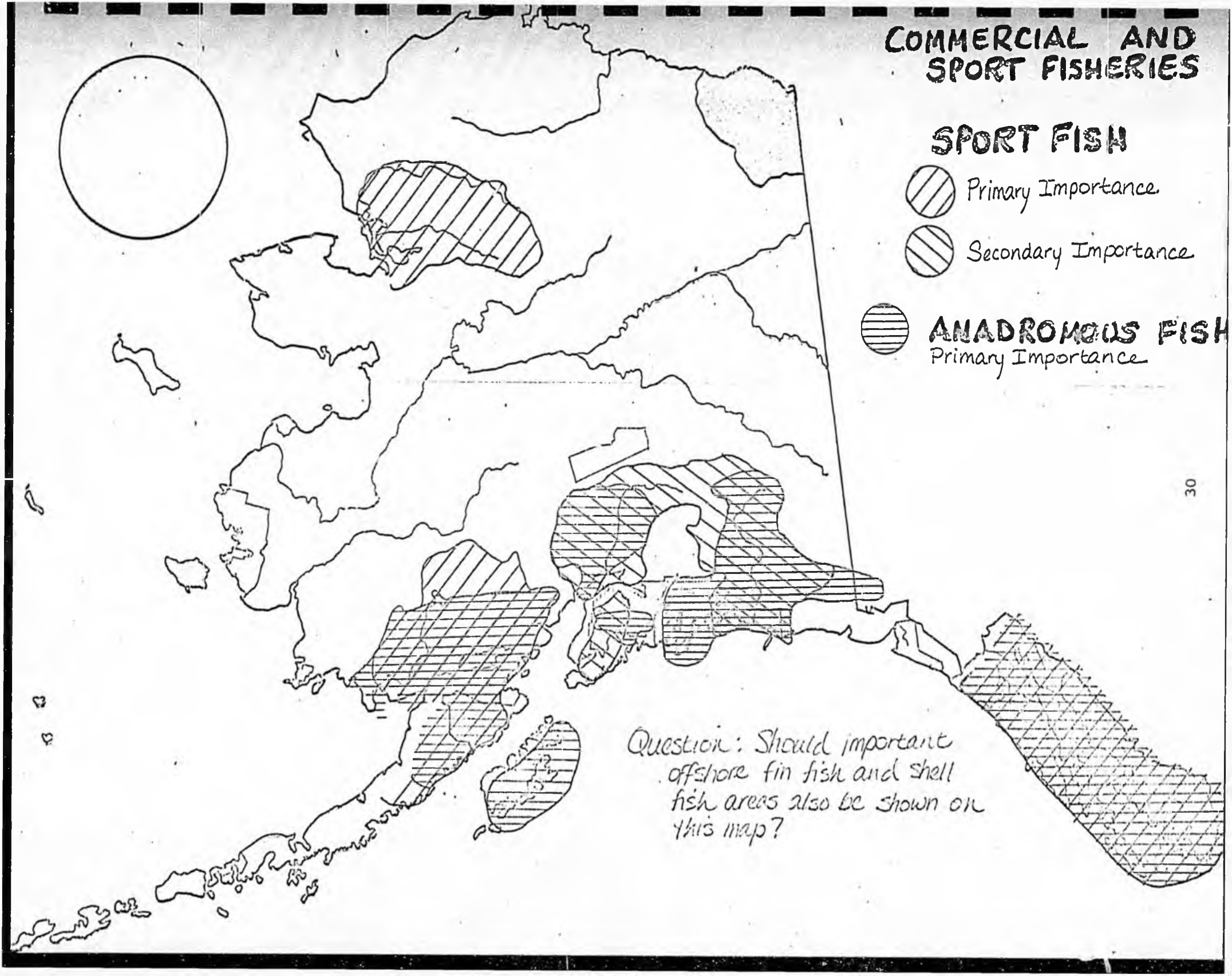
Alaska's marine waters are generally productive for a variety of sea life. Some areas providing particularly fine habitat for fin or shellfish are shown on the map. Inland rivers and lakes are important, with greater productivity generally occurring in the southern part of the State.

Lakes and streams support many fish including five kinds of salmon, steelhead and rainbow trout, lake trout, Dolly Varden, Arctic char, northern pike, various white fish, and Arctic grayling. Some of these fish attract sport fishermen from all over the world. Trophy size is attained in some waters, and many areas with marine and freshwater fishing opportunities are highly rated. Fly-in fishing to remote lakes and streams is a common activity. Marine and fresh waters accessible by road are crowded with fishermen, especially on weekends and holidays.

Alaska's fish are also ecologically important in food chains and nutrient cycles. Anadromous fish, especially, are an important food source for other animals such as the brown-grizzly bear, bald eagle, and beluga whale.

Significant spawning, rearing, and migration habitat for anadromous and freshwater fisheries, occur on Federal, State, and private lands. Recent land selections by Alaska Native corporations border many miles of stream and lakeshore. Commercial, subsistence, and recreational fishery values are intimately interrelated and are discussed in the Renewable Resources section to follow.


MARINE MAMMAL
COASTAL HABITAT
Ribbon Seal
Ringed Seal
Bearded Seal
Pacific Walrus
Steller Sea Lion
Northern Fur Seal
Harbor Seal present along entire Alaskan sea coast.
Sea Otter (also present throughout Aleutian Is)
Fur Seals managed by international treaty on Pribilof Island critical habitat


COMMERCIAL AND SPORT FISHERIES
SPORT FISH
Primary Importance
Secondary Importance
ANADROMOUS FISH
Primary Importance
Question: Should important offshore fin fish and shell fish areas also be shown on this map?
30

Almost all lakes and streams in Alaska have been designated "important to spawning and rearing of anadromous fish" by the State of Alaska and, as such, all developmental activities are subject to review and approval by the Alaska Department of Fish and Game.

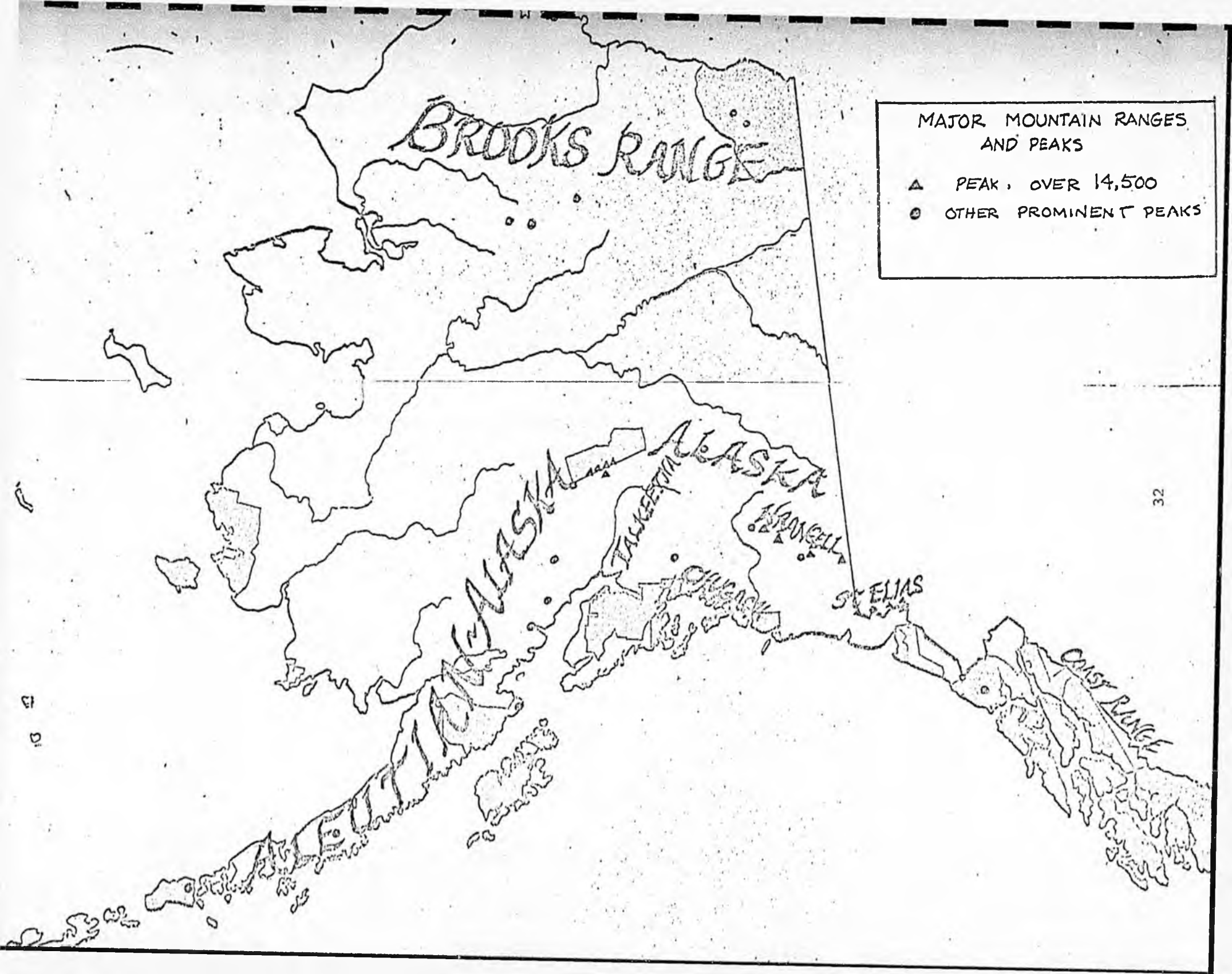
Additions or new units proposed for inclusion in national conservation systems contain a diversity of generally undisturbed aquatic habitats. Proposed areas particularly notable for fishery and habitat values are in the vicinity of Iliamna Lake and, to a lesser degree, the Togiak area to the west and along the Alaska Peninsula. The Iliamna and Togiak areas are included in most proposals. Notably rich marine waters contained in some national interest proposals include the Kenai Fiords area and the northern coastal waters and lagoons of the Seward Peninsula.

SCENIC VALUES AND LANDSCAPES

Alaska has a diversity of landscapes, from broad low wetlands to high mountains and lake-dotted coastal plains to rain-drenched rugged coastlines. Large scale landforms of the State are divided into four major physiographic divisions: (1) Pacific Mountain System; (2) Intermontane Plateaus; (3) Rocky Mountain System; and (4) Interior (Arctic) Plains. These divisions are all northern extensions of physiographic divisions in the northern conterminous states and western Canada from the Pacific coast to the Great Plains. The four major divisions in Alaska are subdivided into 12 prominent physiographic provinces and many sections and subsections, each being relatively homogeneous in its landform characteristics. Each physiographic province is based on particular topography that characterizes it. In addition to the mountain systems of various kinds that will be discussed, there are other landforms prominent in parts of Alaska. Interior Alaska, the northernmost arctic Alaska, the Yukon Delta, and the western sector of the Alaska Peninsula contain several nearly flat extensive lowland basins between the mountains or coastal plains. The arctic foothills zone north of the Brooks Range contains mesas and long sections of linear cuestas. Perhaps not as spectacular as rugged mountains, these other landforms often possess scenic qualities, afford valuable wildlife habitats, and are expressions of various geologic events and processes.

Mountains

Seven major mountain ranges, the Coast Range in Alaska's southeastern "Panhandle", and the St. Elias, Wrangell, Chugach, Alaska-Aleutian, Talkeetna, and Brooks Ranges, traverse portions of the State. Three of these ranges include the 16 tallest peaks in the Nation and several of the highest in North America, including the continent's highest, Mt. McKinley at 20,320 feet. The Brooks Range, the only mountain system in the United States north of the Arctic Circle, contains peaks with elevations from 4,000 to 9,000 feet. Several other mountain ranges with elevations of 3,000 to 6,000 feet are located in interior and western


BROOKS RANGE
MAJOR MOUNTAIN RANGES AND PEAKS
PEAK, OVER 14,500
OTHER PROMINENT PEAKS
ALASKA
TAKEETNA
ST. ELIAS
COAST RANGE
32

Alaska. Alaska's mountains represent several kinds of mountain building processes, and outstanding examples related to size, local relief, origin, or glacial and water sculpturing are found in the State. When comparing Alaska's mountains with those in the rest of the United States, it is significant to note that all of of Alaska's mountains rise from sea level or near sea level elevations.

For the most part, the major Alaska mountain ranges remain in Federal ownership, although the State has selected a significant portion of the Talkeetna Mountains, sections of the Alaska and Brooks Ranges, portions of the Chugach Mountains, and large areas of lesser mountain ranges. There are few large privately owned tracts in mountainous areas.

Portions of the major ranges except the Wrangell and Talkeetna Mountains, and 11 of the Nation's 16 highest peaks are currently contained in existing national parks, wildlife refuges, and forests.

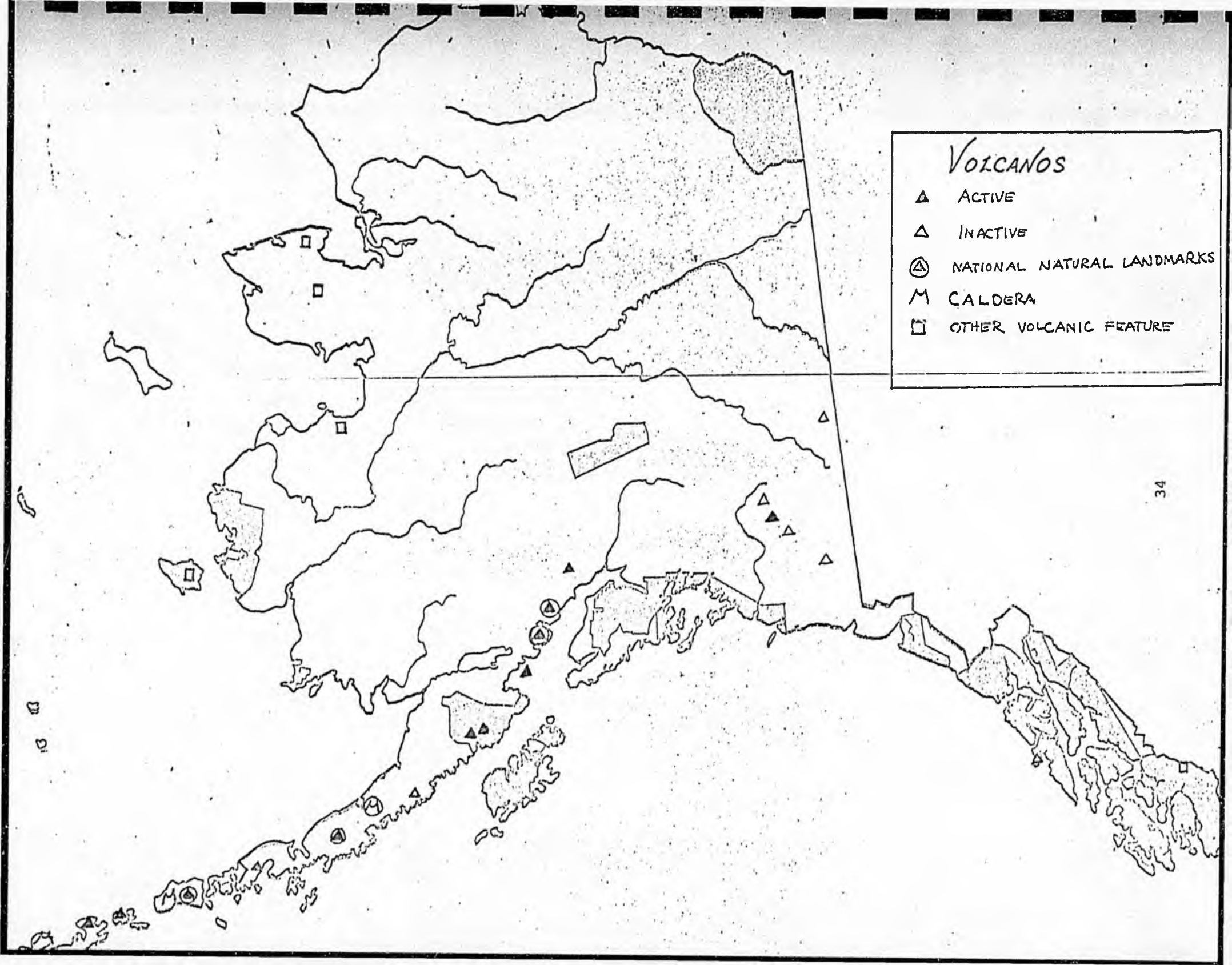
Proposals now under discussion for national interest reserves would designate areas of varying size within major mountain ranges not currently represented in national conservation systems, most notably in the central Brooks Range and in the Wrangell Mountains. Reserves proposed in the Brooks Range contain from 14.6 to 31.8 million acres, and those including the Wrangells contain from 8.6 to 18.1 million acres. Additions to the existing Mt. McKinley National Park in the central Alaska Range and to the Tongass National Forest from the Coastal Range are incorporated in almost all proposals. Portions of the Aleutian Range, southern Alaska Range, and Chugach and St. Elias Mountains are also included in most proposals.

Volcanos

Alaska has over 100 volcanos, 40 of which are considered active. Nearly all of the active volcanos in the United States are in Alaska. These are located primarily on the Alaska Peninsula and Aleutian Islands where there is considerable tectonic activity. Several of Alaska's volcanos are noted for their relatively recent activity and resulting features. Others are known for their height, symmetry, or scenic beauty.

Nearly all of the volcanos and other volcanic features in Alaska are on Federal lands. Twenty-four of the active volcanos are located in three existing national wildlife refuges and the Katmai National Monument. Various volcanic features are shown on the accompanying map.

In proposed legislation, Aniakchak Volcano, Mount Wrangell, and the three highest extinct volcanic peaks of the Wrangell Mountains are generally proposed for park status. Iliamna and Redoubt Volcanos are


VOLCANOS
ACTIVE
INACTIVE
NATIONAL NATURAL LANDMARKS
CALDERA
OTHER VOLCANIC FEATURE
34

within a land unit variously proposed as a park, forest, or other category. Mount Spurr, a third nearby volcano, is included in one of the park proposals. One or both of the volcanic fields on the Seward Peninsula are proposed by most bills for inclusion in units of various kinds.

Glaciers and Glacial Features

The Nation's largest glacier systems are associated with Alaska's major mountain ranges. Alaska has about 10.9 million acres of glaciers and icefields, most of which border the Gulf of Alaska. Glaciers of all kinds abound, including piedmont, valley, mountain, cirque, rock, hanging, and surging types. Major tidewater glaciers, fiords, moraines, sculptured mountain peaks, and other glacial features are identified on the map.

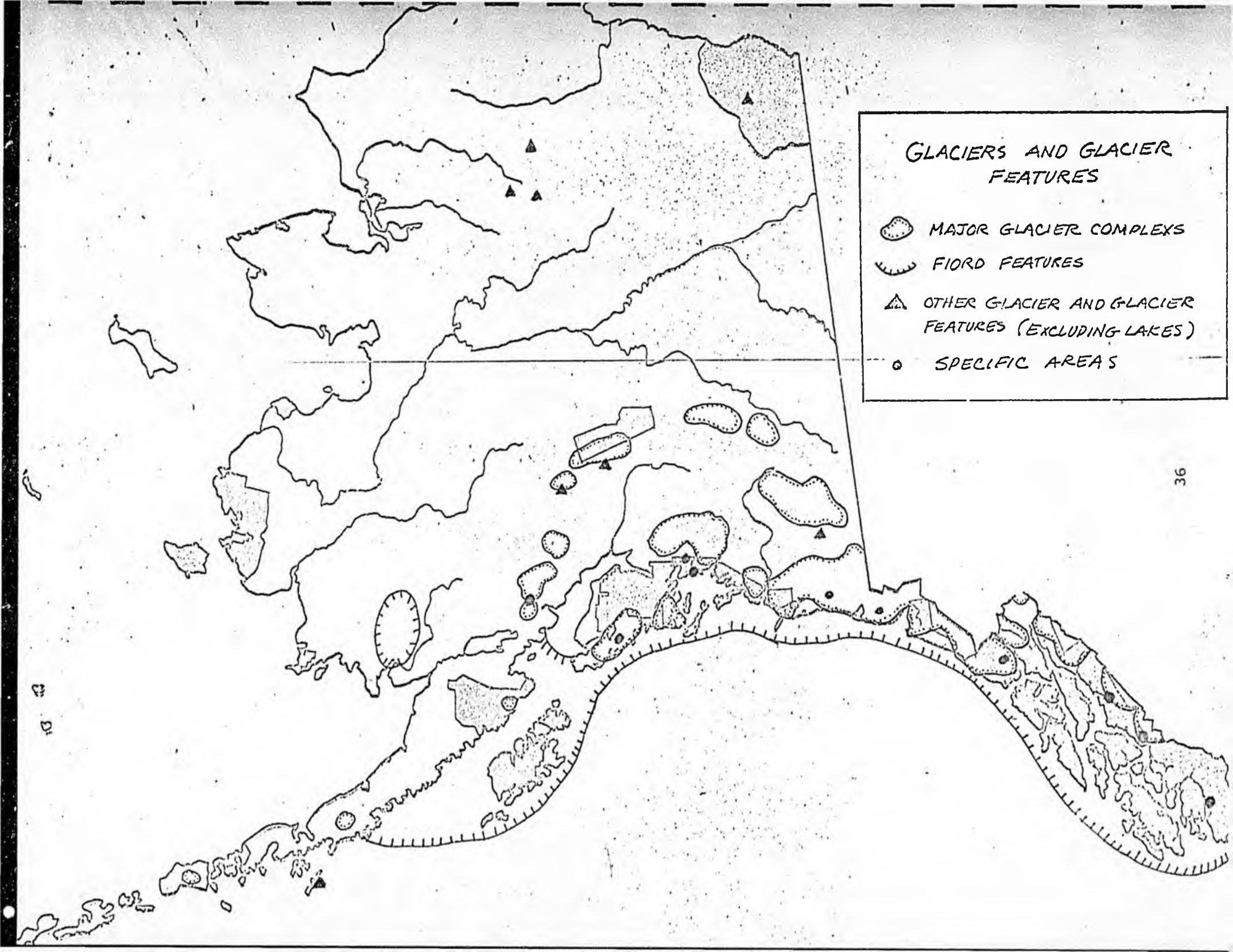
Most glaciers, icefields, and fiords are on Federal lands. The State of Alaska has selected some glacier and fiord areas, most notably in the Kachemak Bay State Park and in the Wood-Tikchik Lakes area currently proposed as a State Park. Portions of the Wood-Tikchik Lakes are also in private ownership. Substantial private land on Kodiak Island borders many of the fiords located there.

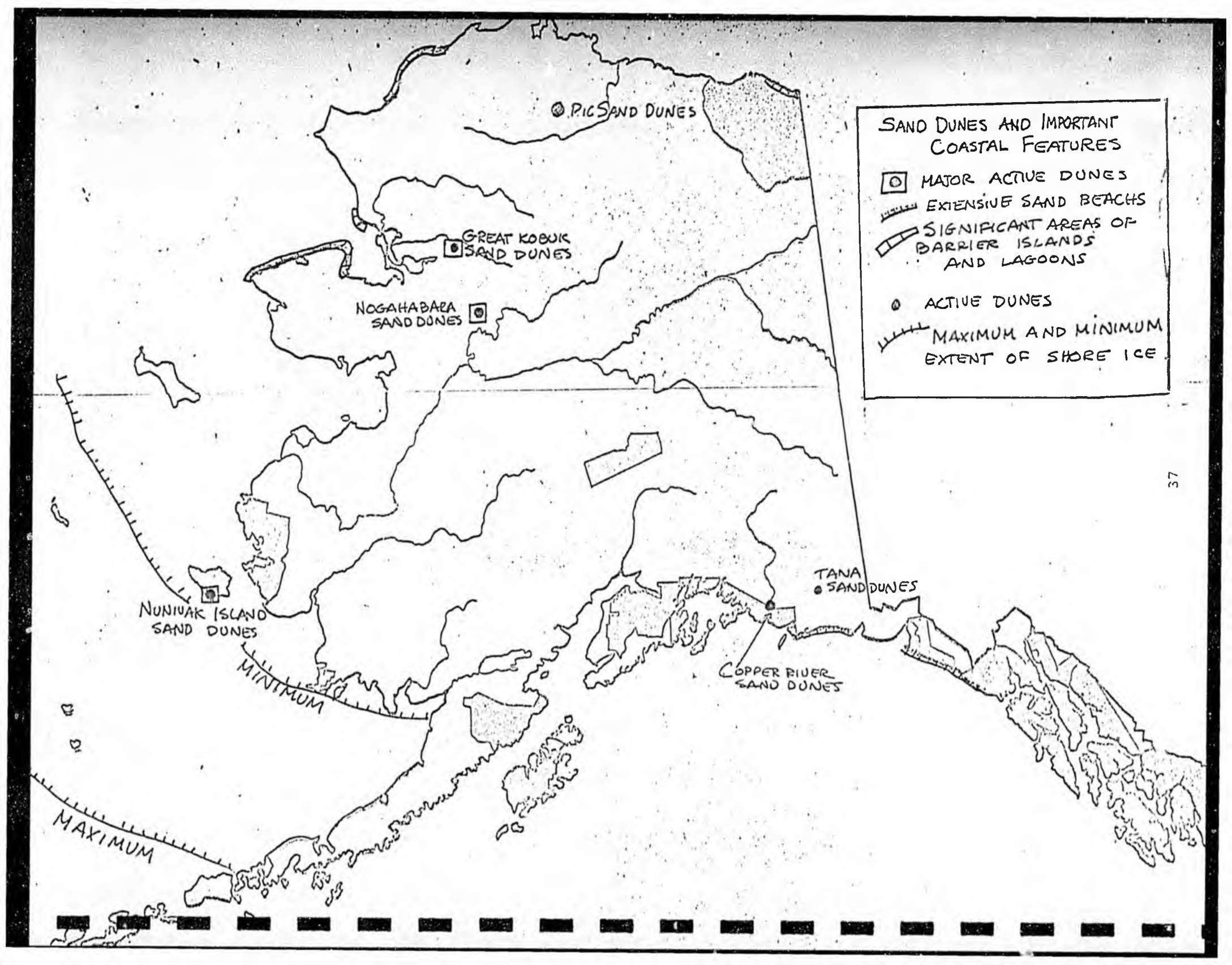
Most bills propose areas containing glaciers and glacial features for new units in the national conservation systems. These areas are in the Wrangell-Chugach-St. Elias Mountains and Coast Range, in the Harding Icefield-Kenai Fiords area, along the southern flank of the Mt. McKinley massif, in the vicinity of Lake Clark Pass, adjacent to Katmai National Monument, and in the central Brooks Range. One bill proposes units for wilderness designation in southeast Alaska that contain glacial features centered around the Rudyerd Bay-Walker Cove area, the Le Conte Glacier, and the Stikine River area.

Sand Dunes

Several sand dune areas are scattered around Alaska as indicated on the map. Little current recreational use is made of Alaska's sand dunes. Some of the sand dune areas are of scientific interest because of their arctic or subarctic settings and the nature of ecological succession in these areas. Prominent among these eolian landforms are the Great Kobuk Sand Dunes and the Nogahabara Sand Dunes. These are areas of active dunes of different kinds and shapes found in larger areas of windblown soils now stabilized by vegetation. Other smaller active dune areas include the Pic Dunes of the Arctic coastal plain, dunes of the southern coast of Nunivak Island, and areas along the Tana and Chitina Rivers within the Chugach Mountains. All of these are on Federal lands. Dunes of Nunivak Island are protected in the national wildlife refuge containing the island, and the Pic Dunes are included in the Teshekpuk Lake special management area of the National Petroleum Reserve-Alaska.

Proposals for preserving these landforms include parkland status for the Great Kobuk Sand Dunes in an area ranging from 0.11 million to 1.9


GLACIERS AND GLACIER FEATURES
MAJOR GLACIER COMPLEXS
FIORD FEATURES
OTHER GLACIER AND GLACIER FEATURES (EXCLUDING LAKES)
SPECIFIC AREAS


SAND DUNES AND IMPORTANT COASTAL FEATURES
MAJOR ACTIVE DUNES
EXTENSIVE SAND BEACHS
SIGNIFICANT AREAS OF BARRIER ISLANDS AND LAGOONS
ACTIVE DUNES
MAXIMUM AND MINIMUM EXTENT OF SHORE ICE
PIC SAND DUNES
GREAT KOBUK SAND DUNES
NOGAHABARA SAND DUNES
NUNIVAK ISLAND SAND DUNES
TANA SAND DUNES
COPPER RIVER SAND DUNES
MINIMUM
MAXIMUM

million acres. The Nogahabara Sand Dunes are included in a larger area proposed as a forest or a wildlife refuge. The lesser sand dune areas of the Tana or Copper Rivers are contained in large areas proposed for park, forest, or wildlife refuge designation.

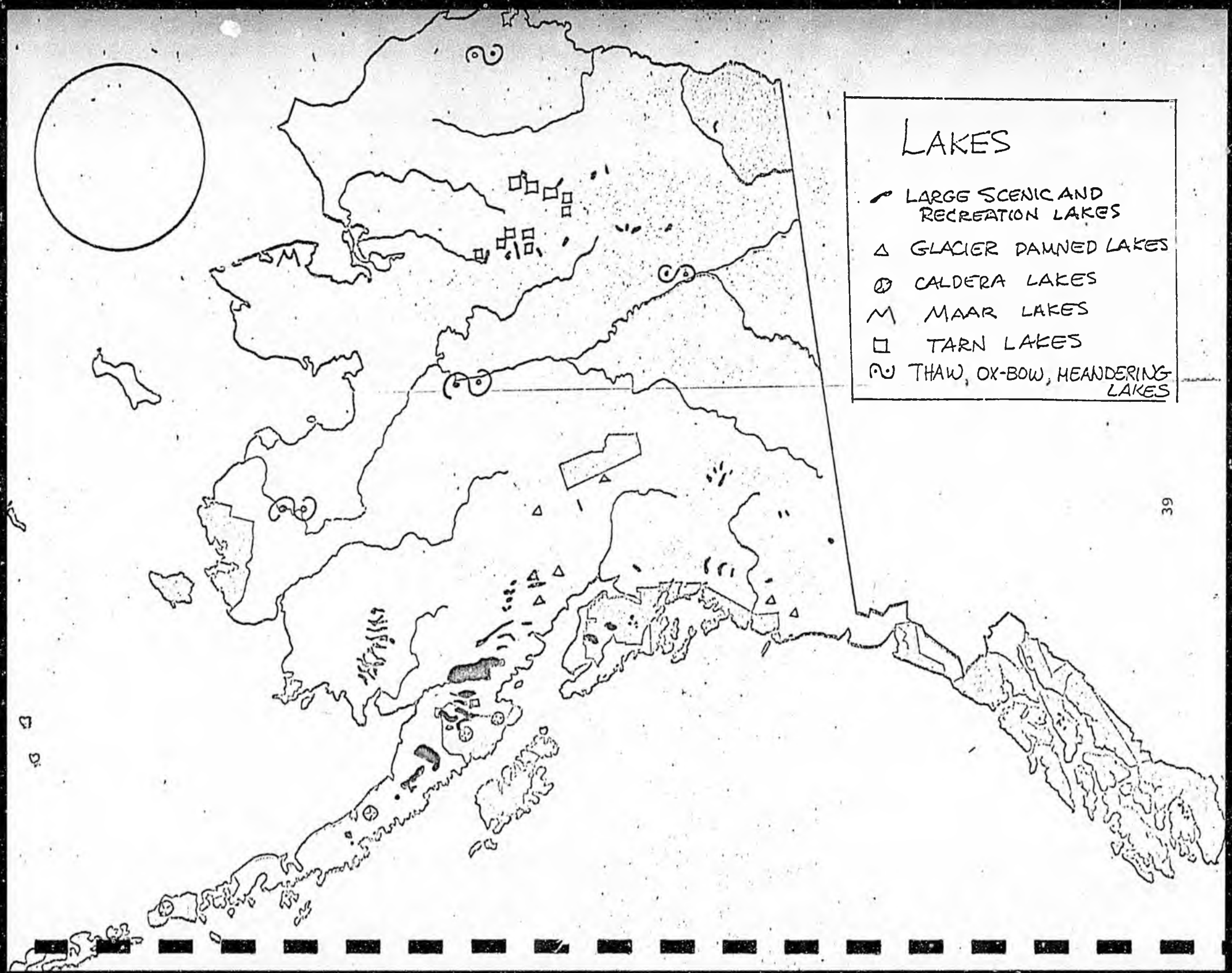
Coastal Features

Alaska has about 34,000 miles of ocean coastline, including beaches, occasional bluffs and cliffs, lagoons, and barrier islands along the northern and western coasts. Aleutian Island coasts are more rocky and irregular, and the complex coasts bordering the Gulf of Alaska have numerous deep bays, fiords, islands, peninsulas, pocket beaches, precipitous cliffs, and a few notable and extensive stretches of sandy beach. Shorelines facing the Gulf of Alaska are often pounded by high waves. Pack ice pushes against the Arctic Ocean and Bering Sea coasts most months of the year, though the Bering Sea ice forms later and breaks up earlier than farther north. Ice forms in some of the protected coves of the southern coast during cold spells.

Most of Alaska's coastline remains in Federal ownership, although about 10-15 percent will soon be in private corporate ownership with the transfer of title to Native corporations. Private lands are particularly extensive along Alaska's western coast, the eastern coast of the Alaska Peninsula around Cook Inlet, and on the Kodiak Island group. The State of Alaska has selected lands along the Arctic coast, the western coast of the Alaska Peninsula, around Cook Inlet and along the northern Gulf of Alaska. With large existing national interest reserves in the Arctic (the Arctic National Wildlife Range and National Petroleum Reserve-Alaska) and around the Gulf of Alaska, a large portion of Alaska's coastlines can be expected to remain in Federal ownership. Other existing national conservation units along the Bering Sea and along the Alaska Peninsula and the Aleutian Islands assure that a significant portion of these coasts will also be retained by the Federal government.

The accompanying map identifies those areas of high scenic value or unique or rare coastal formations that may be of national interest. Other coastal values for waterfowl, seabird, and marine mammal habitat and of paleontological or archeological interest are discussed in other sections of this chapter. Natural harbors are referenced in the section on natural access.

All proposals for new national interest units in Alaska currently under discussion include substantial shoreline. Legislative options for the eastern Alaska Peninsula coast vary widely from two short segments in one proposal to the entire coastline in another. Most proposals contain shoreline along the western side of Cook Inlet and on the Gulf of Alaska around the Kenai and College Fiords and Malaspina Glacier. One proposal calls for inclusion of extensive lands bordering the northern Gulf of Alaska, which have been selected by the State. Including existing national conservation designations, new proposals could incorporate about half of the total Alaska coastline.


LAKES
LARGE SCENIC AND RECREATION LAKES
GLACIER DAMNED LAKES
CALDERA LAKES
MAAR LAKES
TARN LAKES
THAW, OX-BOW, MEANDERING LAKES

Lakes

The State contains about 3 million lakes of 40 acres or larger and 94 lakes which are greater than 10 square miles in area. Most of the lakes are found in the interior and coastal lowlands. Iliamna Lake is the seventh largest in the Nation and 20 lakes in Alaska are among the 34 deepest lakes in the country, exceeding 250 feet in depth. Freeze up and thaw dates vary, but most lower elevation lakes are open from June through September. Many mountain lakes are not open until July. Alaska's lakes often serve as transportation routes and are extremely important in providing aircraft access to remote areas for recreation, subsistence activities, and resource exploration.

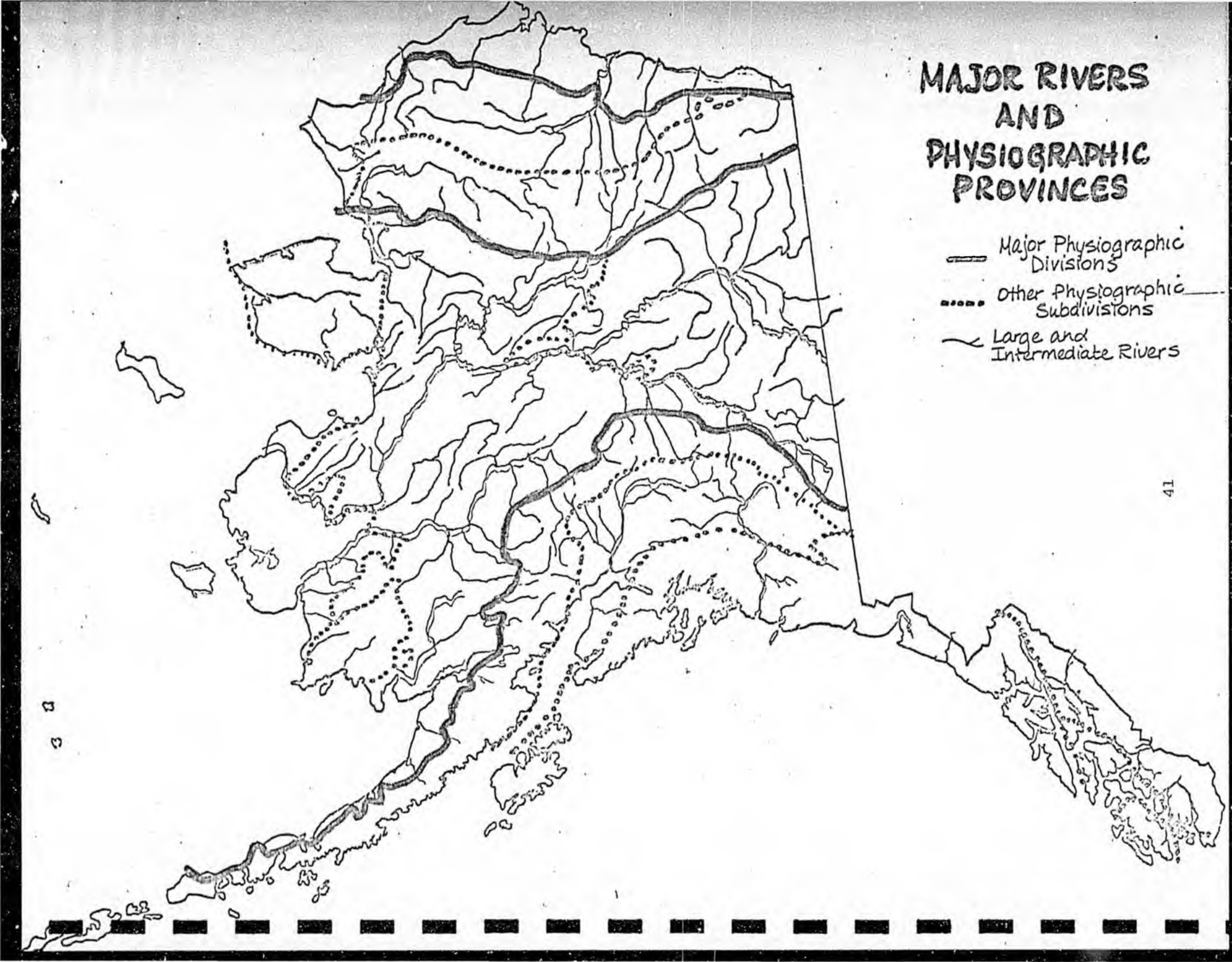
Recreational use of Alaska's lakes generally includes sightseeing, camping or picnicking, boating, fishing, and some swimming in warmer water. Because of their physical and biological characteristics, habitat, or other values, some lakes and their environs may not be suitable for intensive recreational use or shoreline development. Most lakes, with the exception of several near Alaska's largest cities, do not currently receive intensive use, relative to recreational lakes in the conterminous states. The geographical location of the major lake types, as well as Alaska's larger lakes with notable scenic values and recreational potential, are shown on the accompanying map.

Federal lands contain the greatest number and variety of lakes. Except for the maar lakes, which are found only on the Seward Peninsula, existing national conservation system units contain representative samples of all lake varieties. State and private selections also encompass many lakes or shoreline portions of larger lakes, resulting in mixed ownership around some significant larger lakes. The State has title to the submerged lands of navigable water bodies in most instances.

Most national interest proposals contain the different kinds of lakes across the State. Some contain a greater number of variety of lakes. Two proposals do not contain all lake types.

Rivers

Alaska has an estimated 10,000 free-flowing streams and rivers totalling more than 365,000 miles in length. The Yukon River, which drains 40 percent of the State, is the fifth largest in the Nation. Most waterways remain largely unaltered from their natural state. Rivers with glacial origins carry heavy silt loads in the summer, but many streams flow cl . except when flooding. Streams flow through rugged mountains and rolling uplands or meander placidly through lowlands. White water rapids are not uncommon. Varying gener lly with latitude, Alaska's rivers are usually frozen over by November or December with breakup occurring in April or May. Based primarily on runoff, Alaska has nine large rivers, the largest being the Yukon and Kuskokwim. Lower reaches of three other large rivers flow from Canada through southeastern Alaska. The largest compare with the Ohio and Mobile Rivers in size, and the


MAJOR RIVERS
AND
PHYSIOGRAPHIC
PROVINCES
Major Physiographic Divisions
Other Physiographic Subdivisions
Large and Intermediate Rivers

latter group with the Susquehanna, Illinois, and Willamette Rivers of the conterminous states. There are about 125 rivers in Alaska of intermediate size roughly comparable to such rivers as the Klamath in California and Patuxent in Maryland. These Alaska rivers are portrayed on the accompanying map.

Most communities are located on riverbanks or along the coast. Many of Alaska's waterways are used as transportation corridors for hauling freight, subsistence activities, and recreation. Recreational use of rivers occurs primarily as boating and fishing in the summer and early fall months. Swimming is not a major activity. During winter, some frozen waterways provide a thoroughfare for recreational travel by foot, dogsled, or snowmobiles. Some rivers are presently accessible by road, but most are remote from large population centers.

Considerable shoreline along the larger rivers and some tributary streams will be in private ownership with the transfer of title to Native corporations, including approximately one half the course of the Yukon River.

From 40-90 rivers have been identified within Alaska by the Bureau of Outdoor Recreation, various recreational groups, and others knowledgeable about Alaska rivers as water bodies of potential national interest. Some are representative examples of free-flowing clear-water and glacial streams of diverse character in the various natural regions of the State. Some have outstanding recreational potential for boating, hunting, fishing, or hiking alongside. Scenic features along the rivers may include colorful bluffs, canyons, rock outcroppings, mountains, rapids, falls, or a variety of vegetation. Wildlife observation opportunities are afforded by some, and others have prehistoric, geological, and paleontological values.

Many of these rivers have received detailed study by the Bureau of Outdoor Recreation and others, and studies of additional rivers are planned. Most, but not all, of the rivers are on Federal lands. About one-fourth of the rivers or segments are on State-selected lands. Private lands occur along some of the identified rivers. Some of the rivers are contained in larger areas proposed for national parks, forests, wildlife refuges, or other special land categories. To date, no Alaska rivers have been designated as wild or scenic rivers in the national system.

All proposals for national interest lands include rivers and segments of varying character. Some rivers have been identified for their recreational potential particularly in the context of wilderness recreation. Up to 23 rivers and as few as 3 rivers have been legislatively proposed for wild, scenic, or recreational designation in addition to comparable rivers within larger proposed national conservation units. As many as 8 rivers proposed for special designation are wholly or partially within existing national forests or wildlife refuges. A few legislative proposals do not address any wild and scenic river recommendations.

Most proposals call for immediate designation of identified rivers. Another proposal would place most rivers into a potential wild and scenic river classification to be evaluated further in the context of surrounding land use planning.

Vegetation

Alaska is covered by about 183 million acres of three major classes of tundra, 140 million acres of four broad classes of forest, 28 million acres of high and low brush and bog systems, in addition to 23.8 million acres of glaciers, lakes, and streams. Alaska's plant communities provide food and shelter for people and wildlife that have differing needs.

Forest communities of Alaska are present in most regions except the far western, northern, and southwestern portions of the State. Tundra systems predominate in the Brooks Range and Arctic lowland, on the Seward Peninsula, and on large areas of southwestern Alaska including the Alaska Peninsula and Aleutian Islands. Alpine tundra is largely found on mountain slopes above the tree line throughout the State, while wet tundra prevails in the coastal lowlands bordering the Bering Sea and Arctic Ocean.

Allocation of the four classes of forest lands is approximately as follows:

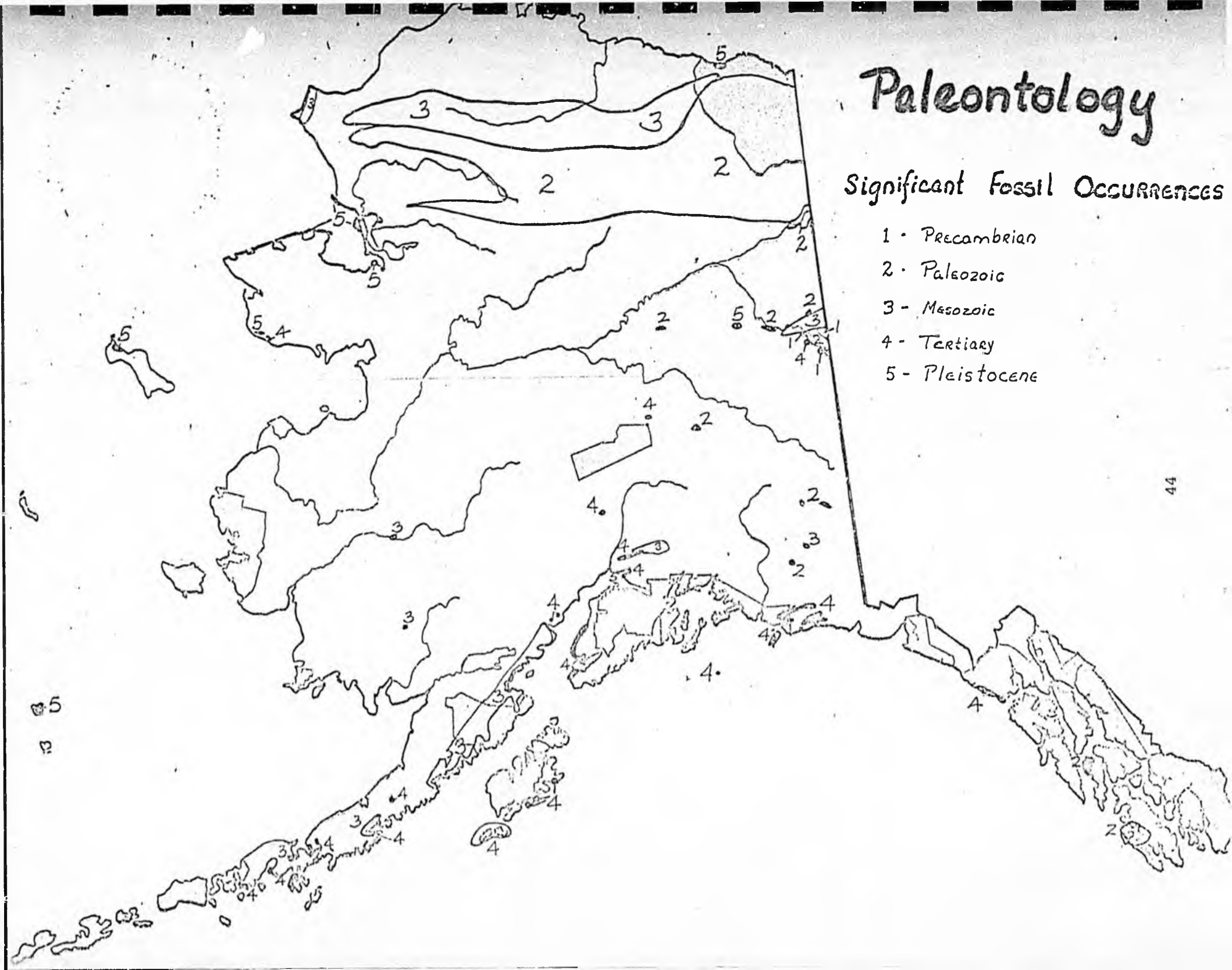
	Federal	State	Private
Coastal western hemlock-Sitka spruce	87%	6%	7%
Bottomland spruce-hardwood	58	20	22
Upland spruce-hardwood	64	24	12
Lowland spruce-hardwood	69	19	12

Additional State land selection could increase the percentage of State ownership in all categories except the coastal western hemlock-Sitka spruce forest.

The tundra communities are largely in Federal ownership, though substantial tracts are held by the State and private corporations.

With the exception of the coastal forest, all major plant communities are unique to Alaska, though there is some similarity in plant composition with communities of the northern states. The coastal western hemlock-Sitka spruce forest is the northern extension of the Pacific forest of coastal Oregon and Washington. The boreal forests of interior Alaska stretch eastward across Canada, but do not extend to the conterminous states.

Representative examples of the tundra, forest, and brush classes are presently contained in varying degrees in units of national conservation systems, with one exception. The bottomland spruce-hardwood forest occurring along major waterways of the interior is not included. The Tongass and Chugach National Forests contain a highly significant portion


Paleontology
Significant Fossil Occurrences
1 - Precambrian
2 - Paleozoic
3 - Mesozoic
4 - Tertiary
5 - Pleistocene

of the coastal Pacific forest. Katmai National Monument at the northern end of the Alaska Peninsula contains the southwestern-most extension of the interior boreal and coastal forest. The farthest north boreal forest is contained in the Arctic National Wildlife Range.

Proposals for new units or additions to national conservation systems generally include a wide variety of the major plant communities, as well as their subcommunities or variations. All proposals include varying amounts of all of Alaska's major vegetative classes, including the bottomland spruce-hardwood.

Paleontological Values

Known fossil remains of various kinds and from several periods of geologic history are located in several areas of Alaska. They range from pre-Cambrian to Quaternary in age.

Some scientifically noteworthy fossil occurrences based on rare, unique, or exemplary qualities are located on the accompanying map. Rare pre-Cambrian fossils are found in an area along the upper Yukon River, the only known site in northwestern North America.

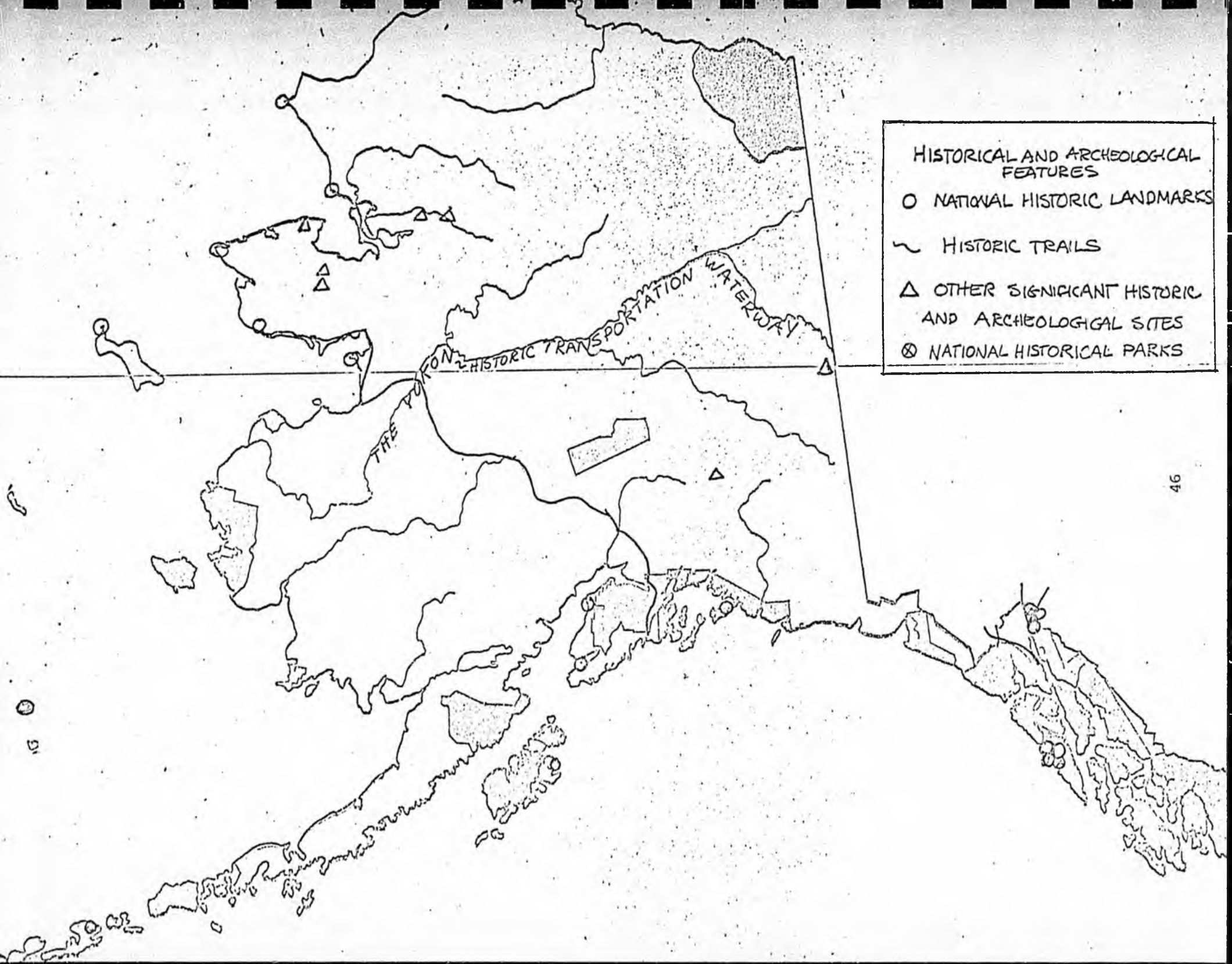
Several coastal sites have permanent scientific importance in international correlation of certain prehistoric events. A remarkably complete record of middle into late Mesozoic sediments rated as one of the better sections in the western hemisphere lies along the southeastern coast of the Alaska Peninsula.

Relatively small, but, in some cases, key portions or areas of fossil occurrences will be in private ownership. State lands also contain all or portions of several areas. The greater amount of acreage of fossil occurrence areas, however, will remain in Federal ownership. Some of the areas identified on the map are contained in existing national conservation system units.

Nearly all the proposals contain all or part of the areas of fossil occurrence described. Areas across the Brooks Range are contained, though only two bills have units that extend into the fossil-bearing Arctic Foothills to any significant degree. Fossil occurrences in the upper Porcupine River and at Capes Krusenstern and Espenberg are entirely contained in all proposals. Most proposals include the upper Yukon River area, though containment of significant rock strata varies from a narrow corridor to a much broader unit.

Historical and Archaeological Values

Alaska's historical and archaeological values derive from several prehistorical or historical periods. Principally, they are the prehistoric crossing of people from Asia to North America over the Bering Land Bridge and early aboriginal settlement; Russian discovery, settlement and rule of Alaska; and the late nineteenth and early twentieth century gold rushes.


HISTORICAL AND ARCHEOLOGICAL FEATURES
NATIONAL HISTORIC LANDMARKS
HISTORIC TRAILS
OTHER SIGNIFICANT HISTORIC AND ARCHEOLOGICAL SITES
NATIONAL HISTORICAL PARKS
THE YUKON HISTORIC TRANSPORTATION WATERWAY
46

Sites related to these historical periods are shown on the accompanying map. Sites of rich archaeological evidence of prehistoric cultures and early settlement have been located and researched in the State, particularly in the coastal areas. Most, however, remain largely unexplored. Remains of old Eskimo, Indian, and Aleut settlements are found throughout the State. Information on Alaska's historical and numerous archaeological sites is incomplete, but expanding.

Three areas in northwestern Alaska have known sites related to aboriginal culture and significant potential for further discovery. They are Cape Krusenstern, the Onion Portage Historic District on the Kobuk River, and the Seward Peninsula. Additionally, there are other identified sites of known significance mostly on private lands. Structures from or influenced by the Russian period have been preserved or restored at Kodiak and Sitka, sites of the first and last capitals of Russian America, and at Unalaska and Kenai. Sites, routes, and remnants of the gold rush days are scattered throughout most of Alaska. Though still recent history, World War II has special significance to Alaska because it was a U.S. Territory attacked and partly occupied by a foreign nation and became a focus for U.S. military action. Relics of the foreign invasion, ensuing American fortifications and battle sites, are scattered near Seward and Kodiak and southwestward along the Aleutian Islands to Attu.

by recent land selections, private Native corporations soon will acquire title to numerous sites along the coast and major rivers which have evidence of past Native cultures. The State has also acquired or selected lands of historical interest and has designated four sites to preserve features or commemorate significant periods in Alaska's past. Federal lands contain a great number of sites and considerable potential for further discovery. Sixty-five Alaska sites are now listed in the national Register of Historic Places, including 18 designated national historic landmarks. Several landmarks of Alaska Native, Russian, and gold rush significance are preserved and protected in the Sitka and Klondike Gold Rush National Historical Parks, and in Alaska's monuments, forests, and several wildlife refuges.

Most, but not all, proposals contain units on the Seward Peninsula and at Cape Krusenstern. While most proposals cover known sites, potential for future discoveries varies with the size of the proposed units. The Seward Peninsula unit varies from 1.5 to 4.5 million acres. However, the larger proposed units may be predicated more on protection of natural features than historic or prehistoric values.

ECOSYSTEMS - A SUMMARY

In the preceding sections, wildlife and scenic features have been identified and discussed separately as natural values of particular national interest. However, biota and their environments are not independent of each other, but function together through many interrelationships in ecosystems.

Alaska's ecosystems are unique to the United States. These associations of people, plants, animals, and their physical environment, though similar to some areas in the conterminous states, differ in many respects in plant and animal species, landforms, soils, and climate. The natural interrelationships of these systems are relatively undisturbed, and Alaskans in rural areas are strongly interwoven in the systems through their harvest of animals and plants.

When describing ecosystems, they are frequently tied to areas of characteristic vegetation which reflect certain soil types, wildlife, and other factors. They may be oriented to physiographic units or climatic zones. Or they may be specifically delineated to conform to the habitat of a particular animal species. Sometimes identification of ecosystems is predicated on a complex of these elements.

There is increasing public interest in preserving and maintaining representative as well as unique ecosystems for their scientific and other values. Additionally, there is concern for the well-being or functioning of the biological components in special land and water areas in parks, wildlife refuges, wilderness, other preserves, and along the coastal zone.

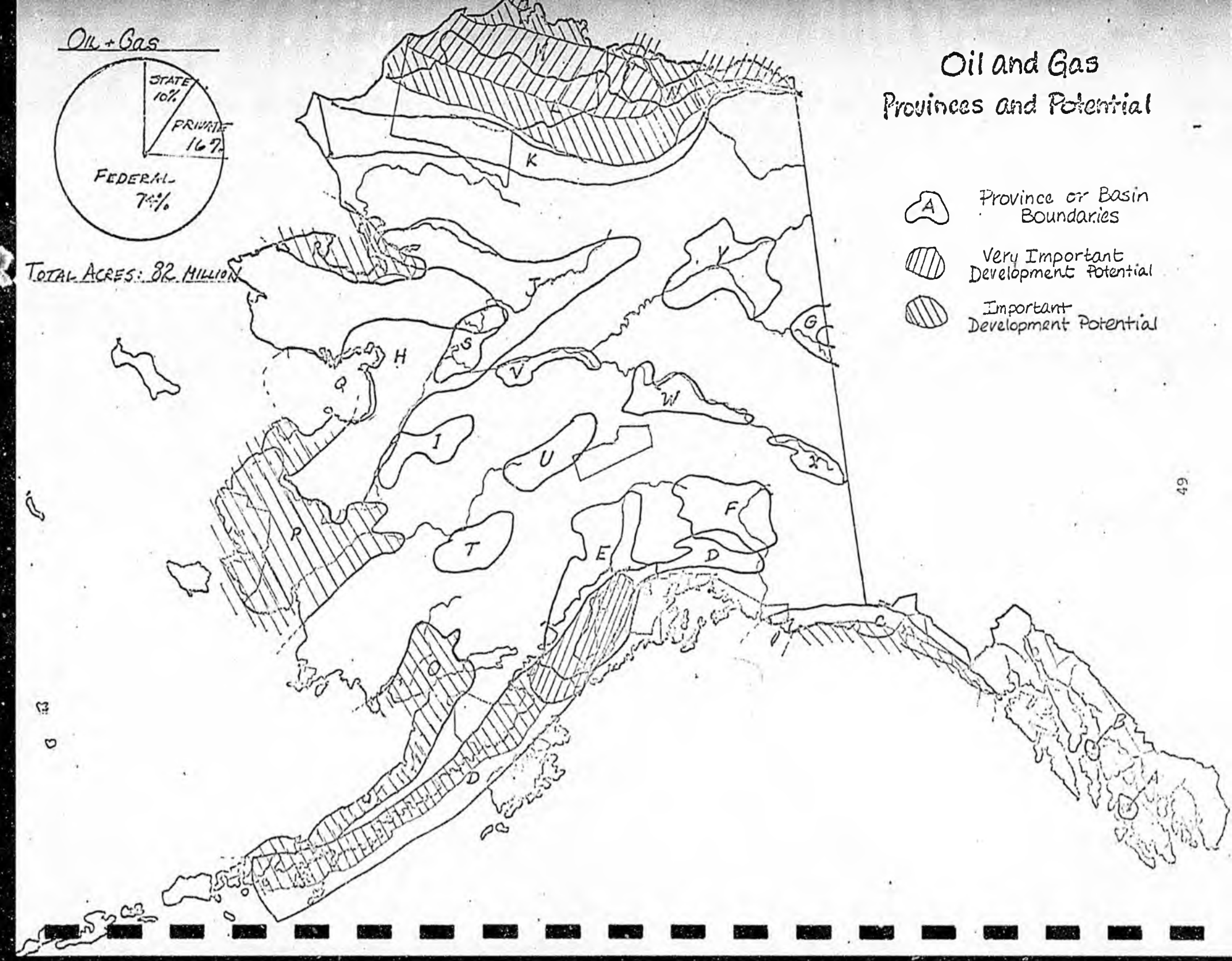
Except for smaller relatively discrete ecosystems, it appears that the land ownership of larger systems in Alaska will generally be shared by the Federal and State governments and private corporations. The mobility of some wildlife species makes it often difficult to circumscribe entire stable ecosystems under one ownership or administrative category. In addition to migratory birds, there are some marine mammals and anadromous fish whose ecosystems extend well beyond the State of Alaska. Large caribou herds range over many millions of acres. Wolves hunt over many miles of territory, and bear and moose may range extensively.

Most of Alaska's major ecosystems are represented to varying degrees in existing units of the national conservation systems. Some watersheds and wildlife habitat integrally related to existing national parks and refuges are not incorporated within their boundaries. Additions to these units, as well as national interest designations of discrete ecosystems and portions of more extensive ecosystem units, are now under discussion.

ENERGY RESOURCES

Oil and Gas

There are 23 possible petroleum provinces and basins in Alaska and its continental shelf. Production is ongoing from the Swanson River field in the Kenai National Moose Range and in upper Cook Inlet, and will commence near Prudhoe Bay on the North Slope as soon as the trans-Alaska oil pipeline is completed. Exploratory drilling has occurred in at least eight of the 23 petroleum provinces, and government-conducted


Oil + Gas
STATE 10%
PRIVATE 16%
FEDERAL 74%
TOTAL ACRES: 82 MILLION
Oil and Gas
Provinces and Potential
Province or Basin Boundaries
Very Important Development Potential
Important Development Potential
A
B
C
D
E
F
G
H
I
J
K
P
Q
R
S
T
U
V
W
X
Y
49

seismic exploration and test drilling will continue on National Petroleum Reserve-Alaska for three more years. Almost 1,000 wells have been drilled in Alaska and 19 proven oil and gas fields have been discovered totalling about 450,000 acres. Major oil corporations have entered into contracts with six regional Native corporations for exploration on private lands. Outer Continental Shelf (OCS) leases in the Gulf of Alaska province have been let and other lease sales in the lower Cook Inlet province may be scheduled in the near future. The State is currently considering lease sales in several State-owned areas. Other Federal OCS lease sales are also scheduled during the next several years, including a possible Federal-State lease sale being considered for a coastal portion of the Beaufort Sea.

Alaska has approximately 82 million acres of land having good potential for oil and gas based on rock structure data and possible reservoir size. Of the 60 million acres of Federal lands with petroleum potential 45 percent are in the following classifications:

national parks: 1.8 million acres
national wildlife refuges: 6 million acres
national forests: 0.5 million acres
National Petroleum Reserve-Alaska: 18.9 million acres

These lands are not available for additional State selection, with the exception of about 400,000 acres of national forest lands.

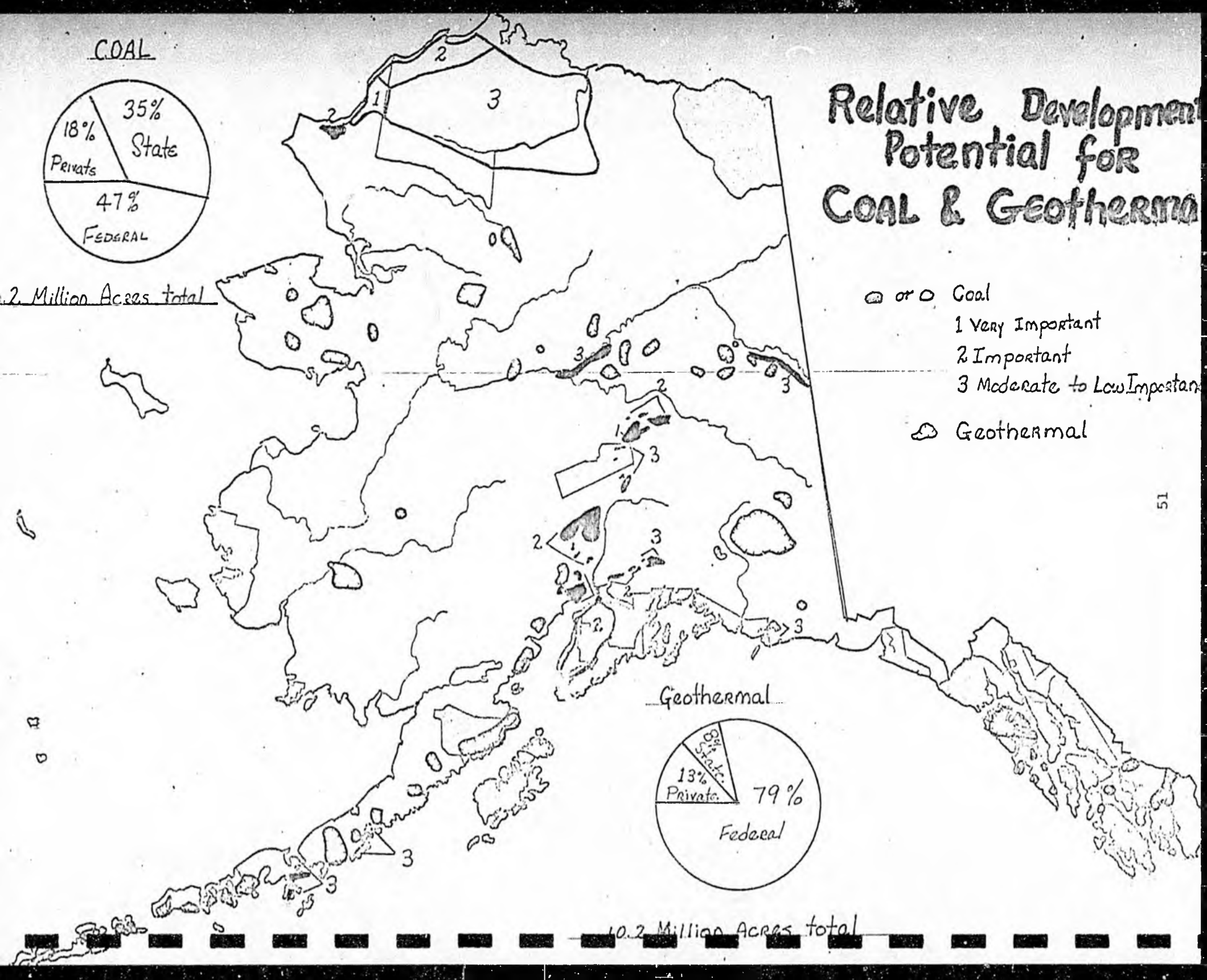
Oil from Alaska's reserves, which far exceed local needs, will mostly be exported. Transport of oil and gas in Alaska, especially from the remote northern regions, may be dependent upon pipelines to reach ice free, deep water ports, or distant overland markets. Unlike many natural resources in Alaska, market prices for oil are sufficiently high to compensate for exceptional costs of development in Alaska and create a current demand for the State's supplies.

The range of proposed parklands contains from 0.5 million to 6.3 million acres of land with oil and gas potential, and proposed refuge lands contain 2 million to 10 million acres of potential. Pending final decisions by Congress on these park and refuge additions, up to 22 million acres of Alaska's land with oil and gas potential will remain in the Federal public domain or reserves where petroleum development could be allowed. However, one legislative option would include all Federal lands having oil and gas potential within proposed wildlife refuges. Petroleum provinces frequently occur in areas of prime lowland waterfowl habitat or in rich offshore marine habitats. Pipelines or other means of petroleum transport will cross wildlife habitat and may traverse the migration routes of some species.

Coal

An estimated 130 billion tons of coal may be found in Alaska with major deposits concentrated in central Alaska and the northwestern Arctic. Alaska coals, usually characterized by low sulfur content and large deposits, are predominately subbituminous, and generally have high water

Relative Development Potential for Coal & Geothermal



and ash contents. The largest deposits of coal occur in lowland Arctic regions containing extensive permafrost, which may present technical difficulties. Some coal deposits adjoining the northwest Arctic coast may have coking characteristics. The Nenana coal field is Alaska's operating mine, currently producing for local markets. Of the 23.4 million acres of land having with known and potential coal deposits in Alaska, 6.2 million acres have been identified to be relatively important based on size and type of deposit, accessibility, and market demands.

Most of Alaska's coal must be strip-mined and each operation will require access roads or other means of bulk transportation. Costs of coal production in Alaska, particularly of the remote Arctic fields, will be relatively high and may forestall development.

Of the 6.2 million acres of land with important coal potential, almost 30 percent is located in the National Petroleum Reserve-Alaska. Fifteen percent of the areas with important coal potential are in existing parks and refuges, and up to 5 percent have been contained within proposed new parks and refuges before Congress. No additional coal deposits are contained in any new parks or refuges in one legislative proposal.

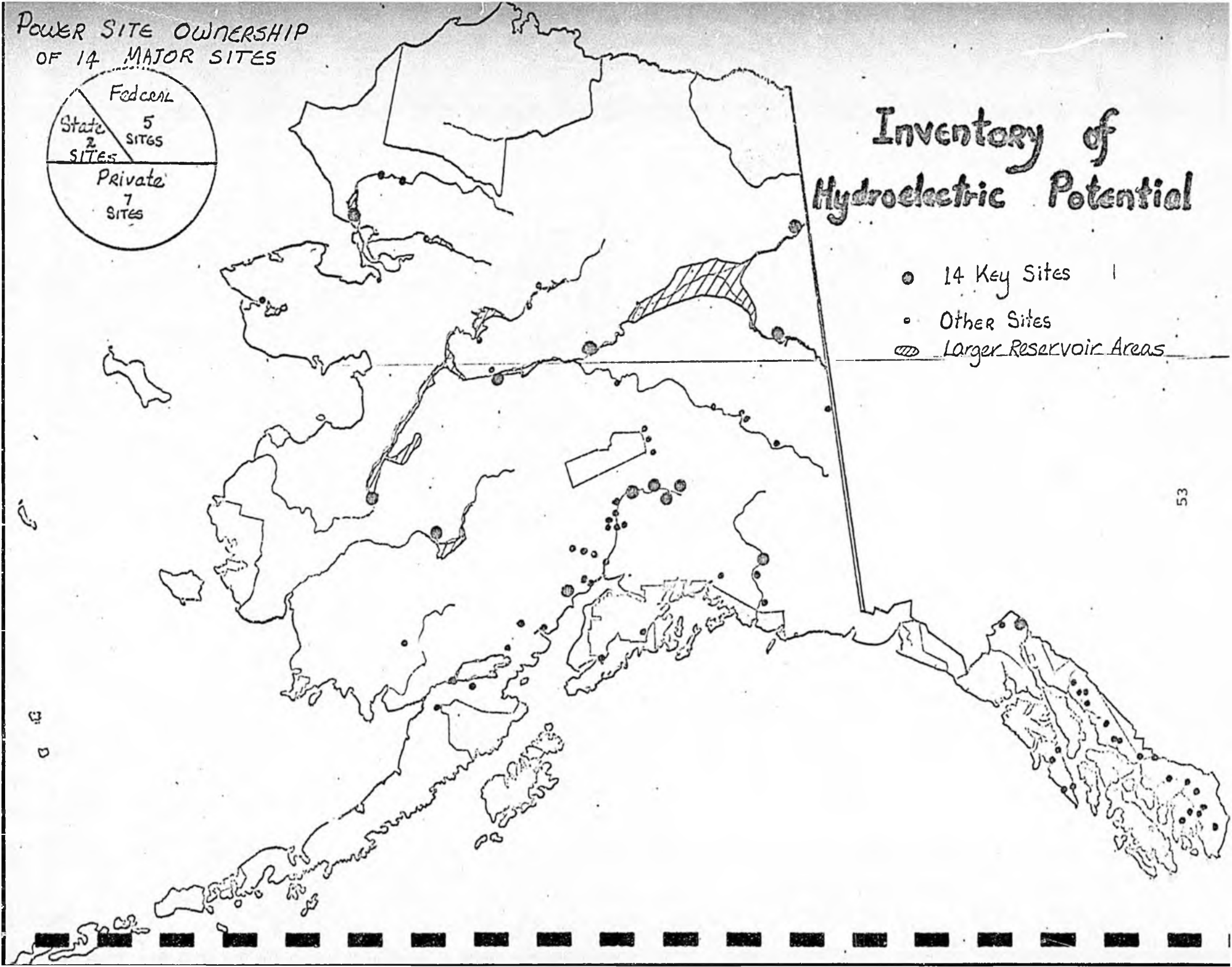
Geothermal

Approximately 75 areas with geothermal energy potential totalling 10.2 million acres are located in Alaska. Those areas with highest potential for energy generation are in the Wrangell Mountains and on the Alaska Peninsula and the Aleutian Islands. Utilization of geothermal resources might include the transfer of heat to nearby communities for space heating or small scale agricultural purposes. Some sites, if found suitable, might be used for on-site electrical energy generation. On-site development may be accompanied by unusually high noise levels. Most geothermal areas are distant from markets which may delay their development.

Existing parks and refuges currently contain 13 percent of Alaska's land with geothermal energy potential, and proposed legislation in Congress contains an additional 19 to 36 percent land with potential within new parks and refuges. Depending upon congressional action on these reserves, 27 to 47 percent of Alaska's land with geothermal possibilities will remain in other Federal ownership where geothermal development could occur. National forests, refuges, or other Federal reserves that are not available for additional State selections contain about one third of the lands in the State having geothermal energy potential. Many of the identified areas lie within mountainous regions or zones of historic volcanic activity having high scenic or scientific values.

Hydroelectric

Seventy-six hydroelectric sites involving relatively low development costs have been identified. Most of these sites are located in central and southeastern Alaska. Twenty-nine are located on lands already incorporated in existing units of the national conservation systems,


POWER SITE OWNERSHIP
OF 14 MAJOR SITES
Federal
5
SITES
State
2
SITES
Private
7
SITES
Inventory of
Hydroelectric Potential
14 Key Sites
Other Sites
Larger Reservoir Areas
53

primarily the Tongass National Forest. Several sites, including some with the highest electrical generation potential and largest reservoirs, are located along major interior river drainages, most notably the Yukon River.

Eleven key major projects involving 14 sites, totalling 23 million kilowatts of installed capacity, are considered to have good potential based on regional distribution, physical suitability, and costs. Eight of these projects have potential installed capacity of at least one million kilowatts each, giving an installed capacity as large or larger than the John Day Dam on the Columbia River or the Hoover Dam on the Colorado River.

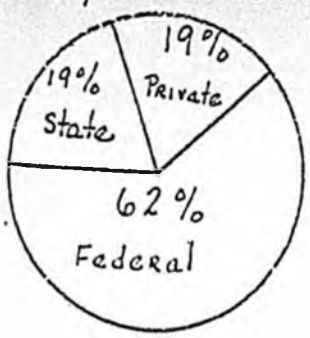
Of these 14 major potential sites, 2 are on State-selected land and 7 are projected to be in private ownership. Five are on Federal lands. None of these major sites or significant portions of their reservoirs are in any existing units of the national conservation systems.

The installed capacity of Alaska's hydroelectric plants that are already in operation is a little over 123,000 kilowatts, with government projects accounting for approximately 60 percent. These projects have been developed at two sites in southcentral where the bulk of the State's population lives, and at 12 sites in southeastern Alaska. Together they produce 16 percent of the State's total electrical energy.

Potential reservoirs at the 14 sites range from 106 square miles (Wood Canyon), to 10,000 square miles (Rampart), often encompassing wildlife, waterfowl, and salmon spawning habitat. One site would utilize an existing 26-square-mile lake and would cause no additional inundation. The development of hydroelectric projects may also affect downstream wildlife habitat, soils, vegetation, and aquatic habitat by regulating or eliminating fluctuating seasonal water flow. Development of three of the 14 sites could affect proposed national interest lands downstream. A number of the proposed projects (mainly on the Yukon) would decrease flood danger to downstream communities, while other communities upstream would have to be relocated to avoid inundation by reservoirs. Potential commercial forest lands and a number of sedimentary basins with potential for oil and gas or uranium would be affected to varying degrees, depending on the number and location of the sites developed. (The Rampart project would inundate one fourth of Alaska's soils with good agricultural potential, according to the Soil Conservation Service.)

Four of the 14 sites and major portions of four reservoirs of the other sites are contained within the spectrum of parks and refuges that have been proposed in Congress. Of the remaining six sites and reservoirs, five are on State or private land near urban areas where a combined annual output of 7.7 billion killowatt hours could be developed. The remaining project has its entire watershed and reservoir on the upper Yukon River in Canada with only generating facilities in Alaska. Its potential annual output is 21.0 billion kilowatt hours.

TOTAL ACREAGE –
78.9 MILLION



Sedimentary Basins
Having Uranium Potential

55

In a 1974 report, the Alaska Power Survey projected that in 1990, Alaskans would require 13.3 billion kilowatt hours of electrical power, and 27.5 billion kilowatt hours by the year 2000. These are mid-range projections based on current trends and growth rates. Low and high projections for the year 2000 range from 14.9 to 58.1 billion kilowatt hours.

Because of the great distances and high costs involved, it is unlikely in the near future that Alaska could meet a portion of the electric power or water demands of the rest of the United States, except possibly to supply energy for local processing of nationally significant resources found within the State.

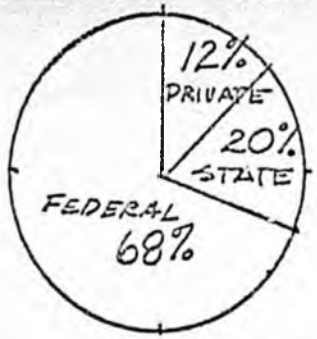
Uranium

Nineteen sedimentary basins favorable for uranium totalling 78.9 million acres are found in low-lying areas around the State. About 34.6 million acres of the lands with uranium potential are in classifications that are not available for State selection, including 16.6 million acres of potential uranium lands in National Petroleum Reserve-Alaska. There is currently no extraction, but some preliminary sampling and fly-over exploration efforts are underway. Low-lying basins with uranium potential often occur in areas of prime habitat for waterfowl and other wildlife. Seven percent of Alaska's land with uranium potential is contained in existing parks and wildlife refuges. An additional 6 to 7 percent of the land with uranium potential is contained the range of proposed new parks and refuges before Congress. Depending on the final size and location of these proposals, 25 to 28 percent of Alaska's land having uranium potential will remain in other Federal classifications where uranium development could be allowed. If uranium development in Alaska becomes feasible, it is likely to involve open-pit mining and floatation mills. The feasibility of an enrichment plant in Alaska would probably depend on an abundance of inexpensive coal or other fuel, and an adequate infrastructure.

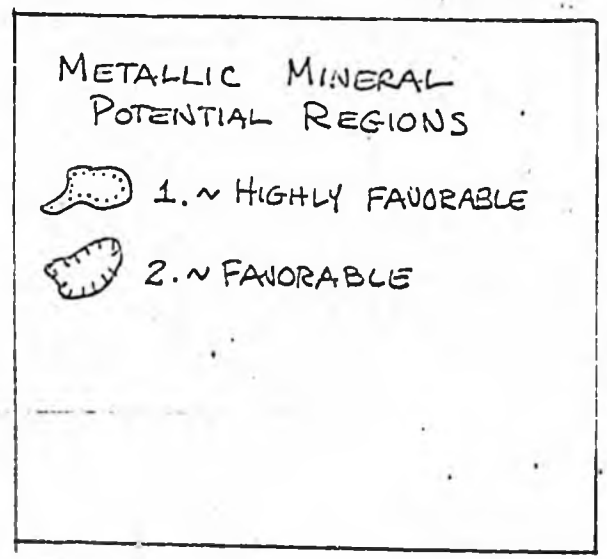
MINERAL VALUES

Alaska contains 18 important minerals that are of national interest. With the exception of gold and barite, all these minerals appear in the 1976 study by the Office of Technology Assessment, being updated in 1977, or the Stockpile Goals list of the Federal Preparedness Agency, October 1, 1976. Gold is included because of its increased use by the electronics industry. Barite is included because the entire statewide demand for barite-rock drilling needs can be met with Alaskan resources. The areas with the highest probability of containing these minerals are identified on the Bureau of Mines Metallogenic Provinces Map for Alaska. Those minerals addressed in this section are antimony, asbestos, chromium, copper, fluorine, gold, iron, barite, lead, mercury, molybdenum, nickel, platinum, silver, tin, titanium, tungsten, and zinc. Alaska also has uranium potential which is discussed in the Energy Values section.

METALLIC MINERALS



TOTAL ACRES ~ 257 MILLION



A number of recognized metallogenic provinces throughout the State have potential for antimony, asbestos, chromium, iron, nickel, platinum, titanium, copper, gold, silver, and molybdenum. Tin and tungsten have potential in several provinces in interior Alaska and on the Seward Peninsula. Provinces with lead and zinc potential are recognized to occur in southeastern, central, and northwestern Alaska. Provinces with potential for barite occur throughout the State, except in Western Alaska and the Alaska Peninsula. The Kuskokwim River area contains potential for mercury, and fluorine deposits are located on the western end of the Seward Peninsula.

Alaska is not the Nation's sole source of any of the identified minerals, though it may have relatively higher potential than other states where there is current extraction. Gold, lead, silver, and tin are currently produced in Alaska, but production is relatively small scale. In the past, Alaska has produced antimony, chromium, copper, gold, mercury, platinum, silver, tungsten, and zinc. Although mineral exploration efforts by both government and private industry are increasing, relatively little is known about Alaska's mineral potential compared to that of the rest of the United States. Future effective demand for Alaska's minerals will be influenced by additional resource information and changes in technology and international and domestic political factors.

The Bureau of Mines has estimated that 251 million acres in the State have some metallic mineral potential based on geological information, known deposits, and past mining history. Seven percent of these lands are included within existing national parks and wildlife refuges. Because the State has an interest in lands of high metalliferous mineral potential, it may make substantial future land selections on this basis. Approximately 46 percent of the Federal lands with mineral potential could be available for additional State selection.

The State, as well as a number of Native corporations, are conducting mineral explorations on lands they have selected. The Bureau of Mines and the U.S. Geological Survey are continuing their exploratory field work activities throughout the State. The Bureau of Mines has made particular efforts in the Brooks Range, central Alaska Range, Glacier Bay National Monument, and in the wilderness study areas in the Tongass National Forest.

With the important exception of oil and gas, high costs of production and exploration in remote Alaska may mean that only larger or higher grade mineral deposits will be feasible to extract in the foreseeable future. The harsh climate shortens the exploration and construction season, and acts to reduce productivity. Local markets are small and higher costs may make Alaska resources noncompetitive in worldwide markets. Lack of transportation and utility infrastructures in most areas of Alaska increase the required capital investment. For those

industries more labor intensive than the oil and gas industry, high salaries matching a cost of living 25 to 75 percent higher than that of the rest of the United States need to be taken into consideration in investment decisions.

Generally, underground mining is less likely to be economically feasible in Alaska except for gold and silver, or for very large higher grade deposits of other base metals. Lower grade underground mines may be precluded by high labor costs that could become more than 50 percent of the total operating cost. Consequently, most future mineral development in Alaska will probably be by open-pit methods.

The amount of land needed for an open-pit mine varies depending on the type of mineral(s) and the size of the deposit. The amount of land needed for a single mine in Alaska may vary from under 100 acres to over 1,000 acres. While only a few acres are needed for the actual mill site, the mine itself may cover several hundred acres. Related tailing piles and settling ponds may use at least as much land as the excavation site (often 2 or 3 times as much). Underground mines may need comparable acreage for milling, settling ponds, and tailings, although the mine itself will involve very little surface disturbance. In some cases, Alaska mining operations will generally need to be larger than other comparable U.S. Mines to be economically feasible in remote areas. Most will require ground transportation and/or nearby airstrips.

In some cases, winter haul roads have reduced or eliminated the need for a permanent access road for equipment and supplies. In the past, however, most extraction has taken place during the summer months. In the future, use of winter haul roads may continue and mining activity may be more likely to occur on a year-round basis.

Of the 170 million acres of Federal lands with mineral potential, 9 to 26 percent have been proposed for additions to new parks and refuges in a range of legislative options before Congress. If Congress establishes any of these legislative options, 107 to 137 million acres will remain in Federal ownership classifications where mineral extraction could be allowed. Due to the nature of geologic phenomena, minerals frequently occur in areas of high scenic beauty. Consequently, many areas proposed for additions to the national conservation systems contain both scenic and mineral values.

The following table summarizes some of the more important variables that may be addressed to determine the potential of the 17 minerals in Alaska of national interest that have been identified. The first column indicates what percent of the identified national resource is in Alaska. In some cases, little is known about a mineral's presence in the State, and some future discoveries may not be anticipated or reflected. The second column indicates if present or past production has taken place. The third column deals with the most likely methods of extraction and related primary processing and transportation needs. The fourth column mentions other factors that may be important in determining national interest in minerals in Alaska.

OF IDENTIFIED U.S. NATIONAL RESOURCE * INTEREST IN ALASKA		OR CURRENT PRODUCTION	TYPE OF OPERATION LIKELY IN THE FUTURE	OTHER FACTORS
Copper	9	Large past production	Mines would probably be open pit or large underground operations. On-site milling of the ore is required, and transportation of the resulting concentrate will require a road or other form of surface access.	If large quantities of copper are extracted from Alaska in the future, it may be possible to have one or more smelters located in the State.
Antimony	5	Past production; small current production in 1976.	Mines could be open pit or very high grade underground operations. Higher grade ores may not require on-site milling, and might be flown out. Lower grade product would require surface transportation.	In the past Alaska production has been from a number of small, high grade mines.
Silver	small	Past and current production	Mines could be underground or open pit. Underground mining for silver is more economically feasible than most other minerals because of its high unit value. On-site milling may not always be necessary. A high grade mill concentrate might be flown out. If by-products occur (antimony, copper, lead, zinc) then the ore will require surface transportation.	In Alaska silver is frequently mined as a principal product. Elsewhere in the U.S. 70 percent is mined as a by-product with other minerals.
Gold	no data	Past and current production	Mines could be placer, open pit, or high grade underground operations. Ore sometimes requires on-site milling. A high grade ore or mill concentrate could be flown out. Gold mine operations commonly produce large amounts of tailings.	In the past, Alaska has had a relatively high proportion of gold mines compared to the conterminous states.
Lead/ Zinc	no data	Past zinc production; and some current lead production	Mines could be open pit or large high grade underground operations. Smaller underground mines could be feasible if combined with high grade silver. The ore requires on-site milling and surface access for transportation.	Zinc has greater potential in than lead. However, they frequently occur together.

MINERALS OF NATIONAL INTEREST IN ALASKA	% OF IDENTIFIED U.S. RESOURCE *	HISTORIC OR CURRENT PRODUCTION	TYPE OF OPERATION LIKELY IN THE FUTURE	OTHER FACTORS
Nickel	3-9	None	Mines could be open pit or high grade underground operations. On-site milling of the ore is required. A higher grade mill concentrate might be flown out, but it generally requires surface transportation.	Most of the State's largest and and best known occurrences are located in Glacier Bay National Monument, which was recently closed to mining by Congress.
Barite	no data	Current production	Mines could be open pit or high grade underground operations. (Current extraction in Southeast is from below the mean high tide line.) On-site milling is required and surface transportation is needed for the milled product.	All current production in Alaska is used to make heavy drilling muds for use within the State. Additional production for Alaskan markets is to begin soon.
Platinum	up to 27	Past production	Similar to gold. All Alaska production to date has been from placer. The only platinum mine in Alaska or the U.S. closed this year after over 40 years of operation.	The future development potential for platinum in Alaska could increase if a cartel formed that would cause a substantial platinum price increase. Most of the world's platinum comes from South Africa, the United Kingdom, and USSR.
Chromium	less than 1	Past production	Mines would likely be open pit or possibly small shallow underground operations for high grade pods. A high grade ore may not require on-site milling. Low grade deposits would probably only be feasible near tidewater or existing transportation systems. Higher grade occurrences may be associated with a number of known ultramafic rock sequences in the State.	Current market prices appear to make Alaska production not economically feasible. But the possibility of a cartel by major producers could substantially increase the world price as well as Alaska's chromium development potential. Most of the world's chromium comes from South Africa USSR, Turkey and Rhodesia.
Tin	well over half	Past production	Mines could be open pit or placer operations. Open pit mines will require milling while the placer operations may not. A high grade ore or mill concentrate might be flown out. Lower grades need surface transportation.	The current international supply and demand is stable, but if market conditions change in the future, Alaska's tin resource could have increased development potential.

OF IDENTIFIED U.S. ATIONAL RESOURCE NTEREST IN ALASKA *	OR CURRENT PRODUCTION	TYPE OF OPERATION LIKELY IN THE FUTURE	OTHER FACTORS
Tungsten	less than 1	Past production	Mines could be open pit, high grade underground or possibly placer operations. All types would require on-site milling. Surface transportation for the mill concentrate would probably be necessary.	Sometimes tungsten occurs as a by-product from gold placer mines.
Fluorine	22	None	Mines would probably be open pit. On-site milling of the ore is required and surface transportation would be needed. (Financing needed for infrastructure costs may allow only large operations to be economically feasible.	Tentative production schemes have been proposed for a large deposit on the Seward Peninsula. However, its development may render the operation not economically feasible at this time.
Asbestos	no data	Insignificant past production.	Mines would probably be open pit operations. On-site milling is required and surface transportation for the mill concentrate would be needed. Asbestos mines will need at least 100 acres tailings, settling ponds, etc.	There has been some question about possible air or water pollution from the mine site resulting from waste fiber.
Molybdenum	3	None	Mines would probably be large open pit operations. The ore requires on-site milling, and the resulting concentarate needs surface transportation. Tidewater operations could utilize barges or ocean freighters.	A major deposit was recently discovered in southeast Alaska that could be developed in the future if environmental and marketing conditions allow.
Mercury	4	Past Production	Mines could be small to medium open pit or high grade underground operations. An on-site "retort" process (heat separation) would be required. Larger operations may also have milling. Retort product might be flown out.	Increased demand for mercury in the near future is in doubt due to industrial conservation efforts. In several decades, demand may increase again.

NERALS OF ATIONAL NTEREST IN	% OF IDENTIFIED U.S. RESOURCE IN ALASKA *	HISTORIC OR CURRENT PRODUCTION	TYPE OF OPERATION LIKELY IN THE FUTURE	OTHER FACTORS
Iron	7	None	Mines could be open pit or placer operations. On-site milling is generally required. The product needs inexpensive surface transportation like ocean freighters or railroad.	Some of Alaska's lode and placer beach deposits are magnetic which makes milling significantly cheaper.
Titanium	no data	None	Titanium would probably be mined as a by-product or co-product with iron near tidewater.	The Bureau of Mines has assessed the titaniferous content of many of Alaska's beach sand deposits and has not found high grade deposits.

*Office of Technological Assessment, 1976. This column reflects only known resources without regard to future potential discoveries.

RENEWABLE RESOURCES

Timber

Approximately 140.2 million acres of Alaska is forested, including 22.5 million acres of coastal forest and 117.7 million acres of interior forest stands. Coastal forests primarily of western hemlock and Sitka spruce with larger trees and higher growth rates are generally more productive than the interior forest types containing aspen, birch, balsam poplar, and black and white spruce in colder, drier climates. Of the 22.5 million acres of coastal forest, 5.6 million acres are considered commercial timber lands (based on annual growth rates of at least 20 cubic feet per acre). Wood volume for this area is estimated at 35 billion cubic feet.

Interior forest types fall into these three broad categories: lowland spruce-hardwood, bottomland spruce-poplar, and upland spruce-hardwood, totalling 117.7 million acres, with varied commercial potential. Existing parks and refuges contain about one percent of these interior forests lands. Existing national forests do not contain any interior forest types.

In 1968, the Forest Service's Alaska Forest Survey determined that 22.4 million acres of the interior forest types are defined as commercial, (based on the 20 cubic feet per acre annual growth), with a volume of 14.2 billion broad feet. This includes 9 billion cubic feet of merchantable trees 5 inches or larger in diameter. In 1976, in a report to Congress, the Forest Service reduced its estimate of commercial interior forest lands to 12.4 million acres. This more recent estimate excluded some forest lands on the basis of relative inaccessibility and high development costs. Bottomland forests along Alaska's major interior rivers often have larger tree size and higher growth rates. About half of these stands will be in State and private ownership. Upland spruce-hardwood stands on good sites on southerly slopes often have good growth rates also. About 36 percent of these upland forests are included in State or private ownership.

Large-scale commercial logging occurs primarily in southeastern Alaska, most of it within the Tongass National Forest, and, secondarily, on the southcentral coastal forest. Besides providing watershed and habitat values, Alaska's timber is utilized to produce pulp, cants, and chips, with a variety of uses. Very little dimensional lumber is produced, although some small mills, including several in the interior, produce house logs for local use. Generally, clearcutting is the only currently economically feasible method of timber harvest in Alaska. Because other U.S. markets for Alaska's resources are relatively remote, other Pacific Rim countries may be more likely to utilize Alaska forest products. Markets for Alaska's timber products are almost entirely foreign, with Japan the leading buyer. The timber industry in the Tongass National Forest is a major contributor to the southeastern local economy.

Tree species similar to those of Alaska's interior forests are found in Scandanavian countries where the harvesting of timber is relatively intensive. However, a generally milder climate and more highly developed social infrastructures presently increase the relative timber potential in Scandanavia.

Of the 117.7 million acres of interior forest land, legislation before Congress has incorporated from 6.2 to 28.5 million acres in proposed new parks and wildlife refuges. Up to 14.9 million acres of interior forest lands may also be included in proposed new national forests. Depending on the extent of new parks and refuges, 49.0 to 71.4 million acres of interior forest land could remain in other Federal classifications where timber harvest might be allowed. Some of this Federal land may be selected by the State of Alaska.

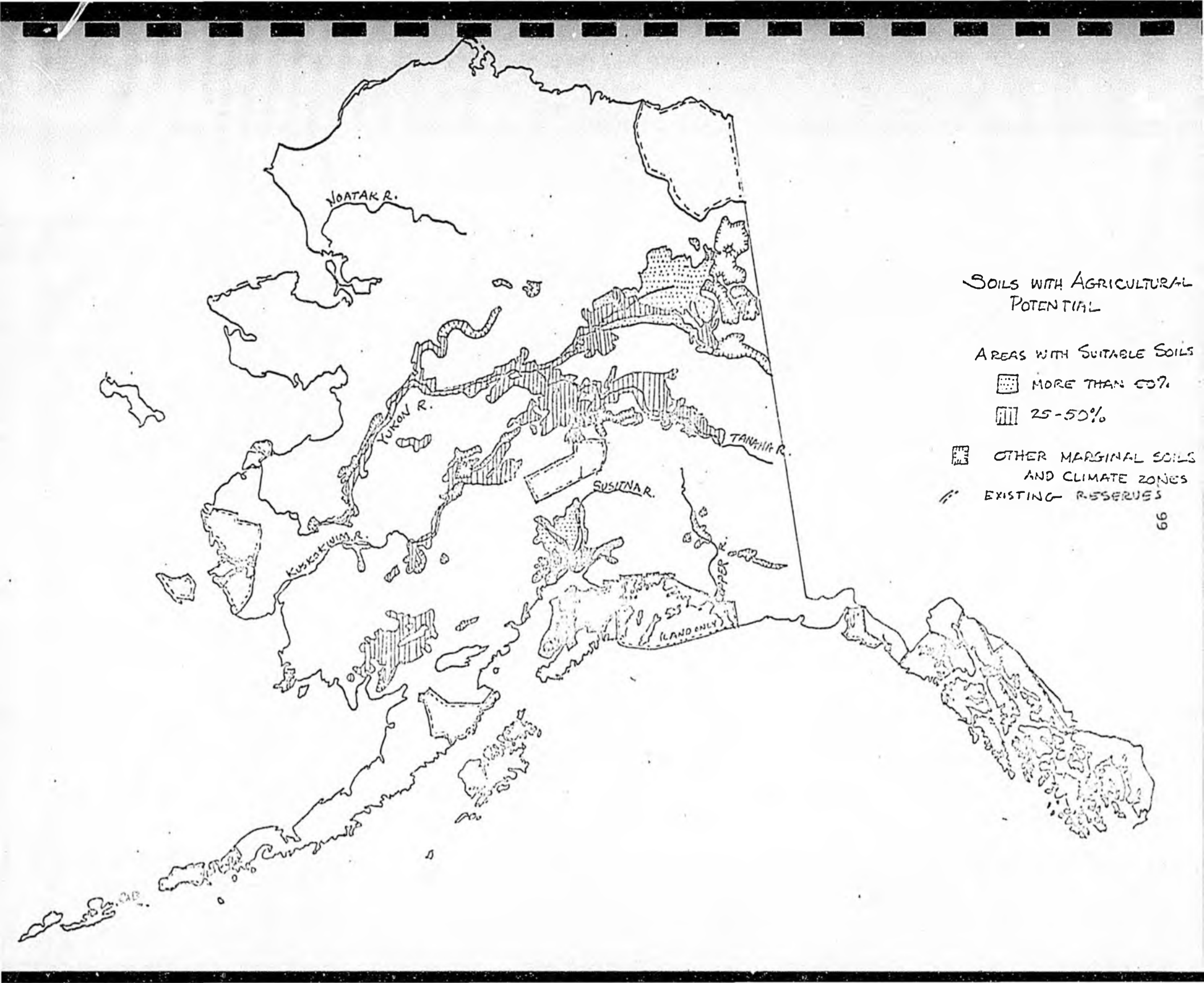
Cultivable Soils

Recent data from the Soil Conservation Service indicates that Alaska may have up to 102.3 million acres of soils with some agricultural potential. However, 81.9 million acres of this is considered poor because of severe soil, temperature, or rainfall limitations which are difficult to overcome and would require special treatment to grow even the hardiest crops.

What remains is 16.7 million acres of good soils and 3.8 million acres of fair soils. "Good" soils are those having few, if any, critical limitations. They can support all of the common Alaskan crops successfully using ordinary management practices. They are at least 18 inches deep, well-drained, and on slopes of less than 7 percent. They have adequate rainfall and are less likely to be subjected to flood, drought, frost, or wind erosion. "Fair" soils have identifiable soil or climate limitations that can be overcome by careful management and special practices. They are at least 10 inches deep, may be subject to short periods of excessive soil moisture during the growing season, and are on slopes of less than 12 percent. They are more likely to be subject to flood, drought, frost, or wind erosion.

The 20.5 million acres of good and fair soils are located primarily in the interior drainages of the Tanana, Yukon, and Kuskokwim Rivers and in the Bristol Bay and Cook Inlet Basins. Over half of the soils with good potential in Alaska occur on lowlands adjacent to the major interior rivers. About one quarter of Alaska's good soils are located in the Yukon Flats.

Soils in Alaska are suitable for growing crops of barley, oats, potatoes, and grasses for hay and silage. Other crops that have been produced successfully on a small-scale or family basis include cabbage, lettuce, carrots, celery, cauliflower, brussel sprouts, broccoli, turnips, peas,



SOILS WITH AGRICULTURAL POTENTIAL

AREAS WITH SUITABLE SOILS

MORE THAN 50%

25-50%

OTHER MARGINAL SOILS AND CLIMATE ZONES

EXISTING RESERVES

strawberries, and raspberries. Tomatoes and cucumbers are grown successfully in greenhouses. Significant agricultural research and experimentation has occurred in Alaska, and a variety of crop strains suitable for northern production have been developed.

At least half of the State's good and fair soils are likely to be divided among State and private landowners in the near future. Units presently within existing national conservation systems have relatively little acreage of cultivable soils.

Alaskan agriculture is currently small-scale and produces for local market only. There are under 75,000 acres of farms, mostly located in the Matanuska-Susitna Valley near Cook Inlet and in the interior Tanana Valley. To date, production and transportation costs have made the produce competitive only in local markets. Unlike most other kinds of natural resource development, agriculture implies permanent settlement and the cost of providing schools, roads, and other community facilities and services.

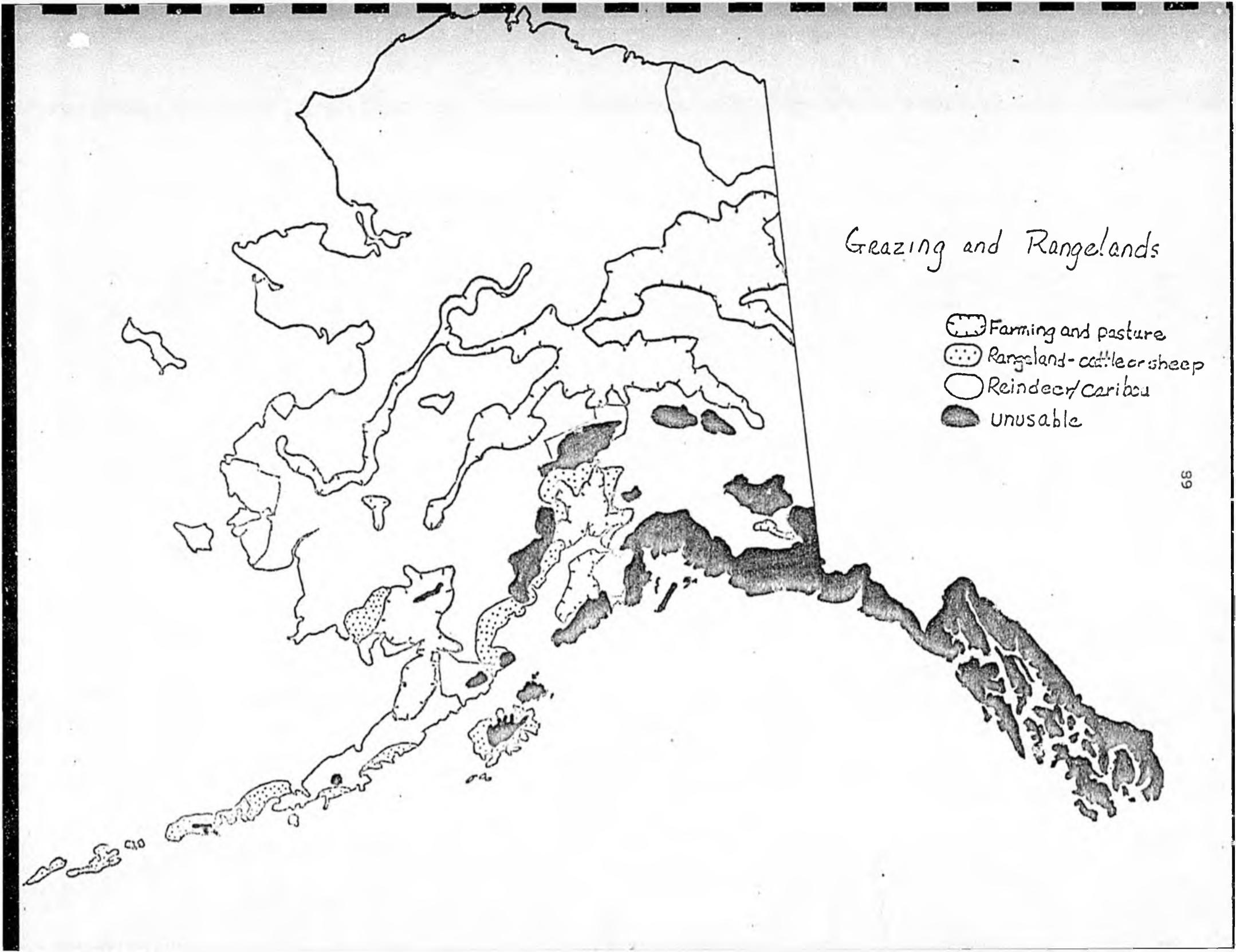
The feasibility of developing some agricultural soils in the future may depend upon flood control and irrigation facilities that could be constructed as part of several proposed hydroelectric projects, especially along the major interior rivers. However, some reservoirs have the potential for inundating large areas of cultivable lowlands.

The range of proposed additions to parks, refuges, and forests contain varying proportions of the potential agricultural soils in Alaska. All of the legislative options would place large portions or all of the Federal lands with good soils in the Yukon Flats within a national wildlife refuge or other classification. Other smaller tracts of cultivable soils found in the State have generally not been included to any significant extent in other proposed parks or refuges.

Lowlands with tillable soils frequently support high density waterfowl and furbearer populations, most notably in the Yukon Flats area which contains 4.7 million acres of good soils.

Rangelands

Alaska has about 18.6 million acres of land that may be suitable for domestic livestock grazing, primarily cattle and sheep. This includes 195,000 acres of good grazing lands principally on Kodiak and the Aleutian Islands where domestic livestock could successfully graze most of the year. The remainder is somewhat limited by a shorter growing season, periods of excessive wetness, or a predominance of less palatable vegetation. Over 20,000 dairy and beef cattle, sheep, goats, and horses are currently grazing on 1.5 million acres. The areas of greatest grazing potential are the Aleutian Islands, Alaska Peninsula, Kodiak Island, and scattered other locations in southcentral and interior Alaska and the Bristol Bay region. The grazing season in interior and


Grazing and Rangelands
Farming and pasture
Rangeland - cattle or sheep
Reindeer/Caribou
Unusable
89

on the coast north of Kodiak is limited to three or four months each year. Supplemental feeding and shelter is necessary during the winter months especially for cattle. Greatest potential would be achieved under a livestock economy with hardy range animals, development of forested grassland in proximity to croplands, and some shelter or controlled environment. Introduction and cultivation of grasses may extend the grazing season to approxmiately seven months. Domestic livestock grazing frequently overlaps wildlife habitat of a variety of species. Expansion of the use of Alaska's potential grazing lands could mean increased predator control, range competition with caribou or moose, and increased potential for wildlife disease.

Sheep in Alaska are raised primarily for wool production. Nearly the entire population of sheep is grazed year-around on Umnak and Unalaska Islands on Federal public domain lands or on private lands. Sheep are generally more self-sufficient than cattle, and are more suitable for the remote Aleutian Islands because they require less meat processing and transportation infrastructures than beef cattle. Sheep generally do not require supplemental winter feeding.

Less than 2 percent of the beef consumed in Alaska is raised in the State. Half of this comes from Kodiak Island, and most of the balance is from dairy cattle in the Matanuska-Susitna Valley near Anchorage. Dairying, which generally requires extensive landholdings, is currently threatened by urban expansion from the Anchorage area. Other areas in interior Alaska and the undeveloped Susitna lowlands could support expansion if they were made available.

Of the 18.6 million acres of potential domestic grazing lands in Alaska, from 3 percent to over half are contained in proposed parks and refuges.

Semidomesticated reindeer and musk-oxen are also raised in the State. Unlike domestic stock, these animals can survive in the harsher climate of northern and western Alaska. Lands suitable for reindeer grazing are present in nearly all lowland and upland areas of the State where wild caribou range. Much of Alaska's potential reindeer grazing lands have been selected by private corporations and the State of Alaska, but large amounts will remain on Federal lands. Currently there are eight to ten herds on several Bering Sea Islands, the Baldwin and Seward Peninsulas, and the Aleutian Islands, totalling 25,000 to 35,000 animals. Reindeer make a significant contribution to the economy of a number of rural Alaskans. Research to determine the commercial value of the hair and meat of the musk-oxen has been underway for several years. Potential musk-oxen range exists on the Seward Peninsula and along the Arctic coastal plain. Proposals before Congress for new parks, wildlife refuges, and forests have included varying amounts of rangelands for semidomesticated animals. In any case, a large portion of Alaska's rangelands will be on State, private, or Federal public domain lands where grazing might be allowed.

Fisheries

Alaska has valuable fisheries, both freshwater and marine. Marine fish and shellfish harvested in Alaska include salmon, halibut, sable fish, pollock, herring, king and tanner crab, and shrimp. Marine and anadromous commercial fisheries in the Gulf of Alaska and Bering Sea are harvested by several Pacific Rim countries prompting several past and current international fishery treaties. Significant foreign take of Alaska salmon and other fisheries has been one of the contributing factors leading to the recent U.S. enactment of a 200-mile fishery jurisdiction zone. Because of increasing number of U.S. and foreign fishing vessels competing for Alaska's marine fisheries, the State has legislatively instituted a limited entry fisheries program.

Commercial fishing is one of Alaska's major industries. In the years 1965-1970, prior to construction of the Alaska oil pipeline, average July employment in the fishing industry accounted for 17 percent of the State's total employment, and 37 percent of the employment in the coastal regions. During 1975, Alaska fisheries contributed nearly 438 million pounds or about 9 percent of the total U.S. catch. Value of the Alaska harvest was $143,836,000 or 14.8 percent of the value assigned to the total U.S. catch. The value of the salmon industry alone has totalled nearly $700 million from 1960 through 1974 with an average of approximately $46 million annually.

Many rural inhabitants depend upon fish as a primary food source to meet their subsistence needs. Some also participate in the commercial harvest of marine waters or major inland rivers. Substantial quantities of salmon, white fish, and other fish are caught for human and sled dog consumption.

Sport fisheries are an important factor in the State's tourism industry. Sport fishing has grown significantly since 1960. License sales have nearly tripled since 1961. In 1973, a statewide survey indicated that a total of 174,278 sport anglers caught an estimated 2.4 million finfish.

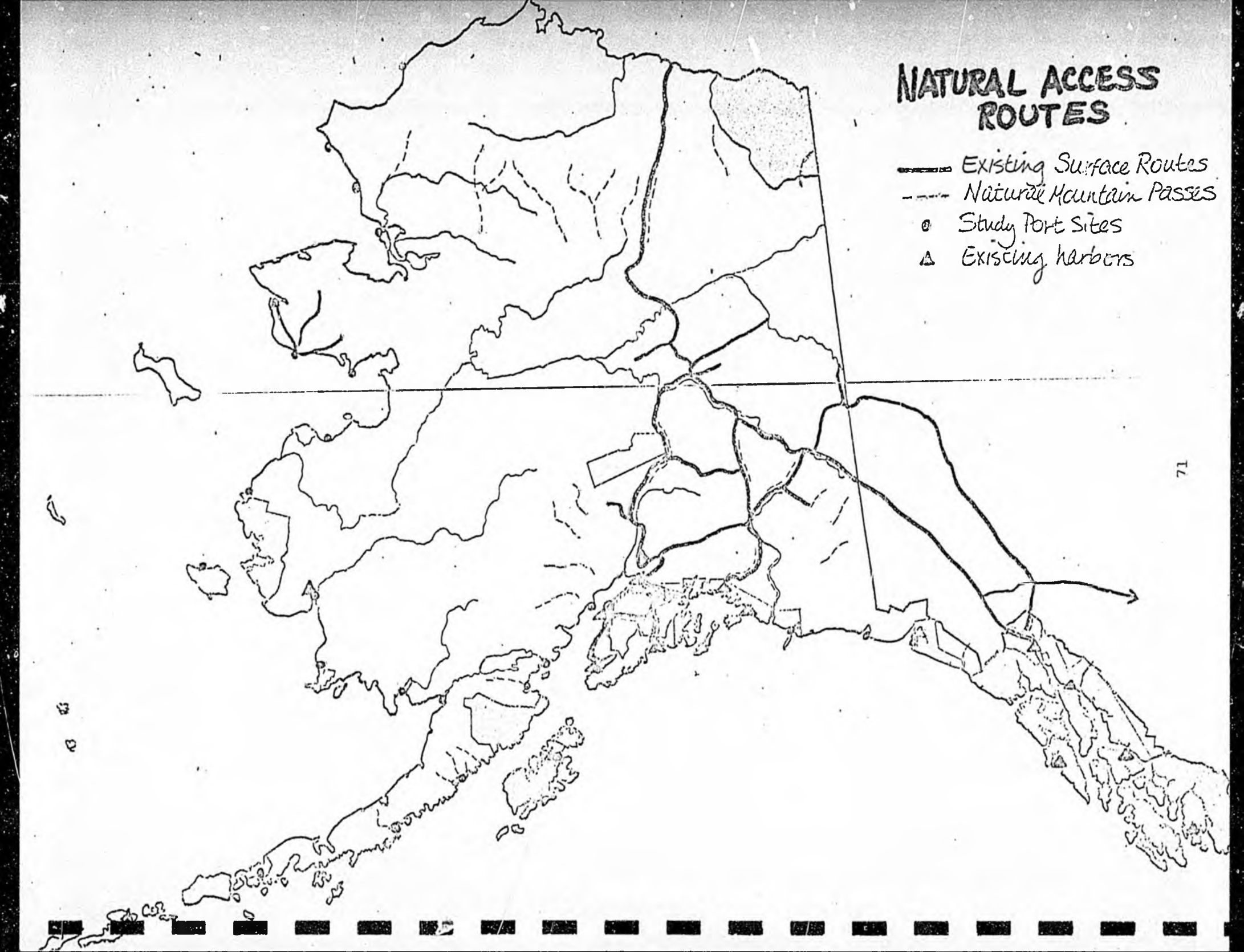
The State of Alaska conducts a fisheries improvement program designed to increase the availability of natural spawning and rearing areas. Artificial rearing of salmon stocks, and proposals for expanded and additional hatchery facilities are also part of the State's program.

Present ownership allocation as well as proposed containment of fisheries habitat in national conservation units are referenced earlier under "Fish". New units of national conservation systems and wilderness designation of some areas could impact State fishery management programs to some degree, particularly in the Bristol Bay regions.

OTHER USES

Natural Access Routes

Natural access refers to those physical features of the State that facilitate surface transportation or offer opportunities for the development


NATURAL ACCESS ROUTES
Existing Surface Routes
Natural Mountain Passes
Study Port Sites
Existing harbors

of transportation facilities. Among these features are major inland waterways for boat and barge travel, protected marine waterways of southeast Alaska and Prince William Sound; natural deep water harbors, numerous lakes and rivers allowing aircraft landings in remote areas, frozen ground and rivers in the winter for some cross-country movement of heavy equipment, mountain passes through major mountain ranges, and major river valleys.

Access to most parts of Alaska is currently achieved by air and water transportation. There is no ground access to western Alaska or the Alaska Peninsula, from the existing road system and only recently has a pipeline construction haul road extended north of the Yukon River to the Arctic region. The existing interconnecting road system is restricted to central Alaska and the northern corner of southeastern Alaska. A marine highway system of ferries operates between larger communities in the interisland-mainland waterways of southeast Alaska and Seattle. Other routes of this State-operated system are in Prince William Sound and between the Kenai Peninsula and Kodiak Island. Major airports or those suitable for larger jet aircraft are scattered at 26 locations. Numerous gravel airstrips are located at most of the 200 or more villages around the State and at mining or other resource development sites. Two railroads operate in the State: , the U.S. Government-owned Alaska Railroad from Seward to Anchorage and Fairbanks; and a Canadian-owned railroad between Skagway--an ocean port, and Whitehorse, Yukon Territory. Barge service operates in the summer on six major rivers and along much of the Alaska coast, and many lesser rivers are traveled by smaller craft.

Certain physical features of Alaska pose barriers to development of surface transportation facilities and routes. Among these are major mountain ranges and glaciers, major rivers and their attendant ice jams and flooding, permafrost, and vast areas of low wetlands. In some cases, natural routes or factors allow ground access through or across such obstacles, while others require certain construction methods. Development of surface facilities over many routes and across major barriers is extremely expensive.

Mountain passes or river corridors through major mountain ranges are limited. Between the southeastern tip of Alaska to Cook Inlet over a 1,000 mile distance, 10 basic natural routes breach the coastal mountains between the Gulf of Alaska and inland areas to the east or north. Roads have been built through four of these routes and railroads through three. Limited water transportation occurs in three others. A single route crosses through the Wrangell Mountains from the Chitina River valley to the White River valley of interior Yukon Territory. Nine natural routes pass through the Alaska Range, a 660-mile barrier across Alaska from the Canadian border to Iliamna Lake. Three routes contain ground transportation and communication facilities. Across the 600-mile-long Brooks Range in northern Alaska, about 10 basic natural routes

pass through the mountains between interior Alaska and the Arctic lowlands. More options exist on the western end of the Range. Anaktuvuk Pass in the center of this range is a historic route for foot and sled-dog travel. A winter haul road was developed over the route with the advent of North Slope oil exploration, however, it is no longer in general use. Atigun Pass, 60 miles east, is now crossed by the trans-Alaska oil pipeline and a gravel haul road constructed to facilitate installation of the pipeline. Alaska Peninsula crossings across the Aleutian Range from suitable harbors along the Pacific coast are limited. Other mountain ranges in the State tend to present fewer barriers to surface crossings.

In contrast with mountain crossings, many natural access routes follow the length of major river valleys. These routes may extend hundreds of miles and provide access to many of Alaska's communities.

Barriers relative to natural deep-water ports are also significant. Where some harbors exist, surrounding terrain excludes or hinders surface connections inland. Few good deep-water areas exist along the western and northern coasts in the relatively shallow waters of the extensive continental shelf. Those present may be extremely important. Seasonal ice pack effects seasonal use of these western and northern ocean waters and may extend as far south in the Bering Sea as the southwestern tip of the Alaska Peninsula.

Though many physical features of Alaska, such as wet lowlands, river crossings, or rough terrain, can be overcome by applied engineering techniques used elsewhere, permafrost soils pose special problems for development of transportation facilities. Large quantities of gravel, which may be limited in some locations, are necessary to overlay the tundra and insulate underlying soils to prevent thawing, subsidence, and erosion. Gravel is often available only in stream beds, and its removal can disturb aquatic habitats.

Most present transportation needs outside central Alaska are met by water and air modes. However, future resource development or land use in remote areas of the State may justify further ground transportation for people, processed goods, raw materials, or transmission of energy or communications. Additional surface facilities between some communities that may be necessary or desirable will cross presently undisturbed areas. Some of these areas are proposed for additions to the national conservation systems.

Proposals for new parks or refuges contain as many as nine and as few as seven of the natural routes through the Brooks Range, possibly all of five routes through the Alaska Range, and as many as three (two already partially used) routes through the Gulf Coast Mountains.

As many as seven major valleys or lowland basins identified as possible future routes by the Bureau of Land Management for transporting energy or other resources in whole or in key portions, are under deliberation for designation as new parks or refuges.

One harbor lying south of Katmai National Monument with potential for use and several possible Alaska Peninsula crossings would be wholly or partly contained within park and refuge proposals. Other suitable harbors along the Pacific coast of the Alaska Peninsula adjoin private lands.

Lands for Community Expansion and Habitation

Most Alaska towns and villages have developed on sea coasts and river banks. All except one are located at elevations below 2,000 feet, and the vast majority below 1,000 feet. The waterways have provided transportation corridors and harbors and ready access to foodstuffs and other resources. Set on low lying coastal lands or river floodplains, built on permafrost soils, or situated in active earthquake zones, many communities are exposed to one or more natural hazards.

Approximately 22.2 million acres of large tracts physically suitable for settlement have been identified in various areas of Alaska. Half of these lands are in Federal ownership, and the other half is divided among the State and private owners. Location rather than physical characteristics, however, appears to be the most important factor in community development. Lands desired for settlement are generally near areas already settled and existing transportation routes. Most such lands in Alaska are in State or private ownership. Foreseeable demands for lands for community expansion and year-round settlement in Alaska will be met by State and private lands. Even in southeastern Alaska which will remain almost entirely in Federal ownership, the State is entitled under the Statehood Act to select 400,000 acres from the Tongass National Forest for "community development and recreation purposes."

Unlike the land market for year-round settlement, demands for lands for seasonal recreational use are more widely dispersed. With the extensive use of small aircraft in Alaska, remote sites unsuitable for year-round habitation are becoming increasingly attractive as recreational property. Many of these sites lie well beyond State and private lands surrounding major population centers and are located on Federal lands. However, substantial land of high recreational value on riverbanks and lakeshores in most regions of Alaska has been selected by the State and private corporations.

As resource development occurs, there will be needs for some degree of settlement in remote locations. In developing certain resources, principally energy resources and minerals, permanent settlement may not be required. With few exceptions, temporary labor forces and facilities will likely satisfy industry's requirements. Agriculture and timber processing, on the other hand, may imply permanent occupancy.

Most lands that may be needed for community settlement are not found in existing or proposed national interest withdrawals, although some areas physically suitable, especially in the Yukon Flats, have been incorporated within proposals now under discussion. The Lake Clark and Lake Iliamna areas and major valleys adjoining the Wrangell Mountains, in particular, are areas of growing recreational use by Alaska's resident population and have been included in some proposals for new national interest reservations. Private or State lands in these areas, however, afford opportunities for recreational settlement.

IN EXISTING NATIONAL CONSERVATION SYSTEMS

Value or Resource	Total statewide Units*1	Portion of Total in in Existing Conservation Systems	Location of Containment NPS = National Park System. NWRS = National Wildlife Refuge System NFS = National Forest System
Wilderness	200≠MA primitive	75,000 acres	NWRS: Chamisso, Bering Sea, Tuxedni, Simeonof, Hazy Islands, Forrester Is.,
Wildlife Habitat-designated reserves and other areas			NPS: 1 park, 2 monuments NWRS: 16 refuges, 2 ranges State: 7 refuges and sanctuaries, 10 critical habitats, 4 large parks.
Waterfowl habitat (high density)	37.9 MA in 20 acres	3.4 MA(9%)	0.46 MA in Chugach and Tongass National Forests 2.9 MA in NWRS: Clarence Rhode, Cape Newenham, Izembek
Key Migratory Bird Habitats	27+ areas		NWRS: Arctic, Clarence Rhode, Hazen Bay, Nunivak Aleutian, Kenai NFS: Chugach, Tongass
Unique and Endangered Species			
Perigrine Falcon	7+ significant habitat areas	3 areas	NWRS: Aleutian Islands NFS: Chugach and Tongass Forests
Bald Eagle			NFS: abundant on the two forests NWRS: Kodiak, Aleutain Islands
Aleutian Canada Goose	1 nesting area	1 nesting area	NWRS: Aleutian Islands
Emperor Geese	1 major nesting area		NWRS: Clarence Rhode, Hazen Bay
Trumpeter Swan	1 major nesting area		NFS: Chugach
Taverners Geese	Coast from Bristol bay to Arctic Plain		NWRS: Arctic, Clarence Rhode, Hazen Bay, Cape Newenham
Dusky Canada	1 major nesting area		NFS: Chugach

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*1 M.A. = Million acres

Value or Resource	Total statewide Units*[1]	Portion of Total in in Existing Conservation Systems	Location of Containment NPS = National Park System NWRS = National Wildlife Refuge System NFS = National Forest System
TERRESTRIAL MAMMALS			
Dall Sheep	25 areas of range	4 areas	NPS: Mt. McKinley NWRS: Kenai NMR, Arctic NWR NFS: Chugach
Caribou	6 major herds, 7 minor herds	8%	NWRS: Arctic NWR NWRS: Kenai NMR, Izembek, Aleutian Islands NPS: Mt. McKinley
Polar Bear	Arctic Coast	%	NWRS: Arctic NWR
Glacier Bear	Northern Gulf Coast	%	Glacier Bay N.M., Yakutat unit,-Tongass N.F., Chugach NF
Musk-oxen	1 large herd 5 small herds		Chugach NF NWRS: Nunivak NWRS: Arctic, NWR, Clarence Rhode
Brown-grizzly bear & wolf	Common to most of Alaska		NPS: Mt. McKinley, Katmai, Glacier Bay, NWRS: Arctic, Kenai, Kodiak, Izembek, Aleutian Islands NFS: Tongass, Chugach
MARINE MAMMALS			
Ribbon Seal	Cape Wales to Cape Newenham		NWRS: Clarence Rhode, Bering Sea, Hazen Bay, Nunivak Cape Newenham
Ringed and Bearded seal	north of Cape Newenham		NWRS: Arctic, Clarence Rhode, Bering Sea, Hazen Bay, Nunivak, Cape Newenham, Chamisso
Pacific walrus	north of Umnak Island		NWRS: Arctic, Clarence Rhode, Bering Sea, Hazen Bay, Nunivak, Cape Newenham, Chamisso, Izembek, ~~Pogoslof~~, ~~St. Lararia, Hazy Island, Forrester Island~~.

Value or Resource	Total statewide Units*[1]	Portion of Total in in Existing Conservation Systems	Location of Containment NPS = National Park System. NWRS = National Wildlife Refuge System NFS = National Forest System
MARINE MAMMALS (cont.)			
Stellar Sea Lion	Gulf of AK, Aleutian Is., (not Cook Inlet)		NPS: Katmai, Glacier Bay, NWRS: Aleutian, Semidi, Simeonof, Kodiak, Izembek, Bogoslof, St. Lazaria, Hazy Is., Forrester Is.
Northern Fur Seal	Gulf of AK, Aleutian Is., Pribilof Is.		Same as Stellar S. Lion & Pribilof NFS: Chugach & Tongass
Harbor Seal	common to most of AK's coast		All except Kenai NMR and McKinnley NP
Sea (ter	Gulf of AK, Aleutian Islands		NPS: Katmai, NWRS: Aleutian, Izembek, Simeonof, Kodiak, Bogoslof, St. Lazaria, Hazy Is., Forrester Is. NFS: Chugach, Tongass
FISH			
variety of aquatic habitats			All reserves listed under Wilderness
LANDSCAPES			
Physiographic Divisions			
Pacific Mountain System			NPS: Mt. McKinley, Glacier Bay, Katmai NWRS: Kenai, Kodiak, Izembek, Aleutian Islands NFS: Tongass, Chugach
Intermontane Plateaus		small area,	NWRS: Arctic, Clarence Rhode, Bering Sea, Unimak, Cape
Rocky Mountain System		eastern section	NPS: Mt. McKinley NWRS: Arctic
Arctic Plain		small area	NWRS: Arctic

Value or Resource	Total statewide Units*[1]	Portion of Total in in Existing Conservation Systems	Location of Containment NPS = National Park System, NWRS = National Wildlife Refuge System NFS = National Forest System
MOUNTAIN SYSTEMS-MAJOR RANGES			
Brooks Range			NWRS: Arctic NWR
Alaska Range			NPS: Mt. McKinley
Aleutian Range			NPS: Katmai NWRS: Izembek, Aleutian Islands
Wrangell Mtns			NPS
Talkeetna Mtns			NPS
Chugach-Kenai			NWRS: Kenai NFS: Chugach State: Chugach SP
St. Elias-Fairweather			NFS: Tongass NPS: Glacier Bay
Coast Range			NFS: Tongass
Major U.S. Mountain Peaks over 14,500 feet high	16 peaks	6 peaks	5- Mt.McKinley NP, 1(partial) Glacier Bay NM.
VOLCANOS			
	100+ 40 active	24	NPS: Katmai NWRS: Izembek, Aleutian Islands, Bogoslof
Volcanic Calderas			
Lava flow areas	3+		
Maars	5		
Other volcanic features			

Value or Resource	Total statewide Units*[1]	Portion of Total in in Existing Conservation Systems	Location of Containment NPS = National Park System NWRS = National Wildlife Refuge System NFS = National Forest System State = parks, refuges, sanctuaries and critical habitat designations.
GLACIERS & GLACIAL FEATURES			
Ice Fields (major)			
Major Glaciers			
Tidewater Glaciers			
Notable Fiords			
SAND DUNES			
Major			
Minor			
COASTAL FEATURES			
Scenic Fiord			
Scenic Rocky Mountains			
Other			
LAKES			
Large Moraine-dammed			

Value or Resource	Total statewide Units*[1]	Portion of Total in in Existing Conservation Systems	Location of Containment NPS = National Park System NWRS = National Wildlife Refuge System NFS = National Forest System State = parks, refuges, sanctuaries and critical habitat designations.
ENERGY RESOURCES			
Uranium	78.1 M.A. or 19 basins	7% or portions of 7 basins	NPS: McKinley NWSR: Arctic, Clarence Rhode, Hazen Bay, Kenai NFS: Tongass
MINERALS			
Copper	at least 39 provinces	portions of 19 provinces	NPS: McKinley, Katmai, Glacier Bay NWRS: Cape Newenham, Kodiak, Kenai, Hazy Is. NFS: Tongass, Chugach
TIMBER			
Commercial coastal	5.6 M.A.	90%	NFS: Tongass, Chugach
interior (all types)	117.7 M.A.	very small	NPS: McKinley, Katmai NWRS: Arctic, Kenai, St. Lazaria, Hazy Is, Forrester Is.

REFERENCES

Relative to this section, the Commission will make available additional information and analysis of environmental, social, and economic factors. Further descriptions and detailed information about Alaska's natural values, developable resources, and their uses may be found in the following materials, as well as references cited in their bibliographies. Special reference should be made to the Commission's inventory of over 1,000 resource map overlays for the entire State.

GENERAL

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MAJOR ISSUES AND OPTIONS: GENERAL RECOMMENDATIONS

WHAT MEANS SHOULD BE USED TO PROTECT WILDLIFE, WILDERNESS, AND SCENIC VALUES OF NATIONAL INTEREST IN ALASKA?

The primary decision to be made in assuring protection of natural values of national interest in Alaska is what means--management systems designation, regulations, planning, and study provisions--will be employed. Section 17(d)(2) suggests the inclusion of outstanding natural areas in one of the existing national conservation systems as new national forests, wildlife refuges, parks, or as wild and scenic rivers.

In its deliberations and study over the past 4½ years, the Commission has considered many combinations of management designation for the national interest (d)(2) lands. Before it, as there is now before the Congress, have always been the broad options of placing maximum (d)(2) areas in one or the other of the named management and classification systems; of placing minimum areas in single use systems and relying largely upon Federal and State environmental laws and regulations; or of recommending new management or classification systems.

Before it also were the major problems presented by each option, as well as the probable effect of each option on national, State, and Alaska Native interests. The Commission sought that combination of land management units, managers, and planning and classification systems which would best protect identified wildlife, wilderness, and scenic values, and which would create the fewest or solve the most management and use conflicts.

INCLUSION IN EXISTING FEDERAL CONSERVATION MANAGEMENT AND CLASSIFICATION SYSTEMS

Section 17(d)(2) indicates one of the major courses of action open to the Congress in protecting the national interest in wildlife, wilderness, and scenic values in Alaska. This is to place lands in the named Federal management systems--National Park, Wildlife Refuge, and National Forest--and in an existing Federal classification system, the National Wild and Scenic Rivers System.

The consequences of making what are, in effect, congressional classification decisions on a broad scale may vary depending upon the size, location, and predominant values of the particular (d)(2) units and the management system designated for each. The statewide combination of unit management designations and (d)(2) lands in relation to surrounding State and privately owned lands, particularly those held by Alaska Native corporations, and the consequences of each, have as much variety as there are numbers of management units, managers, and resource demands.

National Parks

By national standards, many of the (d)(2) areas as well as other Alaska lands have qualities that merit their consideration for inclusion in the

National Park System. Those areas of superlative wilderness, wildlife, or scenic value should be identified to focus decisions on designations of new parklands. The concept of a wilderness park, though not unique to Alaska, may be met in Alaska from many lands remaining in a natural state.

In those units designated for management by the National Park Service, use or management conflicts will usually be resolved in favor of the protection of natural, scenic, wildlife, or historical values. Park Service natural areas, exemplified in Alaska by the present Mt. McKinley National Park and Katmai and Glacier Bay National Monuments, are managed to place primary emphasis on the preservation of natural features and systems. Uses such as timber harvesting, mineral prospecting, mining, and the extraction of minerals or the removal of soil, sand, gravel, and rock are prohibited. Hunting is also prohibited, as is livestock grazing. Commercial fishing is sometimes allowed, including at Glacier Bay National Monument. Sport fishing is usually permitted. Transportation corridors and rights-of-way for private or corporate entities may be excluded entirely or require congressional action in natural and historic parks, unless specified upon establishment of the park. Hydropower development is generally precluded in natural areas, although resulting reservoirs are a basis for several recreation acreas in the National Park System elswhere in the Nation.

Recreation areas and national preserves are categories under Park Service management which may allow some uses compatible with the park purpose. In recreation areas, outdoor recreation is recognized as the dominant or primary resource management objective, though degree and kind of use may be affected by natural or historic values. Harvesting of timber, mineral prospecting, and removal of nonleasable minerals under applicable regulations may be permitted if such uses will not significantly impair the values of the area. In recreation areas and preserves, hunting or fishing may also be permitted governed by applicable State laws with Park Service designation of zones and periods during which no hunting or fishing is permitted for reasons of public safety.

Placing maximum acreages in the National Park System under present law and policies--particularly as natural areas or areas which now, or later, may be placed in wilderness classification--will mean foregoing the greatest number of present and potential resource uses of the land, e.g. mining, sport hunting, hunting for subsistence purposes, grazing, farming, and timber production. Placing maximum acreages in the National Park System in national recreation or national preserve categories may not totally preclude these uses, but maximum regulation would result. It will be difficult, without congressional action, to provide surface transportation corridors through park units, regardless of category.

Additional Federal control of wildlife, including resident species, would result. Large areas of wilderness, by law or management policy, are likely. Fewer areas would be open for sport hunting, even in national

recreation or national preserve categories. And, it is likely that two groups of Alaska visitors would be deterred to some degree by choosing the option of maximum acreages in the National Park System--visitors seeking wilderness hunting experiences if new parks largely preclude hunting, and visitors requiring modern visitor accommodation or desiring mechanized travel into remote scenic areas. National Park Service's long history of meeting visitor needs may raise expectations for services inconsistent with wilderness preservation.

National parks immediately adjoining privately owned lands or lands belonging to the State of Alaska may enhance the value of those adjoining lands for some purposes, such as for the provision of visitor or intensive use recreational facilities. Indirect effects on other lands also need to be considered. Among these "off-site" consequences of national park designation may be the application of air and water quality standards automatically assigned to or sought for parklands under present provisions of the Clean Air Act and may inhibit resource development activities on adjoining Federal, State, or privately owned lands.

At the same time that creation of extensive new parks, followed by wilderness classification, may provide the highest degree of protection for wilderness, wildlife and scenic values, this option may also create more conflicts with other resource needs of Federal lands to meet national needs for energy and other minerals, and may also create the most conflict with the use of lands in State, Native corporate, and other private ownership.

Wildlife Refuges

Through congressional action, several species of wildlife are protected by Federal regulation through such laws as the Endangered Species Act, the Migratory Bird Treaty Act, and the Marine Mammal Act. Much of Alaska's wildlife, however, are resident species traditionally under the management of the State of Alaska with the Federal Government maintaining responsibility on Federal lands for the protection of the habitat. Habitat management varies somewhat with the system and agency. National Park Service management is generally more passive, allowing natural processes to make the successional changes in habitat except where restoration or maintenance is achieved through prescribed burning. The Fish and Wildlife Service and Forest Service have active habitat manipulation programs in some areas applying a variety of tools. However, the largest part of wildlife refuge and forest acreage is not manipulated and directly managed only through protection measures.

The Wildlife Refuge System is maintained "for the fundamental purpose of wildlife conservation and rehabilitation." Refuges are established for the restoration, preservation, and management of wildlife and wildlands habitat; and for the protection and preservation of endangered or threatened species and their habitat. Only those uses which are compatible with the primary purpose are allowable by permit of the Secretary of the Interior. The Secretary may permit hunting, fishing, public recreation and accommodations, and access and easements for powerlines, pipelines,

and roads, whenever he determines that they are compatible with the refuge's purpose. In theory, the uses may include mineral location, leasing, exploration, and development, but, these practices are seldom allowed. The 20-year record, in Alaska, of the Swanson River and Beaver Creek oil and gas fields in the Kenai National Moose Range point to the ability of the Service to allow oil and gas leasing under strict environmental control.

The Federal-State relationship with respect to management of resident game species is a major issue. Although refuge lands opened to hunting are governed by the laws and regulations of the State, the Federal refuge manager has the authority to deny access to the refuge or to specify the mode of access. The refuge manager also has the authority to impose more strict, but not more liberal, regulation than that imposed by the State for the taking of fish and game resources from the refuge. This dual authority for fish and game management, coupled with the interdependent nature of habitat and species management, will require a high degree of Federal-State cooperation, if the wildlife which is counted as one of Alaska's greatest resources is to be protected.

Because of the arctic nature of much of Alaska, upland grazing mammals must range over many acres to sustain life. The large caribou herds of Alaska are extremely migratory. Many of Alaska's major caribou herds annually cross State and Native-owned lands, as well as areas within existing and proposed national interest withdrawals. There are numerous similar examples of State, Federal, and Native areas that together provide habitat for specific groups of migratory wildlife.

Because of the location of most proposed refuges in lowland areas where many predominantly Native villages are located, heavy reliance may be placed on the game stocks of the proposed refuge to meet subsistence needs. Proposed refuges may be traversed by navigable streams and contain navigable lakes where the State holds subsurface title to the submerged lands.

The physiographic concurrence in many instances of potential oil and gas basins within areas of high density waterfowl habitat, prompts a close look at the allowance of this use in new refuges, and may require from Congress explicit direction to the Service to open certain areas of high petroleum potential to oil and gas exploration and leasing. (An effect on State and Native interests of placing maximum acreages within the Wildlife Refuge System may be that revenues from oil and gas leasing on Federal lands will not be distributed under the Mineral Leasing Act. The Mineral Leasing Act, as amended by the Alaska Statehood Act and the Alaska Native Claims Settlement Act, provides for payment of 2 percent of revenues from these uses to Alaska Native corporations and 90 percent of the 98 percent remaining to the State of Alaska. Law pertaining to the The Wildlife Refuge System, U.S.C. Title 16, § 715s, however, provides for payment of only 25 percent to local governments and the balance in a dedicated fund for refuge management.)

The major "off-site" consequence for the use of other Federal, State, and privately owned lands adjoining or near wildlife refuges may not only be the application of air and water quality standards, but also the application of the so-called reserve water right doctrine to Federal reserves, which reserves to a refuge, for example, all waters necessary for refuge purposes. Since many proposed refuges are identified for their migratory and shorebird breeding and nesting characteristics, this doctrine may have future long-range effect on uses of adjoining lands requiring quantities of water.

Refuges to some degree have a built-in conflict between wilderness preservation and other allowable resource management. While most of a refuge may be found suitable for wilderness designation, portions may be excluded from wilderness recommendations to accommodate certain kinds of habitat manipulation, as well as possible development of renewable and nonrenewable resources.

Maximum refuge designations raise access and transportation corridor conflicts similar to those raised by maximum park designation.

National Forests

Lands with timber and range value, attendant wildlife habitat, recreational, primitive, watershed, and other values may be placed under the management of the Forest Service in the Department of Agriculture. The Forest Service has primary responsibility for the protection and development of the Nation's forestry resources. With its research mission, particularly in silviculture, the Forest Service has developed a particular set of expertise not only in timber management, but in the management of lands to meet multiple-use demands. The Forest Service permits, with regulation, timber cutting, grazing, mining, hunting, fishing, and trapping, in addition to general outdoor recreation activities, and has broad authority for classification of land areas of special interest for scenic, geological, historical, botanical, and zoological values.

Fewer use conflicts are seemingly presented by large acreages under Forest Service management because multiple uses are allowed. The competition among uses of national forest lands, however, is growing stronger with increasing demand for wilderness and recreation uses and habitat concerns. Protection of natural values in national forests may be enhanced by the recent adoption of long-range standards by the Service under the Forest and Rangeland Renewable Resources Planning Act and emphasis on environmental assessment of agency decisions and adoption of a public process of determining allowable uses.

Also serving to reduce conflicts with adjoining landholders, this Service with a long history of multiple use and sustained yield direction, has had extensive contact with local residents and has delegated considerable decision-making authority to its local officers.

Transportation corridors, hydroelectric development, and mining activities may be more readily allowed on national forest lands than on either park

or wildlife refuge lands. Like the Wildlife Refuge System, the National Forest System provides habitat management with hunting and fishing governed by applicable law and regulations of the State. As a means of coordinating Federal-State management, Sikes Act agreements have been signed by the U.S. Forest Service and the State of Alaska. Sikes Act agreements are valuable tools for the coordination of habitat and fish and game management activities, but fall short of the comprehensive coordinated Federal-State planning and management which may be required in some areas.

Wild and Scenic Rivers System

Alaska's rivers, as discussed in the preceding section, are widely relied upon for access and transport. Access to many regions of the State is only by air or water. Rivers in many instances are the only means for transport of supplies and provide the readiest access to foodstuffs and other natural resources on adjoining lands. While most Alaska rivers remain largely undisturbed, uses of them are of significant and often singular importance.

The Wild and Scenic Rivers System is a congressional classification established in 1968. As designation of a wilderness area under the Wilderness Act does not change the proprietorship of the area, neither does designation of a wild and scenic river in many cases. It does establish certain controls on riverfront development and use, however. All rivers in the national system must be substantially free flowing, have high quality water, and be of sufficient length to provide a meaningful experience for the river traveler. Regulation and management of rivers in the system vary somewhat depending on which of three categories--wild, scenic, or recreation--are applied, and the agency assigned to administer the river.

Wild rivers are essentially in a primitive state and inaccessible except by trail. They are free of impoundments, with watersheds or shorelines essentially primitive and waters unpolluted. Scenic rivers, or sections of rivers, are free of impoundments, with shorelines and watersheds still largely primitive and undeveloped, but accessible in places by roads. Recreational rivers are readily accessible by road or railroad, may have some development along their shorelines, and may have undergone some impoundment or diversion in the past.

Any use, such as hydroelectric projects which would change the free-flowing characteristic of the river, would be precluded; and depending upon the management system of surrounding lands or the river category, hunting or mining may be denied on the river corridors designated. Even within larger management units which allow mining and the acquisition of title under the 1892 Mining Act, some restriction may be placed on the mining operation by classification of the river as a part of the Wild and Scenic River System. For instance, the issuance of a patent to any mining claim affecting lands within the system confers title only to the mineral deposits and such rights to the use of only those surface resources

that are reasonably required for carrying on prospecting or mining operations. Minerals in lands which constitute the bed or bank or are situated within any river designated as a wild river will be withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws. No such withdrawals are made in scenic or recreational river areas, but safeguards against pollution of the river and unnecessary impairment of the scenery within the area are provided for by strict regulation even where mining is allowed.

With almost all of Alaska's rivers meeting the criteria for designation as units of the Wild and Scenic Rivers System, Commission review was on a statewide basis to assure that representative rivers were considered. Of chief concern to Alaska residents has been possible restrictions of this classification upon hunting, fishing, and other subsistence activities, as well as the use of the rivers for transport.

Wilderness System

The Wilderness Act of 1964 provides the statutory basis for study and designation of wilderness. The Act gives general definitions and guidelines for identifying candidate areas and for their management once designated as wilderness. Nearly all Federal lands may now be subject to review as potential wilderness study areas. Wilderness study normally includes mineral reconnaissance and assessment with the submission of findings to Congress by the President and congressional designation. Lands to be presented for wilderness status must be undeveloped Federal land of no less than 5,000 roadless acres. This criteria would apply to much of Alaska.

Subject to prior existing rights, policies for wilderness areas are determined by management principles of the administering agency, and, except as otherwise provided, there are no roads, motorized access, permanent structure, or commercial enterprises. Where already established, use of aircraft and motorboats may continue; and fire, insect, and disease control may be undertaken. State and private lands within wilderness are guaranteed rights to customary modes of access. Water development projects may be permitted on national forest wilderness. During the wilderness study period, uses may be restricted pending congressional designation.

Wilderness classification may create many of the same use and management conflicts cited in the previous discussion on National Park and Wildlife Refuge Systems, particularly with respect to access or transportation corridors or means through areas classified as, or under study for wilderness. Recreation of certain kinds, subsistence activities, oil and gas and other mineral exploration and development, might be precluded or made impractical, or less easy, by preclusion of roads or exclusion of motorized vehicles.

DESIGNATIONS IN OTHER EXISTING FEDERAL LAND MANAGEMENT SYSTEMS

National Resource Lands

Congress has the option of designating minimum new units of existing National Park, Wildlife Refuge, and National Forest management systems and Wild and Scenic Rivers and Wilderness classification systems. Federal lands in Alaska not included in one of the conservation management systems would then revert to the (d)(1) category for classification and management by the Bureau of Land Management along with other (d)(1) lands.

Remaining State land entitlement of approximately 33-35 million acres must be met from the (d)(1) or (d)(2) lands.

After proper classification, some other lands could be classified to permit transfer out of Federal ownership. Claims to certain lands could be made under the 1872 Mining Law, the Homestead Act, or other public land laws. The Bureau of Land Management also has interim managing authority at present over the (d)(2) lands, lands selected by, but not yet conveyed to Native corporations, and surface management of National Petroleum Reserve-Alaska.

The recently passed Federal Land Policy and Management Act of 1976 confirms BLM management on the basis of "multiple use and sustained yield," unless otherwise specified by law. General policy articulated in the Act also directs retention in Federal ownership in most instances. However, the homestead laws, for example, continue to apply in Alaska for 10 years, while they have been repealed for the rest of the Nation. Mining on BLM lands is conducted under the 1872 Mining Law, and hunting is allowed with seasons, bag limits, methods, and means of harvest set by the Alaska Department of Fish and Game. BLM's new organic act gives this agency enforcement and closure authority on lands under its jurisdiction. Lands under BLM management are now eligible for study and classification as wilderness under the Wilderness Act, as are rivers eligible for nomination under the Wild and Scenic Rivers Act. Other classifications in recognition of natural features and recreation sites may also be made.

Like the forest lands, national resource lands under BLM management would permit a variety of uses with fewer use conflicts, but would present greater difficulties in the protection of wildlife, wilderness, and scenic and other natural values.

CREATION OF NEW CLASSIFICATION AND/OR MANAGEMENT SYSTEMS

A new management system

One option available as an alternative to existing management and classification systems is to restructure an existing agency, create a new Federal agency, or even a joint Federal-State agency with classification and management responsibilities for lands now withdrawn under Section 17(d)(2). Through the establishment of such an agency it would be possible to reduce some duplication of effort and expertise in Federal land management. But the diversity of Alaska's Federal lands, the values they contain, and the variety of public interests, are such that within such a management structure it would soon be necessary to develop divisions serving many of the same purposes and needs now met by the existing Federal land managing agencies. Many land units would be singled out for management and protection of dominant values.

The chief benefit from the establishment of an Alaska Office of Land Management would be its ability to tailor standards, criteria and regulations to the unique size and predominantly wild character of Alaska's lands. Alaska seldom fits national standards and criteria. As has been noted much of Alaska could qualify as wilderness under the Wilderness Act; most of its rivers qualify as wild or scenic rivers; most of its lands qualify for inclusion in conservation management systems.

Certain problems may result from removing Federal land management in Alaska from the mainstream of r ional policy making and funding. There would also be a time lag for such an agency to become functional, to say nothing of the necessity to test its regulations and decisions through the courts. A further detriment might also be the tendency to give a one-dimensional across-the-board treatment to a variety of lands and resources.

A new classification system

A new means of classification could be instituted without necessarily establishing a corresponding new management authority. Classification actions could be implemented by an existing land management agency. The presence of numerous State and private inholdings in areas of nationally important scenic and wildlife values and the ecological relationship of Federal lands to adjoining State and private lands are not easily considered in existing classification systems where the State does not participate. Current classification of Federal lands may have no correlation to classification of State lands of similar character, and Federal, as well as State, land management objectives may be frustrated, as a result. Joint Federal-State classification of some land areas is, therefore, an option to be considered.

PROTECTION OF NATURAL AND HISTORIC VALUES ON LANDS NOT FEDERALLY OWNED:

The Federal Government has options through which it can achieve certain interests or carry out preservation programs on lands not in its ownership or jurisdiction.

Cooperative Programs and Agreements

Many acts provide for cooperation between the Federal and State governments in wildlife protection, restoration, and management. Some make funds available to the States, transfer certain authorities to manage some wildlife species such as marine mammals, and encourage private landowners to maintain wildlife habitat. One of the most recent is the Sikes Act which provides for expanded cooperative Federal-State wildlife programs on national forests, national resource lands, and military reservations, with federal funds helping support such cooperative endeavors. While some of these programs are clearly mandated by law, others involve voluntary cooperative agreements, which may be limited in scope and duration, and may change depending upon the dispositions of new unit managers or bureau directors. There are many cooperative agreements between Federal agencies and often between Federal and State agencies usually dealing with a single subject matter or a single geographic area.

Two Federal programs are concerned with identification of natural areas and historic sites of national significance. National Natural Landmarks and National Historic Landmarks are generally identified regardless of their location or ownership. The administrators or owners of designated sites are encouraged to manage the areas in a manner that preserves the qualities identified in the site. Federal funds may be applied in part towards preservation of historic sites. Landmarks are also afforded certain means of protection from federally funded projects such as a road which might have adverse impact on a site. Long term protection is dependent on the owner or administrator who may decide to use the area or site in a manner that would degrade or destroy the landmark values.

Another option of broad involvement with respect to Federal interests is through cooperative planning and management. This can be applied to specific areas, adjoining national parks or wildlife refuges, or other Federal reserves that contain a mix of land ownership or interests. In certain instances, broader areas, regions, and subregions are specified for cooperative planning and management.

Boundaries for such cooperative planning and management areas that may involve several State and Federal agencies and interests, borough governments, and the private sector, can be established legislatively or by the executive branch.

In some instances the flexibility implicit in such arrangements involving negotiations toward the accommodation of all interests may jeopardize the goals of single or primary purpose withdrawals or unduly restrict certain land uses.

Land exchanges

Areas of high scenic, primitive, or wildlife values integrally related to existing or proposed park and wildlife refuge units have been selected by the State or Alaska Natives. For those areas perceived to have long lasting values to the Nation, an available option is to consider land exchanges. Such exchanges could take place in the general vicinity of the area in question or could be far removed involving Federal lands elsewhere in the State. With respect to Native corporation lands, exchanges for new lands in other Native corporation regions of the State may be affected by certain factors. For example, an exchange area close to corporate selections by another regional corporation might influence the development opportunities for a particular resource. This could be a positive or negative impact in some cases. With respect to State lands, new substitute State lands might be removed from a zone of greater State interests.

Proximity of land areas to national park or wildlife refuges may enhance or diminish the value of such lands to State or private owners, depending on their character and location. Other lands in Federal ownership may have more real value to State and private owners for resource development and revenue generation purposes. On the other hand, adjoining lands may afford opportunities for more intensive recreational use and development of facilities than allowed in the parks and refuges and be of potential profit to the State and private owners.

Another option raised with respect to State selected lands that have not yet been patented in certain areas of high natural values is for the Congress to revoke these selections if this can legally be done. The State also has an option of relinquishing certain selections if it wishes. This course may only be taken if the State is assured of selection rights in areas of particular interest to the State.

Joint Classification Areas

Within the existing land ownership pattern in Alaska, two general situations emerge relative to national interests in natural values. Large blocks of federally owned land exist with known natural values and renewable surface resources but largely unknown subsurface values. On the other hand are areas of mixed land ownerships adjoining existing or proposed key park or wildlife refuge lands which may have in addition to natural values meriting Federal protection, developable resources of Federal, State, or private interest. Each government manager or owner using its own classification system might classify lands in an incompatible manner.

Without regional governments in much of rural Alaska, there has not been time to formulate coordinating mechanisms on a regional level. Thus, there is need of a coordinative body in which Federal and State governments fully participate, both at a Federal and State level.

An option available relative to these factors where there is high Federal interest in scenic, primitive, wildlife, or other related values, but where there is State interest or concern for other uses or values, is to establish a joint land use classification area with classification participation by both governments. The joint classification area concept can be applied singly to either Federal or State land units or to areas of combinations of Federal and State lands and even private lands, on a voluntary basis. Using a single classification system, environmental protection, resource development, transportation needs and other interests would be worked out to protect various interests to the extent possible. This could be accomplished through a separate joint planning and classification mechanism or through an effort involving the Federal and State land managers.

Joint classification areas could be administratively or legislatively established. Complementary legislation by the Congress and State legislature may be appropriate. Veto power could be provided for the Federal and State governments regarding classification on respective lands if felt improper. Administration of lands within joint classification areas could be assigned to a Federal or State agency managing an adjoining large reserve, or the Federal and State governments could administer their respective lands assigning preferred agencies.

State Area Designations

Several areas of scenic or other natural values of national significance have been selected by the State of Alaska as part of its general land entitlement under the Statehood Act. The State can designate such areas for protection of their natural values as State parks or wildlife sanctuaries or classify them as critical habitat. Areas already designated and classified in these protective categories are shown on the accompanying map, and others have been proposed.

Two particular national programs which allow for the incorporation of State-owned areas of administered in national systems are the National Wild and Scenic Rivers Systems and the National Trails System. Certain wildlife habitat, scenic, and recreational areas designated by the State adjoin existing or proposed national parks and refuges. Their management can complement that of the Federal reserves. For example, a State park adjoining a national wilderness park may afford opportunities for visitor accommodation and intensive recreational uses that are not compatible with wilderness. State tideland and submerged land areas of significant habitat have been designated in some instances adjacent to national wildlife refuges to complement the values of the Federal reserve.

Existing Regulations

Several Federal laws and regulations apply to State as well as Federal lands and act to protect and preserve environmental values. Provisions of the Coastal Zone Management Act, and those pertaining to clean air, water quality, and solid waste management are particularly significant. While these laws help protect certain natural values, they do not altogether govern or control certain land uses so as to maintain primitive values, restrain development from critical or significant habitats, or prevent degradation of scenic values.

Application of certain air or water quality standards to classes of Federal reserves such as parks may have impact on adjoining lands. Stringent standards may require any resource development activity to institute pollution batement systems and increase costs to industry on State and Native-owned lands.

GENERAL RECOMMENDATIONS

Systems Designations

The Commission found that application of existing classifications and management systems to some of Alaska's lands had merit where there was a clear and outstanding value to be protected or managed by the system. But the Commission also determined that there are circumstances and conditions over many of Alaska's lands that indicated a need for a combination of a high degree of environmental protection and flexible land classification over time in response to new knowledge and changing needs. To provide a consistent basis for designating lands for different systems and classifications the Commission adopted the policies set fourth below.

Additions to National Parks, Refuges, and Forests

With respect to additions to areas already in national parks, wildlife refuges, and forests in Alaska, the Commission believes they should be made for the purpose of including lands with complementary resource values or completing or enhancing ecosystems or other natural features and otherwise improving unit boundaries for administrative purposes. This involves such areas as upper portions of watersheds, uncontained sections of significant scenic or geologic features, the remainder or addition of an important habitat, lands on both sides of a river, lands perceived to complete an ecosystem for an animal species or complex of wildlife, or inclusion of particular lands for recreation purposes.

New Units of Existing National Land Systems

New units in the National Park, Wildlife Refuge, or National Forest System should be established in Alaska only in those areas which have outstanding values appropriate for management by that system. Commission

criteria for the determination of the appropriateness of an area for management under an existing system are listed as follows:

National Wildlife Refuge System:

(1) The basic criteria is assigning land to the National Wildlife Refuge System should be a finding that the lands are a key part of a national network of lands and waters associated with wildlife, particularly migratory birds and endangered species.

(2) In addition, recommended areas for new refuges in Alaska should be oriented primarily towards migratory bird habitat, particularly waterfowl and shorebirds, with emphasis on endangered species. Unit boundaries generally shall encompass the highest density nesting areas and other key migratory bird habitat. If much of the high density waterfowl habitat found in a proposed area is to be transferred to Native corporations, medium density habitat can be included to help offset in part some possible future habitat loss on the private lands for the general area.

(3) Uplands habitats added to the National Wildlife Refuge System should be limited primarily to additions to those existing national wildlife refuges and ranges in Alaska that were initially reserved for protection of upland game species. This policy is based on a Commission finding that diversity of upland wildlife and habitat is already well represented in existing national wildlife refuges and ranges.

National Park System:

Recommended units for the National Park System should include areas of superb scenery; superlative, exemplary, rare or unique natural features; archaeological or historical sites, buildings, or objects of exceptional value or quality; or recreational opportunities of national value.

National Forests:

National forests exist to protect and conserve forests, rangelands, and watersheds. Values within these areas that are planned and managed for are recreation, wilderness, wildlife and fish, range, timber, land and water values, and the needs the areas meet for human and community development through natural resource management activities. New forest units should contain some or all of these elements and be in locations where they can best serve national needs for these values.

Institutional Recommendations

The Commission recommends that Congress adopt the following approach in addressing wilderness and wild and scenic river designations in the (d)(2) legislation:

Wilderness

A comprehensive preliminary assessment to determine areas of prime wilderness potential is particularly necessary in Alaska where nearly all of the Federal lands meet the national study criterion of at least 5,000 roadless areas. Proposed areas should be evaluated in a statewide context. Individual proposals should be evaluated as they relate to other existing and potential wilderness areas throughout the State. The goal should be a wilderness system that includes a range of environments and is rationally distributed around the State.

New units and additions to the National Park, Wildlife Refuge, and Forest Systems should be studied to determine their suitability for wilderness designation within three years of the establishment. This recommendation is in accordance with congressional practices in other new areas established and studied in recent years.

Lands which may be classified under a new system should be studied to determine their suitability for wilderness designations prior to classification.

Wild and Scenic Rivers

From the many candidate rivers in the State meeting wild, scenic, or recreational river criteria previously established, the Commission has selected entire, mainstreams, or segments of over 50 rivers for which it makes recommendations. These rivers were selected on the basis of developing an initial statewide system of protected rivers of differing characteristics in the various natural regions of Alaska. In addition to a free-flowing provision for rivers and possession of various natural, historic, and recreational attributes, other factors were considered by the Commission in its selections. These included approaching identification and selection on a statewide basis, provision in the National Wild and Scenic Rivers Act for inclusion of State owned, designated and administered rivers; inclusion of some rivers with potentially complex land ownership problems, but considered to be of prime value and public interest; study and positive evaluation by the Bureau of Outdoor Recreation and others; and that many other suitable rivers presently exist in Alaska for future study and consideration.

Four categories of river recommendations are made by the Commission at this time.

1. Rivers primarily on Federal lands recommended for immediate designation.

2. Rivers primarily on Federal lands recommended for designation as potential rivers to be further studied and evaluated in the context of classification of surrounding lands to determine whether they should be incorporated in the National Wild and Scenic River System. The Commission makes this recommendation in the belief that the river study should be part of the larger planning process for an area. River classification should not occur before other classifications in the same area are commended, but the identified rivers should receive interim protection.

3. Rivers recommended for potential designation flowing through a mix of Federal and Native corporation selected lands. These rivers are recommended because they are believed to have fine attributes, but the bordering private lands raise issues to mutually resolve if possible before final recommendations can be made. The comments made for group 2 apply here as well.

4. In addition, certain rivers or sections of rivers in State ownership are recommended for study by the State of Alaska for possible inclusion in the National Wild and Scenic Rivers System. The Commission believes that, in several instances, the Wild and Scenic Rivers System should include entire rivers and, for this purpose, State and private as well as federally owned segments of a river should be studied for possible designation.

New Classification System

From the Commission's extensive study on (d)(2) lands, it became clear that for much of the (d)(2) lands, conditions and circumstances were different from those for which the existing systems were generally designed. In summary, these circumstances are:

1. The unique national value of large expanses of primitive, scenic, and wildlife habitat areas in Alaska.

2. Limited knowledge of subsurface resources.

3. Dependence of rural people on extensive areas for subsistence living involving fish, game, and plants.

4. Relative absence of development or trends at present.

5. Concern for minimizing possible conflicts with owners and users of lands adjoining Federal reserves.

Considering these and other factors, the Commission recommends:

1. A new national classification system for some of Alaska's national interest lands with known natural values.

2. Joint classification areas composed of: (1) land units in the new Federal classification system; and (2) areas of other Federal or State lands or in combinations that contain values of concern adjoining parks, wildlife refuges, wild and scenic rivers, or units of the new classification system.

Areas selected and delineated for the new classification system should possess characteristics as follows:

1. Predominate Federal public ownership.

2. Natural or scenic values:

   a. Primitive character of most of the lands and waters.

   b. Wildlife habitats of medium or greater value in terms of habitat quality, variety, and significance or variety of wildlife species present.

   c. Scenic, geological, botanical, zoological, ecological, archaeological, or historical features or values of national interest.

   d. Water fearures--river, lake, or both--which enhance the area scenically, have scientific values, or provide recreation opportunities.

3. Hunting, fishing, and other recreational opportunities.

In addition to the natural values indicated for a new classification of national interest lands, areas with the following characteristics seem particularly suitable for inclusion in the system rather than in existing systems:

1. Lands containing other important resources such as minerals, timber, or range.

2. Areas of mixed land ownerships, in most cases Native corporation selected lands.

3. Lands with very high subsistence oriented uses.

4. Lands adjacent to tracts of high natural values in other systems, to provide complete watersheds, habitats, coherent management units, or otherwise insure their integrity and protection of prime values.

Two kinds of joint classification areas are recommended: (1) units of the new classification system described above; and (2) other

areas of Federal or State lands or combinations which are deemed integrally important to park, wildlife refuge, wild and scenic rivers, or Alaska National Lands units but where other resources occur and resource use development is generally deemed appropriate.

The joint classification areas other than the new classification system lands are recommended to Congress only for those areas where there is a clear interrelation between Federal and State interests, and where coordinated planning is obviously a matter of high priority.

Qualities for identifying and delineating these joint classification areas should include related factors such as:

1. Watershed and water quality concerns.

2. Scenic values.

3. Integral habitat values.

4. Other natural values.

5. Recreational opportunities.

Joint classification areas of this nature should be established by complementary legislation of Congress and the State Legislature. As other needs for joint classification arise in the future, additional joint classification area could be proposed by the continuing commission.

Other general recommendations with respect to the foregoing classifications include:

Boundary Delineation

Boundaries around reserves established to contain natural values have not always been established in the best places with respect to ecological concerns, or easy physical identification. Prior land status and use, political factors, and the rectangular survey system applied to most of the country have influenced boundary delineation in many instances.

With some exceptions due to State and private land selections, boundaries around proposed national interest lands in Alaska can be drawn to contain watersheds and "ecosystems," thereby encompassing a more complete natural unit. Many reserve boundaries are not likely to be surveyed for years or decades because of more pressing survey needs elsewhere, so that natural boundaries easily identified in the field become more important. To the extent they are consistent with the values and uses of the unit, boundaries should follow hydrologic, physiographic, and other natural features that are easily identified on the ground.

Private Inholdings

Generally, boundaries should be drawn to exclude large privately owned areas. However, in some cases, establishing a rational unit requires inclusion of private lands which would become inholdings in the unit.

This concern is somewhat clouded at present because of Native corporation over-selections of land necessary in many cases. Further prioritization of selections for conveyance will help clear this picture.

The Commission adopted the following guidelines in seeking the resolution between containment of national interest natural features in logical units and the rights and needs of Native corporations and the State. Privately owned or projected private lands could be enclosed in accord with the following: (a) scattered small tracts including mineral claims within key areas may be included; (b) relatively small amounts of private lands may be incorporated in peripheral areas where such tracts are inside the best natural boundaries for the unit; (c) Native selected lands may be contained where it appears that these lands are over-selections of low priority to Native corporations and may not be conveyed; and (d) small areas of other Native selected lands may be included as inholdings in the unit where it is believed that the lands have national significance and are better suited for public ownership, and opportunities for alternative selection or a voluntary land exchange are afforded.

Coastal boundaries

Coastal boundaries of proposed units should extend offshore to enclose marine waters and submerged lands which are crucial to the existence of mammals or birds associated with the terrestrial portion of the unit.

Terrestrial ecosystems do not generally end at mean high tide along the ocean coast or at the edge of large lakes. There are often strong interrelations between the land and sea relative to food chains and feeding, hauling and resting areas, and rookeries and migration routes. Sea birds, migratory waterfowl, and marine mammals generally use both the land and sea in concentration areas. Other marine life may be obtained for food along the littoral by terrestrial mammals.

WILDLIFE MANAGEMENT/HUNTING/SUBSISTENCE

Major issues with respect to Alaska's wildlife are the following:

What should be the Federal-State relationship with respect to the management of resident fish and game species in the 17(d)(2) areas? Should hunting be permitted within units of the National Park System? What provisions should be made for subsistence?

The existing Federal-State relationship concerning resident fish and wildlife management is extremely complex. The State has the responsibility for managing resident fish and wildlife except where preempted by Federal law (e.g. Mt. McKinley National Park and the Marine Mammal Protection Act).

Despite the large size of the (d)(2) areas, most cannot be considered complete ecosystems. Migratory habits of many species such as anadromous fish, waterfowl and other birds, and caribou, plus the large range requirements of others, precludes sensible managment on less than a population or herd basis. In most cases, statewide programs are essential for long-term maintenance of the species and the human life-styles dependent on them. Fragmented management can be averted by providing for statewide coordinated resource management.

One of the most sensitive issues involves subsistence. The State of Alaska Constitution allows for preferential treatment of beneficial uses but not on an ethnic basis. The State has given priority to subsistence uses through legislation, regulations, and administrative policies. Many of the subsistence user demands, however, may exceed the limits of the Alaska Constitution.

There is no universally acceptable definition of subsistence, although there is a State law defining it and several Federal and State policies recognizing it. It is apparent that a rigid interpretation of Alaskan subsistence needs will only alienate many of the users and demonstrate bureaucratic insensitivity. Noticeable human use differences geographically and between species are thought to exist.

Subsistence and the (d)(2) Lands

The Commission has long recognized that for many Alaskans, particularly but not exlusively Alaska Natives, subsistence hunting and fishing is and will continue to be a vital source of livelihood. The report, Alaska Natives and The Land, written by the Federal Field Committee for Development Planning in Alaska in 1969, wrote of the Eskimos of the Yukon-Kuskokwim Delta: "Simply put, it must be emphatically said that without the seasonal round of subsistence harvest of fisheries, wildlife, and berries, most people would die."1/

Since the date of that statement, it has been argued that, with the infusion of cash from the Alaska Native Claims Settlement Act, Native peoples are no longer dependent on subsistence. In contrast to these

assertions, surveys indicate that, though the monetarized sector of the Alaska Native economy has increased in recent years, subsistence hunting and fishing still provide large portions of the Natives' diets and employs large parts of their time, even for those living in the large communities.2/

Circumstances affecting the villages economy indicate that the reliance on fish and game to meet subsistence needs will continue for sometime. Further, for many Native people, the year's round of hunting, fishing, and other subsistence gathering is the way of life they have always known. Age-old patterns of life and culture do not change rapidly.

In most small Alaska villages there are limited sources of cash income, and there is little immediate likelihood that new local industry, except in a few cases, will produce markedly more jobs and cash. Cash disbursements to Native villages under the Alaska Native Claims Settlement Act have been minor to date. Thus subsistence hunting and fishing remain a vital source of livelihood for many Alaska villagers.

Even with the infusion of cash from the Alaska Native Claims Settlement Act, subsistence hunting and fishing still provides large portions of the diets of these Alaska Natives and other rural Alaskans and employs large parts of their time, even for those living in the larger communities.3/

In recent years, wildlife resources have been increasingly hunted by Alaska's growing urban populations as well as by sport hunters coming to the State from other areas. Only, a few years ago, it was customary for residents of Fairbanks and Anchorage to drive out of the city in the fall to harvest a moose or several caribou for the winter. But now, game animals have been so heavily hunted near Alaska's growing urban areas, particularly along the road system, that this is no longer possible, except for the lucky hunter. As a result, urban dwellers have extended their reach into more remote lands by chartering small aircraft, using offroad vehicles, or traveling by riverboat. Technology also has allowed rural Alaskans to range farther and take more game than in the past. These changes in both urban and rural Alaska are increasing the competition for scarce wildlife resources.

Some of the lands under (d)(2) withdrawal have long been used by Alaska Natives to meet their subsistence needs. During the Commission's hearings on the use of the (d)(2) lands, speaker after speaker described how Native people hunted, fished, or gathered berries or other subsistence materials from areas under (d)(2) withdrawal. In Alaska, big game animals are extremely migratory, and to hunt them for subsistence purposes involves long trips of often 1-3 weeks.

Regardless of what approach is taken in establishing the Federal-State fish and wildlife management on Federal lands, the system to which the land is assigned and specific boundaries must be carefully selected. Mechanisms for time and area zoning could be considered.

Policy Alternatives Appear to be as Follows:

a. Wildlife Management

(1) Each of the proposed systems could adopt the existing management frameworks peculiar to each agency. Under this option Congress would likely treat exceptions (i.e. hunting in parks, subsistence provisions, etc.) individually in the organic legislation.

(2) Congress could develop some co-equal fish and wildlife management scheme between State and Federal agencies, especially for those systems where extensive or intensive management of the fish and wildlife or their habitat is warranted and desirable.

(3) Congress could consolidate statewide resident species management under the State with guaranteed participation of Federal agencies. Continued trespass and habitat management authority would rest with the Federal land managing agency.

(4) Congress could completely preempt the traditional management role of the State over all (d)(2) lands. This could also be considered individually for each system or area.

b. Subsistence

(1) Management

(a) Leave subsistence under State authority to be treated through its normal administration, regulatory and legislative processes.

(b) Provide for specific subsistence uses by area or for each Federal agency's authority.

(c) Provide for Secretarial discretion by area or for all (d)(2) areas.

(d) Provide policy discretion by establishing relative priority of subsistence use.

(2) User

(a) Provide specific criteria for determining subsistence users by:

- economics
- residency
- past use
- race

(b) Leave user definition to administrative discretion of regulating agency.

c. Hunting in National Parks

(1) Congress could choose to make no special use exceptions for parks.

(2) Congress could make special case-by-case exceptions allowing any combination of hunting, fishing and trapping uses.

(3) Congress could assign key parcels to the National Park System under special categories (i.e. national preserves or national recreation areas) which traditionally allow for these types of uses under cooperative management programs.

With respect to the alternative of having subsistence matters involving fish and game managed largely by the State, the policies established by the Commission of Fish and Game and the Fish and Game Board of Alaska are of interest.

The Fish and Game Board and the Commissioner of Fish and Game recognize that existing cultures and life styles in Alaska are of great value and should be preserved.

The Board and the Commissioner believe that, although limitations on the productivity of fish and game stocks prohibit continued increases in the numbers of subsistence resource users, domestic utilization is still of fundamental importance to many Alaskans. Accordingly it is assigned the highest priority among beneficial uses.

Within legal constraints, fish and game will be allocated to subsistence users on the basis of need. Needs of individuals, families, or cultural groups differ in type and degree, and it is recognized that subjective judgment will be an unavoidable necessity in weighing actual need. Elements considered in establishing the level of need include cultures and customs, economic status, alternative resources (availability of social services), location, and voluntary choice of life-style.

The Board of Commissioner also understand that subsistence requirements will not affect all resources in all areas equally, and recreational and commercial uses will continue to be permitted where and to the extent that they do not interfere with or jeopardize subsistence resource use.

Considering all of the foregoing, the Commission has continued to recommend in favor of a policy which would give preference to subsistence hunting and fishing in areas where there is a conflict for the resource with sport hunting and fishing. But this policy has been made part of an overriding policy which emphasizes preservation or renewing of healthy populations of wildlife and species as the primary objective of State fish and game management.

Commission policy is stated in the Commission's Interim Report to Congress in May, 1976, regarding wildlife management and subsistence, as follows:

(a) the primary objective in fish and wildlife management should remain the preservation of health populations of wildlife species;

(b) State and Federal policy affecting hunting and fishing should recognize subsistence taking as a preferred beneficial use of wildlife resource;

(c) for administrative purposes, a definition of subsistence should be based on local residency; and

(d) subsistence should be controlled through State game regulations utilizing a permit system when necessary.

In regard to wildlife management, hunting in national parks, and subsistence, the Commission recommends that this policy be extended to congressional (d)(2) legislation through the following measures:

Since boundaries of certain National Park System units may also be the boundaries of areas where hunting is prohibited, it is particularly important to delineate park units to avoid areas of heavy subsistence hunting. For the most part, national parks should be no-hunting regions. Where prime park values necessarily overlap exceptionally important areas for subsistence hunting, congressional legislation should provide for continued subsistence activities within the park through a statement of intent or application of Park System categories which would allow subsistence hunting.

Congressional direction to give preferences to subsistence hunting should define those preferred by residency rather than by race, in keeping with the expressed intent of the Claims Act to establish no "permanent racially defined institutions."

Congressional direction to allow hunting should confirm the traditional role of the State in the management resident species of fish and game, although responsibility for habitat management may be in the National Park Service or other Federal agencies.

A number of areas that are relied upon by Alaska Natives and other Alaska residents to meet their subsistence needs have natural values of national importance. One of the Commission's purposes in recommending a new classification system is to make a special provision for continued hunting and fishing where subsistence use areas and national interest lands cannot be separated. The recognition of subsistence as a priority use in taking of fish and game should be incorporated as a basic management guideline extending to all areas under new classification.

TRANSPORTATION AND (d)(2) LANDS

The (d)(2) lands extend across regions where there is virtually no existing ground transportation, except for occasional winter trails. Remote villages near the (d)(2) lands are linked to the State's larger cities by air transportation and, on the coast, by occasional summer barge service. A highway system, comparable to that of other states, exists only in the southcentral part of Alaska connecting Anchorage, Fairbanks, and the Kenai Peninsula, with a link to the Alaska Highway through Canada. In southeastern Alaska, the larger communites are linked by a ferry system. The one major incursion of land transportation into Alaska's vast roadless regions is a gravel haul road adjacent to the trans-Alaskan oil pipeline which runs north from the Yukon River to Prudhoe Bay on the Beaufort Sea.

The possibility of other land transportation routes to remote Alaska has been extensively studied and debated in recent years, and several proposals for pipelines, railroads, and highways have been advanced. Most of these proposed routes have been intended to provide transportation to areas of expected resource development. Proposals for land transportation for movement of people to remote Alaska have been opposed by Native corporations and conservation interests who fear damage to subsistence hunting and fishing and the social disruption that might be brought by the road connections between small villages and Alaska's major cities. Further, the costs of constructing and maintaining roads over hundreds of miles of extremely difficult terrain may indicate that air transportation is a preferable mode for the movement of people in remote sections of Alaska.

In the future, issues of transportation development in remote Alaska will continue to rise, particularly as resource development possibilities materialize. Inevitably, some of these route proposals will involve (d)(2) lands. The (d)(2) areas are, often, so large that potential transportation crossings cannot be entirely avoided. For this reason, the Commission recommends that Congress incorporate a method of deciding about future transportation corridors in its (d)(2) determinations.

At least four major options can be applied to this issue. Lands [(d)(2)] can be placed in systems whose present management authorities and

philosophies are closest to presently perceived access needs. Existing law governing systems could be amended as deemed desirable to more accurately reflect desires regarding access. Congressional reservation of specific corridors in (d)(2) legislation could be effected. Another option is to establish procedures and/or institutions to make future recommendations or designations for access as needs arise.

The following measures are recommended to Congress as an approach to the issue of transportation across (d)(2) lands:

1. No corridors should be designated at this time across any of the (d)(2) lands. This recommendation is based upon Commission participation in a detailed and thorough review of recent Bureau of Land Management transportation corridor proposals (Multi-modal Transportation and Utility Corridor System in Alaska: A Preliminary Conceptual Analysis). The Commission found that no corridors could be justified on the basis of intercommunity needs or known resource development potential at this time.

2. Where possible, without jeopardizing the protection of key natural values, boundaries of (d)(2) areas should avoid potential transportation corridors.

3. Transportation decisions involving any region of the State, including the (d)(2) lands, should be made in the context of statewide planning for a transportation system. Such a system should employ different transportation modes in a manner that will further the economic and social well-being of the State and maintain environmental quality.

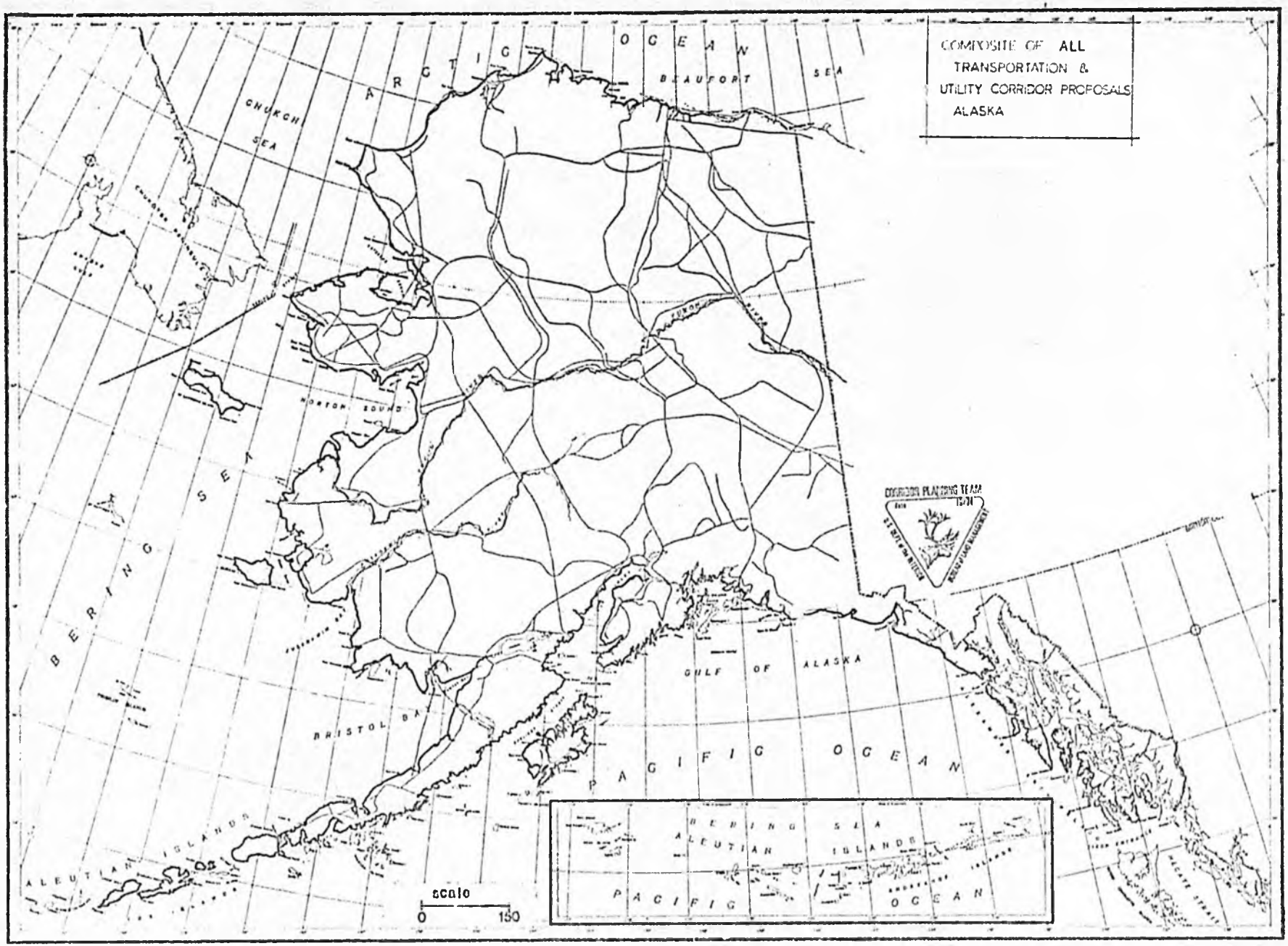
4. The following policies should be established as congressional guidelines for transportation planning:

   a. Transportation planning must be informed by and incorporated within land use planning.

   b. Transportation facilities should be constructed across (d)(2) lands only after finding that no feasible alternatives exist, and that the proposed facilities can be constructed in a manner that will minimize any adverse impact on primary values and designated uses of (d)(2) areas.

   c. In choosing among alternative transportation routes and modes, prime consideration should be given to the route or facility with least adverse environmental, cultural, and social impacts.

   d. Where possible, different transportation modes should be combined in the same corridor so that the number of corridors can be reduced.


COMPOSITE OF ALL
TRANSPORTATION &
UTILITY CORRIDOR PROPOSALS
ALASKA
ARCTIC OCEAN
BEAUFORT SEA
CHUKCHI SEA
NORTON SOUND
BERING SEA
BRISTOL BAY
GULF OF ALASKA
PACIFIC OCEAN
ALEUTIAN ISLANDS
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ALEUTIAN ISLANDS
PACIFIC OCEAN

e. Land use within transportation corridors should be strictly controlled to minimize the environmental and social impacts of the transportation corridor on lands within the corridor, as well as adjoining lands.

f. As a matter of general policy, transportation development should not be justified because such development would serve as a subsidy for resource development.

5. For (d)(2) lands placed under existing Federal land management systems, the planning recommendations would be advisory. Final decision about transportation corridors crossing national parks, wildlife refuges, and national forests or areas within the Wild and Scenic Rivers System in Alaska would be made on the basis of existing laws and regulations regarding rights-of-way and corridors.

6. For (d)(2) lands which may be placed in a new classification system, and other lands in joint classification areas, corridors would be designated as part of the classification process. Land management agencies assigned to particular land units would be responsible for approving and administering actual rights-of-way within corridors established by classification.

7. Issues involving minor problems of access across (d)(2) lands, which do not involve designations, would continue to be handled by existing Federal land management agencies.

MINERAL DEVELOPMENT ON (d)(2) LANDS

Mining has played an important role in the history of Alaska. Gold rushes highlighted the pre-statehood era, and expectations that Alaska contained an abundance of mineral wealth were an important argument for statehood. In recent years, oil and gas discoveries in the Cook Inlet and the North Slope have heightened prospects for similar discoveries in geologically favorable basins elsewhere in Alaska.

Miners and other parties with an interest in mineral development have expressed apprehension about the recent changes in Federal land status in Alaska, because of reduction in the area open to claim staking. Differences between mineral and conservation interests have been highlighted by the (d)(2) withdrawals which were intended to place lands in one of the Nation's conservation-oriented land management systems. In recognition of the arguments advanced by the mining community the Department of Interior encouraged by the State, attempted to exclude highly mineralized areas when the boundaries of the (d)(2) withdrawals were established. Despite some exclusions, certain mineralized lands are included within the (d)(2) withdrawals, most notably in the Wrangell and Chugach Mountains, upper Yukon River, central Brooks Range, Mt.

McKinley, Lake Clark, and Kobuk River areas. Thus, the conflict remains to be dealt with by Congress in the forthcoming (d)(2) legislation.

The issue of mineral exploration and development in (d)(2) areas is primarily involved with hardrock minerals. The (d)(2) withdrawals exclude large areas with identified high potential for petroleum development. Further, Federal law pertaining to leasable minerals, i.e. petroleum deposits and coal, is much more compatible with conservation-oriented land management than present law pertaining to hardrock mineral development. The development of petroleum resources falls under the Mineral Leasing Act of 1920. Assuming adequate lease stipulations and proper enforcement, the mechanisms for controlling the location and nature of petroleum exploration and development provided by this Act are adequate as a system of mitigating adverse environmental impact in areas where mineral leasing is permitted.

Hardrock mineral exploration and development, on the other hand, falls under the location-patent system established in the Mining Law of 1872 which gives prospectors an absolute right to stake a mineral claim on any public lands not closed to such activities. This law applies to areas that are open to mineral entry within the National Forest System and to most lands under BLM management, as well as to National Wildlife Refuge System lands when specifically opened to entry. Because of its widespread significance for the (d)(2) decisions, the Commission has devoted considerable study to the impact and implications of the 1872 Mining Law. They found this system to be inadequate for the national interest lands in the following respects:

1. If provides for the acquisition of patent to the land surface and subsurface minerals, but fee title to the surface estate is not deemed a necessary concomitant of mineral development;

2. It allows no method by which the government can effectively control the environmental and land use impacts of mining activity;

3. There is no mechanism which will allow the public to derive a fair return from the extraction of minerals located on the public lands;

4. There is no requirement in the present mining laws that private industry provide resource information to the government on a confidential basis;

5. The assessment work requirement of expending so much time and money per year in mineral claim exploration or development, which is the principal performance standard provided in this law, has often failed to operate as envisioned; and

6. Frequently changing administrative and judicial standards for what constitutes a valuable discovery create uncertainty of lands tenure prior to meeting the requirements of a patent.

Policy alternatives with respect to exploration and development of the locatable group of minerals on (d)(2) lands must deal with two basic questions: Where should mineral development be permitted? What system should be utilized to dispose of hardrock minerals located on (d)(2) lands?

At present, national parks are closed to mineral development for the most part; wildlife refuges are closed unless specifically opened; national forests and national resource lands are open on a multiple use basis; and riverbeds and banks of wild rivers are closed.

Applicable laws or policies could be changed to allow mineral development on lands of certain classifications, or exceptions could be applied to specific areas or portions of areas. Some conflicts between mineral development and other land uses can be avoided by drawing boundaries to excise mineralized areas. Such a resolution is not always possible because of the existence of other considerations, such as the need to protect important scenic features.

Hardrock mineral disposal can continue under existing law; or the law could be changed to provide a modified location-patent system, or a permit and lease system. A number of variations are possible in these latter two systems.

Given the background issues, the Commission's recommendations to Congress on methods of resolving conflicts between mineral values and scenic and other natural values in (d)(2) lands are as follows:

1. Where possible, the Commission recommends that Congress draw the boundaries of new units and additions to the National Park System in a way that would reduce conflicts between park related values and areas of high mineral potential. This approach is based on the assumption that existing law prohibiting mineral development in certain national parklands will continue to apply in the future. The Commission believes that some areas should be maintained without mining in Alaska and that national parks are appropriate areas for closure.

2. In a number of cases where lands with scenic and natural values of national interest are significantly mineralized, the Commission recommends inclusion under a new classification system. Elements of this recommended system pertaining to mineral exploration and development are as follows:

   a. Inventory of the mineral potential of such lands should be conducted by the U.S. Geological Survey and the U.S. Bureau of Mines. Such assessment should include geochemical and geophysical sampling as well as geological mapping. The Commission believes that studies of this nature will provide

adequate preliminary knowledge of the mineral potential to enable informed planning and classification decisions.

b. Following planning and classification under congressional guidelines, mineral exploration and development will be allowed in areas so classified, under a permit and lease system. For leasable minerals and mineral materials, the Mineral Leasing Act of 1920 and the Mineral Materials Act are adequate. For hardrock mineral exploration and development, a lease and permit system should be developed. The Commission has been developing a proposal for such a system, and details will be submitted to Congress in subsequent recommendations.

3. Within the units of National Wildlife Refuge, Forest, and Wild and Scenic Rivers Systems, the Commission recommends that existing legislation, policies, and regulations apply; except that a lease and permit system, referred to in 2.b. above, should be utilized in areas where hardrock mining is permitted. This recommendation is based on Commission findings that the Mining Law of 1872 is inadequate for areas that may be added to existing Federal land management systems or for other (d)(2) lands.

NEW INSTITUTIONS

In the preceding section, the Commission made its general recommendations relevant to existing conservation classification and management systems and policies and how they should apply in Alaska. Needs for a new classification system for certain lands of national importance in Alaska were indicated.

More detailed recommendations follow regarding these new concepts and institutions. In addition, specific recommendations are made regarding transportation planning and mineral exploration and development as they might be applied to the (d)(2) and related lands in Alaska.

Based on differing conditions and characteristics of much of Alaska's lands of national interest, the argument is made for a continuing institutional structure that would:

1. Allow for a process of decision making over time, so that land use choices can be made when new events and information make it timely and appropriate to render a decision.

2. Insure that land use decisions are responsive to changed circumstances without sacrificing responsibility to the national interest.

3. Provide the high level of environmental protection that is warranted by the national value that is found in Alaska's great expanse of natural land.

4. Maintain sufficient flexibility so that environmental protection measures serve to guide rather than to totally foreclose opportunities for future resource development in the national interest.

5. Provide for coordinated State and Federal land planning with an option for voluntary participation by major private corporate landholders of related lands.

Alaska National Lands

Based on these criteria, the Commission has developed a new classification system for many of Alaska's national interest lands to be called the Alaska National Lands System.

Designation of certain Federal lands as part of the Alaska National Lands System would represent a lasting commitment to the national interest in that (1) lands assigned to the system would be permanently withdrawn for Federal ownership; and (2) congressional guidelines for the system would emphasize a high level of environmental protection as a guiding standard when any land use is permitted. Unlike the National Resource Lands, managed by the Bureau of Land Management, Alaska National Lands could not be made available for State selection or other forms of permanent disposal from Federal ownership.

The land classification system which the Commission is proposing to fulfill these needs would provide a new approach to Federal land management.

Instead of subsuming determinations about primary values, or choices between primary use or multiple use under the designation decision, as has been done with the existing Federal land management systems, Congress, in adopting the Commission's proposal would be establishing an institution equipped to handle such decisions as they become appropriate and timely in the future. This approach, substituting a continuing planning institution for determination at this time, is based on a recognition that our foresight in Alaska is very limited and that circumstances affecting the areas proposed for Alaska National Lands may change radically in the future.

The Alaska National Lands System is intended to apply to national interest lands having outstanding wildlife, scenic, and other natural values and renewable and nonrenewable resources, whose real value is not known at this time. The system would be established by Congress, and lands designated for the system would be permanently withdrawn from public ownership by the Federal Government. Guidelines for planning and classification of the Alaska National Lands would be established by Congress, and where classification permits resource utilization, regulations would be directed towards protection of the natural and wild character of the land. Lands thought potentially suitable for wilderness designation would be identified, studied, and could be recommended for inclusion within the National Wilderness Preservation System.

Guidelines for Management

The following management guidelines are recommended to apply generally to lands in Alaska National Lands, both before and after classification:

1. A high level of protection shall be the guiding element in managing uses of the lands.

2. Hunting and fishing shall be allowed in accordance with Alaska Department of Fish and Game regulations and statewide species management plans developed with the participation of the habitat manager. Subsistence uses shall be given priority in the taking of fish and game.

3. Such activities should be allowed as necessary to acquire an adequate knowledge of the area for classification.

The following management guidelines for land uses are recommended to apply after planning and classification in areas where classification permits those uses:

1. Mineral exploration and development shall be conducted through a permit and lease system.

2. Lands suitable for grazing or farming shall be leased for use only at such time as there is a demonstrated justification or necessity.

3. Prior to location of major roads and other transportation facilities, a thorough environmental impact analysis shall be conducted.

4. Timber may be harvested when practical in areas so classified.

Managers for Alaska National Lands

The Commission recommends that units of the Alaska National Lands System be administered by existing Federal land management agencies, with the assignment of a manager to be based on known values and characteristics of units and the adjoining land management system. Minimizing the number of Federal land managers of large areas within regions to the extent practical should be an objective.

Coordinated Planning and Classification Mechanism and Powers

With respect to classification of the Alaska National Lands, the Commission recommends establishment of a continuing joint Federal-State commission. Self perpetuation of the existing joint Commission for Alaska is not intended nor of interest. Rather, the Commission believes that a commission as recommended can take an active and helpful role in resolving Alaska land issues in the future. The commission should have two main types of duties and responsibilities: (1) specific responsibilities for planning and classification of areas; and (2) broad responsibilities for statewide coordinative planning.

Unlike the present Joint Federal-State Land Use Planning Commission, the proposed commission would have more than advisory powers and be permanent in nature. This body would have responsibility for oversight of the Alaska National Lands with authority to plan and classify under congressional guidelines when such actions become timely. Day-to-day management would be assigned, as previously indicated, to an existing land management agency. As a public body, operating under congressional guidelines, a commission would be structured to combine responsiveness to changed circumstances and public interests with a paramount responsibility for protecting national environmental values. The commission would be jointly constituted, including representatives appointed by both Federal and State governments.

In addition, those Federal lands proposed for the Alaska National Lands system, certain other areas where there is a complex Federal-State ownership pattern and where coordinated planning is highly desirable, should be jointly classified. Areas could be established by congressional act and complementary State legislation. Classification of these lands could also be assigned to the proposed joint Federal-State commission.

Joint classification areas should not encompass lands within or recommended as additions to the existing Federal land management systems, nor include State-owned lands that are highly important to the State for settlement and resource development purposes. The Commission believes that both governments have sound reasons for reserving exclusive control over certain lands, and for this reason, does not propose incorporating such lands in joint classification areas. The prerogatives of the different governments would be further preserved by a veto system giving each level of government veto power within its sphere of ownership over joint-commission classifications.

Should other areas emerge after additional State selections are made where joint classifications appear desirable, the commission could recommend their designation.

The commission's broader responsibilities for statewide coordinative planning should include the following elements:

1. Planning and coordination to assist in the satisfactory completion of the land reallocation mandated by the Alaska Statehood Act and the Alaska Native Claims Settlement Act. The commission would strive to effect on ownership pattern most in accord with the interests and capabilities of the major landowners and management units that correspond to natural units to the extent possible. This duty would include findings and recommendations regarding State selections, Federal withdrawals, and land exchanges between Federal, State, and Native entities.

2. Provision of a forum for discussion and coordination of policy-setting and management practices in areas where the Federal and State governments share jurisdiction of the same lands, for example, in areas where the Federal government owns and controls the habitat of wildlife populations managed by the State government. .

3. Coordination of intragovernmental operations of Alaska's Federal agencies and between the Federal and State governments in those area where separate governmental entities own or manage adjacent tracts within interrelated natural systems. Alaska's coastal zone is a prime example of a region where a coordinating mechanism is needed to bring Federal and State governments together to resolve common planning problems.

4. Facilitation and coordination of statewide planning for those land use elements, e.g. wilderness, transportation which should be analyzed on a statewide system basis.

5. Encouragement of voluntary participation in cooperative planning efforts by large private landowners.

6. Broad responsibilities for facilitating and coordinating the planning of a statewide transportation system. With respect to (d)(2) lands placed under existing Federal land management systems, the joint commission's transportation planning recommendations would be advisory. For lands which may be placed in the proposed Alaska National Lands system or for other designated joint classification areas, the joint commission would designated corridors as part of its classification authority. The Federal and State governments would retain veto power over commission transportation designations on Federal or State lands, respectively, just as veto power is retained over other commission classifications.

COMMISSION FINDINGS ON NATIONAL INTEREST VALUES AND RECOMMENDATIONS FOR THEIR PROTECTION

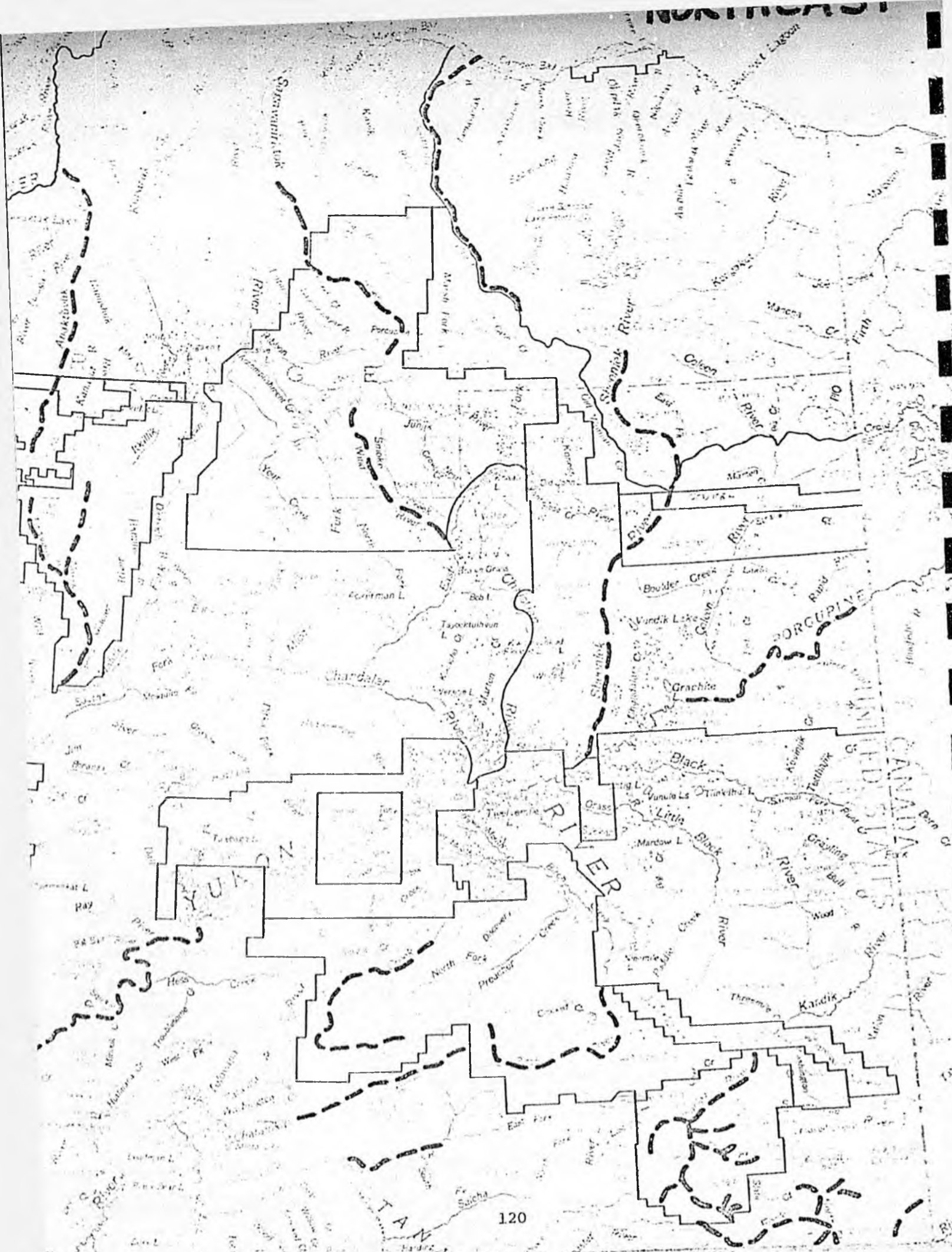
In assessing the natural values and other national interests in (d)(2) withdrawals, the Commission has examined areas adjoining the withdrawals and other locations of high natural value. In some instances, the Commission has found other resource values, in addition to the natural values of (d)(2) lands, to be of sufficient interest or concern to recommend that all or part of some areas not be included in a national conservation system. Correspondingly, the Commission has identified national interests in lands adjoining (d)(2) withdrawals, including, in some instances, lands selected by the State of Alaska or by Alaska Natives. In such instances, some of these lands have been suggested as subjects for future land exchange discussions. Native land selections presently exceed entitlement; and as the land status pattern becomes clearer, some boundary adjustments may be recommended by the Commission to exclude certain lands if selected or to honor State selection rights. The resulting proposals are, therefore, an admixture of lands with complementary values of national interest.

The Commission's proposals are presented in major geographic groupings in order to make apparent many natural and socioeconomic interrelationships.

NORTHEASTERN ALASKA

Northeastern Alaska, as delineated here, is essentially bounded on the west by the trans-Alaska oil pipeline, on the north by the Arctic Ocean, and on the east by the Canadian border, and consists of about 95,000 square miles (60,800,000 acres). The southern boundary roughly follows the crest of the Yukon-Tanana uplands. The eastern Brooks Range and Arctic coastal plain, and the upper Yukon River basin are contained within the region. Although historical activity has occurred, most of the region remains in its natural state. All streams are free flowing. Adjoining the Yukon River lies some of the Nation's prime waterfowl habitat. Major caribou herds migrate through the region. Significant populations of Dall sheep and grizzly bear are also present. South of the Brooks Range crest are spruce, poplar, and birch forests, with low brush bogs and shallow lakes predominating in the Yukon Flats. To the north, the alpine tundra of the Brooks Range gives way to the moist and wet tundra of the Arctic plain.

Northward from the summit of the Brooks Range an Arctic climate prevails, with persistent winds and fog along the coast, brief summers, desert-like annual precipitation levels on the Arctic plain, and average temperatures for January of -17°F and in July of +41°F. The climate of the southern interior portions is continental, with 90 frost-free days a year on the average. Precipitation here is also low. Some of Alaska's greatest temperature extremes occur in this area with ranges from -70°F to 100°F.


NORTHEAST
YUKON
PORCUPINE
RIVER
CANADA
Sheenjek River
Coleen
Old Crow
Chandalar
Grayling
Kandik
Black
Little Black
Porcupine
Boulder Creek
Vandik Lake
Grachile
Bob L.
Eckerman L.
Tajocktuishvun L.
Twelvemile L.
Marrow L.
Ray
Jim Brown Cr
Hess Creek
Trolsbone
Halfway Cr
Mastodon Cr
Dall
Ptarmigan
Kandik
Nation
Yukon Territory

Mineralized zones and oil and gas provinces underlie the region. Some of interior Alaska's most extensive stands of timber are found along the Yukon River and tributary streams, as is a significant portion of those lands in Alaska with soils and climate suitable for agriculture.

Although Fairbanks, the largest city of Alaska's interior, lies near the southwestern corner, this region of Alaska is sparsely populated. Several small communities, all of which are well under 1,000 in population and largely inhabited by Athabascan Indians, are located along the Yukon River and its tributaries. There is one small predominantly Eskimo settlement on the Arctic coast. With the exception of the North Slope haul road (currently closed to public use) which follows the trans-Alaska oil pipeline, Alaska's road network does not extend north of the Yukon River. Access to most of the region is by air, or in the summer months by water. Aside from several small mining operations, local sawmills, and current oil exploration there is no significant industry in the Yukon basin. On the Arctic slope, however, the oilfields near Prudhoe Bay are nearly ready for production. Fish and game are still relied upon to a significant degree by local residents to meet their subsistence needs. Tourism has been relatively low, although recreational and sport hunting use is increasing, particularly in the southern portions of the region.

After the entitlement of Alaska Native corporations for land selections in the region has been satisfied, the Federal Government will retain ownership of approximately 70 percent of the lands. These private corporations will own approximately 15 percent of the region. To date, around 15 percent of the land area has been selected by the State and more may be selected by 1984.

The 8.9-million-acre Arctic National Wildlife Range is located in this region. Four withdrawals for study as national interest lands, totalling 13.6 million acres, were made under Section 17(d)(2) by the Secretary of the Interior. They are: a 100-mile corridor withdrawal along the upper Yukon River extending from the Canadian border westward (960,000 acres); two areas adjoining the Arctic National Wildlife Range (2.5 million acres); and the Yukon Flats (10.2 million acres). In addition, three narrow river corridors along the Charley River and Birch and Beaver Creeks were withdrawn for study as possible National Wild and Scenic Rivers.

Yukon Flats Withdrawal and Adjoining Uplands to the North

The Yukon Flats of the upper Yukon basin is one of the largest waterfowl habitats in a natural state in the Nation, with the highest duck nesting density of any large area in Alaska. The primary duck species present are scaup, pintail, and widgeon, and 10 to 15 percent of the North American continent's population of canvasbacks. Canada and white-fronted geese nest here as well. Caribou range through the Sheenjek, Coleen, and Porcupine River drainages. The upper Porcupine River is a key habitat for the endangered peregrine falcon. A variety of other wildlife, including grizzly bears, moose, wolves, and small furbearers, are present.

Several major streams flow freely through the area. A few large lakes of recreational value receiving current use are located in the uplands. Networks of small lakes and streams occur in the lowlands. Mixed spruce-hardwood forests line the major rivers and adjacent slopes.

THE COMMISSION RECOMMENDS TWO LARGE AREAS TOTALLING APPROXIMATELY 2.3 MILLION ACRES AS A NATIONAL WILDLIFE REFUGE TO PROTECT HIGH DENSITY WETLAND WATERFOWL HABITATS AND SOME ADJOINING UPLAND HABITAT AND WILDLIFE VALUES.

SOME 5.5 MILLION ACRES OF SCENIC UPLANDS, UPLAND WILDLIFE HABITAT, AND MEDIUM DENSITY LOWLAND WATERFOWL HABITAT ARE RECOMMENDED FOR INCORPORATION IN THE PROPOSED ALASKA NATIONAL LANDS SYSTEM TO BE MANAGED BY THE U.S. FOREST SERVICE. Taking of fish and game for local subsistence purposes is a common and important practice. Hunting, fishing, and trapping would continue under State regulations and in accordance with Federal interests in wildlife and habitat preservation. Other uses would occur as permitted by wildlife refuge management policies. The primary purpose of the new management system is the protection of the assortment of natural values present, while other compatible uses may be permitted under congressional guidelines after Federal-State classification. Hunting, trapping, and fishing on the new management units are permitted in accordance with State wildlife management plans and regulations developed in coordination with Federal agencies. There has been increasing expression of interest in interior Alaska's forests and possible development of a forest industry within this extensive area. The U.S. Forest Service appears particularly well suited to manage the Porcupine River area because of its research capabilities and the need to develop appropriate silvicultural methods and other management programs for these and similar lands and their several values. Research findings developed here could be of value to other private landholders and State and Federal land administrators in the general area.

TWO OF THE FREE-FLOWING STREAMS, THE PORCUPINE AND SHEENJEK, HAVE BEEN STUDIED AS POSSIBLE WILD OR SCENIC RIVERS AND ARE RECOMMENDED FOR POTENTIAL DESIGNATION PENDING EVALUATION DURING CLASSIFICATION OF THE NEW MANAGEMENT UNIT. THE RAMPART SECTION OF THE YUKON RIVER, DOWNSTREAM FROM THE YUKON FLATS, IS ALSO RECOMMENDED FOR POTENTIAL SCENIC RIVER DESIGNATION PENDING CLARIFICATION OF LAND STATUS IN THE AREA AND FURTHER STUDY AND CLASSIFICATION OF SURROUNDING LAND OR USES OF THE RIVER.

Two potential oil and gas basins, one with potential for uranium underlie portions of the proposed refuge and Alaska National Lands unit, but extend beyond their boundaries onto private and other public lands. Exploration, development, and extraction could be allowed on the new management unit if in compliance with congressional guidelines and where permitted by eventual Federal-State classification. Exploration and development on the proposed refuge would be permitted only at the discretion of the Secretary of the Interior.

Two proposed hydroelectric projects (Rampart and Porcupine), if constructed, would inundate large parts of the proposed units and, therefore, are incompatible with the protection of their natural values. There is

currently no significant demand for the potential power, flood control, or water storage. Accordingly, the Commission has concluded that development of these sites is not now in the national interest. The proposed new management system unit contains portions of metallogenic provinces with potential for copper, silver, gold, nickel, lead, zinc, tin, iron, barite, platinum, chromium, tungsten, titanium, and asbestos. Under the Commission's recommendations, if eventual Federal-State classification allows, the exploration and extraction of these minerals could occur.

A substantial portion of Alaska's potentially cultivable lowlands, as well as some upland soils in climatically suitable zones, lie within the proposed new management unit and refuge. Similarly, some large timber stands which may become commercially valuable are located on portions of the units. Adjoining lands selected by Alaska Native corporations have potential for agriculture and timber harvesting. Proposed boundaries have been drawn to exclude some potentially cultivable areas for possible State selection. Farming and timber harvesting may be permitted on Alaska National Lands units if classification permits.

Particular needs for coordination in this area are:

(1) Large widespread blocks of Native-selected land include significant portions of the best waterfowl habitat. Coordination with these private landowners will be necessary to fully protect the national interests in waterfowl.

(2) The Yukon River is a navigable international waterway involving State interests, and is currently used for transportation and access through the region.

Upper Yukon River and Adjoining Uplands to the South and West

The historic Yukon River flowing from Canada courses through bluffs, bottomland forests, and wetlands, with higher mountains providing scenic backdrop. Structures of historical interest extending back to the Klondike gold rush era, and a significant rock formation sequence and fossil evidence of the geological past are found on the banks. A variety of wildlife including bear, moose, waterfowl, and small furbearers can be seen along the river. Key habitat for peregrine falcon is present. The Commission finds this area to be a particularly scenic section of one of the Nation's major waterways.

The adjacent Yukon-Tanana uplands contain a variety of upland wildlife species including bear, moose, wolves, and furbearers. Scattered groups of Dall sheep occupy the White Mountains and Charley River areas. Caribou range through much of these mountains south of the Yukon River. Several clear water streams flow freely through the area. Mixed spruce-hardwood forests line the valleys and lower slopes, with tundra on the higher slopes. Considerable medium and low density waterfowl habitat is present in and adjoining the Yukon Flats.

HAVING DETERMINED THAT THESE VALUES ARE OF NATIONAL INTEREST, THE COMMISSION RECOMMENDS THAT A RIVER CORRIDOR OF APPROXIMATELY 540,000 ACRES, ABOUT 100 RIVER MILES LONG AND AN AVERAGE OF 9 MILES WIDE, BE SET ASIDE AS A UNIT OF THE NATIONAL PARK SYSTEM. HUNTING, FISHING, AND TRAPPING, WHICH PRESENTLY OCCUR, ARE RECOMMENDED TO CONTINUE IN THE PROPOSED RIVER PARKLAND IN ACCORDANCE WITH STATE REGULATIONS AND IN COORDINATION WITH FEDERAL INTERESTS. The proposed corridor extends to benchlands and ridges and encloses the immediate scenic environment and habitats. The intended primary uses are recreational and scientific, with other uses as permitted by National Park Service policies.

THE COMMISSION ALSO RECOMMENDS A 6.1-MILLION-ACRE ALASKA NATIONAL LANDS UNIT IN THE YUKON-TANANA UPLANDS TO BE MANAGED BY THE BUREAU OF LAND MANAGEMENT. Administration of this unit by the Bureau of Land Management is deemed appropriate because of the multiple values present and the anticipation of multiple classification for future use and preservation. Compatible uses may be permitted under congressional guidelines after Federal-State classification. Hunting, trapping, and fishing would be permitted under State wildlife management plans and regulations developed in coordination with Federal agencies.

THREE OF THE FREE-FLOWING STREAMS, BIRCH AND BEAVER CREEKS AND THE CHARLEY RIVER, HAVE BEEN STUDIED AS POSSIBLE WILD RIVERS, AND ARE RECOMMENDED FOR POTENTIAL DESIGNATION PENDING CLASSIFICATION OF THE ALASKA NATIONAL LAND UNIT. THE CHARLEY RIVER DRAINAGE IS PROPOSED AS A PRIORITY WILDERNESS STUDY AREA TO INSURE THAT ITS NATURAL FEATURES ARE NOT ALTERED PENDING A DECISION ON POSSIBLE WILDERNESS DESIGNATION.

Potential provinces for oil and gas, uranium, and coal, underlie portions of the units, but extend well beyond their boundaries. If Federal-State classification allows, development or extraction in these provinces could be allowed on the proposed Alaska National Land units. Two proposed hydroelectric projects (Rampart and Woodchopper), if constructed, would create reservoirs inundating much of the Yukon River corridor and portions of the adjoining uplands. There is currently no significant demand for the potential power, flood control, or water storage. Construction of these projects is therefore considered not now in the national interest. A metallogenic province with potential for antimony, gold, silver, and molybdenum underlies a portion of both the proposed park and the proposed new management unit, but extends well beyond the recommended boundaries. The proposed Alaska National Lands unit also partially contains provinces with potential for asbestos, chromium, copper, iron, lead, nickel, platinum, tin, titanium, and zinc. Most of three historical gold mining areas are included in the new management unit, with a portion of one in the proposed Yukon River corridor.

Some timber stands of possible commercial value and soils and climate suitable for agriculture are found in the Alaska National Land unit and in the proposed park unit. Opportunities for timber and agricultural development exist in adjoining areas. The Commission has delineated the boundaries of its Yukon River proposal to allow these uses outside of those scenic and wildlife habitat areas immediately adjoining the river.

Particular needs for coordination in this area include:

1. Management of tributaries and watersheds adjoining the park unit may be necessary to protect natural values.

2. The Yukon River is an international navigable waterway involving State and Canadian interests, and is currently used for some transport and access through the region. Two roads from the south connecting with the State's highway network extend to the Yukon River at either end of the proposed park unit.

3. Some significant historical sites in the area are in private ownership or under local public jurisdictions.

Areas adjoining the Arctic National Wildlife Range

Areas adjacent to the Arctic National Wildlife Range to the south and southwest have primary value for their upland game habitat. The area to the southwest lies in the rugged and scenic eastern Brooks Range containing populations of grizzly bear, Dall sheep, and wolf. Habitat for the international Porcupine caribou herd numbering about 100,000 is present in both areas. A number of in their natural state flow through the areas. The area to the south of the existing wildlife range contains additional habitat for bear, moose, and other upland game.

THOSE LANDS, TOTALLING 1.9 MILLION ACRES, DIRECTLY RELATED HYDROLOGICALLY AND ECOLOGICALLY TO THE EXISTING RANGE, ARE RECOMMENDED AS RANGE ADDITIONS. THOSE LANDS FARTHER WEST, TOTALLING 5.6 MILLION ACRES, AROUND THE CHANDALAR RIVER WITH SIMILAR VALUES, BUT LESS DIRECTLY RELATED TO THE RANGE, ARE RECOMMENDED FOR INCORPORATION AS A UNIT OF THE ALASKA NATIONAL LANDS SYSTEM. THE U.S. FISH AND WILDLIFE SERVICE IS RECOMMENDED AS THE MANAGER OF THIS RESERVE. This choice was made in part to help facilitate coordinated management of the wildlife which use habitat in both the Arctic National Wildlife Range and the Alaska National Lands unit.

FOUR OF THE FREE-FLOWING STREAMS, THE CANNING-MARSH FORK, IVISHAK, WIND, AND SHEENJEK, HAVE BEEN STUDIED AS POSSIBLE WILD AND SCENIC RIVERS AND ARE RECOMMENDED FOR POTENTIAL DESIGNATION PENDING EVALUATION IN THE WILDLIFE RANGE AND CLASSIFICATION OF THE LANDS IN THE PROPOSED NEW MANAGEMENT UNIT.

The areas contain some potential for petroleum, copper, nickel, zinc, lead, tin, barite iron, platinum, chromium, tungsten, titanium, and asbestos. These provinces extend beyond the boundaries of the proposed units. Exploration and extraction of these resources may be permitted under Secretarial discretion on the wildlife range extension, and on the Alaska National Lands unit wherever eventual classification may permit.

Use of the withdrawn gas pipeline corridor included within the wildlife range or proposed Alaska National Lands unit will not be precluded by the designation of these units.

Recognizing that the range of the Porcupine caribou herd is extensive and larger than any one management unit or landholding, and subject to change, there is a particular need for coordinated wildlife management in this region.

NORTHWESTERN ALASKA

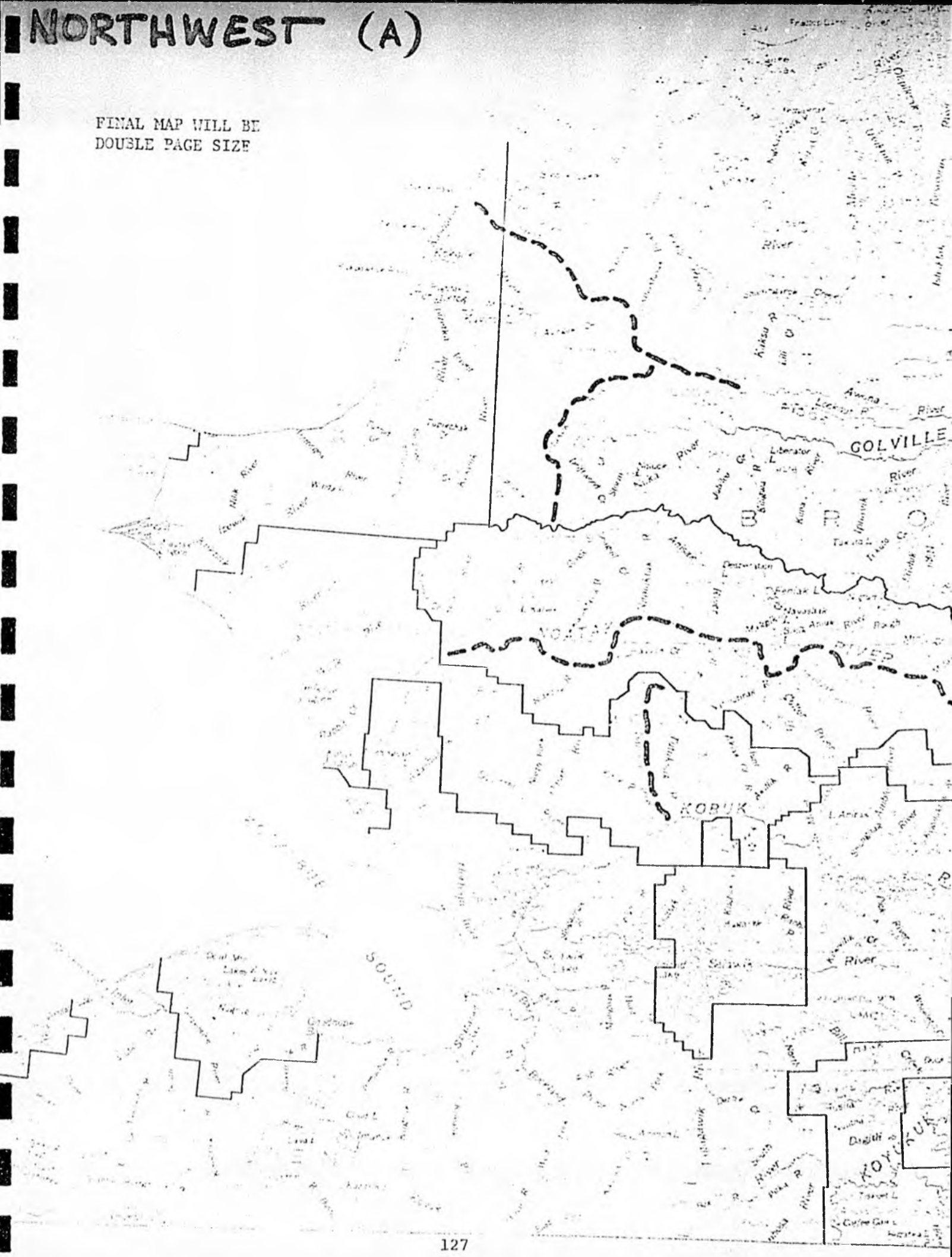
Northwestern Alaska, as used here, is a 156,000 square-mile area (99,900,000 acres) generally west of the trans-Alaska oil pipeline and northwest of the Yukon River. Included in the region are the western Arctic coastal plain and foothills, the Noatak, Kobuk, and Koyukuk River drainages heading in the central and western Brooks Range, the Selawik River drainage, the Seward Peninsula, and St. Lawrence Island. The area is bounded on the north by the Beaufort Sea, on the northwest by the Chukchi Sea of the Arctic Ocean, and on the southwest by Norton Sound in the Bering Sea. Although historical activity has occurred in various parts of the region, e.g., gold mining on the Seward Peninsula and whaling on the Arctic coast, the region remains largely unaltered from its natural state. Four of Alaska's major rivers run through this region, and all streams are free flowing. Important waterfowl and seabird habitats are found in several areas. The major western Arctic caribou herd migrates through much of the region, and significant populations of grizzly and black bear, Dall sheep, wolf, moose, and other wildlife also reside here. A variety of marine mammals, including seal, walrus, and occasional polar bear, are present in the coastal and offshore areas. The vast treeless tundra of the Arctic plain is marshy, dotted by frequent shallow lakes, and traversed by sluggish meandering streams. The wet tundra of the plains and moist tundra of the foothills give way to the drier alpine tundra on the slopes of the rugged Brooks Range. On the southern slopes of the Range, broad river valleys with scattered spruce-hardwood forests intersperse the tundra-covered mountains. Forest cover is more extensive in the interior river drainages, where it is mixed with areas of muskeg bog and low brush. Most of the coastal zone and Seward Peninsula are covered with tundra and brush.

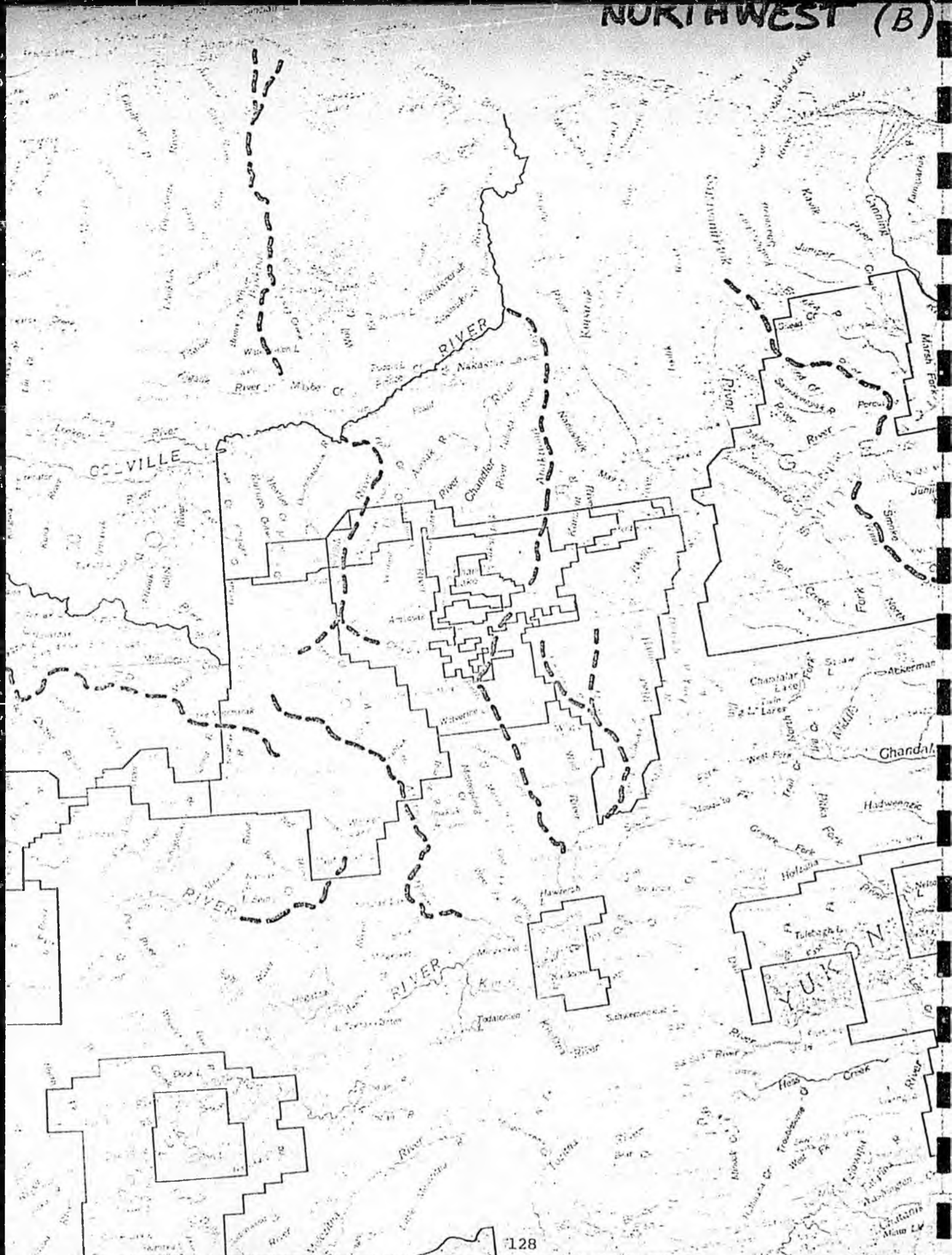
Precipitation is generally low throughout the region, varying from an annual average of 4 inches on the Arctic coast to around 14 inches in the southern interior river drainages. Greater amounts fall in the mountain ranges. Annual frost-free days vary, with an average of 10 days on the Arctic coast, 93 around Kotzebue Sound, and over 100 days in some sections of the southern interior. Mean daily January and July temperatures for 5 representative locations are:

	January	July
Barrow (Arctic Coast)	-16°F	39°F
Colville region (northern foothills and Brooks Range)	-11°F	45°F
Kotzebue (Kotzebue Sound-Chukchi Sea)	-6°F	53°F
Nome (Norton Sound-Bering Sea)	+4°F	50°F
Galena (lower Koyukuk drainage)	-11°F	59°F

NORTHWEST (A)

FINAL MAP WILL BE
DOUBLE PAGE SIZE




NORTHWEST (B)
RIVER
Chandler River
Anaktuvuk River
Killik River
Koyukuk River
Alatna River
Hogatza River
Kanuti River
Koyukuk
Allakaket
Hughes
Huslia
Bettles
Evansville
Wiseman
Coldfoot
Arctic Village
Venetie
Fort Yukon
Chalkyitsik
Birch Creek
Beaver
Stevens Village
Rampart
Tanana
Minto
Nenana
Manley Hot Springs
Tolovana Hot Springs
Livengood
Fairbanks
Ester
Nenana
Healy
Cantwell
Tanana
Kantishna
Minchumina
Lake Minchumina
Nikolai
McGrath
Takotna
Ophir
Iditarod
Flat
Ruby
Galena
Nulato
Kaltag
Unalakleet
Shaktoolik
Koyuk
Elim
Golovin
White Mountain
Nome
Teller
Brevig Mission
Wales
Shishmaref
Kotzebue
Noatak
Kivalina
Point Hope
Wainwright
Barrow
Atqasuk
Umiat
Anaktuvuk Pass
Arctic National Wildlife Range
Gates of the Arctic National Park
Yukon-Charley Rivers National Preserve
Denali National Park
Mount McKinley
Wrangell-Saint Elias National Park
Glacier Bay National Park
Kobuk Valley National Park
Noatak National Preserve
Bering Land Bridge National Preserve
Cape Krusenstern National Monument
Aniakchak National Monument
Katmai National Park
Lake Clark National Park
Kenai Fjords National Park
Kenai National Moose Range
Chugach National Forest
Tongass National Forest
Misty Fjords National Monument
Admiralty Island National Monument
Becharof National Wildlife Refuge
Alaska Peninsula National Wildlife Refuge
Izembek National Wildlife Refuge
Aleutian Islands National Wildlife Refuge
Kodiak National Wildlife Refuge
Yukon Flats National Wildlife Refuge
Innoko National Wildlife Refuge
Nowitna National Wildlife Refuge
Koyukuk National Wildlife Refuge
Selawik National Wildlife Refuge
Arctic National Wildlife Refuge
Togiak National Wildlife Refuge
Clarence Rhode National Wildlife Range
Kenai National Wildlife Refuge
Copper River Delta
Chugach National Forest
Tongass National Forest
Misty Fjords National Monument
Admiralty Island National Monument
Becharof National Wildlife Refuge
Alaska Peninsula National Wildlife Refuge
Izembek National Wildlife Refuge
Aleutian Islands National Wildlife Refuge
Kodiak National Wildlife Refuge
Yukon Flats National Wildlife Refuge
Innoko National Wildlife Refuge
Nowitna National Wildlife Refuge
Koyukuk National Wildlife Refuge
Selawik National Wildlife Refuge
Arctic National Wildlife Range
Togiak National Wildlife Refuge
Clarence Rhode National Wildlife Range
Kenai National Wildlife Refuge
Copper River Delta

As in northeastern Alaska, temperature ranges are greater in the interior. On the Arctic coast, there is nearly continuous darkness from November 18 to January 24 and uninterrupted daylight from May 10 to August 2.

Mineralized zones and oil and gas provinces underlie much of the region. Several areas of geothermal energy potential are present. There is some timber, mostly along major rivers, of possible commercial value and some lands marginally suitable for agriculture.

This region, while also sparsely populated by national standards, has a larger population than northeastern Alaska. Settlements tend to be of larger size and three communities, Kotzebue, Nome, and Barrow, serve as regional centers having growing populations of over 2,000. Fairbanks, located to the southeast, has socioeconomic ties with the region. Aside from tourism in the major population centers, mineral exploration, some small-scale mining and logging, and recent oil and gas exploration, there is little industry activity within the region. Most of the region is predominantly populated by Inupiat Eskimos, with the exception of the Koyukuk drainage settled by Athabascan Indians. Fish and game and other products of the land are still taken by many of the region's residents to meet their subsistence needs. The State's road network does not extend into the region, but a few local roads radiate from Nome. Access is by air or by water in the summer months.

When the land entitlement to Alaska Native corporations is satisfied, approximately 15 percent of the region will be privately owned. Another 3 percent has been selected by the State of Alaska which may make other selections in this region to complete its entitlement. Eighty-two percent or less, depending upon future State selections, will then be retained in Federal ownership.

One large Federal reserve of 23.1 million acres, National Petroleum Reserve-Alaska, lies in the region as does the small Chamisso National Wildlife Refuge. The following areas for study as national interest lands were withdrawn under Section 17(d)(2) by the Secretary of the Interior:

1. two small areas around Cape Lisburne (74,000 acres) and Cape Thompson (10,000 acres);

2. a large section of the Central Brooks Range (8.17 million acres);

3. a large portion of the Noatak River (7.5 million acres) and Kobuk River (2.8 million acres) drainages;

4. a section of the Koyukuk River drainage (3 million acres);

5. the Kanuti Flats (750,000 acres);

6. the Selawik River basin (2.1 million acres); and

7. a part of the Seward Peninsula (3.3 million acres).

Central Brooks Range

The Brooks Range is the continent's only Arctic mountain range. One of its most rugged and scenic sections is the central portion, with waves of ridges and peaks up to 8,000 feet. Broad, glacially carved valleys with clear, free-flowing rivers intersperse the mountains. On the Range's southern slopes, valleys are forest-lined with birch, aspen, spruce, and poplar; while on the north, alpine tundra predominates with occasional willows and other brush along watercourses. The rolling Arctic foothills just north of the Brooks Range is an area characterized by irregular buttes, knobs, and elongated scarps. Scenic peaks within the central section of the Range include Arrigetch Peaks with steep granite walls, buttresses, and spires; Mt. Igikpak, the highest peak in the Central Brooks, towering above its surroundings; Frigid Crags and Boreal Mountain forming "The Gates of the Arctic"; and other mountains of interesting geological origin, formation, shape, and historical note. River canyons and several large lakes, including Walker Lake and Kurupa Lake, are also found in this area. Small glaciers and glacial tarns enhance the scenery in certain mountainous areas. The western Arctic caribou herd migrates throughout the area. Dall sheep, grizzly bear, and wolf are also present.

TO PROVIDE PROTECTION TO THE NATURAL VALUES OF NATIONAL INTEREST IN THE CENTRAL BROOKS RANGE, THE COMMISSION RECOMMENDS:

1. TWO LARGE AREAS WITHIN THE RANGE BE DESIGNATED UNITS OF THE NATIONAL PARK SYSTEM (5.2 MILLION ACRES);

2. TWO RIVERS WITHIN THE PROPOSED PARK UNITS, THE ALATNA RIVER AND THE NORTH FORK OF THE KOYUKUK-TINAYGUK, BE DESIGNATED WILD RIVERS;

3. LANDS BETWEEN THE TWO PROPOSED PARK UNITS NOT CONVEYED TO THE ARCTIC SLOPE NATIVE CORPORATIONS BE INCORPORATED WITHIN THE ALASKA NATIONAL LANDS SYSTEM (2.0 MILLION ACRES); BECAUSE OF THE VALUES RELATED TO THE PROPOSED ADJACENT PARK UNITS, THE NATIONAL PARK SERVICE IS RECOMMENDED AS THE MANAGER OF THIS UNIT; AND

4. FIVE RIVERS--KILLIK, NOATAK, ANAKTUVUK, JOHN, AND UPPER KOBUK--FLOWING THROUGH OR FROM THE PROPOSED PARK, ALASKA NATIONAL LANDS AND ADJOINING LANDS BE DESIGNATED POTENTIAL WILD OR SCENIC RIVERS FOR FURTHER EVALUATION IN ACCORDANCE WITH CLASSIFICATION OF THE ALASKA NATIONAL LANDS UNIT AND OTHER ADJOINING LANDS.

The Commission has attempted in these recommendations to protect representative cross-sections of the major terrestrial and aquatic ecosystems and landforms of the central Brooks Range. In addition, the Commission finds that adjacent lands in the lower Alatna River drainage currently selected by the State of Alaska have natural values of national interest and potential suitable for designation as Alaska National Lands. The Commission proposes that these lands be a subject of future land exchange discussions between the State and Federal governments. Should the lower Alatna River drainage be acquired by the Federal government, the Commission

recommends that the National Park Service be designated as manager to facilitate coordinated planning and management with adjacent lands in the National Park System.

The proposed park and Alaska National Lands units contain portions of a large petroleum province receiving current exploration. The petroleum province extends well beyond the boundaries of the recommended units. Two areas of geothermal energy potential are located within the proposed western park unit, but another potential source is found further to the west near the headwaters of the Selawik River and outside any recommended national interest reserves. The park units are traversed by three mineral belts with potential for copper, silver, gold, nickel, lead, zinc, tin, iron, barite, molybdenum, platinum, chromium, tungsten, titanium, and asbestos. All of the three mineral belts extend into adjoining lands, or into the proposed Alaska National Lands unit where mineral exploration and extraction could be allowed if eventual classification permits.

Areas with wildlife populations used extensively by residents of the area for subsistence purposes have largely been excluded from the proposed park units. Where these areas have natural values of high national interest, they have been incorporated in the new management system, where hunting, fishing, and trapping would be permitted.

Coordinated planning and management in the Central Brooks Range and adjoining areas is needed to insure adequate protection of the caribou range and herd. Major surface access routes to the Arctic and western coast and to potential mineral development zones adjoining the proposed park units have been identified in this region, necessitating coordinated planning among various landowners and managers to assure future access needs as they arise. Land ownership in this area is fragmented, with private inholdings or valid existing claims a likelihood in any future management unit.

Noatak-Kobuk

Free-flowing rivers traverse the area, coursing through bluffs, canyons, forest, and tundra, with mountains in some sections providing a scenic backdrop. Important scenic features are the Great Kobuk Sand Dunes, a unique geologic occurrence in a setting of forests, mountains, marshes, and ponds; the canyons along the Noatak, Salmon, and other rivers; and certain formations in the Baird and Delong Mountains. The area provides rangelands for the Arctic caribou herd and one of Alaska's few small herds of musk ox. Waterfowl nest in the region, with particularly high density concentrations along the Kobuk River and places along the coast. There are several sites of prehistoric aboriginal settlement, most notably those at Cape Krusenstern and Onion Portage. A relatively diverse Arctic flora grows along the Noatak River.

THE COMMISSION HAS FOUND THESE VALUES TO BE OF NATIONAL INTEREST AND MAKES THE FOLLOWING RECOMMENDATIONS FOR THEIR PROTECTION:

1. DESIGNATION OF THE GREAT KOBUK SAND DUNES AND THE IMMEDIATE SCENIC ENVIRONMENTS (110,000 ACRES) AS A UNIT OF THE NATIONAL PARK SYSTEM.

2. DESIGNATION OF THE CAPE KRUSENSTERN AREA (190,000 ACRES) AS A UNIT OF THE NATIONAL PARK SYSTEM TO PROTECT ITS ARCHAEOLOGICAL VALUES, UNIQUE GEOLOGIC FEATURES, AND ITS COASTAL BIRD AND OTHER HABITATS.

3. INCORPORATION INTO THE ALASKA NATIONAL LANDS SYSTEM OF THE LOWER AND MIDDLE SECTIONS OF THE NOATAK AND KOBUK RIVER DRAINAGES, THE BAIRD MOUNTAINS, AND THE DRAINAGES OF SEVERAL SMALLER RIVERS FLOWING INTO THE CHUKCHI SEA (11.9 MILLION ACRES). BECAUSE THE AREA IS AN IMPORTANT HABITAT FOR THE ARCTIC CARIBOU HERD AND SUSTAINS A VARIETY OF OTHER WILDLIFE, THE U.S. FISH AND WILDLIFE SERVICE IS RECOMMENDED AS THE MANAGER FOR THIS RESERVE.

4. A PORTION OF THE NOATAK RIVER DRAINAGE IS RECOMMENDED AS A WILDERNESS STUDY AREA. THREE OF THE MANY FREE-FLOWING STREAMS, THE NOATAK, SALMON, AND WULIK RIVERS, HAVE BEEN STUDIED AS POSSIBLE WILD OR SCENIC RIVERS AND ARE RECOMMENDED FOR POTENTIAL DESIGNATION PENDING CLASSIFICATION OF THE RESERVE LANDS.

Some potential for oil and gas exists within the proposed units, but the provinces extend well beyond the recommended boundaries. Four proposed hydroelectric projects (Agashashok, Misheguk, Nimiuktuk, and Kobuk), if constructed, would inundate large parts of the proposed units and are incompatible with the protection of the natural values. Several small areas of bituminous coal deposits, two of which are in the proposed Alaska National Lands unit lie in the Kobuk valley. Major coal deposits are found to the north of the proposed units. The proposed park and new management unit is underlain by metallogenic provinces with potential for copper, gold, silver, nickel, lead, zinc, tin, iron, barite, molybdenum, platinum, chromium, tungsten, titanium, and asbestos. Exploration and extraction may occur on the Alaska National Lands wherever eventual classification allows.

Hunting, fishing, and trapping for subsistence purposes are intensive and widespread along the coast, the lower reach of the Noatak, and along the Kobuk River valley. THE COMMISSION RECOGNIZES THIS CONTINUING NEED OF LOCAL RESIDENTS FOR THE FISH AND GAME IN THE AREA, AND RECOMMENDS THAT HUNTING, FISHING, AND TRAPPING BE ALLOWED IN ALL PROPOSED UNITS, INCLUDING THE TWO RECOMMENDED FOR NATIONAL PARK SYSTEM STATUS. The boundaries of the proposed wilderness study area along the Noatak River have been delineated to make available some opportunities for future mineral development in the general area. The lower reach of the Noatak River, which is used more intensively for subsistence activities, is excluded.

If the important caribou herd and range of this area is to be protected, coordinated management will be required. In addition, access through this region to the western Arctic for energy resources of potential national interest may become necessary and would require coordinated planning.

Selawik

This middle section of the Selawik River drainage contains high density waterfowl habitat supporting migratory birds and other wildlife. This habitat is used for summering, nesting, molting, feeding, and resting during migration.

Significant populations of pintail, scaup, widgeon, old squaw, and scoter ducks; white-fronted geese; and sandhill cranes nest here, as well as the cackling and taverner's subspecies of Canada geese. Two to five percent of the whistling swans using the Pacific Flyways nest in the area. Migrating snow geese, numbering 200,000 to 300,000 birds, feed and rest around Kotzebue Sound, as do raptors and some Asiatic birds. Moose and caribou use the Selawik River drainage as winter habitat.

THE COMMISSION RECOMMENDS DESIGNATION OF THIS AREA (1.5 MILLION ACRES) AS A WILDLIFE REFUGE TO PROTECT HABITAT AND PERPETUATE WILDLIFE POPULATIONS.

A sedimentary basin with petroleum and uranium potential underlies part of the area, but the basin extends well beyond the proposed refuge boundaries. A metallogenic province with potential for tin and molybdenum also underlie portions of the proposal, but extends beyond the proposed boundaries.

Taking of fish and game for local subsistence purposes is a common and important practice. HUNTING, FISHING, AND TRAPPING WOULD CONTINUE UNDER STATE WILDLIFE MANAGEMENT REGULATIONS IN COORDINATION WITH FEDERAL WILDLIFE AND HABITAT MANAGEMENT.

Adequate protection of the Arctic caribou herd and range and the extensive waterfowl habitat will require intergovernmental coordination with the involvement of private landowners. Coordinated planning for any future development of access through this area to the western Arctic will also be necessary.

Cape Lisburne and Cape Thompson

The prime natural value of these areas is their coastal cliff habitat for northwest Alaska's largest seabird colonies, with estimated populations of 2 to 3 million birds. The beaches and coastal waters also provide resting and feeding areas for migratory birds and hauling out grounds for marine mammals. Birds of prey, including gyrfalcons, golden eagles, and peregrine falcons, frequent the cliffs. Loons and a variety of other waterfowl, shorebirds, and perching birds are also present. Walrus, seal, whale, and occasional polar bear are seen along the coastal waters. The beaches, scenic cliffs, and adjoining tundra-covered uplands at Cape Lisburne form a relatively small ecosystem containing a coastal area and representative uplands of the northwest Arctic coast.

THE COMMISSION RECOMMENDS THAT THESE VALUES OF NATIONAL INTEREST BE PROTECTED BY DESIGNATING TWO SMALL NATIONAL WILDLIFE REFUGE UNITS, ONE AT CAPE LISBURNE OF 63,000 ACRES, INCLUDING THE DRAINAGES OF ADJOINING

UPLANDS, AND 11,000 COASTAL ACRES AT CAPE THOMPSON. An area adjacent to the proposed Cape Thompson unit is noted for its scientific values and has received extensive ecological research. Most of the adjacent area has been selected by the Arctic Slope Regional Corporation.

Both units contain small portions of a potential oil and gas province. The proposed unit at Cape Lisburne contains some coal potential, and portions of Cape Thompson have potential for uranium, copper, lead, antimony, barite, and molybdenum. All these provinces extend well beyond the boundaries of the proposed units.

IN RECOGNITION OF THE IMPORTANCE OF WILDLIFE IN THESE PROPOSED UNITS FOR MEETING THE SUBSISTENCE NEEDS OF LOCAL RESIDENTS, THE COMMISSION HAS RECOMMENDED THAT CONTINUED HUNTING, FISHING, AND TRAPPING BE ALLOWED UNDER STATE REGULATIONS UNLESS RESTRICTED BY THE U.S. FISH AND WILDLIFE SERVICE TO PROTECT MIGRATORY SPECIES.

Seward Peninsula

A combination of ocean currents, barrier islands, coastal lagoons, and estuaries make the northwestern coast of the Seward Peninsula an important coastal habitat for migrating birds and marine mammals. Breeding habitat for pintail and scaup ducks and white-fronted geese is provided, as well as nesting areas for black brant, whistling swans, and a resting and feeding area for migrating snow geese. Sea mammals, mainly seal, walrus, and the Beluga whale, are seen in the coastal waters. Seals occasionally come ashore. Grizzly bear, wolf, wolverine, and smaller animals occur throughout. The area has uncommon scenic and scientific qualities, including the volcanic maar lakes near Devil Mountain, hot springs, scenic rock outcroppings, and pingos and other frost phenomena. The Seward Peninsula has significance as a relic of the Bering Land Bridge with evidence of past migration of animals, plants, and aboriginal peoples. Several archaeological sites have been identified in the area.

IN RECOGNITON OF THE IMPORTANT TERRESTRIAL WETLAND AND COASTAL HABITATS FOR MIGRATORY BIRDS AND MARINE MAMMALS, THE COMMISSION RECOMMENDS WILDLIFE REFUGE DESIGNATION FOR TWO UNITS, TOTALLING 1.5 MILLION ACRES. Nearby scenic areas with scientific and recreational values are included in the larger eastern unit.

A potential oil and gas province underlies part of the proposed unit but extends well beyond the recommended boundaries. A sedimentary basin with potential for uranium lies within the larger unit and is one of approximately 20 such basins in Alaska having potential for these minerals. Four areas on the Seward Peninsula, in addition to the hot springs incorporated within the proposal, are considered to have geothermal energy potential. Mineral provinces with potential for fluorine, silver, lead, zinc, tin, and tungsten underlie small portions of the proposed refuge, but extend under adjoining lands as well.

Taking of fish and game in the coastal zone for subsistence purposes is common and important to local residents. Hunting, fishing, and trapping would continue under State regulations in coordination with Federal

wildlife habitat and population objectives. The Seward Peninsula has an active reindeer industry, and reindeer grazing occurs under lease within the proposed refuge units. THE COMMISSION FINDS THAT REINDEER GRAZING IS GENERALLY COMPATIBLE WITH PROTECTION OF HABITAT VALUES, AND RECOMMENDS THAT CONTINUED GRAZING BE ALLOWED UNDER REGULATION.

Koyukuk

The lower Koyukuk River is composed of an extensive network of streams and lakes among forest, marsh, and brush, providing high density waterfowl habitat. Prevalent duck species include scaup, pintail, widgeon, and scoters. White-fronted geese and Canada geese are common nesters. Caribou and moose winter in the general area. Scenic features of scientific interest are the Nogahabara Sand Dunes, and the exemplary variety of oxbow, meander scroll, and thaw lakes in the Three Day Slough area.

THE COMMISSION RECOMMENDS THAT THIS AREA (2.5 MILLION ACRES) BE DESIGNATED A WILDLIFE REFUGE TO PERPETUATE THE VALUABLE WETLAND HABITATS AND WILDLIFE.

Most of the unit is underlain by a sedimentary basin with potential for oil and gas and uranium. Nearly half of the basin lies outside the proposed boundaries. Hydroelectric power could potentially be developed within the area at the Dulbi site and another site downstream from the proposed unit. If developed, much of the lowlands would be inundated by reservoirs and natural values lost or altered. At present there is no significant demand for this development. A metallogenic province with potential for tin and molybdenum underlies portions of the proposed refuge, but extends beyond the recommended boundaries.

The proposed unit is largely forested and contains some timber stands of future commercial potential, particularly along the rivers. However, adjacent areas are also forested and may have greater potential. Some small tracts of lowlands bordering the rivers within the unit have agricultural potential, but cultivable soils are also found downstream and upstream from the proposed refuge. Continued hunting, fishing, and trapping are allowed under State regulations in coordination with Federal habitat management and population concerns.

Coordinated management of the wide-ranging Arctic caribou herd is necessary if its population and habitat are to be fully protected.

Kanuti Flats

The Kanuti Flats in the middle Koyukuk drainage is a relatively small lowland basin containing an area of prime wetland waterfowl habitat. Duck species of importance that nest in this area are scaup, pintail, widgeon, and scoter. Canada and white-fronted geese also nest here. A network of lakes, streams, marshes, and forest supports other wildlife as well, including moose, black bear, and wolf. The western Arctic caribou herd periodically uses the area as winter range. THE COMMISSION RECOMMENDS AN AREA OF APPROXIMATELY 430,000 ACRES AS A WILDLIFE REFUGE TO PROTECT PRIME HABITAT AND WILDLIFE.

A petroleum province of unknown potential underlies a portion of the area. A small portion of a metallogenic province with potential for copper, nickel, iron, chromuim, platinum, titanium, and asbestos is within the area, but extends beyond the proposed refuge boundaries. Mineral exploration, development, or extraction may occur at the discretion of the Secretary of the Interior through a permit and lease system.

The proposed unit is covered primarily by lowland forests, with some bottomland spruce-poplar of potential commercial value along the Koyukuk River and its south fork. This forest extends beyond the unit boundaries. Hunting, fishing, and trapping would continue under State wildlife management regulations. Other uses of the area would be allowed as permitted by U.S. Fish and Wildlife Service policies.

Bering Sea Islands

Five islands in the Bering Sea along the Seward Peninsula and in Norton Sound include some of the better seabird colonies along the northeastern rim of the Bering Sea. Fairway Rock (60 acres) a granitic island rising steeply to an elevation of 500 feet, supports 100,000 to 150,000 seabirds and provides a resting place for songbirds migrating across the Bering Sea. The 700-acre Sledge Island is rocky and generally flat-topped except for a 760-foot jagged mountain on the south. It is located about 25 miles west of Nome and contains ruins of an abandoned village. Over 35 species of birds nest here, including murres, auklets, black-legged kittiwakes, and common eiders. Egg Island (60 acres) is located 40 miles southwest of Unalakleet. About 2,000 thick-billed murres and 3,000 puffins nest here with several thousand other seabirds. Besboro Island (720 acres) supports populations of murres, auklets, puffins, and jaegers. The small Punuk Islands (160 acres) located just offshore of St. Lawrence Island provide hauling out habitat for a high density population of harbor seals. The Islands have a variety of seabirds, including pelagic cormorants, and significant archaeological values relating to the St. Lawrence Eskimos.

THE COMMISSION RECOMMENDS THAT FAIRWAY ROCK, SLEDGE ISLAND, AND PUNUK ISLANDS BE ADDED TO THE NATIONAL WILDLIFE REFUGE SYSTEM. IN THE EVENT THAT EGG AND BESBORO ISLANDS ARE NOT CONVEYED TO ALASKA NATIVE CORPORATIONS, THEY ARE ALSO RECOMMENDED FOR REFUGE DESIGNATION. These islands have no apparent resource uses that would be precluded by their designation as refuge units. Total area of all islands is about 1,700 acres.

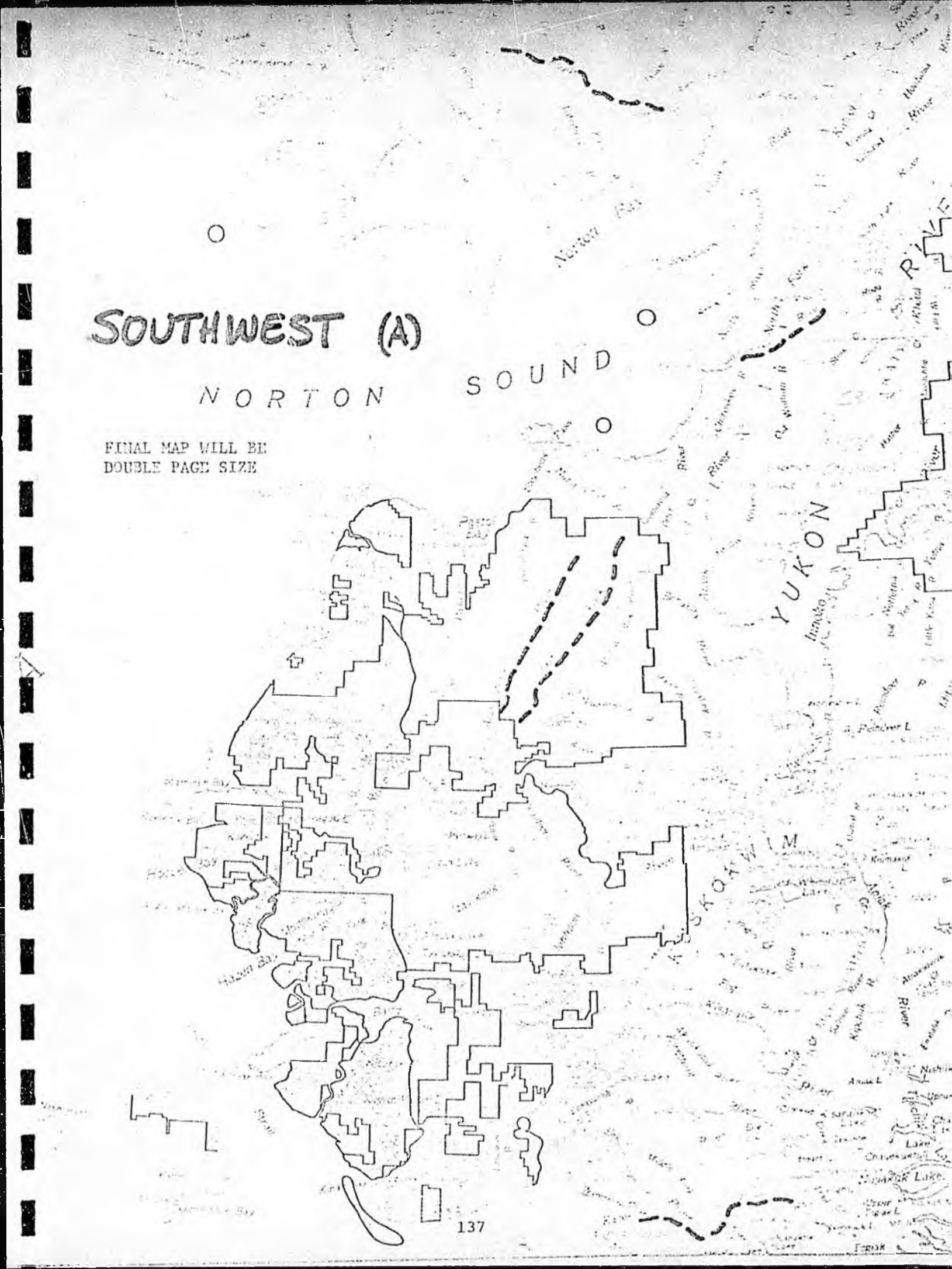
Other Wild and Scenic Rivers

TWO RIVERS WITHIN NATIONAL PETROLEUM RESERVE-ALASKA, THE IKPIKPUK AND UTUKOK, AND THE KOYUK RIVER ON THE SEWARD PENINSULA ARE RECOMMENDED FOR DESIGNATION AS POTENTIAL WILD AND SCENIC RIVERS PENDING FURTHER STUDY, EVALUATION, AND EVENTUAL CLASSIFICATION OF SURROUNDING LANDS.

SOUTHWESTERN ALASKA

The approximately 110,000-square-mile (70,400,000 acres) southwestern region of Alaska is drained by two of Alaska's major rivers, the Yukon and the Kuskokwim. The region is bordered on the west by the Bering Sea

SOUTHWEST (A)



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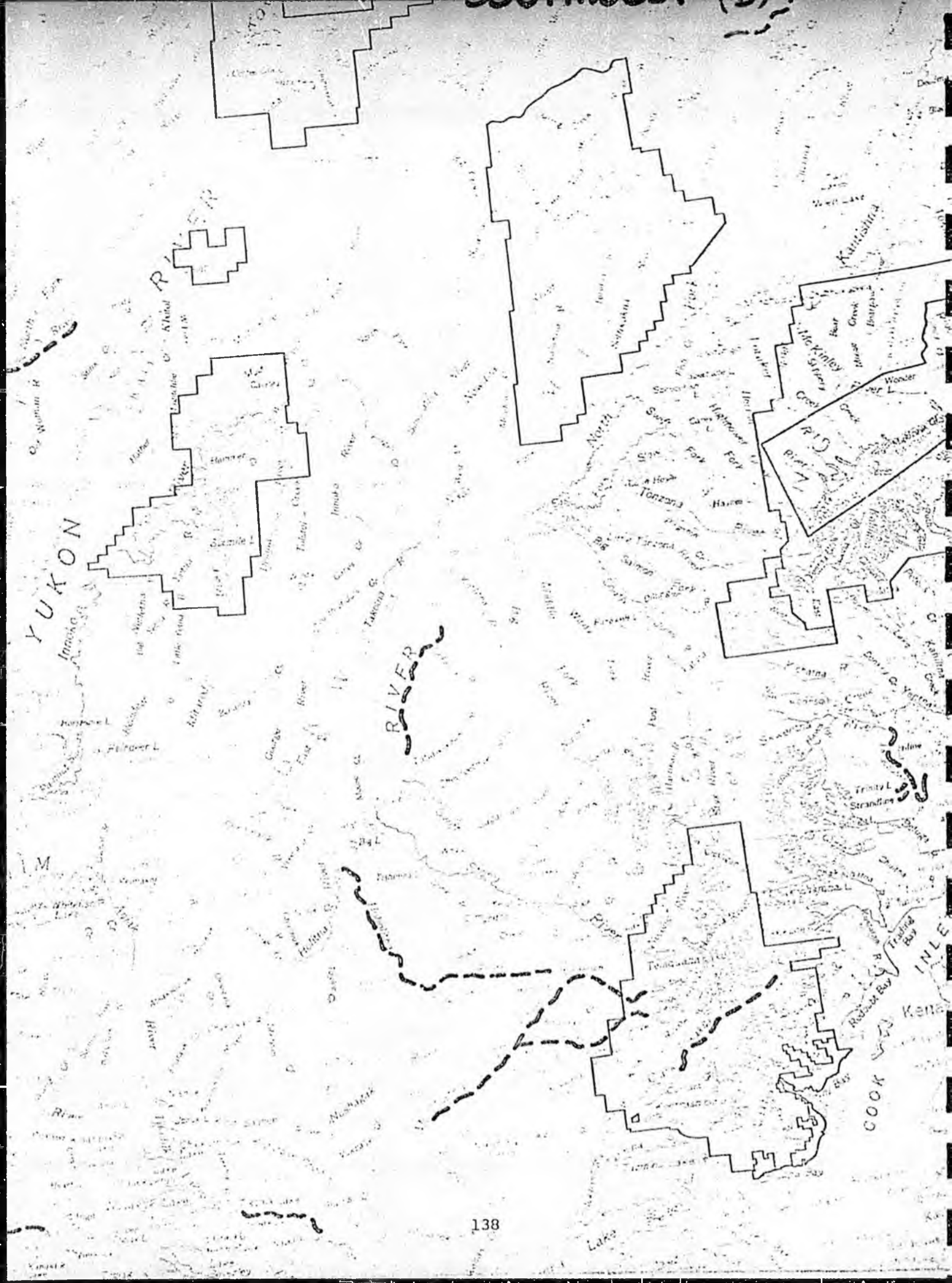

YUKON
RIVER
COOK INLET

and contains the central and lower two thirds of Alaska's Yukon drainage and its large delta, and the entire Kuskokwim drainage. Nunivak and several other smaller islands of the Bering Sea are in the region. Broad floodplains with hundreds of thousands of lakes, meandering streams, marshes and bogs, and low river plains are dominant landscapes. The Kuskokwim Mountains and portions of the Nulato Hills and Ahklun Mountains trend southerwesterly through the area. Most of the interior lowlands and uplands are partially forested with spruce, aspen, birch, and balsam poplar. Forest gives way to tundra communities in most of the coastal areas west of the mountains, except for scattered stands along the two major rivers and parts of Norton Sound. This region is the most productive waterfowl area in Alaska. Significant portions of the North American populations of several varieties of swan, geese, and ducks breed and nest here. Other wildlife, including black and brown bear, moose, wolf, wolverine, and caribou, are present. Sea mammals are found in some locations along the Bering Sea coast.

Near the coast, average annual precipitation levels are 15 to 20 inches, and wind is common. Subarctic conditions prevail in the interior with less precipitation, clearer skies, warmer summers, and colder winter. The first freeze generally occurs in early September with the last spring freeze in late May, leaving approximately 100 frost-free days each year. All streams remain frozen generally between November and May. July highs at Bethel average 62° and January lows average -3°. Ruby, which is farther from the coast, has an average July high of 70° and an average January low of -12°.

Portions of the region have potential of oil and gas, as well as metallic minerals. Inland from the coast there are some timber stands of potential commercial value and some lands that are suitable for cultivation, mostly along the major rivers. There is extensive acreage suitable for reindeer grazing throughout the region.

Although the region's population of nearly 20,000 is relatively high for rural "bush" Alaska, and over 50 communities are located here, the land remains largely undeveloped and unaltered. There is one regional center, Bethel, with a growing population of over 3,000. All other settlements are small villages with populations generally less than 400. Inhabitants are predominantly Eskimo with some Athabascan Indians in the upper drainages. There is little industry in the region except for some commercial fishing. Most of the available employment is related to government. Cash incomes and educational attainment levels are relatively low.

When Native entitlement is complete, approximately 15 percent of the land in this region, or about 10 million acres, will be in private ownership. The State of Alaska has selected nearly 17 million acres, roughly constituting 25 percent of the region. The State may make additional selections within this region, although it relinquised its selection rights to lands west of 161° longitude by agreement with the Secretary of the Interior in 1972. Discounting any future State selections, the Federal Government will retain ownership of up to 60 percent of the region.

Four national wildlife refuges have been established in the region to protect migratory waterfowl and other birds and musk-oxen of national interest. They are the Hazen Bay and Clarence Rhode refuges (2.8 million acres combined), the Nunivak Island refuge (1.9 million acres), and the relatively small Bering Sea refuges (41,000 acres). Four withdrawals were made under Section 17(d)(2) by the Secretary of the Interior in 1972: 5,352,000 acres in the Yukon Delta, 3,249,000 acres in Innoko Flats, 952,000 acres around the lower Nowitna River, and 319,000 acres in the Kaiyuk Slough.

Yukon-Kuskokwim Delta

This large delta along the Bering Sea was formed by sediments deposited by the Yukon and Kuskokwim Rivers creating a broad plain with many thousands of lakes, streams, and ponds. The nearly flat wetlands are broken only by the rolling hills and bluffs of scattered island remnants. North of the Yukon River, gently sloping mountains form the Nulato Hills.

The entire Yukon-Kuskokwim Delta region provides high density and key waterfowl habitat for 100 million marine and terrestrial birds of 150 species. Virtually all the white-fronted geese using the Pacific Flyway and 80 to 90 percent of the North American populations of cackling and emperor geese nest and breed here.

THE COMMISSION RECOMMENDS THAT THE HIGH DENSITY WATERFOWL HABITAT ON PUBLIC LANDS WEST AND SOUTH OF THE YUKON RIVER, WEST OF THE KUSKOKWIM RIVER, AND WEST OF 161° WEST LONGITUDE BE ADDED TO THE WILDLIFE REFUGE SYSTEM (5.7 MILLION ACRES). AN AREA OF 3.5 MILLION ACRES NORTH OF THE DELTA AROUND THE ANDREAFSKY RIVER DRAINAGE CONTAINING MEDIUM TO HIGH DENSITY WATERFOWL AND UPLAND WILDLIFE HABITAT IS RECOMMENDED FOR INCLUSION IN THE ALASKA NATIONAL LANDS SYSTEM. BECAUSE THE AREAS CONTAIN UPLANDS AND LOWLANDS CLOSELY RELATED TO THE WATERFOWL AND THE WILDLIFE HABITAT OF THE YUKON DELTA, THE U.S. FISH AND WILDLIFE SERVICE IS RECOMMENDED AS THE MANAGER OF THIS UNIT.

Nearly the entire delta area contains potential for oil and gas. The provinces extend beyond the proposed refuge and new management system boundaries onto adjacent private and State-owned submerged lands. The wildlife refuge proposal contains potential for uranium, gold, silver, antimony, molybdenum, and tungsten, but the metallogenic provinces also extend beyond the proposed boundaries onto private and other public lands.

The proposed refuge contains some bottomland spruce-poplar forest of potential commercial value, but the major portions of the forest lie on adjacent private lands and upstream along the Yukon and Kuskokwim Rivers. The proposed Alaska National Lands unit contains stands of spruce-hardwood forest of possible commercial value along the valleys. Opportunities for commercial timber harvest in the general delta area would not be foreclosed by the designation of either of these units.

While lowland cultivable soils extend into the general area, they are climatically impaired. Primarily, the suitable cultivable soils lie upstream on private lands along the two major rivers. Potential exists in the delta lowlands for controlled reindeer grazing, and would not be precluded by refuge designation. Reindeer grazing potential in the Andreafsky uplands could be in conflict with maintenance of caribou, wolf, and bear populations in the area. Allowable grazing will be in accord with land classification developed for this Alaska National Land unit.

A relatively large number of people populate villages scattered about the delta area. Reliance on fish, waterfowl, and game for subsistence purposes is intensive and widespread. Hunting, fishing, and trapping under State regulation would continue on the proposed refuge and Alaska National Lands units unless restricted by the U.S. Fish and Wildlife Service. The Commission recognizes a need for coordination among the area landowners to protect the extensive waterfowl habitat found in different ownerships, to provide for any future needs for transportation development, and to best provide for continued subsistence needs which require extensive areas.

Innoko Flats/Kaiyuh Slough

These two areas of western interior Alaska are characterized primarily by wetland bogs and scattered black spruce, with a network of lakes and streams interspersed by occasional rolling hills. They provide high density wetland habitat for a variety of waterfowl. The Innoko Flats support an average of 53 ducks per square mile, while the Kaiyuh Slough provides habitat for about 67 ducks per square mile. Predominant species represented include widgeon, scaup, scoter, and goldeneye. An estimated population of 100,000 pintail ducks use the Innoko Flats, and nearly 50,000 geese nest in each of the proposed units. Both areas have significant populations of large mammals and furbearers, especially beaver.

THE COMMISSION RECOMMENDS THAT THESE AREAS, TOTALLING ABOUT 2.2 MILLION ACRES OF NATIONALLY SIGNIFICANT WILDLIFE HABITAT, BE PROTECTED BY THEIR DESIGNATION AS UNITS OF THE NATIONAL WILDLIFE REFUGE SYSTEM.

Oil and gas provinces partially underlie the proposed units, but extend well beyond their boundaries. The development of a possible hydroelectric project at Holy Cross would be incompatible with the protection of the prime natural values in the Innoko and Kaiyuh areas. Currently, there is no significant demand for development. The Innoko unit contains a metallogenic province with potential for gold, silver, antimony, molybdenum, and tungsten. This province extends well beyond the proposed boundaries.

The proposed Innoko unit contains some bottomland spruce-poplar forest of potential commercial value along two major waterways, as well as extensive stands of open lowland forests. Some lowland soils suitable for agriculture are also present, but more extensive areas of cultivable soils border the nearby Yukon River.

Nowitna

The Nowitna River is a major tributary in the central drainage of the Yukon River. The northern sector of the Nowitna drainage contains waterfowl habitat with low to medium density populations. Migratory waterfowl using the area include pintail, widgeon, scaup and scoter ducks, and white-fronted and Canada geese. Trumpeter swans also nest in the area. Caribou, moose, wolf, beaver, and other furbearers, are supported by the wetland and upland habitats. The free-flowing Nowitna River passes through a variety of landforms including scattered scenic bluffs and canyons. Fossil exposures are present in some stretches. The southern zone contains a mountainous area of forest and alpine tundra somewhat more scenic than other large expanses of the Kuskokwim Mountains. Forest cover is extensive and composed of varying mixtures of white and black spruce, aspen, birch, and balsam poplar. From the Yukon River to the southern headwaters of the Nowitna tributaries, the area is an exemplary cross section of interior Alaska landforms and ecosystems.

IN RECOGNITION OF THE VARIETY OF VALUES PRESENT IN THIS AREA, THE COMMISSION RECOMMENDS 3.5 MILLION ACRES IN THE NOWITNA DRAINAGE BE INCORPORATED IN THE ALASKA NATIONAL LANDS SYSTEM AND THAT THE NOWITNA RIVER BE DESIGNATED AS A POTENTIAL SCENIC RIVER, PENDING FURTHER EVALUATION IN THE CLASSIFICATION PROCESS OF SURROUNDING LANDS. ADMINISTRATION OF THE NOWITNA UNIT BY THE U.S. FOREST SERVICE IS RECOMMENDED.

There has been increasing expression of interest in interior Alaska's forests and possible development of a forest industry within this extensive area. The U.S. Forest Service appears particularly well suited to manage the Nowitna River area because of its research capabilities and the need to develop appropriate silvicultural methods and other management programs for these and similar lands and their several values. Research findings developed here could be of value to other private landholders and State and Federal land administrators in the general area.

A potential petroleum basin underlies a portion of the area. Downstream hydroelectric potential at the Ruby site, if developed, would largely inundate the waterfowl habitat of the lowlands along the Nowitna and Yukon Rivers. A metallogenic province of unknown type has been identified in the southern portion and on adjoining public domain lands.

Forest stands of potential commercial value lie on the benches adjoining the Nowitna and Yukon Rivers. Lowland and upland soils suitable for cultivation are found in the northern zone and along the eastern bank. Taking of fish and game for subsistence purposes occurs commonly in the northern portion and would be permitted under the Alaska National Lands system. Boating use on the Nowitna River would continue.

Unalakleet River

This free-flowing clear-water river drains the Kaltag Mountains and flows southwest to the eastern shore of Norton Sound. It courses for 90 miles between slopes and rounded summits up to 2,800 feet. The valley floor supports spruce, birch, and willow stands, with scattered small

lakes in the lower reaches. The area includes habitat for a variety of large mammals, such as caribou, moose, and bear, as well as for small furbearers, waterfowl, and fish. A segment of the historic Iditarod trail parallels the river. THE COMMISSION RECOMMENDS THAT A 60-MILE-LONG CORRIDOR ABOVE PRIVATE LANDS ALONG THE COAST BE DESIGNATED AS A WILD RIVER WITHIN THE NATIONAL WILD AND SCENIC RIVERS SYSTEM. A potential oil and gas province crosses the proposal, but extends well to either side of the proposed corridor. The forests along the river have little commercial value beyond local use. THE COMMISSION RECOGNIZES THE IMPORTANCE OF WILDLIFE FOUND ALONG THE RIVER IN MEETING THE SUBSISTENCE NEEDS OF LOCAL RESIDENTS, AND RECOMMENDS THAT HUNTING, FISHING, AND TRAPPING BE PERMITTED UNDER STATE REGULATIONS.

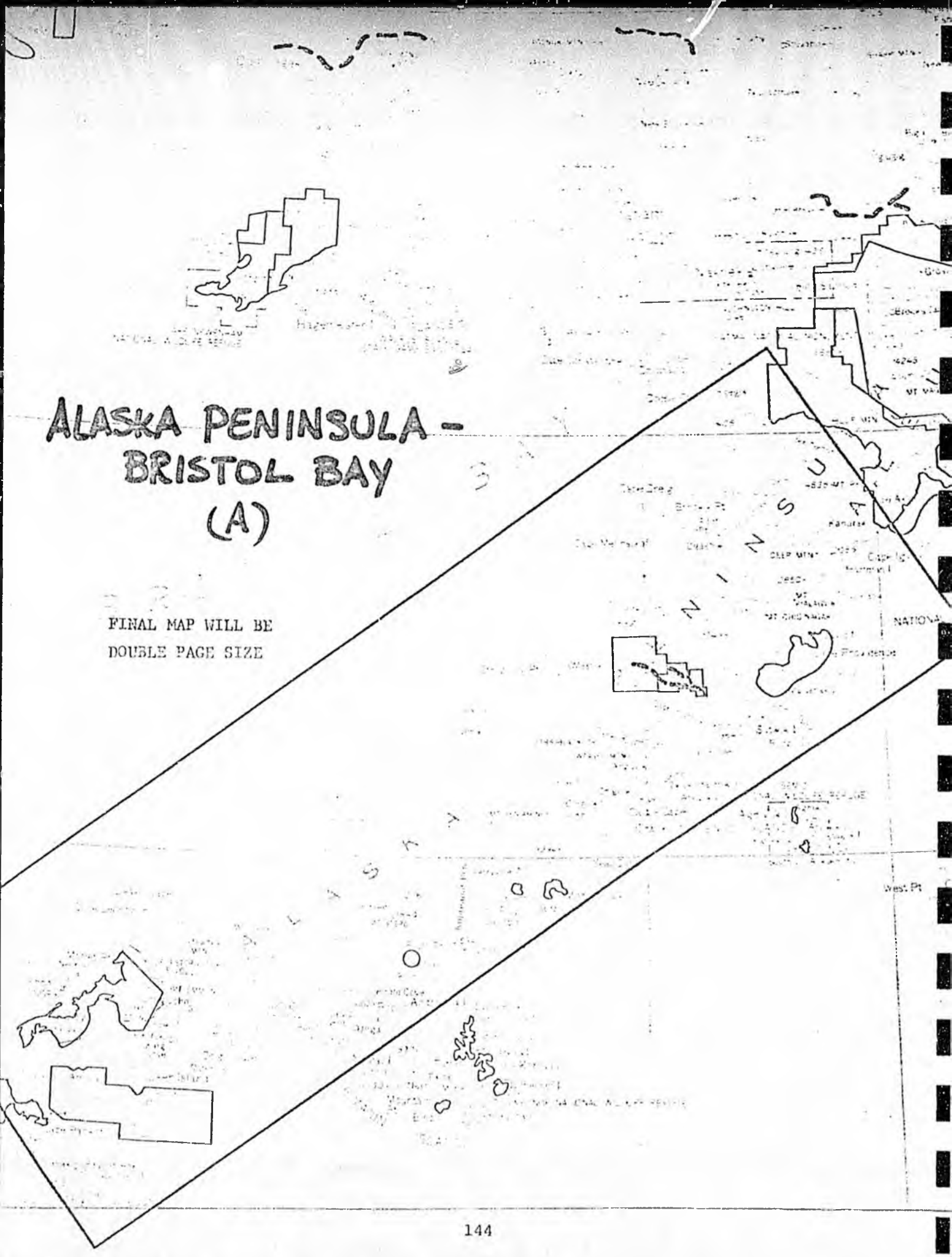
Other Wild and Scenic Rivers

TWO OTHER RIVERS IN THIS REGION, THE ANDREAFSKY AND ITS EAST FORK, AND A SEGMENT OF THE MIDDLE KUSKOKWIM, ARE RECOMMENDED FOR DESIGNATION AS POTENITAL WILD AND SCENIC RIVERS WITH FURTHER STUDY, EVALUATION, AND CLASSIFICATION OF SURROUNDING LANDS TO AID IN FINAL RECOMMENDATIONS.

ALASKA PENINSULA - BRISTOL BAY

The Alaska Peninsula extends to the southwest from southcentral Alaska and trails off into the 1,200-mile chain of the Aleutian Islands that separates the Bering Sea from the North Pacific Ocean. Also included within the region are the drainages north of Bristol Bay, the Kodiak Island complex, and numerous small islands located in the western Gulf of Alaska off the Alaska Peninsula's eastern coast. This region has some of the most productive freshwater and marine fisheries in the world. The Bristol Bay drainages provide rich spawning grounds for a variety of salmon; and shellfish are abundant in the cold waters of the North Pacific. Among the prominent scenic features of the region are a chain of volcanos and other mountain features, and an irregular, often rugged coast extending down the Alaska Peninsula and Aleutian Islands. Several lake districts in the Bristol Bay drainages and upper Alaska Peninsula are notable for their scenic, habitat, and recreational values. Predominant vegetation of the area is tundra communities, with forest covering less than 10 percent of the region and generally restricted to Afognak Island and northern portions of Kodiak Island and the upper Kvichak and Nushagak River drainages. Wildlife, particularly brown bear, moose, and caribou, are prevalent on the Alaska Peninsula. Concentrations of various seabirds and sea mammals, including the sea otter, are found at places along the coast and on various islands. The Pribilof Islands are noted for their northern fur seal rookeries.

In most of this region's maritime zone, annual precipitation averages from 30 to 70 inches, and frost-free days range from 100 in northern Bristol Bay to nearly 180 on the southern Aleutians. Winters are by Alaska standards relatively mild, and summers cool. Wind and fog are common climatic occurrences. Inland areas north and east of Bristol Bay have slightly colder winters and warmer summers. Mean daily temperatures in January at King Salmon are +13° and in July is 55°F; at Cold Bay +28°F for January and 50°F for July; and at Shemya near the western end



ALASKA PENINSULA - BRISTOL BAY (A)

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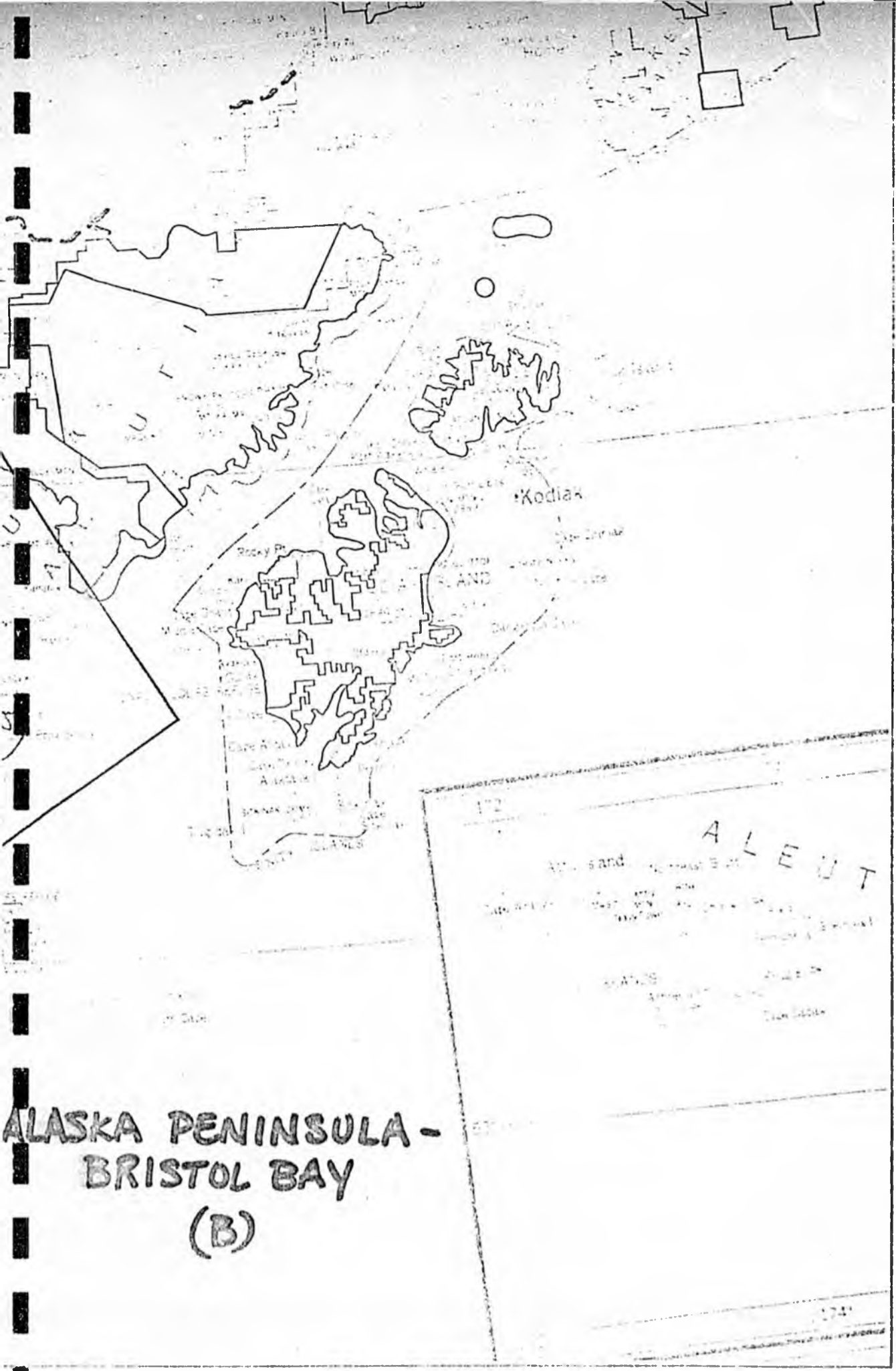


ALASKA PENINSULA - BRISTOL BAY (B)

of the Aleutian Islands, the mean daily temperatures are slightly warmer for January and slightly cooler for July than at Cold Bay.

This region of approximately 50,000 square miles (32 million acres) has less than 25,000 people. There is only one large community in the region, Kodiak, with a population of approximately 5,000. All other settlements have populations of less than 1,000, except two isolated military bases on the Aleutian Islands. Except for these military bases and Kodiak, the population is predominantly Aleut and Eskimo. No roads extend into the region and access is by air or water. The region remains almost entirely in its natural state. Major industries are commercial fishing and tourism, with some small-scale timber cutting mostly on Kodiak Island and some grazing of reindeer, sheep, and domestic stock. Three focal points of tourism are Kodiak Island, the Pribilof Islands, and Katmai National Monument. Recreational use of the Lake Iliamna and the Wood River-Tikchik Lakes area and sport hunting on the Alaska Peninsula by residents and nonresidents are increasing.

When their entitlement to lands within this region is satisfied, Alaska Native corporations will own approximately 25 percent of the region. The State of Alaska has currently made selections, totalling 15 percent of the region. Discounting any further selections the State may make, the Federal Government will retain ownership of about 60 percent of the region. Existing Federal reserves include the Afognak Island portion (458,000 acres) of the Chugach National Forest; four large wildlife refuges (Aleutian Islands, 2.7 million acres; Kodiak Island, 1.8 million acres; Izembeck, 415,000 acres; and Cape Newenham, 265,000 acres); three small wildlife refuges (Semidi, Simeonof, and Bogoslof) totalling 20,190 acres; and the 2.8-million-acre Katmai National Monument. Small areas of critical habitat are reserved at the Pribilof Islands for northern fur seal management.

The following withdrawals were made by the Secretary of the Interior under Section 17(d)(2): over 2 million acres near Lake Iliamna, slightly under 3 million acres centered on the Togiak River drainage, approximately 600,000 acres on the south and 1 million acres on the north of Katmai National Monument, over 800,000 acres around Aniakchak Caldera, Hagemeister Island (77,000 acres), and two island groupings (Shumagin Islands, 15,300 acres, and Barren Islands, 10,500 acres). In addition, several other areas on the Alaska Peninsula and along the Bristol Bay coast were withdrawn by the Secretary of the Interior as replacement lands for those lands in existing wildlife refuges selected by Alaska Native corporations.

Areas adjoining Katmai National Monument

Areas adjoining Katmai National Monument contain scenic mountains, canyons, lakes, streams, and coastline of recreational and scientific interest, as well as important wildlife habitat. Some areas contain upper reaches or parts of watersheds in the present Monument. South of the Monument, Alinchak and Puale Bays are surrounded by colorful mountain slopes and cliffs. Rocky islets frequented by seabirds and marine mammals are found in the bay. The islands and headlands of Puale Bay support 200,000 black-legged kittihawks. The craggy summit of Mt. Kejulik, an extinct volcano, rises north of the extensive shoreline of

Becharof Lake. American Creek flows into the Monument from glacial tarns and Murray and Hammersly Lakes in the mountains to the north. Nearby Kulik Lake lies between steep mountain slopes and provides access for water oriented activities and hiking trips through the scenic mountains to the Monument in the south. North of the Monument the Kamishak-Douglas Rivers area contains scenic mountain and valley formations enhanced by occasional cascades and waterfalls. Areas north and south contain important brown bear denning and feeding habitats in the vicinity of several streams with anadromous fish runs. Bear movement between the existing Monument and adjoining areas is believed to occur. These areas also serve as habitat for moose, caribou, and other wildlife.

TO EXTEND PROTECTION TO THE NATURAL VALUES OF LANDS ADJACENT AND RELATED TO THE KATMAI NATIONAL MONUMENT, THE COMMISSION PROPOSES NORTHERN AND SOUTHERN ADDITIONS TOTALLING 1.1 MILLION ACRES. FURTHER, THE COMMISSION BELIEVES THE PROPOSED EXPANDED MONUMENT WITH ITS COMPLEX OF SCENIC GEOLOGIC FEATURES, WILDLIFE HABITAT, AND OTHER NATURAL VALUES, MERITS REDESIGNATION BY CONGRESS AS A NATIONAL PARK. THE COMMISSION ALSO RECOM-MENDS THAT A GROUP OF 80 TINY ISLANDS, JUTE ISLANDS, PINNACLE ROCK AND COASTAL HEADLANDS NEAR JUTE PEAK AND CAPE AKLEK IN OR NEAR PUALE BAY TOTALLING 25,875 ACRES BE INCORPORATED AS A UNIT OF THE NATIONAL WILDLIFE REFUGE SYSTEM TO PROTECT SEABIRD ROOKERIES AND SEA MAMMAL HABITAT. SOME 0.88 MILLION ACRES OF SIGNIFICANT HABITAT FOR BEAR DENNING AND CONCENTRATION, CARIBOU, MOOSE, AND FISH, AND SCENIC VALUES BETWEEN KATMAI NATIONAL MONUMENT AND BECHAROF LAKE, ARE RECOMMENDED FOR INCORPORATION IN THE ALASKA NATIONAL LANDS SYSTEM WITH MANAGEMENT BY THE U.S. FISH AND WILDLIFE SERVICE.

A metallogenic province with potential for copper, silver, gold, lead, zinc, iron, and molybdenum traverses the proposed extensions and existing Monument, but extends farther to the north and south onto adjacent public and private lands.

Coastal forests of western hemlock and Sitka spruce are located along the Kamishak River. Some interior mixed spruce-hardwood forests grow in the vicinity of Nonvianuk Lake. These forests may have some potential commercial value, but more extensive forests in better growing conditions are found farther north. The taking of fish and game by local residents to meet their subsistence needs is common in the area west of the existing Monument. Some areas with wildlife populations to help meet these needs have been excluded from the recommended additions, to the Monument. Some are included in the Alaska National Lands unit where hunting and fishing are permitted.

Habitat for the significant brown bear populations of this area are under several different jurisdictions. If the brown bear is to be perpetuated and adequately protected in the Katmai area, coordinated management of the bears and significant bear habitat adjoining the Monument will be required.

Aniakchak Caldera National Monument

Aniakchak Volcano is a large volcano about 4,000 feet high located on the Alaska Peninsula about 400 miles southwest of Anchorage. The volcano

contains a 30-square-mile steep-walled caldera with warm springs, areas of high ground temperature, cinder cones, and other colorful rock formations. Also within the caldera is Surprise Lake from which the Aniakchak River rushes out of the caldera through a deep gash and then flows on to the Pacific Ocean. The river, the largest on the Pacific side of the Peninsula, runs for 25 miles varying in character from rapids as it issues from the caldera to quieter waters downstream with good boating potential. Mountain peaks in the general area range from 2,000 to 4,000 feet in altitude. Brown bear, moose, and caribou are found in the vicinity, as well as some smaller mammals and birds.

TO PRESERVE AND PROTECT GEOLOGICAL AND BIOLOGICAL PHENOMENA AND SCENIC VALUES OF THIS VOLCANIC AREA, THE COMMISSION PROPOSES THAT THE CALDERA AND PORTIONS OF THE VOLCANO'S OUTER SLOPES BE DESIGNATED A UNIT OF THE NATIONAL PARK SYSTEM. THE ANIAKCHAK RIVER IS RECOMMENDED FOR DESIGNATION AS A WILD RIVER. The proposed river corridor includes the watershed of the river extending from the caldera to the ocean, including the tributaries to the north. The two units combined contain 250,000 acres.

The proposed park and river lie within a petroleum province. Some of the area also contains a metallogenic province with potential for copper, silver, gold, lead, zinc, iron, and molybdenum. These petroleum and mineral provinces extend well beyond the proposed boundaries onto adjoining Federal, State, and private lands. The caldera and immediate slopes of the volcano have geothermal energy potential, but similar potential in volcanic areas is present both north and south of the proposed unit.

Sport hunting, primarily for brown bear and moose, has taken place primarily along the coastal zone. CONTINUATION OF HUNTING IN THE PROPOSED WILD RIVER AREA IS RECOMMENDED UNDER STATE REGULATION.

Area adjoining Cape Newenham National Wildlife Refuge

The area adjoining the Cape Newenham National Wildlife Refuge is characterized by broad valleys and tundra-covered rolling uplands. It adjoins a bay bordered by cliffs, beach, and estuaries. The area contains medium density waterfowl nesting habitat and a coastal zone habitat important for migrating waterfowl. Salt water estuaries containing eel grass are important gathering areas for the spring and fall migrations of black brant, Canada and emperor geese, and eiders. Lowlands and uplands include habitat for brown bear, moose, wolf, wolverine, and smaller wildlife. THE COMMISSION RECOMMENDS THAT THIS AREA OF 240,000 ACRES BE ADDED TO THE EXISTING CAPE NEWENHAM NATIONAL WILDLIFE REFUGE TO PROTECT WILDLIFE AND HABITAT. Most of the land involved in this addition has been withdrawn as replacement lands for those refuge lands selected by Alaska Native corporations.

The area has little apparent potential for other resources. An area adjoining the existing refuge on the northwest has been a valuable source of platinum, and the potential province extends well northward but it does not appear to extend within the proposed refuge boundaries. Reindeer grazing potential exists, but extensive similar habitat lies north of the area.

Pacific Coast Islands Bordering the Alaska Peninsula

Off the eastern shores of the Alaska Peninsula lie hundreds of relatively small, rocky, weather beaten islands. Most of these are generally barren of vegetation or are covered by a thin mantle of grasses or heath. Collectively, these islands provide high density habitats for a variety of waterfowl and marine mammal species.

THE COMMISSION RECOMMENDS THAT A NUMBER OF THESE ISLANDS (EXCLUDING SELECTIONS CONVEYED TO ALASKA NATIVES) BE PROTECTED IN THREE UNITS OF THE NATIONAL WILDLIFE REFUGE SYSTEM TOTALLING ABOUT 56,000 ACRES.

One unit, named for the Shumagin Islands, contains seven island groups including the Puale Bay group previously mentioned. The Koniuji Island group (36,932 acres) supports over half a million horned puffins; the 2,165-acre Chiginigak Island group provides habitat for 183,000 tufted puffins; Bird Island (4,300 acres) supports 43,000 black-legged kittiwakes; the Mitrofania group (1,095 acres) contains nesting habitat for over 200,000 murres; the Sandman Reefs (927 acres) shelter fork-tailed petrils, cormorants, and glaucous-winged gulls; Karpa Island (610 acres) provides habitat for over a quarter of a million seabirds, primarily murres. Many of the proposed refuge islands also provide rookeries and resting grounds for harbor seals, seal lions, and sea otters.

The second unit consists of approximately 440 acres of numerous rocks and islets offshore from Kodiak Island that are proposed for addition to the existing Kodiak National Wildlife Refuge. These relatively barren islands support pelagic cormorants, tufted puffins, black-legged kittiwakes, pigeon guillemots, and glaucous-winged gulls. Bald eagles also nest along the shorelines. Many similar rocks and islets would also be suitable additions, if not eventually conveyed to Alaska Native corporations from lands they have currently selected.

The third island group is the Barren Islands complex (10,020 acres). These weather beaten islands near the entrance to Cook Inlet, including the Latax Rocks encompass the most important known nesting areas for marine birds in a 1,000-mile arc along the Gulf of Alaska. The islands support 700,000 seabirds, as well as significant populations of sea otters, sea lions, and harbor seals. The noisy sea lion rookery at Sugarloaf Island in the Barren Islands may be the largest in Alaska.

A metallogenic province with potential for copper, nickel, iron, platinum, chromium, titanium, and asbestos possibly traverses the proposed Barren Islands Refuge. However, the province extends onto public and private lands on the Kenai Peninsula mainland to the north, and onto Afognak Island (part of the Chugach National Forest) and the State-selected Shuyak Island to the south. Portions of the Shumagin Islands group lie within a large major oil and gas province, but the relatively small acreage reserved would not significantly inhibit future oil and gas development in the region.

Withdrawn Areas Not Included in Commission Proposals

Four other areas primarily within the Bristol Bay-Alaska Peninsula area were withdrawn for study under Section 17(d)(2) of ANCSA.

Lands of the Kvichak River drainage mostly around Iliamna Lake and of the Alagnak River drainage to the south, including Kukaklek and Nonvianuk and other smaller lakes, were identified principally because of their fisheries habitat (including major red salmon runs); bear, moose, and other wildlife habitat; forest; and recreational values. Large areas bordering Iliamna Lake have been selected by Native village corporations. The State of Alaska may have selection rights on lands interspersed among the private lands. An oil and gas basin underlies the western end, and a metallogenic province with copper potential traverses the area. Believing that management of this area should focus principally on protection and enhancement of the fish populations and habitats, and in consideration of the emerging land pattern and the considerable State interest and regulatory authority, the Commission does not recommend the designation of the Iliamna Lake area as a unit of the national conservation systems. WILD RIVER DESIGNATION IS RECOMMENDED FOR AN APPROXIMATE 46-MILE SEGMENT OF THE MAINSTREAM OF THE ALAGNAK RIVER STARTING AT KUKAKLEK LAKE, AND THE 11-MILE NONVIANUK RIVER, THE PRINCIPAL TRIBUTARY. Both rivers are relatively small clearwater streams that flow freely from large lakes at first through moderately incised canyons, then through lowlands having low local relief and varying forest cover. Forests along the river have little commercial value, and better potential occurs on the private lands along the lower reach that is not recommended for designation. A sedimentary basin with oil and gas and uranium potential courses the lower reach but extends well beyond to the north, south, and west. THE COMMISSION RECOGNIZES THE IMPORTANCE OF WILDLIFE ALONG THE RIVER IN MEETING SUBSISTENCE NEEDS OF LOCAL RESIDENTS AND RECOMMENDS CONTINUED HUNTING, FISHING, AND TRAPPING UNDER STATE REGULATIONS. Coordination may be needed in this area with respect to possible future surface transportation across the lower reach of the river.

THE COMMISSION ALSO RECOMMENDS THAT THE COPPER RIVER AT THE HEAD OF ILIAMNA LAKE, AND THE KARLUK RIVER IN THE KODIAK NATIONAL WILDLIFE REFUGE, BE DESIGNATED POTENTIAL WILD AND SCENIC RIVERS, PENDING OUTCOME OF LAND STATUS PATTERNS AND FURTHER EVALUATION OF FEASIBILITY.

The Togiak area is characterized by broad valleys, numerous scenic lakes, clear streams, often rugged mountains, and vegetative cover mostly of tundra or brush communities. The various terrestrial and aquatic habitats support fish, waterfowl, brown bear, moose, and other smaller animals. A metallogenic province with potential for copper, nickel, iron, titanium, chromium, platinum, and asbestos traverses the western portion. In reviewing the Togiak withdrawal, the Commission has considered possible State interest in the western sector for mineral potential.

The mountain, lake, and river complex of the Togiak and Kulukuk River drainages, though scenic and possessing some wildlife values, does not of itself appear to be of national significance. However, it does have values complementary to the adjacent State-owned Wood-Tikchik Lakes area that is of outstanding significance and being considered as a State

park. If the Wood-Tikchik area is further considered through land exchange as a possible national park, then the Togiak area should be reassessed for its national interest. FROM THE EASTERN TOGIAK AREA, THE COMMISSION HAS IDENTIFIED THE TOGIAK RIVER AS HAVING NATURAL FEATURES OF POTENTIAL NATIONAL INTEREST, AND RECOMMENDS DESIGNATION AS A POTENTIAL ADDITION TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM PENDING FURTHER EVALUATION.

FROM THE WESTERN SECTION OF THE TOGIAK WITHDRAWAL, THE COMMISSION RECOMMENDS WILD RIVER DESIGNATION FOR THE KANEKTOK RIVER WHICH HEADS IN THE AHKLUN MOUNTAINS AND FLOWS WESTERLY INTO KUSKOKWIM BAY. (SOUTHWESTERN ALASKA PRESENTATION AREA). FROM KAGATI LAKE ABOUT 59 MILES OF THE MAIN STREAM OF THIS CLEAR-WATER FREE-FLOWING RIVER ARE PROPOSED. The river is boatable with scenic values and fishing opportunities and passes through a mountain valley in the upper portion and a flat tundra area in the lower section. TAKING OF FISH AND GAME ALONG THE RIVER FOR SUBSISTENCE PURPOSES IS RECOGNIZED AS A LOCALLY IMPORTANT USE, AND CONTINUED HUNTING, FISHING, AND TRAPPING UNDER STATE REGULATIONS ARE RECOMMENDED. The metallogenic province mentioned above extends north and south of the river corridor.

Hagemeister Island, originally withdrawn as part of the Togiak unit, contains a seabird colony at its southern tip, an unusual sandspit, and some hauling out habitat for walrus and other sea mammals. The island is essentially primitive in nature and is currently under lease for reindeer grazing. The Commission does not recommend that Hagemeister Island be designated as a unit of the national conservation systems at this time. Its wildlife and other values can be adequately protected through management plans for the island.

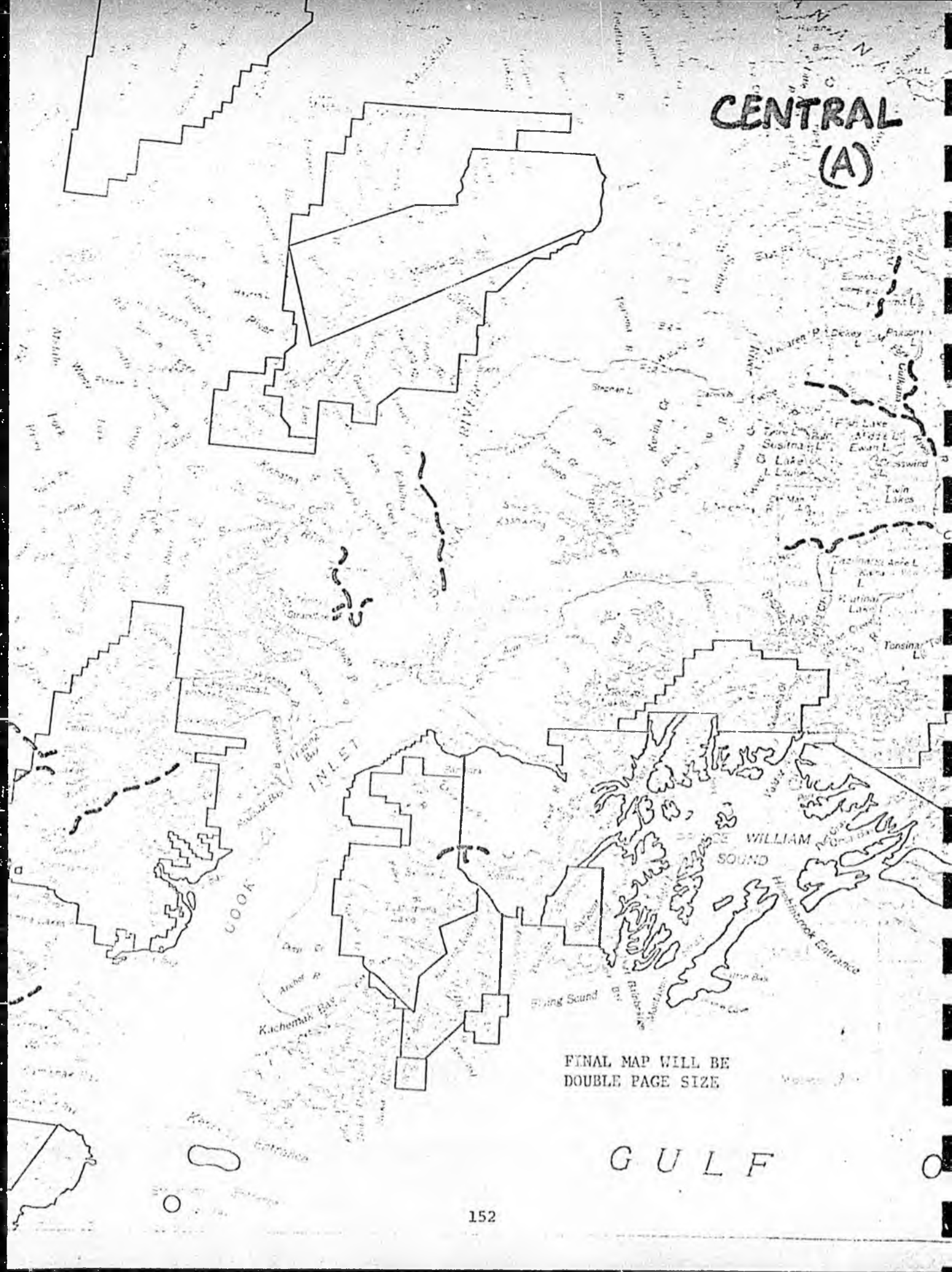
Chernabura Island, one of the Shumagin group, was withdrawn by the Secretary as one of a series of coastal islands. It contains little significant seabird habitat of national interest relative to other islands in the area with much higher and more varied bird and sea mammal populations. Therefore, the Commission does not recommend that it be designated a unit of the national conservation systems.

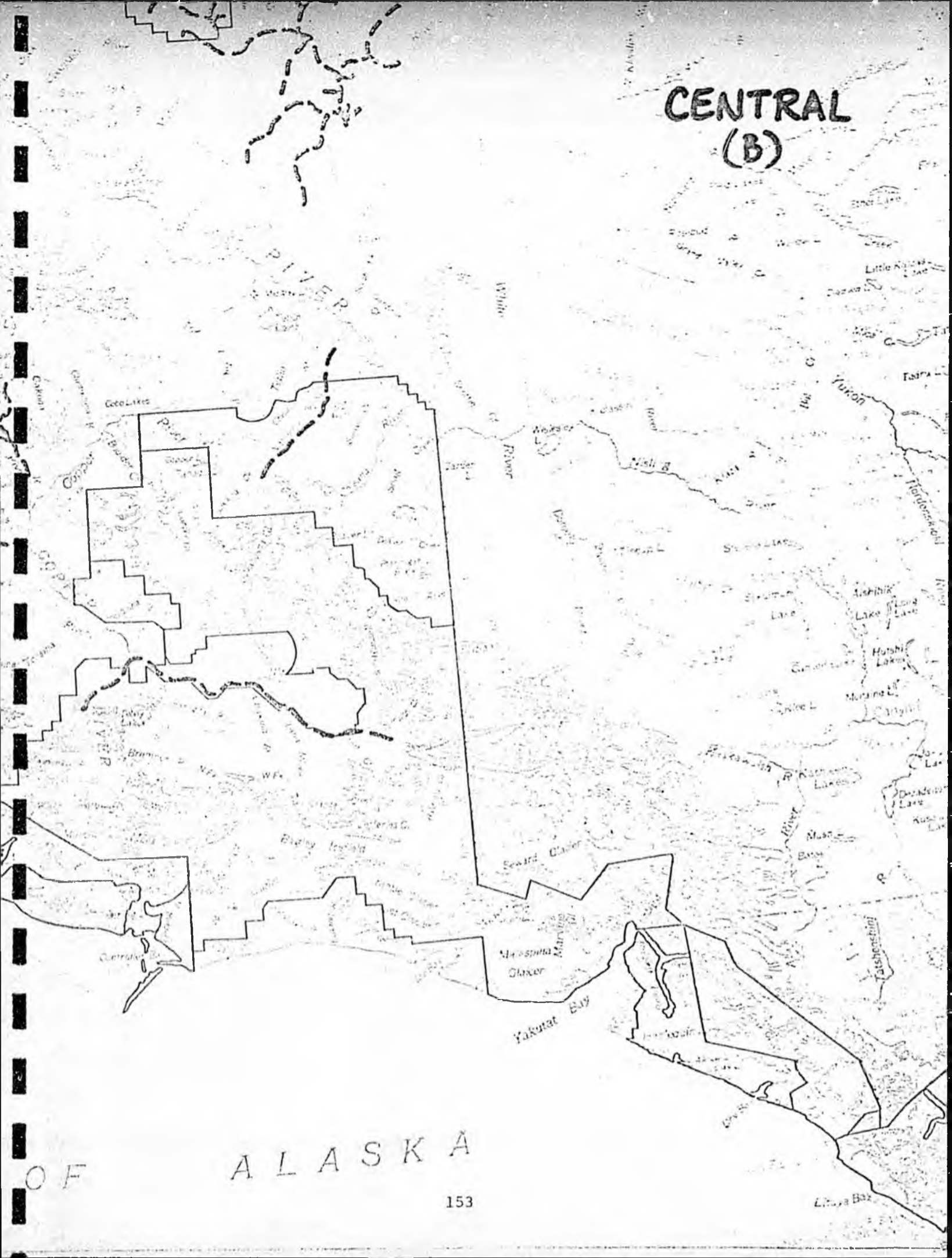
Other Potential Wild and Scenic Rivers

WITHIN THIS PART OF ALASKA, THE COMMISSION ALSO RECOMMENDS THAT THE NUYAKUK RIVER, AND A SEGMENT OF THE MULCHATNA RIVER AND ITS TRIBUTARY, THE CHILIKADROTNA, BE STUDIED BY THE STATE OF ALASKA FOR POSSIBLE LEGISLATIVE DESIGNATION BY THE STATE AND INCLUSION IN THE NATIONAL WILD AND SCENIC RIVERS SYSTEM.

CENTRAL ALASKA

Central Alaska includes the Kenai Peninsula, the Matanuska, Susitna, and Copper River drainages, the Wrangell and Chugach Mountains, most of the Alaska Range, the interior Tanana Valley, and the area around Lake Clark on the western side of Cook Inlet. The region covers about 135,000 square miles. On the south, the region borders Cook Inlet and the Gulf of Alaska. Nearly three quarters of the State's population lives here.


CENTRAL
(A)
INLET
COOK
WILLIAM
SOUND
GULF
Knik R.
Matanuska R.
Susitna R.
Talkeetna R.
Kashwitna R.
Willow Cr.
Deception Cr.
Little Susitna R.
Wasilla Cr.
Meadow Cr.
Moose Cr.
Montana Cr.
Sheep Cr.
Caswell Cr.
Peters Cr.
Archangel Cr.
Chijuk Cr.
Lake Creek
Fish Cr.
Willow Cr.
Kashwitna L.
Stephan L.
Susitna L.
Lake Louise
Tyone L.
Byers L.
Ewan L.
Middle L.
Crosswind L.
Twin Lakes
Tokositna Glacier
Kahiltna Glacier
Tokositna R.
Kahiltna R.
Yentna R.
Skwentna R.
Tonsina L.
Kashwitna Bay
Knik Arm
Turnagain Arm
Fire Island
Anchorage
Eagle Bay
Point Woronzof
Point Campbell
Point Possession
Point Mackenzie
Port Mackenzie
Fire Island
Knik Glacier
Knik Arm
Eagle Bay
Anchorage


CENTRAL
(B)
Yukon
Yakutat Bay
Malaspina Glacier
Seward Glacier
Disenchantment Bay
Icy Bay
Dry Bay
Copper River
Gulf of Alaska

Population is concentrated, for the most part, in several large centers, leaving most of the region unpopulated and insignificantly altered from its natural state. Slightly under half of the State's 400,000 residents live in the immediate environs of Alaska's largest city, Anchorage. Approximately 60,000 people reside in the Fairbanks area, Alaska's second largest city and interior Alaska's major population center. Other relatively densely populated areas are the Kenai Peninsula with four of Alaska's larger towns, the Matanuska Valley adjoining the Anchorage area, and two towns on Prince William Sound (Valdez and Cordova). The remainder of the region's population lives in very small, scattered communities. Most inhabitants are Caucasians intermixed with Alaska Natives, blacks, and Orientals.

The State's road network lies almost entirely within this region, as does Alaska's only federally owned and operated railroad running from Seward to Fairbanks. Major industry and sources of employment are largely urban, such as government, construction, and wholesale and retail sales and services which are not directly related to resource development. However, oil and gas development is a significant industry on the Kenai Peninsula and in upper Cook Inlet, and leases have been sold for offshore development in the Gulf of Alaska. Commercial fishing occurs in the lower Cook Inlet, Gulf of Alaska, and Prince William Sound. There are several, mostly small-scale, mining operations. Timber-cutting occurs in the coastal forest along the Gulf Coast and Cook Inlet areas, with most of the production exported to Japan. A number of small farms operate in the Matanuska Valley near Anchorage and the Tanana Valley near Fairbanks.

Nearly all of the continent's highest peaks above 14,500 feet, including North America's highest, Mt. McKinley, are in this region, as are the continent's largest glaciers and icefields. Fiords, wave-beaten beaches, and rocky coasts are found along the Gulf of Alaska. The region contains both coastal and interior forests, intermixed with lowland bogs and tundra.

Nearly every species of large northern land mammal, including brown and black bear, moose, sheep, goat, caribou, and wolf can be found in the region. Several kinds of sea mammals are present at places along the coast. The region contains some prime habitat for waterfowl, eagles, and seabirds.

Climate varies widely in the region. In general, winters are colder, summers hotter, and precipitation less in the interior than in the coastal areas. Fairbanks has a mean daily January temperature of -16°F, a July mean of 60°F (with frequent summer days with high temperatures in the 70's and 80's), an average of 89 frost-free days per year, and annual precipitation only slightly exceeding 11 inches. Anchorage on Cook Inlet, by comparison, has mean January and July temperatures of 12°F and 58°F, respectively, with approximately 125 frost-free days each year, and an annual precipitation level of nearly 15 inches. Winter temperatures and precipitation are highest along the Gulf of Alaska coast, where the waters are generally ice free.

Oil and gas provinces underlie portions of the region. The Wrangell and Chugach Mountains and the Alaska Range have significant mineral values. Some timber stands in the coastal and interior forests are of commercial value, and a significant percentage of those cultivable soils in suitable climatic zones lie within this region.

A substantial portion of the State of Alaska's land entitlement has been satisfied through selections in Central Alaska, totalling about 30 percent of the region. Selections by Alaska Native corporations will constitute another 10 percent. Discounting future State selections, the Federal Government will retain jurisdiction over about 60 percent of the region. Existing Federal reserves in the region include the Chugach National Forest covering over 4 million acres, the 1.7-million-acre Kenai National Moose Range, Mt. McKinley National Park of nearly 2 million acres, a small Tuxedni National Wildlife Refuge, and several large military reserves totalling some 2.3 million acres. The following 12 withdrawals from the region were made by the Secretary of the Interior in 1972 under Section 17(d)(2):

Chugach Mountains (7,280,000 acres)
Wrangell Mountains (3,870,000 acres)
Land around Mt. McKinley National Park (3,050,000 acres)
Lake Clark (3,090,000 acres)
College Fiord (395,000 acres)
Nellie Juan Valley (276,000 acres)
Land to the south of the Kenai National Moose Range (62,000 acres)
Harding Icefield (50,000 acres)
Granite-Chiswell Islands (6,000 acres)
Aialik Peninsula (5,000 acres)
Pye Islands (5,000 acres)

Wrangell-Chugach

This corner of central Alaska lies adjacent to the Canadian border and includes portions of four major mountain systems, Wrangell, Chugach, St. Elias, and the Alaska Range. The area encompasses most of the major North American mountains from 14,500 to 18,000 feet, as well as the continent's largest glaciers and icefields. The massive mountains bordered by lesser peaks rise from broad, forested river valleys and the wave-beaten coast of the Gulf of Alaska. Among the scenic features of the area are the subalpine Tebay Lakes; the steep-walled Chitistone Canyon; the sprawling Malaspina Glacier, largest piedmont glacier in North America, over 40 miles wide along its terminal lobe; and a still steaming volcano, Mt. Wrangell.

This area, especially around the Wrangell Mountains, contains some of Alaska's finest Dall sheep habitat and some of the largest Dall sheep. The Copper River corridor and the Gulf Coast are major migration routes for birds, and the lower Copper River and delta is a key nesting, resting, and feeding place. Most of North America's trumpeter swans and nearly all dusky Canada geese nest there. Hauling out areas for marine mammals, including sea lions and harbor seals, are found on the coastal beaches and islands near the delta and the Malaspina Glacier forelands. Three

caribou herds and two small herds of introduced bison range through the area's interior valleys. Goat, bear, wolf, and smaller mammals are also present.

RECOGNIZING THIS RICH DIVERSITY OF NATURAL VALUES, THE COMMISSION MAKES THE FOLLOWING RECOMMENDATIONS FOR THEIR PROTECTION. THE MAIN MOUNTAIN AND GLACIER COMPLEXES ARE PROPOSED AS A NEW UNIT OF THE NATIONAL PARK SYSTEM CONTAINING 9.7 MILLION ACRES. TWO UNITS IN THE ALASKA NATIONAL LANDS SYSTEM ARE RECOMMENDED, ONE IN THE CHITINA VALLEY (1.0 MILLION ACRES), AND THE OTHER ON THE NORTH SIDE OF THE WRANGELL MOUNTAINS (2.9 MILLION ACRES). THE NATIONAL PARK SERVICE IS THE RECOMMENDED MANAGER FOR BOTH OF THESE UNITS BECAUSE OF THE RELATIONSHIP OF THEIR SCENIC, HABITAT, TRANSPORTATION, AND RECREATIONAL VALUES TO THE PROPOSED PARK. THE COMMISSION RECOMMENDS THAT PORTIONS OF THE LOWER COPPER RIVER AND CHUGACH MOUNTAINS (1.3 MILLION ACRES) BE INCORPORATED WITHIN THE EXISTING CHUGACH NATIONAL FOREST; AND THAT PRIME WATERFOWL, MIGRATORY BIRD, AND SEA MAMMAL HABITAT NEAR THE COPPER RIVER DELTA IN THE EXISTING CHUGACH NATIONAL FOREST BE DESIGNATED A NATIONAL WILDLIFE REFUGE UNIT (350,000 ACRES). FOUR RIVERS--THE CHITINA, LOWER COPPER, BREMNER, AND NABESNA--ARE RECOMMENDED FOR DESIGNATION AS POTENTIAL WILD AND SCENIC RIVERS PENDING FURTHER STUDY AND CLASSIFICATION OF ADJOINING LANDS. Taken together, the proposals form a protective system for the range of natural values and ecosystems found in this subregion, while not foreclosing opportunities for hunting of game species or use of energy resources and strategic minerals of potential national interest.

Potential for oil and gas and uranium exists in the coastal areas. Portions of the oil and gas province and the uranium basin, as well as the offshore areas with apparent higher potential for oil and gas, have not been incorporated in the proposed units. Coal potential around the Bering River lie on existing national forest lands and Federal lands proposed for a national forest addition, where exploration and extraction could be allowed. Coal also occurs on some State and private lands adjoining the proposed units. There are three locations with geothermal energy potential in the proposed units. One small area is located in the recommended park and another in an Alaska National Lands unit. The largest area, centered in the park, extends beyond into the two Alaska National Land units and other public and private lands. Three hydroelectric sites along the Copper River (Wood Canyon, Cleave, Million Dollar), if developed, would inundate portions of the proposed units altering their natural features and submerging historical and archaeological sites. A major salmon run would also be disrupted. Considering the absence of any current significant demand for power, the Commission does not find hydroelectric development warranted at this time.

The proposed park and Alaska National Land units contain three metallogenic provinces with potential for copper, gold, silver, nickel, lead, zinc, iron, barite, platinum, chromium, titanium, molybdenum, antimony, tungsten, and asbestos. Two of the three provinces extend well beyond the recommended boundaries. Portions of the third province, containing the areas of major lead, zinc, and barite potential, are located on proposed Alaska National Lands where exploration and/or extraction may occur wherever

eventual classification permits. Similar potential for lead and zinc is located outside the proposed units in the upper Copper River drainage and in the Talkeetna Mountains. The proposed park and Alaska National Land unit boundaries were drawn to exclude many of the mineralized areas with higher potential from the park. However, several existing mineral claims are contained within the proposed park unit. Mineral exploration or extraction on the adjacent Alaska National Lands could be allowed if eventual classification permits. Mining may occur on forest lands under the permit-and-lease system recommended by the Commission and can be permitted on refuges by Secretarial discretion if compatible with habitat protection.

All units contain some forest stands of potential commercial value. Timber-cutting could be allowed in the forest unit and may be allowed in the new management system units if eventual classification allows. Some cultivable soils suitable for agriculture exist in the Chitina Valley, but this area lies in a zone climatically marginal for production.

Coordinated management of park, forest, and Alaska National Land units with adjoining landowners will be important with respect to recreational use, transportation development, and wildlife management.

Areas adjoining Mt. McKinley National Park

Lands adjoining Mt. McKinley National Park on the south contain portions of the Mt. McKinley massif and related mountains and glacial features, while some of the lands to the north provide habitat for large mammals of the existing Park.

Sheep, moose, grizzly bear, wolf, and caribou range north from the Park for varying distances onto adjoining lands of forest, tundra, lakes, and ponds. A variety of smaller wildlife such as fox and marten are also prevalent in areas north of the Park.

Mt. Hunter and peaks of the Alaska Range south of Mt. McKinley National Park have high scenic values. Recreational potential for cross-country and downhill skiing, hiking, camping, and scenery observation exists primarily along the southern margin of the high mountains and large glaciers where forest gives way to alpine tundra. Chelatna Lake, largest lake in this section of the Alaska Range, is a point of air access to surrounding backcountry, and provides opportunities for water-oriented recreational activities. Among the scenic highlights of this area are the Great Gorge of the Ruth Glacier with its nearly mile-high, pinkish granite cliffs, the large Kahiltna Glacier, and the varicolored moraines of the Yentna Glacier.

IN RECOGNITION OF THESE NATURAL VALUES AND THEIR INTEGRAL RELATIONSHIP TO THOSE OF THE PARK, THE COMMISSION RECOMMENDS THE ADDITION OF A SOUTHERN UNIT TO THE PARK TO COMPLETE THE SCENIC AND GEOLOGICAL COMPLEX AND TO INCLUDE ADDITIONAL LANDS FOR VISITOR USE. A SECOND ADDITION EXTENDING THE PARK TO MORE NATURAL BOUNDARIES IN THE NORTH IS PROPOSED TO COMPLETE A WILDLIFE ECOSYSTEM OF NATIONAL IMPORTANCE. THESE TWO ADDITIONS TOTAL 2.7 MILLION ACRES. Two areas selected by the State of Alaska, one

around Chelatna Lake and the other in the northeastern corner of the proposed northern addition, have natural values of national interest. The Commission recommends that these lands be the subject of future exchange discussions with the State.

Some potential exists for oil and gas and uranium in the proposed park additions, but the provinces extend well beyond the new unit boundaries. Coal deposits are found along the northeastern and southern boundaries of the proposed additions, but there are similar and larger deposits as well as an ongoing coal operation located on adjacent lands. Two potential hydroelectric sites, Carlo and Healy, are located nearby along the Nenana River. If developed, they would inundate portions of the eastern edge of the existing park. Metallogenic provinces with potential for copper, gold, silver, nickel, lead, zinc, tin, iron, barite, antimony, platinum, chromium, molybdenum, tungsten, titanium, and asbestos underlie the existing Park and proposed extensions. These provinces, with the exception of a belt favorable for lead and zinc, extend beyond the proposed boundaries. Another potential lead and zinc province lies to the southwest of the recommended southern addition and could be open to exploration and mining. Two areas in the proposed northern addition, Kantishna and Stampede, are currently mined for gold and antimony. While new mineral exploration and extraction will not be allowed in the extended park, valid existing claims will be governed by National Park Service mining regulations.

Some cultivable soils with agricultural potential extend up the Toklat and Kantishna Rivers in the northern extension, as do some forest stands of possible commercial value. More extensive sections of cultivable soils and forested areas lie in lower elevations to the north of the recommended park extension.

The area around Mt. McKinley is near the major growing urban and tourism centers of Alaska. Mt. McKinley National Park cannot meet all recreational demands on the area. Coordination, then, among all landowners and administrators will be needed to plan recreation, transportation, and utility facilities, and to assure that recreational uses and resource development are compatible with the natural values.

Lake Clark

Lake Clark is located in the rugged and scenic southwestern section of the Alaska Range. The lake itself, 50 miles in length and averaging about 4 miles wide, is one of the larger lakes in Alaska. It is bordered in part by high steep mountains, and lower slopes are wooded. Other lakes of scenic interest are found in the mountain valleys and along the western flank of the Range. Among the scenic mountainous features are two symmetric 10,000-foot volcanos, Redoubt and Iliamna; pinnacles near Merrill Pass; and numerous hanging glaciers at Lake Clark Pass. Several free-flowing clear-water and glacial rivers begin in these mountains that are cut by many interconnecting valleys. The lower eastern and western flanks of the Range and some major valley bottoms are forested. Wildlife of the area includes sheep, moose, caribou, wolf, grizzly bear,

and other smaller animals. Seabirds, harbor seals and a noted clam beach are found along the coast.

THE COMMISSION FINDS THESE NATURAL VALUES TO BE OF NATIONAL INTEREST AND RECOMMENDS THAT 3.5 MILLION ACRES BE INCORPORATED WITHIN THE ALASKA NATIONAL LANDS SYSTEM. BECAUSE OF ITS RELATIVE ACCESSIBILITY TO ALASKA'S URBAN AND TOURIST CENTERS, THE COMMISSION BELIEVES RECREATION SHOULD BE RECOGNIZED AS A PRIMARY USE OF THE PROPOSED UNIT AND THAT THE NATIONAL PARK SERVICE BE DESIGNATED THE MANAGER. THE TLIKAKILA RIVER AND THE UPPER FEDERALLY OWNED SEGMENTS OF THE MULCHATNA AND CHILIKADROTNA RIVERS ARE RECOMMENDED BY THE COMMISSION FOR DESIGNATION AS POTENTIAL WILD AND SCENIC RIVERS, WITH FURTHER STUDY, EVALUATION, AND CLASSIFICATION OF SURROUNDING LANDS TO AID IN FINAL RECOMMENDATIONS.

The eastern boundary of the proposed unit overlaps a small portion of an oil and gas province underlying Cook Inlet. Potential for uranium exists along the coast, but the sedimentary province with potential for these minerals extends well into other adjoining lands. Two areas with geothermal energy potential are present in the proposed unit. Other similar volcanic areas lie north and south of the proposal. Two potential hydroelectric sites, Crescent Lake and Ingersol, are within the proposed unit. If constructed, some natural values would be altered or lost.

Metallogenic provinces with some potential for copper, gold, silver, lead, zinc, tin, molybdenum, and tungsten underlie most of the area, as well as on some adjoining lands. Exploration and/or extraction may occur on Alaska National Lands wherever eventual classification permits.

Timber potential exists primarily in the coastal forest along the west side of Cook Inlet. Stands are much more extensive to the north where they are harvested.

Substantial acreage within the Lake Clark proposal has been selected by Cook Inlet Native regional corporation near the midsection of Lake Clark and along the Cook Inlet coast. These areas were selected because other lands closer to the existing Native villages were not available. The Federal and State governments have been working closely with the private corporations to retain the Lake Clark area in public ownership and provide more suitable lands for corporate selection. ON THIS BASIS, THE COMMISSION RECOMMENDS INCLUSION OF CERTAIN OF THE PRIVATE LANDS WITHIN THE LAKE CLARK UNIT BOUNDARIES ON THE BASIS OF THEIR SIGNIFICANT NATURAL VALUES, AND ENCOURAGES CONTINUED EFFORTS TO MINIMIZE THE AMOUNT OF PRIVATE INHOLDINGS WITHIN THE PROPOSED UNIT BY LAND EXCHANGES AND OTHER APPROPRIATE MEANS.

Kenai Peninsula and Prince William Sound

The Kenai Peninsula and Upper Prince William Sound area are located south and east of Anchorage along the coast. Most of the area is included in two existing reserves, the Kenai National Moose Range and the adjacent Chugach National Forest. The western side of the Kenai Peninsula is blanketed by State and private lands. The following proposals lie within this area.

Areas adjacent to the Chugach National Forest

The lands adjoining the existing Chugach National Forest are characterized by rugged scenic peaks, massive icefields, fiords, and tidewater glaciers. Coastal areas contain a variety of terrestrial and marine animals. THE COMMISSION RECOMMENDS THAT THREE AREAS OF HIGH SCENIC VALUES AND SCIENTIFIC INTEREST BE ADDED TO THE CHUGACH NATIONAL FOREST. The Harding Icefield-Kenai Fiords area (520,000 acres) includes one of North America's major icefields surrounded by scenic peaks, steep icefalls, and radiating valley glaciers, some reaching the sea. Three large irregularly shaped peninsulas are separated by fiords which support sea lions, harbor seals, occasional whales, and numerous seabirds. Black bear and goat inhabit some parts of the area. Ocean waters about this area are highly productive of marine life.

The Nellie Juan River valley, Nellie Juan Lake, and much of the Sargent Icefield (totalling 280,000 acres) form a scenic river valley with glaciers descending its upper slopes. The valley supports some moose, goats, black and brown bears, and smaller mammals. This addition encloses a major watershed already partially included in the existing Chugach Forest. THE COMMISSION ALSO RECOMMENDS THE NELLIE JUAN RIVER BE DESIGNATED A POTENTIAL WILD RIVER, AND THAT FURTHER STUDY AND EVALUATION ALONG WITH CLASSIFICATION OF SURROUNDING LANDS AID IN FINAL RECOMMENDATIONS.

A third proposed addition, the College Fiord area (720,000 acres), also forms a complete watershed unit with the existing forest. It contains a scenic complex of mountains, fiords, and numerous tidewater glaciers. The coastal fringes and waters provide habitat for goat, black bear, wolverine, harbor seal, and seabird colonies.

The College Fiord area contains a metallogenic province with potential for copper, gold, silver, lead, barite, antimony, zinc, molybdenum, and tungsten that extends onto other public lands beyond the forest boundary. All three proposed national forest additions contain some stands of western hemlock and Sitka spruce along the shores and valley bottoms and on some relatively steep slopes. These stands have little potential commercial value relative to other extensive stands in the general area. Some Native selections have been made in the Kenai Fiords, but are not yet conveyed.

Peninsulas and Islands of the Kenai Peninsula

THE COMMISSION ALSO RECOMMENDS THAT THE SOUTHERN TIPS OF AIALIK AND HARRIS PENINSULAS, AND THE CHISWELL AND PYE ISLANDS TOTALLING ABOUT 19,630 ACRES BE ADDED TO THE NATIONAL WILDLIFE REFUGE SYSTEM. These two areas and adjoining waters provide key habitat for 65 species of seabirds and 23 species of marine mammals, including over 4,000 sea lions on the Chiswell and Outer Islands.

Area adjacent to the Kenai National Moose Range

A mountainous area containing the southwestern half of the scenic Sheep Creek drainage borders the southern tip of the Kenai National Moose

Range. It contains wildlife habitat for moose, goat, sheep, and other upland wildlife. THE COMMISSION RECOMMENDS THAT THIS AREA OF 40,000 ACRES BE ADDED TO THE EXISTING KENAI NATIONAL MOOSE RANGE TO ENCLOSE THE ENTIRE WATERSHED, AND RELATED SCENIC, WILDLIFE, AND WILDERNESS VALUES WITH A BETTER NATURAL BOUNDARY.

Fortymile River Complex

The Fortymile River originates in the eastern Yukon-Tanana uplands and flows northeasterly to its confluence with the Yukon River in Canada. The River and its 1,000 miles of tributaries are clear and free-flowing. More than 95 percent of the drainage lies within Alaska. Most of the river remains in its natural state. The river courses in segments through narrow gorges, bluffs, and rocky cliffs several hundred feet high, where the geologic structure of the area is exposed. Salmon, pike, and whitefish are found in the lower streams, and grayling in the upper parts. The area provides habitat for caribou, moose, bear, wolf, sheep, beaver, and smaller animals. Several species of duck and raptors, such as mallards and the peregrine falcon, are also present. Historic and cultural features of the Fortymile River area include the site of the first gold discovered in interior Alaska; cabins, settlements, and equipment associated with past and present gold mining; and the abandoned Eagle to Valdez military telegraph line which was part of a larger military Washington-Alaska communications system. Remains of a few old Athabascan Indian settlement sites are within the area.

THE COMMISSION RECOMMENDS THAT CERTAIN FORKS AND SEGMENTS OF THE FORTYMILE RIVER SYSTEM BE DESIGNATED "WILD," "SCENIC," OR "RECREATIONAL" RIVERS, UNDER THE NATIONAL WILD AND SCENIC RIVERS ACT. THE PROPOSAL INCLUDES A 4-MILE-WIDE CORRIDOR CONTAINING ABOUT 375 MILES OF RIVER AND 320,000 ACRES OF THE IMMEDIATE ENVIRONMENT. RECOMMENDED DESIGNATIONS INCLUDE 265 RIVER MILES AS "SCENIC," 161 MILES AS "WILD," AND 9 MILES AS "RECREATIONAL."

A potential hydroelectric site along the main Fortymile River, if developed, would inundate the lower reaches of the proposal and certain values would be altered or lost. Metallogenic provinces favorable for copper, gold, silver, nickel, lead, zinc, iron, antimony, molybdenum, tungsten, chromium, platinum, titanium, and asbestos have been identified in the area, but extend well beyond the river corridor boundaries. Mining would be allowed in the scenic and recreational segments under a permit and lease system. No mining would be allowed in the bed or banks of wild segments. Some stands of timber along the rivers have possible potential for future commercial use, but similar stands lie outside the corridors.

Coordination with respect to access and possible future transportation development in this area is particularly important.

Other Wild and Scenic River Potential

THE COMMISSION RECOMMENDS THAT THE KENAI-RUSSIAN, DELTA, AND GULKANA RIVERS BE DESIGNATED POTENTIAL WILD AND SCENIC RIVERS WITH FURTHER STUDY AND EVALUATION AND CLASSIFICATION OF SURROUNDING LANDS TO AID IN FINAL RECOMMENDATIONS.

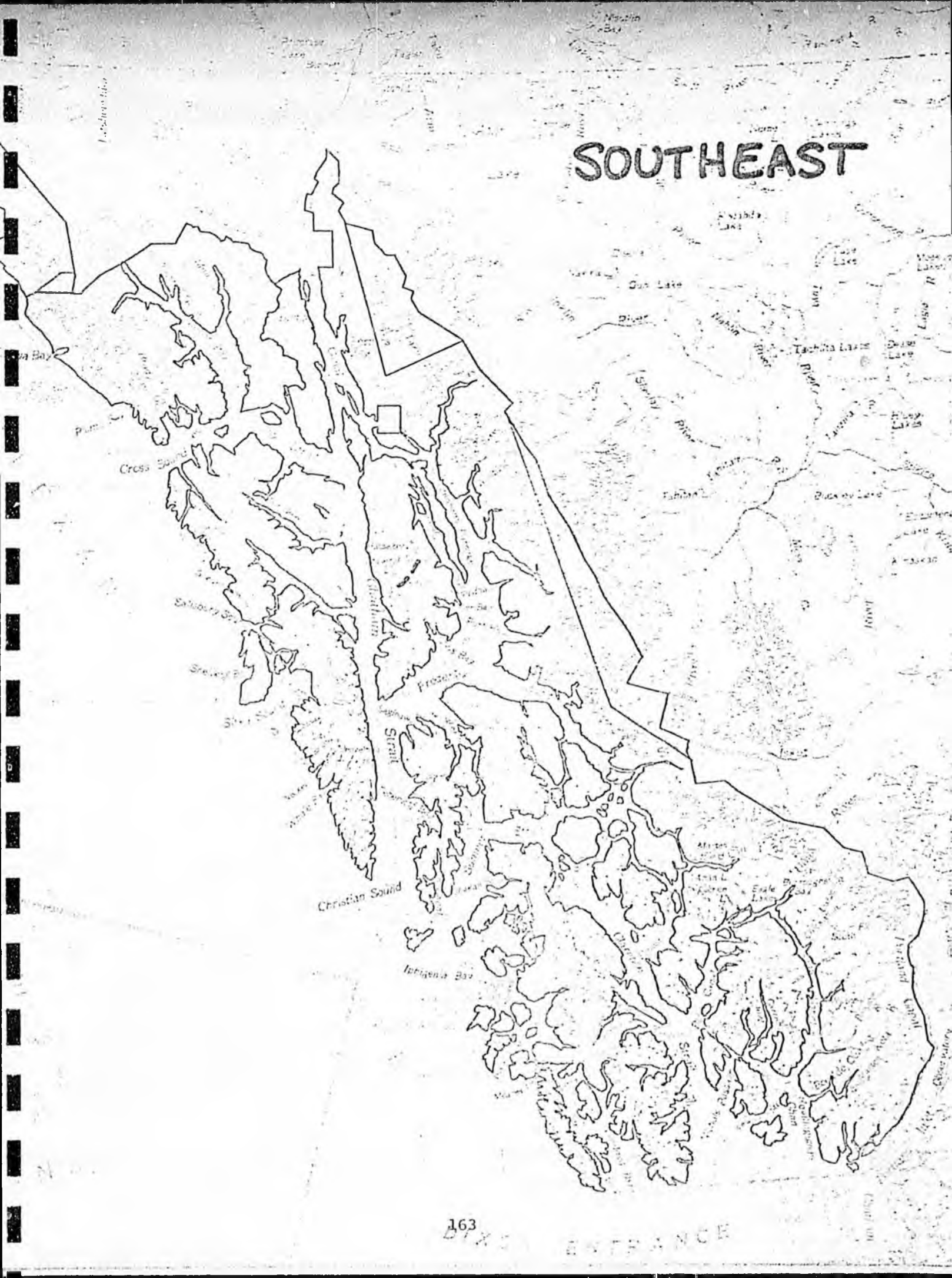
ALSO THE COMMISSION RECOMMENDS THAT THE STATE OF ALASKA STUDY KROTO CREEK (DESHKA) AND THE CHENA, CHATANIKA, TALACHULITNA, AND TAZLINA RIVERS FOR FEASIBILITY, POSSIBLE STATE LEGISLATIVE DESIGNATION, AND INCLUSION IN THE NATIONAL WILD AND SCENIC RIVERS SYSTEM.

SOUTHEASTERN ALASKA

Southeastern Alaska, the 40,000-square-mile Alaska "Panhandle," is an archipelago of large forested islands and a narrow mainland strip backed by mountains and icefields bordering Canada. Short mountain streams tumble into "inside" ocean passages. Wildlife populating the region include black bear (and its rare variation, the glacier bear), brown bear, Sitka black-tailed deer, bald eagle, and mountain goat. The productive fisheries habitat produces a variety of salmon, trout, herring, halibut, and shellfish. Although resource development has occurred and the region is relatively densely populated by Alaska standards (one person per square mile), the land largely remains in its natural state. The region has numerous sites of historical interest related to the indigenous Indian cultures, the Russian period, and the Klondike Gold Rush. The coastal rain forests are composed primarily of giant Sitka spruce and western hemlock.

Approximately 200 wet days occur each year in the southern portion of the region; less than 100 wet days are experienced, on the average, in the drier northern sections. Low clouds, fog, and frequent strong winds are characteristic of this region's climate. Temperatures in this largely maritime zone are moderate, with mean daily temperatures at sea level in January averaging near or above freezing, and mean July temperatures near 60°F. Precipitation is high with annual averages ranging from 61 inches at Haines in the north and 91 in Juneau, to 154 in Ketchikan, and in some locations, over 200 inches. There is potential for several minerals, and mining for uranium, gold, copper, and limestone, among others, has occurred. Much of the forest in this region has been evaluated to be of commercial quality. Commercial logging is extensive and long term timber sale contracts are in effect. Much of the current cut is exported to Japan as cants or pulp processed at two plants.

Southeastern Alaska was one of the first regions settled by Caucasians, and has some of the oldest communities in the State. The total population of the region is approximately 50,000, about 75 percent of which is Caucasian. Tlingit, Haida, and Tsimshian Indians constitute most of the remainder. Several of the communities here are relatively large. Juneau, the State capital, and Ketchikan, the region's southernmost town, have area populations greater than 10,000. Other communities of significant size include Sitka, site of the old Russian capital, Petersburg, Wrangell, Haines, and several predominantly Indian villages. Because of topographical obstacles, no road network connects the communities of the region. Access is by air or by boat, with a State-operated ferry system on the "marine highway." Waters in this region are generally ice free. Major industries are government, timber, commerical fishing, and tourism.


SOUTHEAST
Cross Sound
Christian Sound
Tachita Lake
Duck Inlet
Eagle Lake
Glacier Bay
Icy Strait

With the exceptions of about 800,000 acres of State selected or entitled lands and Native corporation selections, together totalling some 1.3 million acres or about 4 percent of the region, lands are and will remain under Federal jurisdiction. Major existing units in national conservation systems are the 16-million-acre Tongass National Forest and the 2.8-million-acre Glacier Bay National Monument. There are two small national historical parks, Sitka and Klondike Gold Rush, and three national wildlife refuge units (St. Lazaria, Hazy Island, and Forester Island) totalling 3,000 acres. Two withdrawals originally made under Section 17(d)(2) of approximately 475,000 acres each were made by the Secretary of the Interior, one near Kates Needle and the other around the Juneau Icefield.

Areas Adjoining Tongass National Forest

When the original National Forest withdrawals were made in southeastern Alaska, four major areas were excluded from the forest boundaries for various reasons, paramount apparently being a paucity of forest growth on the generally rugged glacier and snowclad mountains of the areas.

One of these areas near the head of Lynn Canal has now been largely selected by the State. Two other areas, around the Juneau Icefield and Kates Needle, are public domain lying between the Tongass National Forest and the Canadian border. Valleys, slopes, and peaks of these areas form the upper watersheds and scenic backdrop for the forested lower slopes of the National Forest. THE COMMISSION FINDS NO RESOURCE VALUES OR OTHER REASONS TO WARRANT CONTINUED EXCLUSION OF THESE AREAS FROM THE NATIONAL FOREST AND, THEREFORE, RECOMMENDS THAT THE JUNEAU ICEFIELD AND KATES NEEDLE AREA, TOTALLING 950,000 ACRES, BE ADDED TO THE TONGASS NATIONAL FOREST WHERE CLASSIFICATION OF THESE AREAS WOULD BE INCLUDED WITHIN OVERALL FOREST PLANNING.

Between the northwestern corner of Glacier Bay National Monument and the Yakutat unit of the Tongass National Forest is another largely mountainous zone of high peaks and extensive glaciers, through which the major Alsek River flows from Canada. The southern portion around the Alsek River and Deception Hills extends to the Gulf of Alaska coast. Much of this fourth major area of unreserved public domain provides a watershed and scenic background for existing Tongass National Forest lands.

The area adjoining the Glacier Bay National Monument, north to the Alsek River, contains scenic rugged mountains, glaciers, and coastal seascapes. The Alsek River corridor is of scientific interest because it is apparently the major migration passage through an immense mountain barrier for plants and animals between the coastal zone and the interior. In addition, its coastal flora, unlike that of most of the surrounding region, has not been significantly altered by recent glaciation.

RECOGNIZING THE NATURAL VALUES OF THIS AREA, AS WELL AS THE MINERAL POTENTIAL, THE COMMISSION MAKES THE FOLLOWING RECOMMENDATIONS.

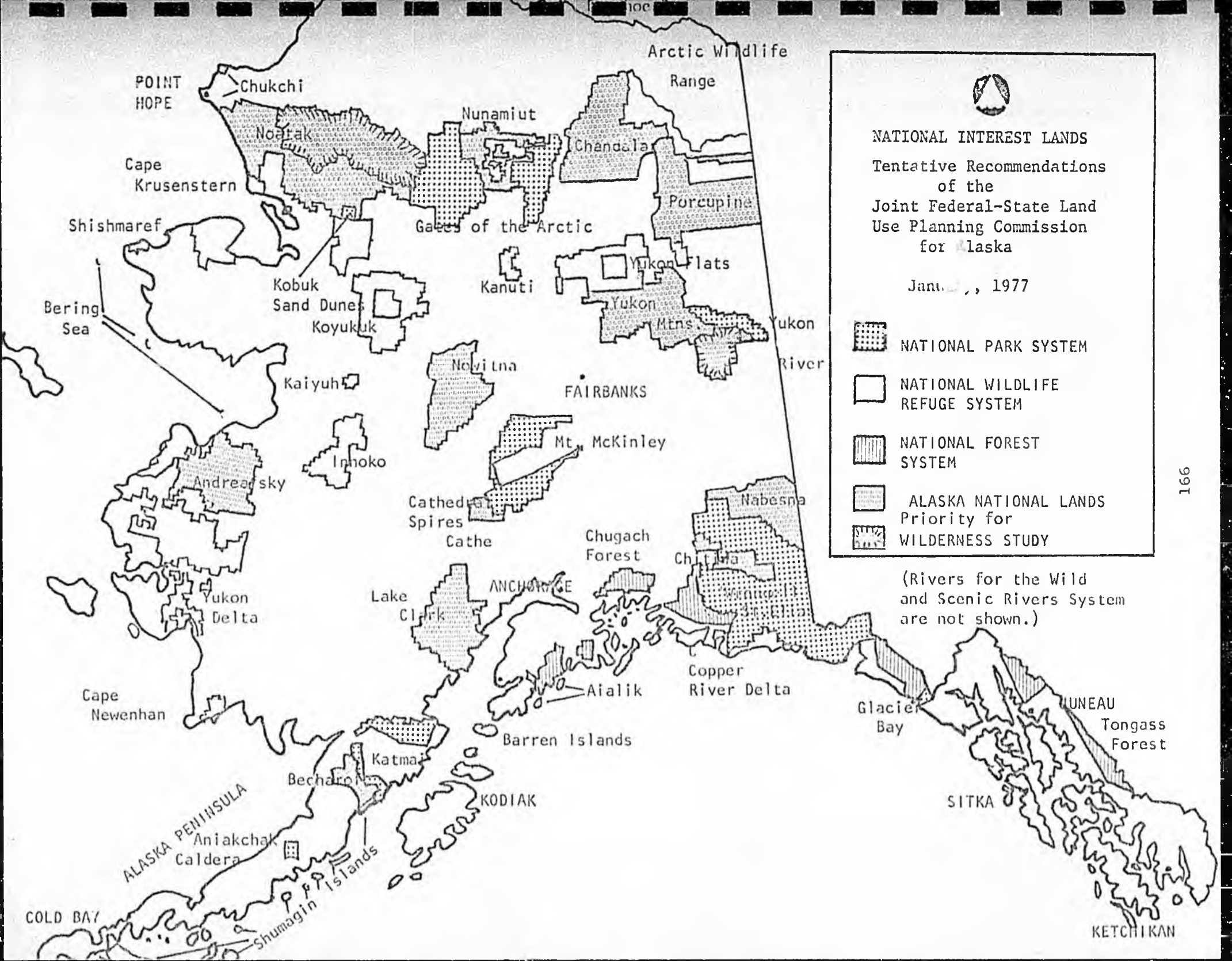
1. THE IMMEDIATE NORTHWESTERN SLOPES AND VALLEYS OF MT. FAIRWEATHER, (30,000 ACRES), BE ADDED TO THE GLACIER BAY NATIONAL MONUMENT.

THIS PROPOSED ADDITION WOULD INCORPORATE THE REMAINING PORTION OF THIS SCENIC MOUNTAIN AND ITS IMMEDIATE VALLEY ENVIRONS, WITHIN U.S. OWNERSHIP IN THE MONUMENT.

2. ADD THE REMAINING PART OF THE ALSEK RIVER UNIT (1 MILLION ACRES) TO THE TONGASS NATIONAL FOREST.

FROM THE MANY POTENTIALLY SUITABLE RIVERS IN SOUTHEAST ALASKA, THE COMMISSION HAS IDENTIFIED FOUR AT THIS TIME WHICH IT RECOMMENDS FOR DESIGNATION AS POTENTIAL WILD AND SCENIC RIVERS. THE SITUK NEAR YAKUTAT, ALSEK, HASSELBORG CREEK ON ADMIRALTY ISLAND, AND THE LOWER REACH OF THE STIKINE AS IT BREACHES THE COAST RANGE ARE PROPOSED FOR FURTHER STUDY IN THE CONTEXT OF CLASSIFICATION OF SURROUNDING LANDS.

A mineral zone generally following the crest of the Fairweather-St. Elias Mountains extending northwestward from the Glacier Bay National Monument has potential for copper, nickel, iron, platinum, chromium, titanium, and asbestos, and underlies the more mountainous portion of this proposed unit. Deposits of nickel-copper have been located in Glacier Bay National Monument and on Yakobi Island to the south. No further mineral claims may be made in the Monument by direction of Congress.


Arctic Wildlife Range
POINT HOPE
Chukchi
Noatak
Nunamiut
Chandalar
Cape Krusenstern
Porcupine
Shishmaref
Gates of the Arctic
Yukon Flats
Kobuk Sand Dunes
Kanuti
Bering Sea
Koyukuk
Yukon Mtns
Yukon River
Kaiyuh
Nowitna
FAIRBANKS
Mt. McKinley
Innoko
Andreafsky
Cathedral Spires
Nabesna
Chugach Forest
Yukon Delta
Lake Clark
ANCHORAGE
Aialik
Copper River Delta
Cape Newenhan
Barren Islands
Glacier Bay
JUNEAU
Tongass Forest
Katmai
Becharof
KODIAK
SITKA
ALASKA PENINSULA
Aniakchak Caldera
Islands
COLD BAY
Shumagin
KETCHIKAN
NATIONAL INTEREST LANDS
Tentative Recommendations of the Joint Federal-State Land Use Planning Commission for Alaska
January , 1977
NATIONAL PARK SYSTEM
NATIONAL WILDLIFE REFUGE SYSTEM
NATIONAL FOREST SYSTEM
ALASKA NATIONAL LANDS Priority for WILDERNESS STUDY
(Rivers for the Wild and Scenic Rivers System are not shown.)

STATEWIDE SUMMARY-GEOGRAPHIC RECOMMENDATIONS

In order to protect natural areas and systems of varying characteristics of national interest in Alaska, the Commission recommends the following new units or additions to existing reserves in the following land conservation systems:

	Acres (million)
NATIONAL PARK SYSTEM: Aniakchak Caldera (0.18), Cape Krusenstern (0.19), Gates of the Arctic (5.22), Kobuk Sand Dunes (0.10), Wrangell-St. Elias (9.72), Yukon River (0.54), Glacier Bay National Monument addition (0.03), Katmai National Monument additions (1.08), Mount McKinley National Park additions (2.69)	19.75
NATIONAL WILDLIFE REFUGE SYSTEM: Arctic National Wildlife Range additions (1.89), Cape Newenham National Wildlife Refuge addition (0.24), Kenai National Moose Range addition (0.04), Kodiak National Wildlife Refuge islands addition (440 acres)(0.00), Copper River Delta (0.35), Innoko (1.99), Kaiyuh (0.19), Kanuti (0.43), Koyukuk (2.53), Selawik (1.48), Shishmaref (1.50), Yukon Delta (5.67), Yukon Flats (2.33), Alaska Coastal: Chukchi (Capes Lisburne and Thompson)(74,000 acres), Bering Sea (1,700 acres), Shumagin Islands (71,907 acres), Barren Islands (10,020 acres), Aialik (19,630 acres), Total Alaska Coastal (0.18)	18.82
NATIONAL FOREST SYSTEM: Chugach National Forest additions: College Fiord (0.72), Copper River (1.25), Kenai Fiords--Harding Icefield (0.52), Nellie Juan (0.28), Total additions (2.77)	
Tongass National Forest additions: Alsek River (1.03), Juneau Icefield (0.48), Kates Needle (0.47), Total additions (1.98)	4.75
"ALASKA NATIONAL LANDS" SYSTEM: Andreafsky (3.54), Becharof (0.88), Cathedral Spires (0.40), Chandalar (5.56), Chitina (1.05), Lake Clark (3.49), Nabesna (2.87), Noatak (11.87), Nowitna (3.52), Nunamiut (1.98), Porcupine (5.49), Yukon Mountains (6.05)	46.70
NATIONAL WILD AND SCENIC RIVER SYSTEM: Alatna (upper)*, North Fork Koyukuk-Tinayguk*, Aniakchak (0.07), Unalakleet (0.10), Fortymile (0.32), Alagnak (0.09), Kanektok (0.11) *Acreage included in parkland proposals	0.69
TOTAL ACREAGE - ALL SYSTEMS	90.71**

Of 54 selected rivers, 7 are currently recommended for designation as indicated above. Entire courses, mainstreams, or certain segments of 35 rivers are recommended for designation as potential wild, scenic, or recreational rivers. Similarly, 8 other rivers flowing through a mixture of Federal and Native corporation selected lands, are also recommended for potential designation. These 43 rivers will be subject to study or further evaluation for feasibility. Approximately 2.01 million acres of land and water outside large area proposals would be involved in these study rivers. In addition, entire courses, mainstreams, or certain segments of 14 rivers primarily or partly on State-owned or selected lands are recommended for study or further evaluation by the State for possible designation. Approximately 1.0 million acres would be involved in these study rivers.

** Federal lands and some Native corporation selected lands. Does not include corporate lands in the vicinity of Anaktuvuk Pass or on the Yukon-Kuskokwim Delta. Acreage of included corporation land selections is unsettled.

	Acres (million)		
	Proposed	Existing	Total
Primary purpose lands			
National Park System	19.75	7.55	27.30
National Wildlife Refuge System	18.82	19.91	38.73
National Wild & Scenic Rivers (recommended & proposed)	2.70	-0-	2.
Alaska National Lands	46.70	-0-	46.70
Total	87.97	27.46	115.43
Multiple purpose lands			
National Forest System	4.75	19.71	24.46
National Resource Lands (est. remaining Federal public lands after State selections are completed)	57.67	-0-	57.
Total	62.42	19.71	82.13
Lands closed to hunting			
National Park System	18.92	7.55	26.
Lands closed to mineral development			
National Park System	19.75	7.55	27.
National Wildlife Refuge System (open only at Secretarial discretion)	18.82	19.91	38.
Wild Rivers (bed and bank)	**	-0-	
Total	38.57	27.46	66.03
Lands that may be open to mineral development in whol or part following classification			
National Forest System	4.75	19.71	24.46
Alaska National Lands	46.70	-0-	46.
Scenic and Recreational Rivers	**	-0-	
National Resource Lands	-0-	57.67	57.67
Total	51.45	77.38	128.

Several areas of the State or Native-selected lands have been included within the boundaries of the recommended national conservation systems units, to enclose prime natural values of national interest, or to effect a more natural boundary.

State-owned or selected lands suggested for land exchange consideration and inclusion in proposed conservation units are principally:

	Area	Proposed Unit
1.	Lower Reed River	Gates of the Arctic, west unit
2.	Lower Alatna River	Alaska national lands, Alatna unit Gates of the Arctic, west unit
3.	Teklanika-Savage Rivers	Mt. McKinley National Park, north additi
4.	Chelatna Lake	Mt. McKinley National Park, south addi
5.	Lower John River and Wolverine Creek	Alaska national lands, Nunamiut unit

Principal Native corporation selected land areas suggested for land exchange are:

1.	Bremner River	Wrangell-St. Elias
2.	Lakes Clark-Kontrashibuna	Alaska national lands, Lake Clark unit

Federal areas suggested for land exchange with State:

1. Lake Selby-upper Kobuk River; location, central Brooks Range
2. West Fork Chulitna River; Mt. McK ley area

** Acreage will depend on final recommendations and number of rivers.

HB

225

MATANUSKA-SUSITNA TAXPAYERS' ASSOCIATION
Inc.
Box 779
Palmer, Alaska
99645

A RESOLUTION IN SUPPORT OF ALASKA HOUSE BILL NO. 225,
ESTABLISHING THE TALKEETNA MOUNTAINS STATE GRAZING RESERVE

WHEREAS, The Matanuska-Susitna Borough Assembly and Planning Commission has proposed an act establishing the Talkeetna Mountains State Grazing Reserve, and

WHEREAS, the proposed act provides for multiple-use concept with local agencies' control, and

WHEREAS, the proposed act provides a larger tax base which will assist in keeping our tax burden at a lower level,

NOW, THEREFORE, BE IT RESOLVED that the Matanuska-Susitna Taxpayers' Association go on record as supporting House Bill No. 225 to establish the Talkeetna Mountains State Grazing Reserve.

PASSED AND APPROVED by the Matanuska-Susitna Taxpayers' Association, the 18th day of March, 1977.

Lois M. Knapp
Lois M. Knapp, President

RECEIVED
11 APR 77
jm

Alaska State Legislature

House

MEMORANDUM

JUNEAU ALASKA

1 March 1977

TO: House Resources Committee

FROM: Alvin Osterback, Chairman
House Resources Committee

al Osterback jr

SUBJECT: Telephone Conversation with Mayor Maze

March 1, 1977 Mayor Maze informed the House Resources Committee that he supports HB 225 and will be sending a resolution.

THE HEART OF THE MATANUSKA VALLEY

CITY OF PALMER

COUNCIL-MANAGER GOVERNMENT

P. O. BOX 1368 PHONE (907) 745-3273

PALMER, ALASKA 99645

March 29, 1977

Mr. Al Osterback, Chairman
House Resources Committee
Pouch V, State Capitol
Juneau, Alaska 99811

RE: H.B. #225, Talkeetna Mountains State Grazing Reserve

Mr. Mr. Osterback:

In reply to your request for the City of Palmer to take a position on subject bill, this letter is to inform you of the position taken by the City Council of the City of Palmer in action at the March 8, 1977 meeting.

Accordingly, we are enclosing a copy of the City Council minutes of that meeting, together with a copy of the newspaper article which appeared in the local newspaper.

Sincerely yours,

CITY OF PALMER

William E. Curtis

William E. Curtis
City Manager

WEC/rk

Enclosure (2)

cc: Senator Jalmar Kerttula
Representative Al Ose
Mr. Robert Risley

CITY OF PALMER
CITY COUNCIL REGULAR MEETING
TUESDAY, MARCH 8, 1977
CITY COUNCIL CHAMBERS

A. CALL TO ORDER: at 8:02 P. M. by Mayor Jack E. Maze.

B. ROLL CALL, DETERMINATION OF A QUORUM, APPROVAL OF AGENDA:

Present were Mayor Maze and Councilmen Pedersen, Dolenc, Ekstedt, Johnson and Hanson which established a quorum. Councilman Ingalls was out of the state with an excused absence. City Manager Curtis and City Attorney Biss were also present.

Changes to agenda:

Council unanimously approved, by request of Mayor Maze, the call for an executive session at the close of this agenda for the purpose of discussing personnel and contracts. They also approved the presentation of the Federal Highway Act to be placed on the agenda earlier in the meeting.

C. PLEDGE OF ALLEGIANCE: led by Councilman Ekstedt.

D. MINUTES OF PREVIOUS MEETING:

1. Minutes of regular meeting of Tuesday, February 22, 1977 were approved as presented with no changes or corrections.

E. COMMUNICATIONS AND APPEARANCE REQUESTS: none

F. HEARINGS, ORDINANCES AND RESOLUTIONS: none

G. BIDS: none

H. OLD BUSINESS:

1. Request by Sr. Citizens to Utilize Apartment in Community Center

Speaking on behalf of the Senior Citizens, Edna Wehking said they had inspected the apartment which she felt would be would be adequate for their purpose, but requested that the city remove one wall partition which separates the kitchen from the living room. City Manager is to get approval from the Alaska Railroad that this could be done. The council concurred to the rent free arrangement to the Senior Citizens, provided it meets with the approval of the Railroad.

2. Request to take Position on Hatcher Pass Grazing Reserve - H. B. #225

City Manager Curtis explained this bill was originally drafted by Robert Risley who is in support of the area being utilized for agricultural purposes rather than recreational. He said Mr. Risley also spoke before the Chamber of Commerce in this regard. Mr. Curtis said that several years ago, development plans were made for a very large recreational area with state lands to be leased to individual business comprised mainly of mining business and private individuals which was a very lengthy bill. He said he personally feels that this H. B. #225 is overly simplified for that large amount of acreage and would not pass legislation in this form. He also felt the Board of Directors is out of proportion wherein there is some representation from the Commissioner level vs. the Director of the Division of Agriculture. He did not feel there would be 20,000 sheep grazing in that area, but rather his recommendation was that the area be utilized for recreation if handled properly which would also help the economy.

Councilman Johnson agreed with the comments of Mr. Curtis and questioned how all those cattle would be fed during the winter season. Councilman Ekstedt said he is opposed to the park concept because it is so restrictive. He mentioned the Borough is presently in a hastle with the State and questioned if action taken opposing this bill may have a bearing on the amount of land the Borough is eligible for.

Councilman Dolenc preferred some flexibility and stated he did not favor the idea of the bill written in such a manner that grazing is the primary use. He said he is under the impression that all those serving on the Board of Directors should have equal say. City Manager Curtis said he felt it is poor to do it in that manner from a political angle and from an administrative level, i.e. the Director of the Division of Agriculture may be reluctant to vote against two commissioners on the apparent four man board.

Mayor Maze noted the bill does provide for an advisory group which includes a Borough representative as well as local committees who would have an input into it and could control this particular area. Councilman Hanson stated he felt the intent of this bill is not specifically to support grazing, but possibly a method of paving the way for local people to have some control over the uses of the area.

MOVED EKSTEDT, SECONDED PEDERSEN that the City of Palmer go on record as being in support of the CONCEPT of the Talkeetna Mountain State Grazing Reserve Bill, House Bill No. 225. MCU.

Administration was directed to send copies of this action to Mr. Al Osterback, Chairman of the House Resources Committee, Mr. Risley, Senator Kerttula and Representative Ose.

3. Bike Trails Matter:

City Manager Curtis said this plan was originally triggered by Mrs. Helena Myers and a Bike Trails Committee. The Borough presently has plans to construct bike trails to the new Palmer High School and coming in from the Butte along the Glenn Highway alternate and would now like to know what the city can do to establish bike trails within the city limits to connect with these proposed routes. He said the City Council previously approved the Bike Trails Master Plan but did not commit anything as far as funding is concerned. From an engineering and construction standpoint, he said there are problems since the majority of the street improvements are paid for by adjoining property owners and we cannot expect them to pay for bike trails. He said the priority exists for roads, curb, gutter and sidewalks which is needed a lot more than bike trails.

MOVED HANSON, SECONDED EKSTEDT to table this matter until the next meeting in order to get more information on it.

In discussion, Councilman Johnson asked what more information we can get, feeling we have all we need. He said it is a matter that the city cannot justify spending money for bike trails and we do not have a place to put them. City Manager Curtis said the Borough should have an overall plan for the entire Borough noting to date, the city has only had copies of the plan for the City of Palmer. Councilman Hanson commented that the Bike Trails Master Plan for Palmer was brought up rather suddenly and in all fairness, his recommendation was as stated in his motion, to have this matter deferred to the next meeting. MCU.

4. Request from Credit Union - to Utilize Airport Lands for Gardening

City Manager Curtis said he discussed this possibility with Mr. Paul Crippen of the Credit Union and felt if there is sufficient interest, it would be possible to provide a small amount of land at the airport. Councilman Hanson estimated five acres to be more than adequate for this purpose. Some points brought up for consideration in furnishing land is the fact that it not be in the construction area, the city would not be liable, tilled land is subject to wind, accessibility and the availability of water if needed.

MOVED JOHNSON, SECONDED PEDERSEN that the City Manager be authorized to negotiate a plan with the Credit Union for garden plots at the airport. MCU.

5. Establish Terms of Lease with F.A.A. for New Flight Service Station Facilities:

City Manager Curtis explained the original plan was to lease space in the new Flight Service Station facility to F.A.A. In planning this, we detected the city is required to comply with certain handicap requirements such as the installation of elevators, etc. In our meeting with them, we have now determined their attitude has changed and they perhaps won't need the space at all since they will be going remote because of lack of funds and closing them down. He said he explained to them that the city has planned the building for their use with 100% grant funds and in order to comply with E.D.A. requirements of commencing construction within 90 days of acceptance of grant offer and the 150-day completion date, there is no way the city can now change the plans. He said they offered no further explanation until F.A.A. has had an opportunity to review the entire operation.

Mr. Curtis added they originally informed us this would be a regional office and all of a sudden, they tell us they will not be maning anything and everything will be remote. Legally, they can only lease on a year-to-year basis. He said the city is somewhat commited, since part of this space was designed specifically for F.A.A. and the grant offer from EDA has been accepted. He inquired of the council if they would be willing to lease space to FAA on a "no rent" basis with them paying all utilities and basic costs. Councilman Ekstedt stated he could not see how FAA could possibly close it down because the airport is used a lot and this facility is badly needed. Councilman Johnson spoke in favor of constructing the building for the future since things do have a way of changing.

MOVED HANSON, SECONDED JOHNSON that the City Manager be authorized to negotiate terms with F.A.A. for leasing the new Flight Service Station facilities. MCU.

Grazing bill backed

Despite "problems" with a bill to create a Talkeetna Mountains State Grazing Reserve, the Palmer City Council gave the measure its endorsement Tuesday night.

Consideration of the bill, HB 225, introduced in Juneau by Rep. Al Ose (D-Dist. 6), had been held over from a previous meeting.

"I have problems with this bill," said City Manager Bill Curtis, "I feel it is overly simplified. It covers such a vast area of thousands of acres, but it's taken care of in a couple of pages."

"It's an ag bill from the word go," he commented on the legislation that originally was drafted by Robert Risley, member of the Matanuska-Susitna Borough Planning & Zoning Commission.

Risley has been an advocate of agricultural uses as opposed to recreation alone for the Hatcher Pass area.

Curtis's principal criticism was that the grazing reserve would be administered by a board of directors headed by the director of the state Division of Agriculture. The board also would include the department commissioners of Highways and Fish and Game, as well as a representative of the Matanuska-Susitna Borough.

"Actually," Curtis continued, "the director of agriculture is on a very low level in this state, not equal with the commissioners."

He did not mention Allan K. Linn, the current director, whose headquarters are in Palmer. The division is part of the Department of Natural Resources.

"My opinion of the bill is that it's a ragtag kind of thing that's thrown together. It will never get through the Legislature."

The city manager added some comments that he said represented "old Bill Curtis talking."

Referring to arguments that 20,000 sheep could be grazed in the Talkeetna Mountains, Curtis said: "To me, personally, it's ridiculous. To me, the potential of the area is recreational."

Mayor Jack Maze supported the provision in HB 225 for an advisory group largely representing recreational organizations that use the Hatcher Pass area.

"These people will have great input on the management of the grazing area," he said.

The motion to support HB 225 was made by Jim Ekstedt with the second of Everett Pederson. The vote was unanimous.

In other matters, the council:

• Agreed with Edna Wehking that it would be suitable to permit senior citizens to occupy an apartment in the Community Center. Approval will be sought from the Alaska Railroad, owner of the former depot.

• Tabled action on the matter of establishing bike trails through the city to connect routes reserved by the Matanuska-Susitna Borough that now come to the city limits. "In no good conscience can I recommend the city spend money on bike trails," said Curtis. "We need roads, sidewalks, curbs and gutters a heck of a lot more than we need bike trails."

He explained that by existing law, bicycles are not allowed to travel over sidewalks. The real problem, he added, is from an engineering and construction standpoint. "Our streets are built by special improvement money — by the adjoining property owners. Who's going to pay for bike trails?"

Credit union bill nears vote

James Love, director of the Alaska Public Interest Research Group, said in Palmer Wednesday his group is sponsoring legislation to permit state-chartered credit unions.

"The bill should be coming to a vote in the next couple of weeks," Love said in an interview following his talk to the Greater Palmer Chamber of Commerce Wednesday.

In comparison to federally chartered credit unions, which offer consumer and personal loans, the state-chartered institutions would be able to compete in the mortgage market and offer a limited form of personal checking account, Love said.

City eyes downtown auto race

An auto race through the streets of downtown Palmer may be considered as an attraction for the 1977 Midsummer Festival.

City Manager Bill Curtis, who also serves as president of the Greater Palmer Chamber of Commerce, told the council Tuesday night some of the plans that are aimed at bringing visitors into the central business district.

Curtis admitted he didn't know what the liability would be for the city to permit stock car racing. It would be similar to an event at the Anchorage Fur Rendezvous.

The possible race course would follow S. Alaska Street to the Old Glenn Highway, then proceed across the Alaska Railroad tracks and return along S. Valley Way.

He said the race courses would

this bond request.

Both of the schools will eventual two-story wooden frame structures, ing 600.

Big Lake, with only about 75 stu this year, is still a long way from ne the whole thing. The planned additio add four basic classrooms to the t there now, plus a gym and multi-pur room, media center, offices and nu station.

The addition would be joined to existing school by a long windo corridor leading toward the rear o property. Play areas would be behind the two buildings.

Boundaries for this school woul generally from Houston to the Rain Lakes area, according to Rousey, pr ed those lines keep the enrollment u 140.

Until this school opens, some yo sters will continue at Iditarod, and ot will be moved into portables on the that are now being used as music physical education rooms. Inclu equipment, it would come to $ .6 mill

SU VALLEY SHOP

The proposed Susitna Valley H school vocational building is another planned to develop in stages.

This phase has a wood shop, m shop, two classrooms, shop office, room and storage space. Besides the s classes, an English-social studies c and the music practice area will move the new building. A home econom curriculum will take over what is now small shop area in the main building.

With completion of this project, desi ed as a separate building done in the s wooden, steep-roofed style as the orig al, the high school could add another youngsters to its 180 capacity.

Future additions to the vocatio building might include an expan metal-auto shop, theater, drafting ro and band-chorus room. The main build was also designed for additions, to a t of 400 students.

Principal Vern Olson says the pres shop is inadequate, with much of equipment having to be kept in stor

STATE OF ALASKA

DEPARTMENT OF HIGHWAYS

JAY S. HAMMOND, GOVERNOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1467 – JUNEAU 99802
(907) 364-2121
(TELEX 099-45-371)

February 23, 1977

Re: 00-3077
House Bill #225

File

Mr. Alvin Osterback, Chairman
House Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Osterback:

Please refer to your letter dated February 19, 1977 requesting a position paper and material we may have on subject House Bill #225.

This department has neither a position paper or any other material which may be helpful to your committee and know of no fiscal implication at this time. We would, however, suggest that you contact the Department of Natural Resources if you have not already done so. Their input would quite possibly be much more meaningful to the endeavors of your committee.

Sincerely,

H. D. Scougal

H. D. Scougal
Commissioner of Highways

CC: Fran Ulmer, Governor's Office

HDS/DMC/mth

Tape 5 Side 1
approx. 2038 - 3182

HOUSE RESOURCE COMMITTEE - Minutes - February 17, 1976
Subject: HCR 82; HB 580 and HB 664
Present were Eliason, Huntington, Osterback, Smith, Rhode, Hershberger, Brown, Staff Assistant Van Doren and Chmn. Anderson.

Chmn. Anderson opened with several general statements, including the fact that the governor has a bill ready for introduction similar to + Talbeatra HCR 82. Anderson has written a letter to Bradner, and one to the governor, asking for the FLUPC to study the agreement on Cook Inlet before the committee takes action. "My stand is that I want a closer look at the bill. The terms are complex. I don't feel I can recommend to the House approval at this time."

Discussion as to the legal deadline for the legislature to act upon the bill brought to light the fact that the "Terms and Conditions" document mentioned in HCR 82 contains the 60-day limit, which will be met on March 12. Any change in that date would have to be approved by the Secretary of Interior.

Rep. Rhode expressed concern about the complexity of the problem--but that everyone had given something--federal, state, and natives. He moved a DO PASS.

Chmn. Anderson read to the group the rough draft of the bill to be presented by the governor on Cook Inlet. Although the bill was not officially before the committee, there was general agreement that it was better than the resolution, since it was clearer on subsurface rights.

Discussion ensued as to whether a bill could be introduced as a Committee Substitute for a Resolution. Answer - No.

It was moved that HCR 82 be given a Do Pass recommendation by unanimous consent. Motion carried.

- ----------

Rep. Huntington moved a Do Pass on CSHB 664.

Smith stated that HB 580 does create a multiple use management area within the park, the state's first effort along those lines.

Huntington urged acceptance of HB664 because it puts the people in charge.

Smith mentioned a possible problem with miners coping with a prime agricultural use, as laid out in HB 664.

Anderson noted that in HB 580, the prime use is recreation, and yet the people themselves living in the area don't consider recreation to be prime.

In answer to Rep. Browns concern about permissible uses in both bills, Smith responded that he agreed neither was perfect, but a decision needed to be reached on which bill to work on.

Rep. Rhode stated his criteria for analyzing bills--Is it needed, will it work, and how much does it cost?

Mr. Smith moved to table HB664 with unanimous consent asked. Chmn. Anderson asked for a withdrawal of the motion in the interests of continuing action.

Chairman Anderson appointed Mr. Smith, Mr. Brown and Mr. Ose to work out problems in HB664, since that appeared to be the bill the committee wanted to mark up. Work is to be done Wed. at 4:30.

Vote on tabling HB664 failed.

Meeting recessed.

Tape 5 Side 1
1261 - 2030

HOUSE RESOURCE COMMITTEE - Minutes - February 13, 1976

Present were Osterback, Hershberger, Huntington, Smith, Swanson, Staff Assistant Van Doren and Chmn. Anderson.

Subject: HB 664 and HB 580 Tabled

Sponsor Ose stated that description corrections have been made in the Committee Substitute. Also, due to the request of the Borough, wording in the original bill pertaining to Sections 10 - 60 ...fff.. are deleted. Regarding the "advisory committee", the word "active" was added.

Mr. Smith reminded the committee that there is a motion pending to substitute the wording of SB 603 for the description in HB 580. The motion carried.

Sponsor Ose stressed passing HB 663--there are enough park projects in the area. Uncertainty of land status needs to be cleared up so as to relieve the anxieties of the people. There is no quarrel with recreational uses of the area--only the "lock up" that a park would cause.

Rep. Swanson expressed concern that Natural Resources still remains in charge of the area, in the CS.

Mr. Smith asked the sponsor whether there are people in the area experienced in management of agricultural and recreational aspects involved; also whether persons are available to handle the physical management of a recreational area. It is Smith's understanding that at least one group in the area wants the state to get involved in maintenance, to get the burden off the back of locals. In response to Ose's comment that locals have been doing o.k., Smith said he had a differing opinion--locals want help. Enforcement also would be necessary. He suggested an amendment be drawn up re: enforcement.

Swanson expressed concern about bureaucracy--rules and regulations force a team of "bureaucracy" to arrive on the scene. However, Swanson stated he is not against the bill.

Rep. Smith noted that the description in HB580 has more agricultural land involved than HB664. Maybe the descriptions should be reversed.

Rep. Huntington stated that we need to get away from having private property within parks, which then has to be bought up by the state at a future date. What is needed is clear title to park lands before they become parks.

Meeting was recessed.

February 2, 1976 - Talkeetna State Park--Agricultural Reserve Hearings

Robert Risely - presented copy of MSB code title 16 - 8/20/74

Ed Martin, Sr., a resident, favors multiple use. There hasn't been enough exploration of the land to determine what the use should be. Not in favor of either bill--favors multiple use.

Mrs. Gene Woods, a resident, supports 664 with changes. She opposes 580. People can live with HB 664.

Miss Barbara Woods, a resident, favors HB 664. Multiple use, with some control.

A.L. Renshaw, a resident, is a 3rd generation mining engineer. He represents the Alaska Miners Association, and the people of the area. This is the 5th hearing on this issue. The proposals have hampered mineral exploration because of uncertainty. The Willow Creek Mining District has good gold potential. There are 2000 jobs involved--and a 10 billion dollar industry. HB 580 is a rehash of the Committee Substitute for last session from the mountaineering club. It is restrictive. Mr. Renshaw questioned Ln. 5 Pg. 5. Does this mean no development? How do you get access if no motor vehicles are allowed. He was also concerned with MAY wordings, veto power of the Park Dept., and Ln. 21 Pg. 6--reasonable to the state--Does not mention private This could lead to possible condemnation. There is no responsibility for protecting in-holdings. Re: U.S.G.S. 10004--the recreation zone has shaded patented claims and survey areas--but does not show unpatented lands. Mr. Renshaw also stated that the Chief Planner had said that the recreation area was unmanageable. It is heavily mined. There is stored dynamite--a tremendous hazzard. There would have to be restriction on public activities. There would have to be insurance for liability for the owners. Responsibility would have to be spelled out. Traditionally this has been a multiple use area...grazing, recreation, mining, etc. He opposes HB580. "Put the bill to rest--it keeps coming up" HB664 defines a reasonable multiple use for the area--the mining people can live with this.

Henry Hill, a resident, and involved in mining in the area. His family owns property in the area. Leave it exactly as it is. No one bothered it until recreation came in, then agriculture, now mining. Everybody used it before without any classification. Why change it. Existing laws will take care of it. HB580 allows one use--he's opposed. HB664--possibility of good economic source. Possible problem of revenue source vs. recreation source. In HB664 the management responsibility is too far removed from the people.

Mr. Harry Luckwald, a resident: There is gold potential in the area. Mining laws hold precedent--grandfather rights. Against HB580. HB664 is a giant step forward. People used to mine up high near Eagle River, but the Borough stopped them by use.

Anchorage Motor Mushers Club--600 members--supports HB664.

Dean Bunker, a homesteader near the area. We do not need any more parks There is Denali Park expansion. This park could expand.

Susitna VAlley Kiwanis Club: We do not need more parks, but if there is a need for this park HB664 is more palatable.

Russ Cahill, Director of Parks, State of Alaska: HB580 is concerned with the area. It is a departure from normal parks, in that it has a corridor of multiple use within it. The Dept. is taking into consideration all mining claims patented and active. The intent of the Park is to NOT purchase land within the Park unless it is essential to campground or management. If land is to be purchased it will be at fair market value. Ranger patrols will be in effect. There will be a possible loss of revenue. Re: HB 664, this is 430,000 acres. 13% is good for agricultural purposes. 87% is not good for agriculture. Cahill is not in favor of this proposal. Only one Department and one man should run the system. If he does not do a good job, he can be removed.

Dr. Deerborn, a resident of the area: Is opposed to all regulations to create a park. It would cripple recreational potential by private ownership. Why not further develop Chugiak Park for Anchorites.

Virginia Del Piaz: President, Upper Cook Inlet Conservation Society: I favor HB580 strongly. 150,000 people in 1975 were opposed to HB664. The majority of the land is above 12,000 ft., and should be included within a Park. The area is not agricultural land. (Del Piaz lives in the area)

Wayne Bowens, a local dairy man: Favors HB664. The multiple use concept is best. Don't lock it up as a park. There is a grazing area, and some crops can be grown.

Arthur Criter, of the Willow Creek Miners: Is opposed to a Park which affects the ming area. Tired of fighting the issue of parks. Prepared to initiate lawsuits (31) Re: HB664, three mining claims additional would be working if not for the cloud of a Park over them.

Pete Green, a local realtor, and member of the Realtors Association: (30 members) Is not too concerned with either bill. Multiple use concept best--protect --put rights and mining first. Park people haven't shown him that they can manage parks. Costs haven't been brought up. Central location, and one agency, to which the people could go to secure all necessary permits, is necessary.

Sig Rigstad, a resident: 1 million acres of parks within the Borough now. There would be more than an acre per person if Talkeetna Mt. Park is enacted. It was mining that opened the area. Parks should take small areas and manage them for the people who would use them. Only outdoor people who are healthy can use the proposed Park areas. There is considerable expense to run a park even if it is not developed. Invest in the parks that are already established. Re: HB664, there is an option if the land has to be tied up. The Adv. ory Committee is important. But this committee should have as a criteria the size of the organizations involved--not naming specific organizations.

Pat Carney, a dairy farmer: Is opposed to HB664. Is it proper for members of the committee to voice their opinions at this hearing? Feels we are facing a special interest group (mining) who is against HB580 and using HB664. Feels that the HB664 cannot stand as it is. There is not enough agricultural land to justify the bill.

George Parkee: Enjoys parks, but there is a need for agricultural reserve. Supports multiple use, but need to maintain agricultural land. Need for mining--the proven area is needed for recreation also.

Tape 4 Side 2
118 - 2140

HOUSE RESOURCE COMMITTEE - Minutes - Feb. 10, 1976

Present were Smith, Huntington, Hershberger, Osterback, Brown
Staff Assistant Van Doren and Chmn. Anderson

Subject: HB 664 and HB 580 Talkeetna

Rep. Al Ose began testimony. (Chmn. Anderson requested the hearing to begin without a quorum.) Mr. Ose stated that grazing, mining, and recreation were the main uses of the area. The people living there do not want a park, but they do want recreation. A Park status would essentially close the area to mining. It would also take away a tax base from the Borough. Mining would involve major investment if the people involved knew it was to remain open. Now, under current uncertain conditions, the people won't invest. (Above statements refer to HB 680)
(Chmn. Anderson announced that a quorum was now present). Mr. Ose expressed opposition to HB 580, stating that it is too large an area to lock up in a park.

Ron Hawk, of the Alaska Chapter of the Sierra Club, expressed concurrence with HB 580 and opposition to HB 664. The wilderness experience in the Talkeetna area is great. The scenic resource alone justifies the park status. The area cannot absorb the tremendous growth pressures. Park designation would provide a management vehicle. The proposal of agriculture as the basic use does not make sense since recreation is in fact the basic use. He stressed that grazing and mining are possible in a multiple use area. He also stressed that there should be hearings in Anchorage with at least a week's notice.

Rep. Huntington stated that many people living in the area of the proposed park are against it. Mr. Hawk said that all people should decide what to do with the area.

Rep. Ose mentioned that there is no trouble in the area yet, but there will be if a park is made.

Russ Cahill, Director of Parks for the state, presented the written testimony he had used up north. He added that HB 580 does provide for mining now in existence. However, there are other mining areas that are not included in the bill. The grazing issue is real; however, the bill does not take away anything or any use now in existence. Mr. Cahill feels that the opposition is coming from a distrust of parks per se. He also mentioned the over-speculation of land in the area now because of the capitol move issue.

Chmn. Anderson: Does the Division of Parks enforce how land is to be used? If not, who can do it?

Cahill answered that Fish and Game or Parks could enforce, depending on the major use of the land. Major uses of this area are driving for pleasure, camping, hang-gliding, fishing, hunting, berry picking, skiing, snowshoeing, snowmobiling and bird hunting.

Chmn. Anderson asked how prohibiting motirized vehicles would help the area. He was answered by Cahill stating that most of the problems with land being damaged is because of misuse by motorized vehicles. Anderson asked if Fish and Game could regulate the moose hunting in the area? (This was in response to a statement that the moose herd was on the decline because of overhunting) Answer--Yes, if it were responsible for it.

Chmn.Anderson asked why Cahill was proposing a committee to manage the area, when he had previously stated that a committee was not a good way to manage? Cahill replied that this proposed committee was for "masterplanning", not managing.

Chmn. Anderson stated that it appeared that the people of the area were having problems with the wording on Page 5, Line 14 of HB 580 stating that the Commissioner would designate the uses that were compatable under the bill. Anderson felt that the land residents should have input into the use of the land. Cahill stated that the Senate version of the bill allows local input, and also takes out the Willow part of the proposal--it is a smaller proposal.

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Rep. Smith moved that on Pg. 5, Line 19, HB 580, after the word "B", add "reviewed by the Matanuska-Susitna Borough and". Motion carried unanimously.

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Regarding HB 664, Chmn. Anderson stated that grazing was considered primary, with other uses to be controlled accordingly. He asked Mr. Cahill what his arguments were against HB 664. Cahill stated that his basic objection was the setting-up of agriculture as the dominant use. Also, having the Director of Agriculture as the Land Manager for the area wasn't correct, since agriculture was not the primary use of the area.

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Sharon Lobaugh, of the Alaska Conservation Society, expressed support of HB 580 with the amendments and adding endorsement by local groups to the management plan.

Des Dooley, of the Alaska Department of Highways stated that this proposal does not conflict with any current highway plans,---there is no 4-F conflict. However, there seems to be a problem with the park description in the Jonesville area.

Chmn. Anderson recessed the meeting until Friday, Feb.13, at 8:00 a.m.

Tape 5 Side 1
approx. 2038 - 3182

HOUSE RESOURCE COMMITTEE - Minutes - February 17, 1976
Subject: HCR 82; HB 580 and HB 664
Present were Eliason, Huntington, Osterback, Smith, Rhode, Hershberger, Brown, Staff Assistant Van Doren and Chmn. Anderson.

Chmn. Anderson opened with several general statements, including the fact that the governor has a bill ready for introduction similar to HCR 82. Anderson has written a letter to Bradner, and one to the governor, asking for the FLUPC to study the agreement on Cook Inlet before the committee takes action. "My stand is that I want a closer look at the bill. The terms are complex. I don't feel I can recommend to the House approval at this time."

Discussion as to the legal deadline for the legislature to act upon the bill brought to light the fact that the "Terms and Conditions" document mentioned in HCR 82 contains the 60-day limit, which will be met on March 12. Any change in that date would have to be approved by the Secretary of Interior.

Rep. Rhode expressed concern about the complexity of the problem--but that everyone had given something--federal, state, and natives. He moved a DO PASS.

Chmn. Anderson read to the group the rough draft of the bill to be presented by the governor on Cook Inlet. Although the bill was not officially before the committee, there was general agreement that it was better than the resolution, since it was clearer on subsurface rights.

Discussion ensued as to whether a bill could be introduced as a Committee Substitute for a Resolution. Answer - No.

It was moved that HCR 82 be given a Do Pass recommendation by unanimous consent. Motion carried.

- ----------

Rep. Huntington moved a Do Pass on CSHB 664.

Smith stated that HB 580 does create a multiple use management area within the park, the state's first effort along those lines.

Huntington urged acceptance of HB664 because it puts the people in charge.

Smith mentioned a possible problem with miners coping with a prime agricultural use, as laid out in HB 664.

Anderson noted that in HB 580, the prime use is recreation, and yet the people themselves living in the area don't consider recreation to be prime.

In answer to Rep. Browns concern about permissible uses in both bills, Smith responded that he agreed neither was perfect, but a decision needed to be reached on which bill to work on.

Rep. Rhode stated his criteria for analyzing bills--Is it needed, will it work, and how much does it cost?

Mr. Smith moved to table HB664 with unanimous consent asked. Chmn. Anderson asked for a withdrawal of the motion in the interests of continuing action.

Chairman Anderson appointed Mr. Smith, Mr. Brown and Mr. Ose to work out problems in HB664, since that appeared to be the bill the committee wanted to mark up. Work is to be done Wed. at 4:30.

Vote on tabling HB664 failed.

Meeting recessed.

Tape 5 Side 1
1261 - 2030

HOUSE RESOURCE COMMITTEE - Minutes - February 13, 1976

Present were Osterback, Hershberger, Huntington, Smith, Swanson, Staff Assistant Van Doren and Chmn. Anderson.

Subject: HB 664 and HB 580 Tabled

Sponsor Ose stated that description corrections have been made in the Committee Substitute. Also, due to the request of the Borough, wording in the original bill pertaining to Sections 10 - 60 ...fff.. are deleted. Regarding the "advisory committee", the word "active" was added.

Mr. Smith reminded the committee that there is a motion pending to substitute the wording of SB 603 for the description in HB 580. The motion carried.

Sponsor Ose stressed passing HB 663--there are enough park projects in the area. Uncertainty of land status needs to be cleared up so as to relieve the anxieties of the people. There is no quarrel with recreational uses of the area--only the "lock up" that a park would cause.

Rep. Swanson expressed concern that Natural Resources still remains in charge of the area, in the CS.

Mr. Smith asked the sponsor whether there are people in the area experienced in management of agricultural and recreational aspects involved; also whether persons are available to handle the physical management of a recreational area. It is Smith's understanding that at least one group in the area wants the state to get involved in maintenance, to get the burden off the back of locals. In response to Ose's comment that locals have been doing o.k., Smith said he had a differing opinion--locals want help. Enforcement also would be necessary. He suggested an amendment be drawn up re: enforcement.

Swanson expressed concern about bureaucracy--rules and regulations force a team of "bureaucracy" to arrive on the scene. However, Swanson stated he is not against the bill.

Rep. Smith noted that the description in HB580 has more agricultural land involved than HB664. Maybe the descriptions should be reversed.

Rep. Huntington stated that we need to get away from having private property within parks, which then has to be bought up by the state at a future date. What is needed is clear title to park lands before they become parks.

Meeting was recessed.

February 2, 1976 - Talkeetna State Park--Agricultural Reserve Hearings

Robert Risely - presented copy of MSB code title 16 - 8/20/74

Ed Martin, Sr., a resident, favors multiple use. There hasn't been enough exploration of the land to determine what the use should be. Not in favor of either bill--favors multiple use.

Mrs. Gene Woods, a resident, supports 664 with changes. She opposes 580. People can live with HB 664.

Miss Barbara Woods, a resident, favors HB 664. Multiple use, with some control.

A.L. Renshaw, a resident, is a 3rd generation mining engineer. He represents the Alaska Miners Association, and the people of the area. This is the 5th hearing on this issue. The proposals have hampered mineral exploration because of uncertainty. The Willow Creek Mining District has good gold potential. There are 2000 jobs involved--and a 10 billion dollar industry. HB 580 is a rehash of the Committee Substitute for last session from the mountaineering club. It is restrictive. Mr. Renshaw questioned Ln. 5 Pg. 5. Does this mean no development? How do you get access if no motor vehicles are allowed. He was also concerned with MAY wordings, veto power of the Park Dept., and Ln. 21 Pg. 6--reasonable to the state--Does not mention private This could lead to possible condemnation. There is no responsibility for protecting in-holdings. Re: U.S.G.S. 10004--the recreation zone has shaded patented claims and survey areas--but does not show unpatented lands. Mr. Renshaw also stated that the Chief Planner had said that the recreation area was unmanageable. It is heavily mined. There is stored dynamite--a tremendous hazzard. There would have to be restriction on public activities. There would have to be insurance for liability for the owners. Responsibility would have to be spelled out. Traditionally this has been a multiple use area...grazing, recreation, mining, etc. He opposes HB580. "Put the bill to rest--it keeps coming up" HB664 defines a reasonable multiple use for the area--the mining people can live with this.

Henry Hill, a resident, and involved in mining in the area. His family owns property in the area. Leave it exactly as it is. No one bothered it until recreation came in, then agriculture, now mining. Everybody used it before without any classification. Why change it. Existing laws will take care of it. HB580 allows one use--he is opposed. HB664--possibility of good economic source. Possible problem of revenue source vs. recreation source. In HB664 the management responsibility is too far removed from the people.

Mr. Harry Luckwald, a resident: There is gold potential in the area. Mining laws hold precedent--grandfather rights. Against HB580. HB664 is a giant step forward. People used to mine up high near Eagle River, but the Borough stopped them by use.

Anchorage Motor Mushers Club--600 members--supports HB664.

Dean Bunker, a homesteader near the area. We do not need any more parks There is Denali Park expansion. This park could expand.

Susitna VAlley Kiwanis Club: We do not need more parks, but if there is a need for this park HB664 is more palatable.

Russ Cahill, Director of Parks, State of Alaska: HB580 is concerned with the area. It is a departure from normal parks, in that it has a corridor of multiple use within it. The Dept. is taking into consideration all mining claims patented and active. The intent of the Park is to NOT purchase land within the Park unless it is essential to campground or management. If land is to be purchased it will be at fair market value. Ranger patrols will be in effect. There will be a possible loss of revenue. Re: HB 664, this is 430,000 acres. 13% is good for agricultural purposes. 87% is not good for agriculture. Cahill is not in favor of this proposal. Only one Department and one man should run the system. If he does not do a good job, he can be removed.

Dr. Deerborn, a resident of the area: Is opposed to all regulations to create a park. It would cripple recreational potential by private ownership. Why not further develop Chugiak Park for Anchorites.

Virginia Del Piaz: President, Upper Cook Inlet Conservation Society: I favor HB580 strongly. 150,000 people in 1975 were opposed to HB664. The majority of the land is above 12,000 ft., and should be included within a Park. The area is not agricultural land. (Del Piaz lives in the area)

Wayne Bowens, a local dairy man: Favors HB664. The multiple use concept is best. Don't lock it up as a park. There is a grazing area, and some crops can be grown.

Arthur Criter, of the Willow Creek Miners: Is opposed to a Park which affects the ming area. Tired of fighting the issue of parks. Prepared to initiate lawsuits (31) Re: HB664, three mining claims additional would be working if not for the cloud of a Park over them.

Pete Green, a local realtor, and member of the Realtors Association: (30 members) Is not too concerned with either bill. Multiple use concept best--protect --put rights and mining first. Park people haven't shown him that they can manage parks. Costs haven't been brought up. Central location, and one agency, to which the people could go to secure all necessary permits, is necessary.

Sig Rigstad, a resident: 1 million acres of parks within the Borough now. There would be more than an acre per person if Talkeetna Mt. Park is enacted. It was mining that opened the area. Parks should take small areas and manage them for the people who would use them. Only outdoor people who are healthy can use the proposed Park areas. There is considerable expense to run a park even if it is not developed. Invest in the parks that are already established. Re: HB664, there is an option if the land has to be tied up. The Advisory Committee is important. But this committee should have as a criteria the size of the organizations involved--not naming specific organizations.

Pat Carney, a dairy farmer: Is opposed to HB664. Is it proper for members of the committee to voice their opinions at this hearing? Feels we are facing a special interest group (mining) who is against HB580 and using HB664. Feels that the HB664 cannot stand as it is. There is not enough agricultural land to justify the bill.

George Parkee: Enjoys parks, but there is a need for agricultural reserve. Supports multiple use, but need to maintain agricultural land. Need for mining--the proven area is needed for recreation also.

Tape 4 Side 2
118 - 2140

HOUSE RESOURCE COMMITTEE - Minutes - Feb. 10, 1976

Present were Smith, Huntington, Hershberger, Osterback, Brown
Staff Assistant Van Doren and Chmn. Anderson

Subject: HB 664 and HB 580 Talkeetna

Rep. Al Ose began testimony. (Chmn. Anderson requested the hearing to begin without a quorum.) Mr. Ose stated that grazing, mining, and recreation were the main uses of the area. The people living there do not want a park, but they do want recreation. A Park status would essentially close the area to mining. It would also take away a tax base from the Borough. Mining would involve major investment if the people involved knew it was to remain open. Now, under current uncertain conditions, the people won't invest. (Above statements refer to HB 680)
(Chmn. Anderson announced that a quorum was now present). Mr. Ose expressed opposition to HB 580, stating that it is too large an area to lock up in a park.

Ron Hawk, of the Alaska Chapter of the Sierra Club, expressed concurrence with HB 580 and opposition to HB 664. The wilderness experience in the Talkeetna area is great. The scenic resource alone justifies the park status. The area cannot absorb the tremendous growth pressures. Park designation would provide a management vehicle. The proposal of agriculture as the basic use does not make sense since recreation is in fact the basic use. He stressed that grazing and mining are possible in a multiple use area. He also stressed that there should be hearings in Anchorage with at least a week's notice.

Rep. Huntington stated that many people living in the area of the proposed park are against it. Mr. Hawk said that all people should decide what to do with the area.

Rep. Ose mentioned that there is no trouble in the area yet, but there will be if a park is made.

Russ Cahill, Director of Parks for the state, presented the written testimony he had used up north. He added that HB 580 does provide for mining now in existence. However, there are other mining areas that are not included in the bill. The grazing issue is real; however, the bill does not take away anything or any use now in existence. Mr. Cahill feels that the opposition is coming from a distrust of parks per se. He also mentioned the over-speculation of land in the area now because of the capitol move issue.

Chmn. Anderson: Does the Division of Parks enforce how land is to be used? If not, who can do it?

Cahill answered that Fish and Game or Parks could enforce, depending on the major use of the land. Major uses of this area are driving for pleasure, camping, hang-gliding, fishing, hunting, berry picking, skiing, snowshoeing, snowmobiling and bird hunting.

Chmn. Anderson asked how prohibiting motirized vehicles would help the area. He was answered by Cahill stating that most of the problems with land being damaged is because of misuse by motorized vehicles. Anderson asked if Fish and Game could regulate the moose hunting in the area? (This was in response to a statement that the moose herd was on the decline because of overhunting) Answer--Yes, if it were responsible for it.

Chmn.Anderson asked why Cahill was proposing a committee to manage the area, when he had previously stated that a committee was not a good way to manage? Cahill replied that this proposed committee was for "masterplanning", not managing.

Chmn. Anderson stated that it appeared that the people of the area were having problems with the wording on Page 5, Line 14 of HB 580 stating that the Commissioner would designate the uses that were compatable under the bill. Anderson felt that the land residents should have input into the use of the land. Cahill stated that the Senate version of the bill allows local input, and also takes out the Willow part of the proposal--it is a smaller proposal.

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Chmn. Anderson recessed the meeting until Friday, Feb.13, at 8:00 a.m.

HB

233

Jim Vassar

CS

Tomorrow
9:00 AM
3/17/71

AGO 1.2813

Original Sponsors: Gruening, Malone, Gardiner and Swanson

2/26/77

BY: RESOURCES COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 233

For an Act entitled: "An Act relating to land under the Alaska Native Claims Settlement Act; and providing for an effective date."

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

* Section 1. PURPOSE AND STATEMENT OF POLICY. (a) Section 17 (d)(2) of the Alaska Native Claims Settlement Act of 1971 directed the Secretary of the Department of Interior "to withdraw from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act . . . up to, but not to exceed, eighty (80) million acres of unreserved public lands in the State of Alaska . . . . which the Secretary deems are suitable for addition to or creation as units of the National Park Forest, Wildlife Refuge, and Wild and Scenic Rivers System."

(b) Congress is now considering bills calling for up to one hundred fourteen (114) million acres for inclusion in the aforementioned systems. The legislature finds it essential that Alaskans be provided an opportunity to affect the system and nature of public land management in Alaska in order to insure that the rights of the State of Alaska under the Statehood Act are fully recognized. The Legislature further finds it is in the best interest of the Nation and the State not to immediately classify the large tracts of Alaska Public Lands.

* Sec. 2. STEERING COUNCIL FOR d-2 LAND. There is created in the Office of the Governor the Steering Council consisting of nine members as follows: the state co-chairman of the Joint Federal-State Land Use Planning Commission for Alaska, four members appointed by the governor, two members of the house of representative appointed by the speaker of the house, and two members of the senate appointed by the president of the senate. The Steering Council may select one of its members as chairman.

* Sec. 3. COMPENSATION. Members of the Steering Council receive the same travel pay and per diem as provided by law for boards and commissions.

* Sec 4. STAFF. The Council may employ those persons necessary to carry out the purposes of this Act, including but not limited to regular or temporary employees, consultants or other experts in the field.

* Sec. 5. (a) The Steering Council shall develop a unified lobbying and informational effort to make Alaska's needs and future land use requirements known to Congress and the public in all matters relating to land withdrawals and classifications under the Alaska Native Claims Settlement Act or any other federal act, regulation, or order.

(b) The Steering Council is to provide a forum for Alaskans interested in the d-2 land to develop recommendations to protect Alaska's present and future needs and to assist Alaskans in presenting their views on Alaskan land questions before Congress.

(c) The Steering Council may expend funds to enable independent Alaskan groups to make presentations before Congress and the public.

(d) The Steering Council may do other things considered advisable for maximizing the development of positions on the issues of withdrawal and the effectiveness of presentation of these positions to Congress and the public.

* Sec. 6. This Act takes effect immediately in accordance with AS 01.01.070(c).

MOENING-GREY & ASSOCIATES, INC.
GEOLOGISTS AND ENGINEERS
715 L STREET, SUITE 8 ANCHORAGE, ALASKA 99501
TELEPHONE 274-2314

17

Section (d) of ANCSA

February 23, 1977

Honorable Alvin Osterback, Representative
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

The Department of Interior published proposed regulations for the Proposed Amendment of Principals and Procedures for Land Classifications in the January 19, 1977 Federal Register. The period for comment expired February 22, 1977. Little or no other publicity was made regarding the proposed regulations and they could apparently go into effect with few revisions.

Our attention was drawn to the notice on February 17th, thus, leaving no meaningful time for comment. Contact with the Alaska Division of Lands on that date indicated that there was casual concern on the impact of such regulations if they were promulgated.

Since then we have learned the state will be asking for an additional 120 days to prepare comments. They also are proposing to have the Department of Interior combine regulations necessary to interpret Section 17(d)(1) of ANCSA and the BLM Organic Act.

These proposed regulations have to do with the classification of land set aside by Section 17(d)(1) of the Alaska Native Claims Settlement Act. None of the proposed regulations appear to honor the 90 day preference right provided in the Alaska Statehood Act.

It must be made clear that these regulations pertain to the (d)(1) lands and not the (d)(2)(National Interest) lands. Your awareness to this important issue cannot be over emphasized. Review of the States interest may be warranted by the legislature or appropriate committee.

Sincerely,

Dale P. Tubbs

Dale P. Tubbs

DPT/lv
attachment

E [illegible] PROTECTION [illegible]

A[illegible]

[40 CFR Part 52]

[FRL 672-7]

ILLINOIS

pproval and Promulgation of State Implementation Plans; Emergency Episodes

On January 31, 1972, the State of linois submitted to the Administrator the United States Environmental Protection Agency an implementation plan achieve and maintain the National mbient Air Quality Standards. The an was approved by the Administrator May 31, 1972 (37 FR 10862) with sevral exceptions, including disapproval regulations pertaining to Prevention Air Pollution Emergency Episodes. hese deficiencies were corrected and the isode plan was fully approved on tober 23, 1973 (38 FR 29297).

On April 9, 1976, the Illinois Pollution ntrol Board revised its emergency isode regulations after due notice and blic hearings. The regulations (Illinois llution Control Board Regulations, hapter 2, Part IV) took effect on April , 1976 and were submitted to U.S. Environmental Protection Agency (EPA) July 22, 1976 as revisions to the linois State Implementation Plan IP).

The new regulations primarily address one episode situations, and would revise the plan as follows: (1) The regulations specifically state that Illinois Environmental Protection Agency has sole thority for declaring episode stages;) The requirement for a forecast of hours of poor dispersion before an one episode can be declared has been vised to allow the declaration of an isode whenever specified ozone levels cur one day and are expected to recur e next day, or if an air stagnation adsory is received for any area within the ate; (3) The term Ozone Advisory reaces the former designation of Ozone atch, and is issued when a 2 hour aver- e of 0.07 ppm of ozone is measured;) Episode stages have been set for contration levels occurring for a one ho - ried at any monitoring station as fols: ozone yellow alert level has been ised from 0.10 to 0.17 ppm; ozone red rt level has been decreased from 0.40 0.30 ppm; ozone emergency level has en decreased from 0.50 to 0.50 ppm;) The regulations establish a procere for filing emission reduction conagency plans and requirements for rection of pollution levels during periods high concentrations. Indirect sources pollution such as large government encies, parking garages, and fleet vele operations are included among urces required to file emission reduc- n contingency plans.

Approval of the revisions depends on ir consistency with the requirements forth in section 110(a)(2)(A)-(H) the Clean Air Act, as amended, and implementing regulations found in CFR Part 51. The Administrator has ceived the submission and found it to a necessary revision to the existing

The Administrator is also [illegible] these proposed changes to the Illinois plan for the purpose of securing public comments. Any interested party may make a comment on the proposed rulemaking in writing by addressing correspondence to Region V's Air Programs Branch, Air and Hazardous Materials Division, 230 South Dearborn Street, Chicago, Illinois 60604. All comments received no later than thirty days from the date of this notice will be considered. Receipt of comments will be acknowledged.

Copies of the proposed regulations and public hearing transcript of hearings conducted by the State of Illinois are available for public inspection during normal working hours at the Illinois Pollution Control Board, 309 West Washington Street, Suite 300, Chicago, Illinois 60606. Copies of the proposed regulations are also available at the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706; and at Air Programs Branch, Air and Hazardous Materials Division, EPA, Region V, 230 South Dearborn, Chicago, Illinois 60604.

Authority: 42 U.S.C. 1857c-5(a)

Dated: January 11, 1977.

GEORGE R. ALEXANDER, Jr.,
Regional Administrator.

[FR Doc.77-1624 Filed 1-18-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 2400]

ALASKA

Proposed Amendment of Principles and Procedures for Land Classifications

This proposed amendment of and addition to the regulations contained in Part 2400 of Title 43 of the Code of Federal Regulations is being made to add the authority for classification and reclassification of lands in Alaska contained in section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)), and to place all classification criteria and procedures relating to lands in Alaska under the proposed Subpart (2480).

It is hereby determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107).

In accordance with section 310 of the Federal Land Policy and Management Act of 1976, public participation is invited in rulemaking. Interested parties may [illegible] of [illegible] the [illegible] before [illegible] 22, 1977. Comments, suggestions, or objections made with respect to this notice will be available for public inspection at the foregoing address during regular working hours (7:45 a.m. to 4:15 p.m.).

It is therefore proposed to revise Chapter II, Subchapter B, Group 2400 of 43 CFR as set forth below.

JACK O. HORTON,
Assistant Secretary of the Interior.

JANUARY 14, 1977.

PART 2400—LAND CLASSIFICATION

1. Section 2400.0-2 is amended by designating the existing paragraph as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 2400.0-2 Objectives.

* * * * *

(b) Procedures for land classification in Alaska are contained in Subpart 2480 of this part.

§ 2400.0-3 [Amended]

2. Section 2400.0-3 is amended by deleting the words "In the case of Alaska" from the first sentence in paragraph (f).

3. Section 2400.0-3 is amended by deleting paragraph (h) and renumbering paragraphs (i) and (j) accordingly.

4. Part 2400 is amended by adding new Subparts 2480 to 2485 to read as follows:

Subpart 2480—Land Classification; Alaska

Sec.
2480.0-2 Objectives.
2480.0-3 Authority.
2480.0-4 Responsibility.
2480.0-5 Definitions.
2480.0-7 Applicability.

Subpart 2480—Land Classification; Alaska

§ 2480.0-2 Objectives.

Various statutes, many of which are cited in § 2480.0-3, authorize the Secretary of the Interior of classify Federal lands. The objectives of this subpart are (a) to [illegible] of the Secretary's authority and (b) to establish [illegible] for the prompt and efficient exercise of this authority with the knowledge and participation of interested parties, including the general public.

§ 2480.0-3 Authority.

The Secretary of the Interior, or his delegate, is authorized by 43 U.S.C. 2 to perform all executive duties in anywise respecting the public lands of the United States. He is also authorized by 43 U.S.C. 1624 to enforce and carry into execution by appropriate regulations every part of the provisions of the Alaska Native Claims Settlement Act (ANCSA). The following statutes, among others, authorize land classification by the Secretary:

(a) Section 17(d)(1) of the ANCSA (43 U.S.C. 1616(d)(1)) authorizes the

[illegible] in Alaska withdrawn for classification and to open such lands to appropriation in accord with such classification. By various Public Land Orders, lands have been withdrawn from all forms of appropriation under the public land laws, including State selections (some exceptions); from location and entry under the mining laws, with some exceptions for locations for metalliferous minerals (30 U.S.C. Ch. 2); and from leasing under the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. sections 187–287 (1970)). By these Orders, all such lands not otherwise withdrawn or appropriated are subject to classification and reclassification.

(b) The Recreation and Public Purposes Act, as amended (43 U.S.C. 869–869–4), authorizes the Secretary to classify lands for lease or sale for recreation or public purposes.

(c) The Act of August 30, 1949, as amended (43 U.S.C. 687b), authorizes the Secretary to sell at public auction lands that he classifies as suitable for industrial or commercial purposes, including construction of housing.

(d) Section 6(d) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(d)) authorizes the Secretary to exchange federally owned property which he classiqes as suitable for exchange or other disposal for nonfederal property within the authorized boundaries of any federally administered component of the national wild and scenic rivers system.

§ 2480.0–4 Responsibility.

Except where specified to the contrary in this subpart, the authority of the Secretary to classify lands and make other determinations in accordance with the regulations of this part has been delegated to officials of the Bureau of Land Management.

§ 2480.0–5 Definitions.

As used in the regulations of this subpart—

(a) "Agricultural" refers to the growing of cultivated crops; it does not include grazing or the production of native grasses or native forage plants.

(b) "Authorized Officer" refers to the head of a Bureau of Land Management field office who has been delegated authority to make classification decisions.

(c) "Bureau" means the Bureau of Land Management.

(d) "Classification" means a positive determination as to whether certain Federal lands will be subject to appropriation under specified law(s) or will remain in Federal ownership and control.

(e) "Appropriation" means, but is not limited to, grant, sale, exchange, selection, entry, or location for purposes of transfer of title from Federal ownership; or a lease under the Recreation and Public Purpose Act (43 U.S.C. 869, et seq.) or under the Act of May 24, 1928, as amended (49 U.S.C. 211–214).

(f) "Land Use Plan" means a plan, as of a given point in time, that sets out the future use(s) of the land based upon a systematic analysis of physical, environ- [illegible] affecting the land.

(g) "Secretary" means the Secretary of the Interior.

(h) "State Director" means the Director of the Alaska State Office, Bureau of Land Management.

§ 2480.0–7 Applicability.

The regulations of this Subpart govern all classification of lands administered by the Bureau that are made pursuant to the authorities described in § 2480.0–3. They also apply to lands not administered by the Bureau where the head of the administering agency agrees and the specific classification authority applies; e.g., the Recreation and Public Purposes Act (43 U.S.C. 869, et seq.). Classification is a prerequisite to the approval of all appropriations [illegible] following parts, [illegible] of this chapter: Exchanges—Part 2200; Cadastral, Additional [illegible] and Unsurveyed Homesites—Subpart 2511, 2512, [illegible] Indian Allotments—[illegible] and Manufacturing Sites—Subpart 2562; State Grants—Subpart 2627; Recreation and Public Purposes—Part 2740 and Subpart 2912; Airports—Subpart 2911.

Subpart 2481—Classification Principles

Sec.
2481.1 General.
2481.2 Requirements.

Subpart 2481—Classification Principles

§ 2481.1 General.

The authorities in § 2480.0–3 of Subpart 2480 of this part grant the Secretary full discretion, subject to statutory guidelines and limitations, to determine whether to classify any particular tract of Federal Lands for appropriation. The regulations in this subpart contain the principles and procedures which personnel of the Department of the Interior shall consider and follow in the exercise of land classification authority delegated to them by the Secretary.

§ 2481.2 Requirements.

(a) In arriving at the classification decision the authorized officer must find that the lands involved have the geographical, physical, and economic attributes to support the use or values upon which the classification decision is based.

(b) In arriving at a classification decision under the regulations of this part, the authorized officer shall consider:

(1) Federal uses, policies, programs and plans, including Bureau Land use plans and applicable policies and objectives set forth in Group 1700 of this chapter;

(2) State and local governmental uses, policies, programs, plans and laws, including zoning and other land use regulations, to the extent such are consistent with Federal uses, policies, programs and plans;

(3) Reasonably ascertainable present and potential uses and users of the lands;

(4) Environmental effects, including economic and social impacts; [illegible] could be [illegible] and [illegible] ity of [illegible] for [illegible] of the [illegible];

(6) Effects on the administration of other public lands;

(7) The impact on resources utilized for subsistence purposes.

Subpart 2482—Classification for Appropriation

Sec.
2482.1 General.
2482.2 Relative values for types of appropriation.
2482.3 Land classified for appropriation under particular laws.

Subpart 2482—Classification for Appropriation

§ 2482.1 General.

When lands are classified for appropriation, the classification decision shall specify the particular public land law(s) under which they may be appropriated and, where applicable, the particular type(s) of use and appropriation for which the lands will be open under such law(s).

§ 2482.2 Relative values for types of appropriation.

Where lands are found to have value for more than one type of nonfederal use or appropriation under more than one public land law, the law or laws specified in the classification decision shall be chosen so as to give the most benefit to the public, as determined by the authorized officer, with particular regard to the considerations in § 2481.2 (b) of Subpart 2481 of this part.

§ 2482.3 Classification for appropriation under particular laws.

(a) A Classification allowing appropriation for a homestead (Part 2510 and Subpart 2567 of this chapter) may be made if the lands are (1) chiefly valuable for agriculture, (2) suitable for development as a home and farm, (3) sufficient to provide an adequate return anticipated for the farm family, and (4) in an area where rainfall or groundwater and/or irrigation water is adequate and available under Alaskan law in sufficient quantity to permit agricultural development of the particular lands.

(b) A classification allowing appropriation for an Indian allotment (Part 2530 of this chapter) may be made if (1) the lands are chiefly valuable for agriculture; (2) the lands are, on the whole, suitable for a home, and (3) the anticipated agricultural use would support the allottee and the allottee's family.

(c) Needs in relation to subsistence living will be considered in investigations of the classification of lands for possible appropriation for headquarter sites, homesites, or trade and manufacturing sites (Subparts 2563 and 2562 of this chapter).

(d) The authorized officer will not finalize a proposed classification allowing appropriation solely for exchange unless the estimated fair market values of the offered and selected lands are approximately equal. Where the exceptions con-

[illegible] 17 of the Act of Jan[illegible] (89 Stat. 1156) are desired [illegible] used by the authorized officer, the [illegible] will not become final without the specific approval of the Secretary.

Subpart 2483.1—Applications

2483.1-1 Application or Bureau Motion.
2483.1-2 Filing.
2483.1-3 Rejection or suspension.
2483.1-4 Administrative Review.

Subpart 2483.2—Proposed Classification

2483.2-1 Commencement of Classification Action.
2483.2-2 Proposed Classification Decisions.
2483.2-3 Protests.

Subpart 2483.3—Classification

2483.3-1 Involving an environmental impact statement.
2483.3-2 In absence of protests.
2483.3-3 With protests.
2483.3-4 Classification by Secretary without certain procedures.
2483.3-5 Administrative Review.

Subpart 2483.1—Applications

§ 2483.1–1 Application or Bureau Motion.

Lands may be classified for appropriation in response to either an application for appropriation or on Bureau Motion.

§ 2483.1–2 Filing.

(a) An application must be on an approved form. Application forms and lists indicating the proper office for the filing of applications may be obtained from any office of the Bureau. All applications must be submitted in accordance with the applicable provisions of Subpart 1821 of this chapter and all other regulations concerning filing.

(b) The filing of an application gives no right to enter, occupy, or settle upon the lands.

(c) All filing fees which accompany applications submitted in accordance with the regulations of this Subpart shall be earned upon the filing of such applications with any office of the Bureau.

§ 2483.1–3 Rejection or suspension.

The classification authorities cited in § 2480.0–3, authorize classification action and applications requesting classification may be rejected without classification action at the discretion of the authorized officer or as provided by other regulations of this chapter.

(b) If the requested lands have already been classified and the application is for a type of appropriation not allowable by the existing classification, the application shall be rejected.

(c) An application for a type of appropriation not allowable under a proposed classification decision shall be suspended until the proposed decision is vacated or a final decision is issued.

(d) Applications shall also be rejected where the provisions of Subpart 2091 and other regulations of this chapter concerning segregation apply. However, applications shall not be rejected solely on the basis that the land is withdrawn pending classification under this Part.

(e) Upon finality of a classification decision, any inconsistent applications which are then pending, will be rejected.

(f) Decisions rejecting applications will contain a statement giving the reasons for rejection and advising the applicant of corrective steps, if any, that may be taken.

(g) Upon finality of a decision rejecting an application, any advance payments on other such monies, except filing fees and reimbursement payments, submitted with the application will be returned or refunded.

§ 2483.1–4 Administrative review.

A rejection or suspension of an application pursuant to § 2483.3(a) through (e), supra, shall not be appealable to the Board of Land Appeals.

Subpart 2483.2—Proposed Classification

§ 2483.2–1 Commencement of classification action.

If an application is not rejected or suspended, or if the classification action is initiated by Bureau motion, the authorized officer shall proceed to examine the lands and prepare a proposed classification decision.

§ 2483.2–2 Proposed classification decision.

(a) Before issuing a proposed classification decision, the authorized officer shall determine whether the proposed action requires preparation of an environmental impact statement (an EIS) under section 102(2)(c) of the National Environmental Policy Act (43 U.S.C. 4332 (2)(c)). In those instances where he determines that an EIS is required, the authorized officer shall proceed to prepare an EIS based on the proposed classification decision.

(b) The authorized officer shall make and issue a proposed classification decision which shall (1) state whether the lands will be retained or offered for appropriation; (2) if appropriation, state the extent or under which authority (ies) appropriation will be allowed as provided in § 2482.1 of Subpart 2482 of this part; (3) state whether an EIS has been or is being prepared; (4) identify any and all applications filed for the land; (5) if no application has been filed and disposition is contemplated, state that the land will be open to application by all qualified persons on an equal-opportunity basis after public notice; (6) contain a statement of reasons in support of the decision proposed; and (7) specify a period of not less than 30 days during which protests shall be received. Should the authorized officer find good cause, the protest period may be shortened, and, if so shortened, the proposed decision shall contain the reason(s) in support of such lesser period of time.

(c) Such decisions shall be served upon (1) each applicant for use or appropriation of the land; (2) each permittee, licensee, or lessee using the land; (3) the local governing board, planning commission or other official body having [illegible] central authority [illegible] where the land is located; [illegible] ermental officials or agencies [illegible] whom written comments concerning [illegible] ture use of the lands have recently been received; and (5) such other persons as the authorized officer deems appropriate.

(d) A proposed classification decision that would classify more than 2,560 acres shall be published in the FEDERAL REGISTER and in a newspaper having general circulation in the vicinity of the lands. A proposed classification decision for 2,560 acres or less may be also so published if it is deemed appropriate by the authorized officer.

(e) The authorized officer shall hold a public meeting on the proposal if the proposed classification is for more than 100,000 acres, or he determines that sufficient public interest exists to warrant the time and expense of a meeting.

§ 2483.2–3 Protests.

After a proposed classification decision has been issued, any interested party may file a written protest with the State Director during the period specified in the proposed decision. No particular form of protest is required. The protest must be sufficient to identify the specific proposed decision being protested.

Subpart 2483.3—Classification

§ 2483.3–1 Involving an environmental impact statement.

If, under § 2483.2–2(a) of Subpart 2483.2 of this part, it was determined that an EIS is necessary, no classification will become final until the final EIS has been filed. In such cases, the authorized officer shall issue a final classification notice or decision as appropriate.

§ 2483.3–2 In absence of protests.

If no protest is filed within the time allowed, the proposed classification shall become final, and the authorized officer shall serve a notice of final classification upon those served with the proposed decision. A notice shall also be published in the FEDERAL REGISTER and a local newspaper if the proposed decision was so published.

§ 2483.3–3 With protests.

If a protest to the proposed classification decision is timely filed, the following procedures shall apply:

(a) The protest shall be reviewed by the State Director. At the conclusion of the review, the State Director shall either vacate, affirm, or modify the proposed classification decision. Notice of his decision shall be served upon those served with the proposed classification decision and upon all protestants. It shall also be published in the FEDERAL REGISTER and a local newspaper if the proposed classification decision was so published.

(b) For a period of 30 days after service of the notice of the State Director's decision, any interested person may petition the Secretary for review. Notice of the filing of a petition with the Secretary

must be served on the State Director within the 20-day period.

(c) If within the 30-day period, the State Director does not receive notice of petition to the Secretary, the decision shall become the final classification decision.

(d) If a petition is timely received, including service on the State Director, the State Director's decision shall be suspended. Notice of suspension shall be given to the same persons and in the same manner as notice of the State Director's decision. Therefore, the Secretary shall make the final classification decision. Notice of the Secretary's action shall be given to the same persons and in the same manner as the notice of suspension.

§ 2483.3–4 Classification by Secretary without certain procedures.

Where the Secretary determines that the public interest would be served thereby, he may issue a final classification decision without following any or all of the procedures in §§ 2483.2–2(b) through 2483.2–3 of Subpart 2483.2 of this part and §§ 2483.3–2 and 2483.3–3 by publishing his decision in the FEDERAL REGISTER and a newspaper having general circulation in the vicinity of the lands being classified.

§ 2483.3–5 Administrative Review.

No person shall be entitled to any administrative review of a classification decision other than that provided by § 2483.3–3.

Subpart 2484—Opening of Lands

Sec.
2484.1 Preference rights.
2484.2 Appropriation in absence of preference rights.
2484.3 Right to enter, occupy, or settle.

Subpart 2484—Opening of Lands

§ 2484.1 Preference rights.

(a) No applicant shall have a preference right unless it is expressly provided by law.

(b) If it should be necessary for any reason to reject the application of the first applicant entitled to a preference right, other qualified applicants who filed prior to classification shall succeed to the preference right in order of filing.

§ 2484.2 Appropriation in absence of preference rights.

Where there is no preference right, the authorized officer shall, in accordance with the specifics of the classification:

(a) Seek application for the land from an applicant where there is only one possible qualified applicant, e.g., the State of Alaska.

(b) Publish a notice setting a time and place at which the land will be sold to the highest bidder.

(c) Publish a notice providing for a period during which applications may be filed, with the successful applicant to be determined by a drawing among all qualified applicants.

(d) In the event there is no response to the specific notices given in paragraphs (b) and (c) of this section, the authorized officer, in his discretion, may cancel the classification or allow the classification to stand until the first qualified applicant submits a proper application, or the classification terminates for other reasons.

§ 2484.3 Right to enter, occupy, or settle.

(a) A classification for appropriation does not give a right to enter, locate, occupy, or settle upon the lands unless the classification decision expressly opens the lands. If a classification decision does not so provide, no person shall be entitled to possession or use of the land until otherwise expressly authorized by the authorized officer. Entry, location, occupancy, or settlement on the land prior to that time constitutes a trespass.

(b) After lands have been classified, all the laws and regulations governing the particular type of appropriation must be complied with in order for title to vest or other interest to pass. The final determination on whether an applicant has satisfied all requirements of the appropriation need be made until the lands have been classified. No conveyancing instrument or lease shall be executed until the lands are opened.

Subpart 2485—Termination of Classification

§ 2485.1 Continuance.

A final classification shall continue in full force and effect until it is revoked, until it terminates by its own terms or by operation of law, or until the lands are reclassified. Lands may be reclassified at any time.

§ 2485.2 Recreation and public purpose classifications.

If no application is received for lands classified for appropriation under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869—869–4), within 18 months of the date of classification, the classification shall automatically terminate.

[FR Doc.77-1731 Filed 1-18-77;8:45 a.m.]

Office of the Secretary

[43 CFR Part 29]

TRANS-ALASKA PIPELINE LIABILITY FUND

Establishment of Non-Profit Corporation

The United States Department of the Interior, in order to implement section 204(c) of the Trans-Alaska Pipeline Authorization Act, 43 U.S.C. 1653(c) (the Trans-Alaska Pipeline Liability Fund), proposes to adopt regulations pursuant to the Act for the purpose of establishing a non-profit corporate entity to be strictly liable without regard to fault for all damages sustained by any person or entity as a result of discharges of oil from vessels engaged in the coastwise transportation of oil from the terminal facilities of the Trans-Alaska Pipeline to a port under the jurisdiction of the United States. Specifically, the contents of these proposed regulations are [illegible] with the requirements of section 204 of the Act.

[illegible] public comment on these proposed regulations so that [illegible] public and parties affected may have their views. Written comments should be submitted to the Office of the Secretary, U.S. Department of the Interior, 18th & C Streets, N.W., Washington, D.C. 20240, on or before March 7, 1977. Following the close of the comment period, and after review of the comments, the Secretary may amend these proposed regulations to reflect necessary and permissible changes. The Secretary shall then publish final regulations in the FEDERAL REGISTER.

THOMAS S. KLEPPE,
Secretary of the Interior.

It is proposed to add a new CFR Part 29 as follows:

PART 29—TRANS-ALASKA PIPELINE LIABILITY FUND

Sec.
29.1 Definitions.
29.2 Creation of the fund.
29.3 Fund administration.
29.4 General powers.
29.5 Officers and employees.
29.6 Financing of the fund.
29.7 Imposition of strict liability.
29.8 Notification and advertisement.
29.9 Claims, settlement and adjudication.
29.10 Subrogation.
29.11 Investment.
29.12 Borrowing.
29.13 Termination.
29.14 Audit.

AUTHORITY: Sec. 204(c), Trans-Alaska Pipeline Authorization Act, 43 U.S.C. 1653(c).

§ 29.1 Definitions.

As used in this part:

(a) "United States" includes the various States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) "Secretary" means the Secretary of the Interior or his authorized representatives.

(c) "Act" means the Trans-Alaska Pipeline Authorization Act, Title II of Pub. L. 93–153.

(d) "Trans-Alaska Pipeline System" means any pipeline or terminal facilities constructed by the Permittees.

(e) "Fund" means the Trans-Alaska Pipeline Liability Fund established as a non-profit corporate entity by Sec. 204 (c)(1) of the Trans-Alaska Pipeline Authorization Act.

(f) "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a business trust, an unincorporated organization, or a Government entity.

(g) "Oil" means petroleum in any form including crude oil, refined products, and other liquid hydrocarbons which have

served on the State Director within the 20-day period.

(c) If within the 30-day period, the State Director does not receive notice of petition to the Secretary, the decision shall become the final classification decision.

(d) If a petition is timely received, including service on the State Director, the State Director's decision shall be suspended. Notice of suspension shall be given to the same persons and in the same manner as notice of the State Director's decision. Therefore, the Secretary shall make the final classification decision. Notice of the Secretary's action shall be given to the same persons and in the same manner as the notice of suspension.

§ 2483.3–4 Classification by Secretary without certain procedures.

Where the Secretary determines that the public interest would be served thereby, he may issue a final classification decision without following any or all of the procedures in §§ 2483.2–2(b) through 2483.2–3 of Subpart 2483.2 of this part and §§ 2483.3–2 and 2483.3–3 by publishing his decision in the FEDERAL REGISTER and a newspaper having general circulation in the vicinity of the lands being classified.

§ 2483.3–5 Administrative Review.

No person shall be entitled to any administrative review of a classification decision other than that provided by § 2483.3–3.

Subpart 2484—Opening of Lands

Sec.
2484.1 Preference rights.
2484.2 Appropriation in absence of preference rights.
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(b) If it should be necessary for any reason to reject the application of the first applicant entitled to a preference right, other qualified applicants who filed prior to classification shall succeed to the preference right in order of filing.

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(b) Publish a notice setting a time and place at which the land will be sold to the highest bidder.

(c) Publish a notice providing for a period during which applications may be filed, with the successful applicant to be determined by a drawing among all qualified applicants.

(d) In the event there is no response to the specific notices given in paragraphs (b) and (c) of this section, the authorized officer, in his discretion, may extend the classification to stand until the first qualified applicant submits a proper application, or the classification terminates for other reasons.

§ 2484.3 Right to enter, occupy, or settle.

(a) A classification for appropriation does not give a right to enter, locate, occupy, or settle upon the lands unless the classification decision expressly opens the lands. If a classification decision does not so provide, no person shall be entitled to possession or use of the land until otherwise expressly authorized by the authorized officer. Entry, location, occupancy, or settlement on the land prior to that time constitutes a trespass.

(b) After lands have been classified, all the laws and regulations governing the particular type of appropriation must be complied with in order for title to vest or other interest to pass. No final determination on whether an applicant has satisfied all requirements of law for appropriation need be made until the lands have been classified. No conveyancing instrument or lease shall be executed until the lands are opened.

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[FR Doc.77–1731 Filed 1–18–77;8:45 a.m.]

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The Department of the Interior also invites public comment on these proposed regulations so that [illegible] public and parties affected by the provisions. Written comments should be submitted to the Office of the Secretary, U.S. Department of the Interior, 18th & C Streets, N.W., Washington, D.C. 20240, on or before March 7, 1977. Following the close of the comment period, and after review of the comments, the Secretary may amend these proposed regulations to reflect necessary and permissible changes. The Secretary shall then publish final regulations in the FEDERAL REGISTER.

THOMAS S. [illegible]
Secretary of the Interior

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29.10 Subrogation.
29.11 Investment.
29.12 Borrowing
29.13 Termination.
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AUTHORITY: Sec. 204(c), Trans-Alaska Pipeline Authorization Act, 43 U.S.C. 1653(c).

§ 29.1 Definitions.

As used in this part:

(a) "United States" includes the various States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) "Secretary" means the Secretary of the Interior or his authorized representatives.

(c) "Act" means the Trans-Alaska Pipeline Authorization Act, Title II of Pub. L. 93–153.

(d) "Trans-Alaska Pipeline System" means any pipeline or terminal facilities constructed by the Permittees.

(e) "Fund" means the Trans-Alaska Pipeline Liability Fund established as a nonprofit corporate entity by Sec. 204 [illegible] the Trans-Alaska Pipeline Authorization Act.

(f) "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a business trust, an unincorporated organization, or a Government entity.

(g) "Oil" means petroleum in any form including crude oil, refined products, and other liquid hydrocarbons which have

(3781 - Rep)

Rio → Juneau - Las Vegas

(2 wks.)

Water pills

Passport
Vaccination → application

- Post office

Rio
Diana

Lace

Rep
Mike
Miller
3738

Introduced: 2/18/77
Referred: Resources and Finance

BY GRUENING, MALONE, GARDINER AND SWANSON

IN THE HOUSE

HOUSE BILL NO. 233

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to land under the Alaska Native Claims Settlement Act; and providing for an effective date."

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

* Section 1. STEERING COUNCIL FOR d-2 LAND. There is created in the Office of the Governor the Steering Council consisting of nine members as follows: the state co-chairman of the Joint Federal-State Land Use Planning Commission for Alaska, four members appointed by the governor, two members of the house of representatives appointed by the speaker of the house, and two members of the senate appointed by the president of the senate. The Council may select one of its members as chairman.

* Sec. 2. COMPENSATION. Members of the Steering Council receive the same travel pay and per diem as provided by law for boards and commissions.

* Sec. 3. STAFF. The committee may employ those persons necessary to carry out the purposes of this Act, including but not limited to regular or temporary employees, consultants or other experts in the field.

* Sec. 4. DUTIES. (a) The Steering Council shall develop a lobby effort to represent Alaska's interest before Congress in matters relating to land withdrawals under sec. 17(d)(2) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(b) The Steering Council ~~is to~~ may provide coordination for Alaska representation on the d-2 land and may ~~a forum for parties interested in the d-2 land to develop and maintain a common broad front on the issues and to develop a capability for these interested parties to adequately present their views before Congress~~ expend funds to carry out the purposes of this act.

[(c) ~~In order to insure the widest possible presentation of Alaska's views before Congress the Steering Council may make grants from the funds~~

available to it to independent groups for the purpose of presentations before Congress on these issues. These groups must have an interest in the issue of d-2 withdrawal, but their position need not be identical to the position of the Steering Council of the state or the official position of the executive branch of government of the state. The interest may concern specific issues or particular portions of the land being withdrawn.

(d) The Steering Council may do other things considered advisable for maximizing the development of positions on the issues of withdrawal and the effectiveness of presentation of these positions to Congress.

* Sec. 5. The provisions of AS 39.50 (conflict of interest) apply to the Steering Council for d-2 land created by this Act.

* Sec. 6. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Section 1. Purpose and statement of Policy

Section 17 (d) (2) of the Alaska Native Claims Settlement Act of 1971 directed the Secretary of the Department of Interior "to withdraw from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act.... up to, but not to exceed, eight million acres of unreserved public lands in the State of Alaska.... which the Secretary deems are suitable for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and w[illegible]d and Scenic Rivers System."

Congress is now considering bills calling for up to 114 million acres for inclusion in the aforementioned systems. The legislature finds it essential that Alaskans be provided an opportunity to affect the system and nature of public land management in Alaska in order to insure that the rights of the State of Alaska under the Statehood Act ~~will be fully~~ are recognized and that needs ~~and well being~~ of all Americans ~~are considered when Congress acts upon the status of Alaska's Public Lands.~~

Section 4 (a) The Steering Council shall develop a unified lobbying and informational effort to make Alaska's needs and future land use requirements known to Congress and ~~throughout the other 49 states~~ in all matters relating to land withdrawals under ~~Section 17 (d)(2)~~ of the Alaska Native Claims Settlement Act.

(b) The Steering Council is to provide a forum for Alaskans interested in the d-2 land to develop recommendations to protect Alaska's present and future needs and to assist Alaskans in presenting their views on the ~~d-2~~ land questions ~~to~~ Congress, ~~and the American public~~.

(c) The Steering Council may ~~make grants from the~~ funds available to it to independent Alaskan groups ~~for the purpose of~~ presentations before Congress ~~on these issues~~.

Suggested Amendments to HB 233

Section 1. Purpose and statement of Policy

Section 17 (d) (2) of the Alaska Native Claims Settlement Act of 1971 directed the Secretary of the Department of Interior "to withdraw from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act.... up to, but not to exceed, eight million acres of unreserved public lands in the State of Alaska.... which the Secretary deems are suitable for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and wild and Scenic Rivers System."

Congress is now considering bills calling for up to 114 million acres for inclusion in the aforementioned systems. The legislature finds it essential that Alaskans be provided an opportunity to affect the system and nature of public land management in Alaska in order to insure that the rights of the State of Alaska under the Statehood Act ~~will be fully~~ are recognized. ~~and that needs and well being of all Americans are considered when Congress acts upon the status of Alaska's Public Lands.~~ The legislature finds it essential that Alaskans be provided an opportunity to affect the system and nature of public land management in Alaska in order to insure that the rights of the State of Alaska under the Statehood Act are fully recognized, and that the needs and well-being of all Americans are considered when Congress acts upon the status of Alaska's Public Lands. In the best interest of the Nation and the State it is necessary that Alaskans be provided an opportunity to affect the system and nature of public land management in Alaska.

Section 4 (a) The Steering Council shall develop a unified lobbying and informational effort to make Alaska's needs and future land use requirements known to Congress and throughout the other 49 states in all matters relating to land withdrawals under Section 17 (d) (2) of the Alaska Native Claims Settlement Act.

(b) The Steering Council is to provide a forum for Alaskans interested in the d-2 land to develop recommendations protective of Alaska's present and future needs and to assist Alaskans in presenting their views on the d-2 land question to Congress and the American public.

(c) The Steering Council may make grants from the funds available to it to independent Alaskan groups for the purpose of presentations before Congress on these issues.

Their rights to Alaska Public Lands

Suggested Amendments to HB 233

Section 1. Purpose and statement of Policy

Section 17 (d) (2) of the Alaska Native Claims Settlement Act of 1971 directed the Secretary of the Department of Interior "to withdraw from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act.... up to, but not to exceed, eight million acres of unreserved public lands in the State of Alaska.... which the Secretary deems are suitable for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and wild and Scenic Rivers System."

Congress is now considering bills calling for up to 114 million acres for inclusion in the aforementioned systems. The legislature finds it essential that Alaskans be provided an opportunity to affect the system and nature of public land management in Alaska in order to insure that the rights of the State of Alaska under the Statehood Act will be fully recognized and that needs and well-being of all Americans are considered when Congress acts upon the status of Alaska's Public Lands.

Section 4 (a) The Steering Council shall develop a unified lobbying and informational effort to make Alaska's needs and future land use requirements known to Congress and throughout the other 49 states in all matters relating to land withdrawals under Section 17 (d) (2) of the Alaska Native Claims Settlement Act.

(b) The Steering Council is to provide a forum for Alaskans interested in the d-2 land to develop recommendations protective of Alaska's present and future needs and to assist Alaskans in presenting their views on the d-2 land question to Congress and the American public.

(c) The Steering Council may make grants from the funds available to it to independent Alaskan groups for the purpose of presentations before Congress on these issues.

out

Alaska State Legislature

House

JUNEAU ALASKA

Memo to: Alvin Osterback, Chairman
House Resources Committee

From: Subcommittee on Parks, Timber and Lands
Sally Smith, Chairman

Re: HB 156-Privately Owned Agricultural Land

February 23, 1977

On request of the sponsor, we recommend that HB 156 be held indefinitely and not be taken up by the complete Resources Committee as scheduled.

Sally Smith

Mike Miller

Dick Eliason

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M February 22, 1977

SUBJECT: Land questions (Work Order #3369)

TO: Representative Alvin Osterback

FROM: Joel F. Bennett
Legislative Counsel

You asked several questions relating to lands matters. As I understand it, they were as follows:

(1) What can the so-called "D-2 lands" be used for, and can the uses be changed?

The "D-2" lands were those federal lands withdrawn by the Secretary of the Interior under sec. 17(d)(2) of the Alaska Native Claims Settlement Act for designation by Congress as additions to or new National Parks, National Forests, Wild and Scenic Rivers, and Wildlife Refuges (approximately 80 million acres). Congress has until December, 1978 to act on "D-2" withdrawals. Until then, no state selections can be made on the lands. After lands are designated to be included within the four systems, no state selections within them may occur. Lands not designated by Congress under 17(d)(2) will be open to selection by the state. Uses within the four federal systems are restricted according to the provisions of the respective federal laws governing those systems and cannot be changed by the state. Change must thereafter come by congressional action. (The state eventually will be able to select from lands within the following: native withdrawals not chosen by the natives; "D-2" lands not acted upon by Congress; and "D-1" lands withdrawn to insure that the public interest is adequately protected, and not acted upon).

(2) What can the state do with the lands it selects?

After selection, the state has broad powers of classification for its lands under AS 38.05.300. The director of lands is directed to make a preliminary classification for surface use of "all lands in areas where he considers it necessary

and proper for future development." This must be transmitted to the commissioner, with a land use plan, for his approval, modification of rejection. However, no state land, water, or land and water area shall, except by act of the state legislature, be closed to multiple purpose use, if the area contains more than 640 acres. So although lands can be classified as agricultural, commercial, industrial, utility, grazing, mineral, timber etc., large areas over 640 acres closed to multiple purpose use (i.e., parks, recreation areas) must be done by act of the legislature.

Following its classifications, the state may dispose of it in accordance with those classifications; retaining it for public use (for ex, parks, recreation areas), leasing it (for ex, minerals) or selling it (for ex, as residential, utility land), or otherwise disposing of it (for ex, the sale of timber).

(3) Can the state select land specifically for timber harvest?

Yes, under the present classification system, state lands can be classified as timber lands and although this does not preclude other uses, they must conform to its primary use as timber land. Once classified, the state may contract for the sale of the timber on the land, but not for the sale of the land itself. Presumably, the state in many cases does select land with the primary intention of disposing of its timber resources. (See AS 38.05.110-125, generally).

(4) If land is put into state parks, can it later be withdrawn for timber and mineral development?

Whether the park is 640 acres or more makes a difference. If it is, it can be changed and devoted to timber development only by act of the legislature. If it is not over 640 acres, the director of lands can reclassify it (or any other category) for use as timber lands when the public interest warrants it (see AS 38.05.300).

JFB:smh

HB

234

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

M E M O R A N D U M

28 February 1977

RE: HB 234

TO: Steve Cowper, Chairman
House Finance Committee

FROM: Alvin Osterback, Chairman
House Resources Committee

The House Resources Committee recommends the following amendment for HB 234:

Section 2 becomes Section 3 and a new Section 2 will read:

* Sec. 2. The sum of $20,000 is hereby appropriated to the Department of Legislative Affairs for the purpose of paying travel and other necessary expenses of members of the legislature on d-2 lands.

The intent of Section 1 is to appropriate for the operation of the Steering Council, including the travel and per diem of all members of the Council.

The intent of the new Section 2 is to appropriate for a special legislative committee to provide for additional legislator participation on the d-2 question.

AMENDMENT

OFFERED IN THE HOUSE: BY: Resources Comm.

TO: _____ HOUSE BILL No. 234

SENATE BILL No. _____

PAGE: 1 LINE: _____

Section 2 becomes Section ~~3~~ 3 and a new Section 2 will read:

* Sec. 2. The sum of $20,000 is hereby appropriated to the Department of Legislature affairs for the purpose of paying travel and other necessary expenses of members of the legislature on d-2 lands.

The intent of Section 1 is to app

HB

250

REPRESENTATIVE
ALVIN OSTERBACK
BOX 71
SAND POINT, ALASKA 99661
(907) 383-2363

Alaska State Legislature

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99811

House of Representatives

M E M O R A N D U M

25 February 1977

DISTRICT 15

ADAK
AKHIOK
AKUTAN
ALITAK
ATKA
BELKOFSKI
CHIGNIK
CHIGNIK LAGOON
CHIGNIK LAKE
COLD BAY
FALSE PASS
IVANOF BAY
KARLUK
KING COVE
LARSEN BAY
NELSON LAGOON
NIKOLSKI
OLD HARBOR
PERRYVILLE
PORT LIONS
SAND POINT
SQUAW HARBOR
ST. GEORGE
ST. PAUL
UGANIK BAY
UNALASKA

TO: House Resources Committee

FROM: Alvin Osterback, Chairman
House Resources Committee

alvin Osterback

SUBJECT: HB 250

Representative Severson is getting a fiscal note prepared on this for $161,225.

M E M O R A N D U M

February 9, 1977

SUBJECT: Advisory Committee member travel and per diem costs

TO: Representative Martin Seversen

FROM: Joel F. Bennett
Legislative Counsel

Regarding your advisory committee member bill request, the rough figure given to me by the administrative branch of the Department of Fish and Game for travel and per diem costs is $110,000 - $130,000.

The breakdown, according to their calculations, is as follows:

There are 23 committees that are "areawide", out of a total of 53 in the state. Of the 23, 16 are not on a road system. That makes 126 members. Assuming one-fourth of the members live in the town where the meeting is held, that makes a basis of 92 members.

Figuring 4 meetings a year, at one and one-half days per diem each ($65) and travel costs per member per meeting, ($200) you get the following:

	$73,600	- travel
	$35,880	- per diem
Total:	$109,480	for non-road system expenses
plus	$ 19,500	for costs of used road system members
	$128,980	

I hope this is of assistance to you. After you introduce the bill, a detailed, more exact fiscal note will be prepared by the department.

JFB:hjd

32,245 + 128,980 = 161,225

4)128,245

RESOLUTION FROM NUSHAGAK ADVISORY COMMITTEE

TO

ALASKA BOARD OF GAME

REGUARDING: FUNDING FOR TRAVEL AND PER DIEM FOR ADVISORY COMMITTEE MEMBERS

The State of Alaska has recognized the value of the advice of local residents by the formation of Advisory Committees to council the State Boards of Fisheries and Game. Many of the areas represented by these local Advisory Committees are geographically large and members must travel long distances to attend meetings.

At the present time, the members from the outlying villages must pay for travel, meals, and lodging from their own pockets. Since their advice is deemed desirable, and since the State has encouraged these Committees, some provision should also be made to reimburse those individuals who must travel and pay their own expenses while attending Advisory meetings. This will relieve those members of an unfair burden and encourage good representation from the villages.

HB

264

"An Act relating to fisheries enhancement; etc. date."

COMMITTEE REPORT

2-24-77 FINANCE

HOUSE

3/11/77 Date

Mr. Speaker:

The Committee on RESOURCES has had HB 264 under consideration. A majority of the members of the Committee

- [X] recommends it do pass
- [ ] recommends it do not pass
- [ ] recommends it do pass with attached amendment(s)
- [ ] recommends it be replaced with CS for _____ and that CS for _____ do pass
- [ ] (and) recommends it be referred to the _____ committee
- [ ] reports it back without recommendation
- [ ] AND attaches a report of its intent
- [ ] (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

H Malone-Dyer

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends: _____

_____ recommends: _____

_____ recommends: _____

_____
Chairman

H 60

Cordova District Fisheries Union

Headquarters: Box 939, Cordova, Alaska

March 25, 1977

Representative A. Osterback, Chairman
House Resources Committee
Pouch V
Juneau, Ak. 99811

Dear Representative Osterback:

We request your support of CS for House Bill #264 "An act relating to fisheries enhancement". This bill will enact many factors needed for sound well rounded planning for, and funding of, future salmon enhancements projects. The cause is good, the need is great. The fishermen and community feel this is a motherhood and apple pie issue.

We would offer a small wording change suggestion for what we consider the betterment of the bill.

Sec: 16.10.375, Regional Salmon Plan; The commissioner shall designate regions of the State for the purpose of salmon prodution and shall develop and amend as necessary a comprehensive salomn plan for each region including (for) both public and private non profit hatchery systems.

We appreciate you consideration of that one word change.

Sincerely,

Bob Blake

Bob Blake
Chairman

bb/jd

GAVE CC TO TERRY GARDINER (JHN 3-30-77)

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

REVISED FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 264
Title An Act relating to fisheries enhancement
Requested by House Resources Committee Date 2/24/77

II. FISCAL DETAIL
Agency Affected Commerce & Economic Development
Program Category Affected Development
Budget Request Unit(s) Affected Business Loans

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
GRANTS, CLAIMS, ETC.	1,500.0					
TOTAL	1,500.0	Ø	Ø	Ø	Ø	Ø

FUNDING (Thousands of Dollars)

GENERAL FUND	1,500.0	Ø	Ø	Ø	Ø	Ø
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

There are expected to be ten (10) regional associations. I am sure each association will request the $150,000 grant for a total of $1,500,000.

IV. DATE March 3, 1977 PREPARED BY Pete Jeans
AGENCY Division of Business Loans
PHONE 465-2510

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

33-001 (Rev. 10/76)

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Proposed CSHB 264

Title An Act Relating to Fisheries Enhancement

Requested by Rep. Terry Gardiner Date 3/10/77

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development

Program Category Affected Development

Budget Request Unit(s) Affected Business Loans

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	750.0	750.0	Ø	Ø	Ø	Ø
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	750.0	750.0	Ø	Ø	Ø	Ø
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

FY/77 - At this time it appears that 5 regions will be attempting to organize as soon as funding is available. These include Ketchikan, Sitka, Bristol Bay, and Cook Inlet. The question of whether Prince William Sound, which is already organized, will qualify for grant funds should be answered by legislation or Letter of Intent.

FY/78 - It is expected that an additional 5 regions will organize.

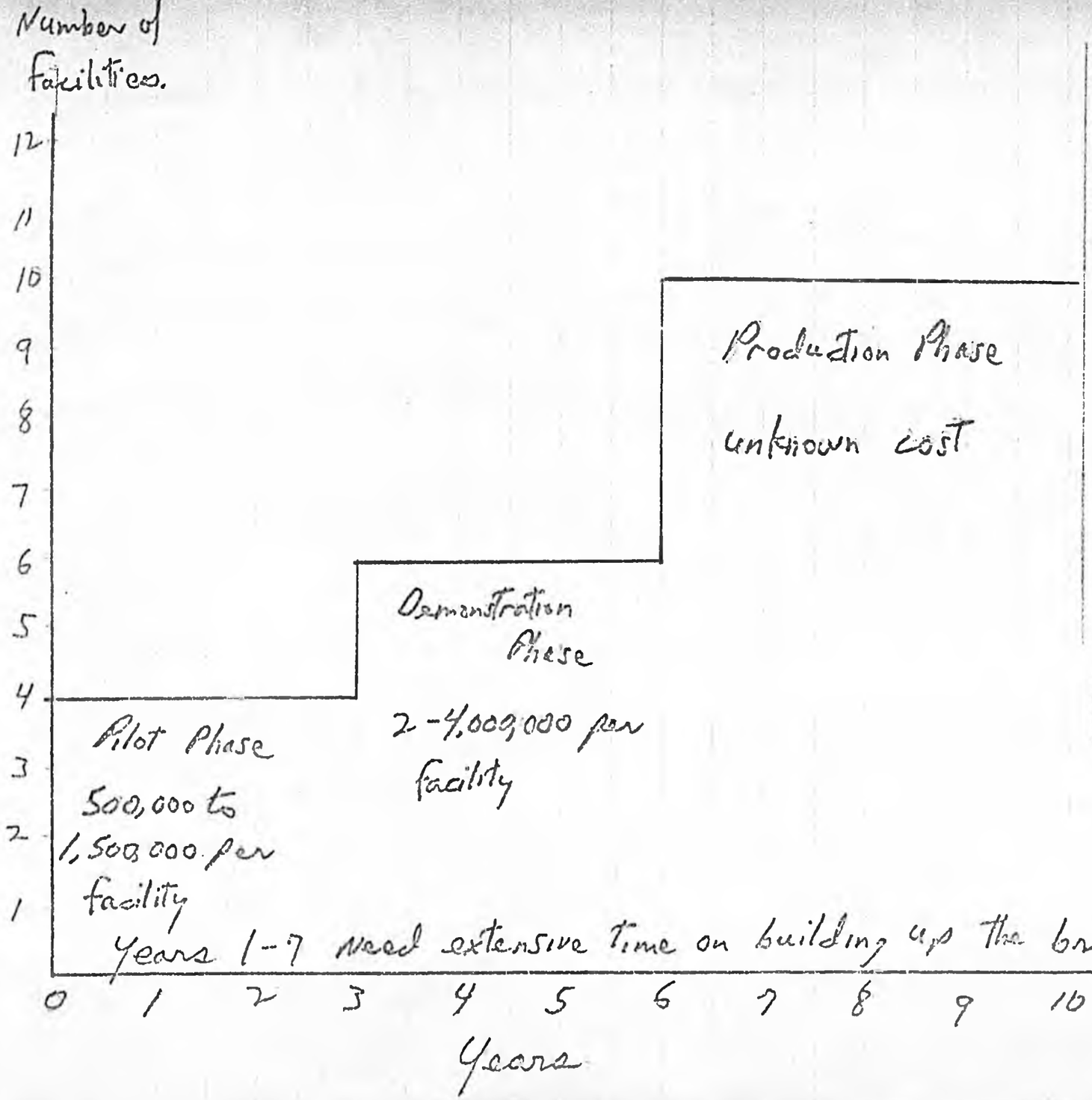
IV. DATE 3/11/77 PREPARED BY Pete Jeans

AGENCY Division of Business Loans

PHONE 465-2510

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

33-001 (Rev. 10/76)



Restraints

1.0. Brood Stock

2.0. Inadequate numbers of experienced personnel

3.0. Inadequate organization
- research & development
- extension services
- operating groups
- management and regulation

4.0. Money

5.0. Siting
- native vs. hatchery fish separation
- good water and estuary
- logistics

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

#

1977 MAR 9 PM 6 53

19002 NL CORDOVA ALASKA 409 03-09 430P AST

PMS MR. A. OSTERBACK (FONE AND DLR BEFORE 1PM) 465-3715

CHAIRMAN, HOUSE RESOURCE COMMITTEE 1245 OR 465-3878

POUCH V

JUNEAU ALASKA 99811

DEAR MR. OSTERBACK:

IN REGARD TO HB 264, PRINCE WILLIAM SOUND AQUACULTURE CORPORATION WOULD LIKE TO EMPHASIZE TO YOUR RESOURCE COMMITTEE, THE VALUE THAT OUR CORPORATION PLACES ON THE VOLUNTARY METHOD OF ASSESSMENT COLLECTION. TO DATE WE HAVE COLLECTED OVER $440,000.00 LOCALLY AND HAVE HAD OVER 90 PERCENT VOLUNTARY PARTICIPATION RATE FROM FISHERMEN AND FISH PROCESSORS. WE WOULD LIKE TO SEE ANY LEGISLATION THAT IS CONSIDERED ALLOWED FOR BOTH VOLUNTARY OR MANDATORY ASSESSMENT DEPNDING ON WHAT EACH REGIONAL CORPORATION ITSELF DECIDES.

WE WOULD ALSO LIKE TO EXPRESS THE POSITIVE VALUE WE PLACE ON JOINT REGIONAL PLANNING BETWEEN THE REGIONAL CORP-ORATION AND THE ALASKA DEPARTMENT OF FISH & GAME WITH ALL USER GROUPS BEING REPRESENTED. WE SEE THIS AS A WAY TO AVOID USER GROUP CONFLICTS AND PROVIDE A COORDINATED APPROACH TO RESOLVE REGIONAL FISHERY PROBLEMS. WE LOOK TO FURTHER WORK WITH THE A. D. F. & G. IN PLANNING AND REVIEWING PROPOSALS FOR OUR AREA AND TAKE A VERY POSITIVE VIEW OF SUCH JOINT PLANNING EFFORT.

PRINCE WILLIAM SOUND AQUACULTURE CORPORATION SUPPORTS THE POWERS TO CREATE A SALMON ENHANCEMENT AUTHORITY AS A NECESSARY TOOL TO RECEIVE FEDERAL SUPPORT AND IN THE FUTURE RAISE MONEY THROUGH BONDING AUTHORITY. THE POWER TO CREATE A SALMON ENHANCEMENT AUTHORITY WILL HELP US TO BE A SELF SUSTAINING HATCHERY SYSTEM AND NOT BE A BURDEN ON EITHER THE STATE OR FEDERAL GOVERNMENT.

THE REVISIONS TO THE LOAN BILL NECESSARY, ESPECIALLY THE FORGIVENESS OF PAYMENTS OF INTEREST AND PRINCIPLE FOR THE FIRST SIX YEARS. THIS IS NEEDED AS FOR THE FIRST THREE FISH CYCLES THE ECONOMIC RETURN IN SUCH A RENEWABLE RSOURCE CANNOT BE COUNTED ON AS A SURE METHOD OF LOAN REPAYMENT.

THE ORGANISATIONAL GRANTS SHOULD BE AVAILABLE TO ALL REGIONAL HATCHERY GROUPS SO THAT THE FORMATION, ORGANIZATIONAL AND EDUCATIONAL COSTS CAN THE SHARED AND NOT BE AN EXCESSIVE BURDEN ON THE REGIONALS CORPORATION.

IN CONCLUSION WE FEEL THAT THE SUPPORT THAT THE STATE OF ALASKA AFFORDS THE REGIONAL HATCHERY CORPORATIONS WILL COME BACK TO THE STATE OF ALASKA THROUGH THE BETTERMENT OF THE COMMON PROPERTY FISHERY, GRATER EMPLOYMENT, AND GREATER INVESTMENT BY FISH PROCESSORS IN ALASKA. WE ARE STRIVING TO BE A SELF SUSTAINING SYSTEM. THIS NEXT MONTH WE WILL RELEASE OUR FIRST 10 MILLION FRY FROM OUR FIRST HATCHERY.

IF YOUR COMMITTEE HAS PROBLEMS WITH THIS BILL THAT WOULD DELAY PASSAGE, PLEASE LET US KNOW AND WE WOULD BE WILLING TO OFFER TESTIMONY AND EXPLAIN OUR VIEWS. SINCERELY,

PRINCE WILLIAM SOUND AQUACULTURE CORPORATION

MARK KAZAZEAN GENERAL MANAGER

NON-PROFIT HATCHERY PROGRAM

Under Present Law As Amended by HB 264

The present concept calls for the creation of regional wide non-profit corporations throughout the State of Alaska. Presently, one exists at Prince William Sound, and a second regional corporation for Southern Southeast Alaska, from Petersburg south to the Canadian Boarder. Those regional corporations are qualified under the present Non-Profit Hatchery Program. The Commissioner of the Alaska Department of Fish & Game qualified the structure of the corporations in light of AS16.10.380 which states that the corporation must be broad based in its board of directors and encompass all of the user groups within the area including commercial fishermen, processors sport fishermen, subsistance fishermen, municipalities and other user group entities.

The establishment of such a region into a cohesive functional unit requires an immence amount of energy, time and money. The above mentioned user groups have never in history been united together. In the Southern Southeast Region over 30 to 40,000 dollars has been expended in organizational and planning efforts. Primarily to inform the fishermen within the area of the basic concept, what is possible, why hatcheries should be built, who should build them, the economics of doing so, the requirement of an assessment upon the fishermen to help pay for it, and various other matters.

AS16.10.510(9) Organizational and Planning Grants

HB 264, AS16.10.510(9) provides for additional grant monies for further organizaitional effort on the human level and also to begin site preparation and site selection so that some pilot projects can be commenced.

An Assessment Program

The next step in establishing the private non-profit corporation is to move from the organizational planning stage into site selection and also an assessment program for the fishermen. AS16.10.530(e) is a new section proposed by HB 264. This establishes and sets up a rather detailed and extensive means of establishing an assessment within a qualified regional association. At this point, the regional boundaries have been established, the initial board of directors has been created and the Commissioner of the Dept. of Fish & Game has authorized that corporation to represent the area within its boundaries.

The present law allows for two different means of arriving at an assessment on the fishermen. One under section AS16.10.530 and one under section AS16.10.540. The Prince William Sound Corporation has opted to establish, is assessment under section 540, primarily based upon the inherent make-up of their area prior to the non-profit hatchery legislation being introduced. They have a very cohesive marketing association to which most fishermen in that area belong to. That is very different from the experience in Southeastern and other parts of Alaska where there is no cohesive unit to which most of the fishermen in the area belong to.

AS16.10.530 provides a means by which the fishermen in the area encompassed by the regional corporation can decide whether to impose an assessment upon <u>all</u> of the fishermen. Basicly section 530 states that if the Regional Corporation follows the proceedures outlined in 530(e) and a majority of the limited entry permit holders which participate

in the fishery within the boundaries of the corporation, vote to have an assessment imposed upon their gr ss income, then that assessment will be imposed upon the gross income of all of the fishermen who participate in the fishery in that area. The reason being that the money will go towards the construction of hatcheries within the regional area which will produce fish for the benefit of all of the fishermen in the area.

HB 264 also amends the law regarding participation with the State Dept. of Fish & Game in drawing up a comprehensive plan for the implementation of the non-profit hatchery program within each regional area throughout the State. The present law called for the development of the comprehensive plan and HB 264 further defines the language and sets up a regional planning team composed of department personnel and personnel from the regional corporations to develop a plan and such plan would then be subject to approval by the Commissioner of the Dept. of Fish & Game.

Financing Opportunities

AS16.10.520(b) 100% Loan Financing

The remainder of HB 264 deals with the financing structure and opoprtunities for the regional corporations to begin to develop a viable hatchery program. AS16.10.520(b) is deleted from the present law. That provision provided that the State would lend up to 75% of the total project costs as determined by the Commissioner. Such a loan cannot exceed three million dollars per hatchery as limited in AS16.10.520(a). It has been the experience of the regional corporation in Prince William Sound and the regional corporation in Southern Southeast Alaska

that it is near impossible to come up with 25% of the cost of building a production size facility without time delays of many years. The estimated cost for such a facility is 2 to 4 million dollars which means front money of 500,000 to 1 million dollars. To this date the Southeastern Region has not been able to raise that type of money through the private industry sector. Total annual assessment of all expenses is 350,000 dollars.

The second factor in beginning one of these types of facilities on loan money less than 100%, is the fact of the uncertainty of the venture. There is a long lag time before the possible return of any money through surplus fish back to the hatchery, potentially 6 to 10 years. Since hatcheries are non-profit entities it is difficult to generate capital from normal outside private sources when there is no possibility for large profits.

Assessments from fishermen are not large enough to finance a viable hatchery program. A 3% assessment on gross income of fish caught within the boundaries of the Southern Southeast Regional Aquaculture Assoc. over historical catch periods range from 200 to 400,000 dollars per year. That is not a sufficient amount of money to participate in the present loan program and at the same time provide operating capital to run a hatchery program on an area wide basis. If assessment monies are tied up as front money for the loans, they are unavailable for operating costs to run the hatcheries. The hatchery program would be delayed up to two years while the assessment monies would be collected in a bank account in order to come up with enough money to front end the loan program.

AS16.10.510(8) Deferment of Principle & Interest

The present law, AS16.10.510(8) as amended by HB 264, defers payment on principle and interest for loans from the State up to a period of 6 years and states that interest shall not accrue on those loans during that 6 year period. That provision is necessary due to the fact there may be no return to the hatchery for a 6 to 10 year period and therefore no money to make payments on the loans. If hatchery corporations must set aside assessments as collateral to repay loans they will be unable to build more than one hatchery.

For the private sector venture to succeed we have to look down the road for a twenty or thirty year period and look for methods and means by which to institutionalize the regional non-profit corporate concept and their financing. In order to enable the regional corporation to undertake the job or rebuilding the salmon runs, they must have a financing base. The corporation must have access to the assessment monies for the operating revenues of the regional corporation itself to create strong and viable organizations and to continue to site and develop more hatcheries.

AS16.10.600 - Creation Of Regional Salmon Enhancement Authority

The bill from page six to the end of the bill deals with the creation of a regional salmon enhancement authority and gives that authority a quasi-public status. The purpose of that portion of the bill is to allow the regional corporation the option of forming a regional salmon enhancement authroity and obtaining a quasi-public status for openning up greater opportunities for financing from sources other than the state revenues. Primarily this is to become elegible for

Federal Economic Development Authority grant monies, EDA. The Prince William Sound Regional Aquaculture group recently had an experience in which they were eligible for a substantial amount of grant money from EDA under a certain program if they were able to qualify as a quasi-public organization. There are also other programs presently in the Congress which are being investigated at this time which eligibility may require a quasi-public status.

It should be noted that in no way is the state encumbered financially by the establishment of such an authority. Specifically AS16.10.690 on page 15 of the bill, it is stated that 'the credit of the state is not pledged.' It should be noted that this bill is identicle to SB 39 which has passed out of the Senate Resources and is in Senate Commerce.

PRIVATE SECTOR

SALMON ENHANCEMENT AND REHABILITATION IN ALASKA

J.N. Milnes SSRAA

THE PROBLEM:

The annual harvest of salmon in Alaska has been steadily declining since 1936 and is in a severe state of depression in this decade. The following chart illistrates those facts:

ALASKA SALMON HARVEST
(in thousands of fish)

	30 year consecutive high (average Harvest)	1960-1975 (average harvest)	1973-1975 (average harvest)
SOUTHEASTERN	38,200	14,862	8,118
PRINCE WILLIAM SOUND	8,000	4,575	3,509
COOK INLET	4,100	3,422	2,423
KODIAK	10,700	7,513	2,339
CHIGNIK	9,900	4,483	1,679
BRISTOL BAY	15,700	9,067	3,304
ARCTIC-YUKON KUSKOKWIM	800	845	2,309
STATEWIDE	83,300	45,108	23,111

Source: Alaska Department of Fish and Game
American Fisheries Institute Speech
Cordova, March, 1976

This is very comparable to a forest which has been harvested but not replanted or permitted to reforest itself. The salmon as a renewable resource simply has not been renewed.

The decimation of the resource has resulted in the decimation of the salmon industry so that it no longer has the capital to rebuild itself. Nor does the industry have the cohesion to create industry organizations whose role it would be to rebuild the salmon runs.

Technology exists to correct this problem. It has to be tried in Alaska and corrected to fit the Alaskan biology.

Hatchery technology has been well established in the Northwest for many years in Oregon, Washington, and British Columbia. Those states have embarked upon programs of immense investments to further utilize the salmon resource. Oregon has granted the right to private-profit based hatcheries, the most major effort being made by the Weyerhauser Corporation, who intends to release 25,000,000 Coho smolt by 1978 and ultimately 85,000,000. Washington state has planned several hundred million dollars for salmon enhancement, as has British Columbia.

Overseas, Japanese hatcheries are releasing 1,000,000,000 fry annually and intend to increase that to 1,500,000,000 by 1985. Russia has a similar program.

Alaska's current production of hatchery salmon is miniscule by comparison.

Besides a reliance upon hatchery production, Alaska also has a tremendously cheap resource in its abundant streams which once provided the rich harvests of 30 years ago. However, fishery resource management techniques have lacked the precision to adequately control the decline of the salmon run.

Stream rehabilitation and significant improvement in management also offer a high leverage correction to this loss.

THE APPROACH TO A SOLUTION

The people of Alaska consider this subject vital to their well-being and to the well-being of the future of the state. It is a renewable resource currently employing thousands of fishermen and consequently supporting tens of thousands of individuals. Furthermore, it can be increased in its capacity to support a stable population and the supply chain which feeds it.

As a renewable resource, it is one of the prize possissions of the state of Alaska.

One strategy of "fixing" the current loss of resource is for the state of Alaska to have its government department build and run hatcheries and do the whole job of rebuilding the salmon runs.

A second strategy might be for the private sector to take over the job.

Since this entire effort is in its infancy in Alaska, such a dichotomy is not practical. Alaska must use all the available capabilities it has on hand.

Ultimately, it would be desirable for the private sector to perform this function, as it does in agriculture, and in forestry. For it to do so, there unfortunately must be government intervention to provide the funds and the technology to develop the capability of that sector. Once in place, however, the private sector would be paying its own way by developing revenues and capital to cover the costs of the public administration (A.D.F.&G.), improved research and development, and the operation of the rehabilitation and enhancement programs directly.

An objective which might be suggested for this effort is:

> To create a healthy industry; one which is profitable, and supporting a large stable population in the year 2000 - providing pleasure in sports fishing, capital to aid fisheries, and monies to pay its own way.

The means to achieving that require:

- sound financing
- good organization of experienced personnel
- well developed base of experience
- salmon marketed at a price adequate to deliver profit to the people and enterprises in the industry.

The tack to take at this moment is one of getting into a safe level of production as fast as possible to obtain the best base of experience as quickly as possible. With a project of this scale, experience is the vital factor. It reduces costs, it increases productivity, it opens the door to new solutions and will accelerate the program with safety.

However, "scared money" in a situation having so many new factors and variables in itself creates problems. So, the funding source, currently the legislature, must make itself aware of the risks inherent in

- forming new social groups called "Regional Associations"
- operating hatcheries with no prior cost experience
- rebuilding brood stocks to levels adequate to start a major enhancement facility
- managing mixed stock fisheries so that native runs are not damaged.

In private enterprise, it is the role of "venture Capital" to fund the high risk start-up from its inception through its likely commercial success. The capital covers all costs associated with the venture - engineering and construction, staff, raw materials, equipment, operations and maintenance - including interest on short term debt.

Since venture capital is not available in Alaska,... because of the NONPROFIT nature of the current legislation, the loan program provides a means to get started and assures that the state of Alaska has its money returned.

This implies that the loans must serve the same purpose as venture capital; i.e. assure that there is adequate monies available to assure a high probability of success.

Creating self-help financing is not new to government. The U.S. government intervened prior to and during the Depression in agriculture financing by forming and initially funding the Farm Credit System; the P.C.A.;the Federal Land Banks, and the Bank for Co-ops.

The following typical kinds of costs associated with operating a regional association and a hatchery facility illustrate the need for completeness in the financing arrangements.

POSSIBLE SCENARIO FOR SOUTHEAST ALASKA

Using the chart on page 1, a likely goal for Southeast Alaska would be to return the salmon to the previous levels of 38, 000,000 from the current 8,000,000. A gain of 30,000,000 returning salmon would be required.

Assume half of that could come from rebuilding the native run using management techniques and that the other half of 15,000,000 would be obtained from hatchery production.

Let's also assume that those 15,000,000 salmon were chum salmon.

At current prices of $6.00 per adult chum salmon, the increased value for 30,000,000 adults would be $180,000,000. Everybody hopes the price will hold or inflate in time.

Currently, a hatchery to produce 1,000,000 returning adult chum salmon would cost approximately $2,000,000 to construct and about $300,000 annually to operate. If all the brood stock were available at the time of start-up (which is a remote possibility), it would take 3 to 5 years for that initial 1,000,000 to return. More realistically, it would take 8 to 10 years.

Approximately 20% of the salmon might escape the commercial fishery and return to the hatchery,... 200,000 salmon. 55,000 of those would be needed for spawning the next year's production; leaving approximately 155,000 surplus fish to be sold by the hatchery to cover the cost of operations and repayment of the debt. Those 155,000 chum salmon at $6.00 each would be worth $900,000.

Since each hatchery produces 1,000,000 adult salmon returning to the fishery, it would take 15 hatcheries to meet the production targets. Each hatchery would need the $2,000,000 for construction and 5 x $300,000 per year for a total of $3,500,000 to start up and to reach break-even. 15 of these facilities would require $57,000,000 in total capitalization to achieve the goal.

If 4 facilities of this magnitude were installed in Southeast, their combined surpluses would generate $2,400,000 annually in capital... each facility contributing $600,000 to the capital pool. These 4 facilities, once they reach their full capacity, would become an economic generator which would supply the capital for the rest of the region to expand.

So, for an investment of $15,200,000, the State of Alaska levers its money to a total of $57,000,000 worth of capital, ultimately producing $180,000,000 in additional sales. 15 facilities would employ maybe 75 - 100 people directly and the harvest of 30,000,000 adults would employ at least several thousand fishermen.

The fishermen of the area would have assessed themselves for nearly 8 years at 3% of their gross salmon catch, contributing nearly $1,000,000 per year. However, the overhead of running a region of that magnitude

- the administration, accounting and legal costs
- the site development costs
- the stream rehabilitation costs

could possibly use half to three-fourths of that assessment, leaving little surplus for the repayment of debt or to cover the operating costs of the facilities.

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 264
Title An Act Relating to Fisheries Enhancement
Requested by Gardiner Date March 7, 1977

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Development
Budget Request Unit(s) Affected Business Loans

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		600,000				
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		600,000				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This would fund the grants to three regional hatchery associations at $100,000 each for $300,000 total. It also provides $300,000 for the additional matching grants from these three regional associations. It is not likely there will be more than three regional hatchery associations in FY '78, thus $600,000 should fully cover all applicants.

IV. DATE March 7, 1977 PREPARED BY Terry Gardiner Terry Gardiner
AGENCY State Representative
PHONE 465-3718

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

33-001 (Rev. 10/76)

HB

289

"An Act making a special appropriation for the purpose of transplanting caribou from Cold Bay to Kagai Island; eff. date."

COMMITTEE REPORT

3-1-77

HOUSE

FINANCE

3/10/77 Date

Mr. Speaker:

The Committee on RESOURCES has had HB 289 under consideration. A majority of the members of the Committee

☐ recommends it do pass

☐ recommends it do not pass

☐ recommends it do pass with attached amendment(s)

☐ recommends it be replaced with CS for _____ and that CS for _____ do pass

☐ (and) recommends it be referred to the _____ committee

☐ reports it back without recommendation

☐ AND attaches a report of its intent

☐ (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends: _____

_____ recommends: _____

_____ recommends: _____

_____
Chairman

H 60

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

8 March 1977

James W. Brooks, Commissioner
Department of Fish and Game
Subport Building
Juneau, Alaska 99801

Dear Commissioner,

The House Resources Committee will be reviewing HCR 32, Bristol Bay Area to Region Redesignation and HJR 27, Native Representation on the North Pacific Fishery Management Council on Thursday March 17, 1977 in Room 118 of the Capitol Building at 1:15 p.m.

Please supply us with a position paper or material you have on these bills by the time of the meeting. If you have any information pertinent to these topics, the committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have suggested amendments, please supply the staff with copies of that prior to the meeting.

If there is a fiscal implication and a note is necessary, please prepare it and submit it to the committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Comm.

cc: Fran Ulmer
Geoffrey Haynes

AO:ts

1:15 p.m.

HB 289 —

or March 10 — Appropriation —
transplant caribou
Please be present —

Alaska State Legislature

House

JUNEAU ALASKA

MEMORANDUM

2 March 1977

TO: House Resources Committee

FROM: Alvin Osterback, Chairman
House Resources Committee Al Osterback jr

SUBJECT: HB 289 Caribou Transplant

During the Ninth Alaska State Legislature, SCSHCR 93 passed, requesting Caribou transplant. This bill is the appropriation for SCSHCR 93.

Upon receiving the first estimate for $98,420 I met with Bob Rausch, Director of the Game Division. I expressed my concern over the high cost. Mr. Rausch agreed to work up a new estimate, operating out of Cold Bay and catching the animals in Stepovak Bay. As you can see, the new estimate for transplanting 40 caribou would be $28,660.

2/22/77

February 18, 1977

The Honorable Alvin Osterback, Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

My staff has prepared the requested cost estimate for transporting 40 caribou from the Alaska Peninsula to Nagai Island, using Cold Bay as the base of operations. The estimate follows:

Caribou Transplant

40 Caribou to Nagai - from Cold Bay

Helicopter @ $325 X 5 hrs per day = $1,625/day X 7 days helicopter time =	$11,375
Goose 3 hr. round trip X 7 trips @$720 = (perhaps less if we can catch caribou in Stepovak Bay)	5,040
Room and board chopper pilot, $55 X 10 days =	550
Fuel at Cold Bay, 945 gal. at .48/gal. =	453
Per diem 3 biologists for 10 days =	1,650
Transportation of staff =	700
Drugs & equipment =	5,000
	$24,768
If helicopters are not available locally, ferry time from Anch. to Cold Bay and return =	3,900
	$28,660

This estimate does not include personnel costs which the division will absorb.

Sincerely,

Robert A. Rausch
Director
Division of Game

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER / SUBPORT BUILDING
JUNEAU 99801

February 7, 1977

The Honorable Alvin Osterback, Chairman
House Resource Committee
Pouch V
Jureau, Alaska 99811

Dear Representative Osterback:

Re: Caribou transplants as requested in SCSHCR 93.

My staff has completed preliminary surveys and estimates preparatory to inaugurating the transplants requested in SCSHCR 93. If the attached plans are satisfactory, specific authorization is required in order to implement the activity. Because the thrust of the activity will primarily result in production of food animals, rather than recreation, it would seem appropriate to fund the activity from the general fund rather than from the dedicated Fish and Game Fund which is comprised of hunting and sport fishing license and tag receipts.

Agreements with the appropriate Native Corporations have not been initiated. This requirement will await fiscal authorization of the activity. If you desire further assistance or information please contact me.

Sincerely,

James W. Brooks

James W. Brooks
Commissioner

Enclosure

BOB ROUCH

Estimated Cost of Aleutian Island Caribou Transplant

Helicopter

Ferry Time	12 hours	$325/hr.	=	$ 3,900
Day Operation	5 hours	$325/hr.	=	$ 1,625
6 caribou/day for a total of 40 caribou/site 7 days			=	$11,375
3 release sites - 21 days flying				$34,125
Fuel 27 gal./hr.-5 hr./day = 135 gal/day x 21 = 2835 gal x $1				$ 2,835
Pilot Room & Board	21 days	$55/day	=	1,155
Total Helicopter			=	$42,015

Goose - $240/hr. wet

Ferry Time - variable, depends on location	$ 1,000
Nagi - 300 mi. round trip - 3 hr./trip, 7 trips	$ 5,040
Akutan - 720 mi. round trip - 7 hr./trip, 7 trips	$11,760
Unalaska - 800 mi. round trip - 8 hr./trip, 7 trips	$13,440
Pilot Room & Board	
Total Goose	$31,240

180 Cessna Reconnaissance of Islands	$ 5,000
3 Biologists	
21 days room & Board @ $55/day = $1,155/biologist	$ 3,465
Transportation	$ 700
Salary	$ 6,000
Drugs and Equipment	$10,000
TOTAL	$98,420

26 - 28

#28,060
new estimate

file copy

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

8 March 1977

James W. Brooks, Commissioner
Department of Fish and Game
Subport Building
Juneau, Alaska 99801

Dear Commissioner,

The House Resources Committee will be reviewing HCR 32, Bristol Bay Area to Region Redesignation and HJR 27, Native Representation on the North Pacific Fishery Management Council on Thursday March 17, 1977 in Room 118 of the Capitol Building at 1:15 p.m.

Please supply us with a position paper or material you have on these bills by the time of the meeting. If you have any information pertinent to these topics, the committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have suggested amendments, please supply the staff with copies of that prior to the meeting.

If there is a fiscal implication and a note is necessary, please prepare it and submit it to the committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Comm.

cc: Fran Ulmer
Geoffrey Haynes

AO:ts

1:15 P.M.

HB 289

or March 10 — transplant carbon appropriation — Please be present —

HB

337

CS HB 337

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die 4/4

AGO 122818

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

15 March 1977

Dr. Samuel J. Harbo, Jr., Chairman
Board of Game
Box 80522
College, AK 99735

Dear Dr. Harbo,

The House Resources Committee is holding a hearing on HB 337, "An Act relating to the transfer of the division of fish and wildlife protection from the Department of Public Safety to the Department of Fish and Game; and providing for an effective date." This hearing will be on April 1, 1977 at 3:30 p.m. in room 118 of the Capitol Building.

Please bring up HB 337 before your Board Meeting(s), come up with a position, and appear on Friday, April 1, 1977 at 3:30 p.m. to inform the House Resources Committee of that position.

Thank you for your cooperation.

Sincerely,

Alvin Osterback

Alvin Osterback, Chairman
House Resources Committee

attachments

cc: Office of the Governor

AO:jn

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

15 March 1977

Phillip Daniel, Executive Secretary
United Fishermen of Alaska
Box 1352
Juneau, AK 99802

Dear Phillip,

The House Resources Committee will be holding a hearing on Friday, April 1, 1977 at 3:30 p.m. to consider HB 337, "An Act relating to the transfer of the division of fish and wildlife protection from the Department of Public Safety to the Department of Fish and Game; and providing for an effective date."

Please compile a position on this bill reflecting the feelings of the United Fishermen of Alaska, and present it to the Committee at the hearing.

Thank you for your cooperation.

Sincerely,

alvin Osterback

Alvin Osterback, Chairman
House Resources Committee

attachment

cc: Office of the Governor

AO:jn

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

15 March 1977

Gordon Jensen, Chairman
Board of Fisheries
Box 264
Petersburg, AK 99833

Dear Mr. Jensen,

The House Resources Committee is holding a hearing on HB 337, "An Act relating to the transfer of the division of fish and wildlife protection from the Department of Public Safety to the Department of Fish and Game; and providing for an effective date." This hearing will be on April 1, 1977 at 3:30 p.m. in room 118 of the Capitol Building.

Please bring up HB 337 before your Board Meeting(s), come up with a position, and appear on Friday, April 1, 1977 at 3:30 p.m. to inform the House Resources Committee of that position.

Thank you for your cooperation.

Sincerely,

Alvin Osterback

Alvin Osterback, Chairman
House Resources Committee

attachments

cc: Office of the Governor

AO:jn

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

M E M O R A N D U M

14 April 1977

TO: Steve Cowper, Chairman
House Finance Committee

FROM: Al Osterback, Chairman
House Resources Committee

Here is some more information on HB 337 - a Fiscal Note from the Department of Fish & Game.

When are you planning to schedule HB 337?

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 337
Title An Act relating to the transfer of the division of fish and wildlife protection
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Fish and Game
Program Category Affected NRMEC
Budget Request Unit(s) Affected Administration

EXPENDITURES (Thousands of Dollars)

		FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES		70.4	66.4	66.4	66.4	66.4
200	TRAVEL						
300	CONTRACTUAL		100.3	87.8	87.8	87.8	87.8
400	COMMODITIES						
500	EQUIPMENT		.5				
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
800	CONTINGENCY		20.0				
	TOTAL		191.2	154.2	154.2	154.2	154.2

FUNDING (Thousands of Dollars)

GENERAL FUND		124.8	87.8	87.8	87.8	87.8
FEDERAL FUNDS						
OTHER (Specify)						
REDUCTION IN PUBLIC SAFETY BUDGET		66.4	66.4	66.4	66.4	66.4

POSITIONS

FULL TIME		4	4	4	4	4
PART TIME						
TEMPORARY		4 mos.	0	0	0	0

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

Above figures represent impact on additional administrative personnel, office space, duplicate records and communications modifications. Part of above increase would be offset by corresponding reductions of $66,400 in Public Safety, Office of the Commissioner BRU. The housing program impact is not included in these figures, but increases would be offset by identical decreases in the Public Safety housing program. A figure of $20,000 is included for unforeseen contingencies. See attached detailed analysis.

IV. DATE 4/1/77 PREPARED BY Jeff Morrison
AGENCY Fish and Game
PHONE 465-4120

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

33-001 (Rev. 10/76)

Attachment to Fiscal Note to HB 337

All direct costs associated with the Protection Division, including space rental and vehicle rental, are included in the Protection Division budget. Any fiscal impact on the Department of Fish and Game may be divided into increased indirect charges and increased direct charges. Increased indirect charges would include: 1) funding additional personnel in administrative services (personnel, supply, accounting); 2) funding an increase in the housing program; 3) possible increase for a separate records center and central radio dispatch units. Increased direct charges would include: 1) rental of additional space to relocate protection offices where they currently share space with Alaska State Troopers, and 2) replacement or modification of communication equipment so as to become compatible with Fish and Game frequencies. The fiscal impact of these items is detailed below:

Indirect Expenses

1) Additional personnel in administrative services. In 1972, when Protection was transferred to Public Safety, the Department of Fish and Game transferred three positions from the administrative services component. Since that time the Protection Division has grown to a total of 120 personnel in the FY78 Governor's request, up from 74 total personnel in FY72. If Protection is returned, four positions would be required in Fish and Game Administrative Services: a Clerk Typist III in headquarters Personnel, an Accounting Clerk II in Juneau and Accounting Clerk III in Anchorage; and a Supply Clerk in headquarters supply. The annual cost of these positions (including benefits) will be $66,400. It is assumed that desks, chairs, etc. would be transferred from Public Safety. Any increase for these transferred positions should be offset by a corresponding decrease in the Department of Public Safety's administrative services budget.

2) Housing program. The Department of Public Safety provides housing for Protection Officers in remote areas. The budget for expenses related to housing is in a separate component and totals $680,500 for the entire department (FY78 Governor's request). Any expenses related to housing for Protection officers would be transferred from the Housing budget in Public Safety to the housing budget in Fish and Game, with no net increase to the State. A precise figure is unavailable at this time because the entire state housing policy is under review at this time, and some units may be disposed of. It is suggested that the proposed legislation allow for the transfer of necessary funds between departments in the event that Protection is transferred, in order to accommodate the delay involved in obtaining good estimates on this matter and other matters.

3) Central dispatch and records center. Protection officers currently use central dispatching units manned 24 hours a day by the Department of Public Safety in six locations: Ketchikan, Juneau, Anchorage, Soldotna, Kodiak and Fairbanks. These dispatch centers provide the following service to all public safety personnel, including Protection officers: 1) 24 hour monitoring of

emergency frequencies for emergencies or public safety matters; 2) forward complaints to officers in area of the complaint; 3) monitor whereabouts of employees in order to follow up on officers who have left radio contact to investigate an activity or question someone (in case officer encounters foul play and is unable to report back); 4) assign complaint/case numbers to all reported complaints; 5) respond to requests for immediate records search at central records center in Juneau. In the event that Protection is transferred, these services can be retained in one of two eays: either the Department of Fish and Game can operate its own central dispatch units, or the Protection division can continue to use the Public Safety central dispatch units. Operation of one CDU would cost about $90,000 annually in personal services alone. Initial and operating costs of communications equipment makes this alternative prohibitive, leaving the only remaining alternative of continuing to use the existing Public Safety CDUs. The only function now being performed by the CDU which might cause problems if it were continued, is the assigning of complaint/case numbers. This would seem to be a minor administrative problem to overcome.

The operation of the records center in Public Safety integrates the case files of both Protection and State Trooper cases. They are currently intermingled in a consecutive numbering system and I anticipate that Public Safety will continue to require access to Protection case files. If Protection officers use Public Safety CDUs for records checks, it will be mandatory to have Protection case files in the Public Safety records center. At such time as Protection is transferred, then,it would be necessary to have a duplicate set of all Protection case files made for protection headquarters. This one-time expense should hopefully not exceed $5,000 (4 temporary clerks for about one month, plus copying expenses and new file cabinets). In the future, Protection would need to forward copies of all case files and case numbers to the Public Safety records center. There is currently one data control clerk for Protection in Juneau. If this position is integrated into the records center staff, it may be necessary for Public Safety to include an additional position as a replacement in their fiscal note to the bill.

Direct Expenses

1) Office space. Protection offices are currently located together with other Public Safety offices in many locations. The transfer of Protection to Fish and Game would require that most of those offices be relocated into Fish and Game offices or other separate offices in order to confirm their identity with the new department in the public's mind. In the following locations, Protection offices already exist independently or with Fish and Game, and would require no changes: King Salmon, Soldotna, Sand Point, Bettles, Seward, Wrangell, McGrath (office in home), Tok (office in home), and Talkeetna (office in home). In the following locations, Protection offices may be combined with existing Fish and Game offices, with the only charges being for moving expenses and minor modification: Sitka (rearrange court building); Glennallen; Delta Junction (renovated facility); Cordova; Yakutat; Nome and Dillingham. New stations planned for Aniak, Dutch Harbor, Galena, and St. Mary's would be initially set up as Fish and Game protection offices. In the following locations there are no Fish and Game offices and it may not be desirable or possible

to relocate due to relative shortage of office space: Cantwell and Haines. Total estimated cost for moving expenses and minor modifications in the preceding locations is $10,000.

The following locations will require the transfer of Protection offices into new office space which would need to be leased in addition to existing Fish and Game offices: Anchorage, Ketchikan, Kodiak, Kotzebue, Fairbanks, Juneau, Petersburg, Valdez, Palmer, and Homer. Due to lease commitments, it may not be possible to use the funds budgeted for the Public Safety leases for leases of the new office space. Fiscal projections assume the worst case situation, wherein previous obligations must be honored for a complete year. It is also assumed that the Director's office and staff would relocate from Anchorage to Juneau. Cost estimates for new space are as follows: Anchorage $24,000 (2000 sq. ft. @ $1.00); Ketchikan $3,000 (remodel expanded space in court building); Kodiak $8,400 (700 sq. ft. @ $1.00); Kotzebue $3,000 (assumes City of Kotzebue will rent space @ $250/mo.); Fairbanks $19,400 (1200 sq. ft. @ $1.35); Juneau $18,000 (1500 sq. ft. @ $1.00 - for both Headquarters and Region); Petersburg $2,400 (200 sq. ft. @ $1.00); Valdez $3,600 (300 sq. ft. @ $1.00); Palmer $2,400 (200 sq. ft. @ $1.00); and Homer $3,600 (300 sq. ft. @ $1.00). Total estimated additional space costs are $87,800. Since this is an annual figure, delays in moving would generate some savings; this savings would then be applied to pay for moving expenses. Total direct costs related to office space is estimated at $97,800.

2) Communications equipment. The Protection Division was appropriated $133,200 for communications equipment for FY77, and most of this is on order or in use. The status of their communications equipment in FY78 will be very good, and will have the capacity to provide communications between most field stations and Public Safety's Central Dispatch Units. Adding the capability to communicate with Fish and Game offices will involve adding or replacing frequencies to the existing or new equipment. This cost will be minimal, and has been estimated at not-to-exceed $2,000 by the Division of Communications. Troopers and protection officers currently employ a single frequency VHF reporter network along the Alaskan highway network. Continued use of this frequency for protection law enforcement activities will probably be necessary, and will interface with the Central Dispatch Units discussed previously in this analysis. Fish and Game frequencies (4504 and 3230) will be used by Protection offices for administrative communications not related to actual enforcement activities. Mel Hoversten, Director of Communications, indicates no major problems in the conversion unless Public Safety denies the use of their single frequency VHF repeater network to Protection officers. If this is the case, the conversion cost will undoubtedly go up, assuming the Department of Fish and Game would care to retain the capabilities offered by the VHF repeater network.

Summary

The forseeable increased costs related to the transfer of Protection are: $66,400 for four administrative positions; $5,000 for duplicate records; $97,800 for office space; $2,000 for communications modification; and an unspecified amount for transfer of housing units. The increased expenses for

housing and the 4 administrative positions would be offset by corresponding reductions in Public Safety budgets for housing and general administration. The total net increase would then total $104,800. It would be highly advisable to appropriate an additional $20,000 for unforseen contingencies in line 800. This money would only be released, then, when authorized by the Governor when it can be shown that other funding was insufficient

The projections above are based on several assumptions which may change, particularly regarding use of Public Safety communications facilities (CDUs and VHF network). If any assumptions change, the fiscal impact is likely to change also.

An amendment to the bill to allow transfers of funds and positions between departments in accordance with legislative intent would assist greatly in the administration of this bill, as it is unlikely that firm figures will be available regarding the housing program.

Cordova District Fisheries Union

Headquarters: Box 939, Cordova, Alaska

file

March 25, 1977

Representative Alvin Osterback, Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback,

We somewhat reluctantly support House Bills #337 and 338; returning the Fish and Wildlife Protection back over to the Dept. of Fish and Game. One of the main reasons we support those bills is because #337 will create a Division of Fish and Game Protection. If protection was returned at its old status, we would definitely not support its return.

Sincerely,

Bob Blake

Bob Blake
Chairman

bb/jd

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC
PHONE: 586-6440
JUNEAU, ALASKA 99801

HB 337

1977 APR 1 PM 4 32

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PMS REP ALVIN OSTERBACK

JUN

REQUEST YOU VOTE NO ON HB337 THIS LEGISLATION
WILL SEVERELY HANDICAP THE PROTECTION DIVISION
THROUGH A LENGTHY REORGANIZATION WHICH WOULD
RESULT IN A LACK OF TRAINING OF ADEQUATE COMMUNIC
ATIONS AND NOT BEING ASSOCIATED WITH A LAW
ENFORCEMENT ORIENTED DEPARTMENT. I ALSO REQUEST
A NO VOTE ON HB111 IF IT REACHES THE HOUSE FLOOR

CC.

REP ED DANKWORTH

REP JOE HAYES

REP HUHG MALONE

REP STEVE COWPER

REP ALVIN OSTERBACK

MONTE AND TERRY JORDAN

HB 337

PUBLIC SAFETY EMPLOYEES ASSOCIATION
P. O. Box 4-2624
Anchorage, Alaska 99502

April 4, 1977

The Honorable Alvin Osterback
House of Representatives
State Capitol Building
Pouch V
Juneau, Alaska 99811

Dear Mr. Osterback:

H. B. 337 and any similar legislation that proposes transferring the Division of Fish and Wildlife Protection back to the Department of Fish and Game is of extreme concern to us. Since many of the members of Fish and Wildlife Protection are members of our group, the Public Safety Employees Association, anything that affects their status affects all of us. In the five years the Fish and Wildlife Protection officers have been members of the Department of Public Safety, their numbers have increased approximately 50%, and their morale has increased to the point where the vast majority strongly oppose returning to the Department of Fish and Game. Their communications equipment has improved from almost nothing to participation in the best system in the State, and their professionalism as law enforcement officers has dramatically improved with increased training and closer association with other law enforcement professionals. We feel that implementation of the standards set by the Alaska Police Standards Council and the further training of members as advocated by the Public Safety Employees Association will further enhance the stature and effectiveness of our Protection officers.

The Public Safety Employees Association is convinced that a transfer of the Division of Fish and Wildlife Protection back into the Department of Fish and Game would be a great disservice to the people of the State and to the protection of their fish and wildlife resources. Such a transfer would throw the enforcement of our fish and game laws back into the debilitating struggle between special interest groups. The enforcement of our laws, whether they are criminal or resource-related, belongs in the hands of law enforcement professionals. No one is claiming that everything is perfect in the Division of Fish and Wildlife Protection, but it is much better than it ever has been. We firmly believe that there is a much better chance of improvement in the Department of Public Safety than in the Department of Fish and Game.

The Public Safety Employees Association would like to go on record as strongly opposing any legislation or administrative action that would encourage or consummate in the transfer of the Division of Fish and Wildlife Protection back to the Department of Fish and Game. Our interest in retaining Fish and Wildlife within the Department of Public Safety is not self-seeking, as our attorney is of the opinion that, even in the Department of Fish and Game, Protection officers - as Peace officers - would remain in our bargaining unit. Our overriding concern is the quality of enforcement given to our fish and game laws.

Sincerely,

Joseph Hoffbeck

Joseph Hoffbeck, President
Public Safety Employees Association

TESTIMONY OF JIM REARDEN
MEMBER OF THE BOARD OF GAME

Thank you Mr. Chairman. My name is Jim Rearden, I'm a member of the Alaska Board of Game, I've been a resident of Alaska for 27 years and in that time I have been professionally involved in Fish and Game Management in various ways. I was head of the Department of Wildlife Management at the University of Alaska for 4 years, I've been a guide, I've been a commercial fisherman, I was area biologist for Commercial Fisheries in Cook Inlet for 11 years for the Alaska Department of Fish and Game, I have worked for the Fish and Wildlife.Service as a Game Biologist, presently I am the outdoors editor for the Alaskan Magazine and the Alaska Field Editor for Outdoor Life Magazine. I have strong feelings on this issue, philosophically I think you are absolutely right that the enforcement of Fish and Game regulations belong with the Department of Fish and Game. Looking at the history of the enforcement division under the Department of Fish and Game the enforcement division was a bastard division, they were to be put up with and supported, but they didn't have a full share in the operations of the Department, their input was ignored or negligiable, their budget was poor, there was quite a change in personnel in some years it was as high as 50% I believe, turnover within the division. I attribute this largely to the fact that these people were not what you'd call career professional people, and not career conservationists. Of the 67 officers who were with the Department of Fish and Game at the time it was transferred to Public Safety, 27 now remain, in 5 years 40 officers have left the Division. I believe 2 by retirement and I think there has been 1 death. At the time that the Division was

with the Department of Fish and Game the requirements for becoming an officer were a high school diploma, a driver's license and pass a physical examination. The present requirements are identical, with the Department of Public Safety. The training that the men have received since they have been with the Department of Public Safety are at closer alliance with the Court System, with the District Attorney's Offices, has strengthened them in presenting cases, in collecting evidence and in handling the enforcement of role. I submit that all of the improvements that we have seen in these areas could just have well have come under the Department of Fish and Game. The problem, I talked with some of the Field Officers recently of communication between the officers in the field and the Biolcgists, the Game Biologists, and the Fisheries Biologists who are charged with management within the various areas, the communications is very poor. If a Fisheries Biologist feels that patrols, stakeout crews or whatever, are necessary in a specific area he can request it if the protection officer doesn't really agree with him the protection officer can pretty well go his own way and no one is really telling him to do it, to what the Biologist the land, the man in charge of the area from the resource standpoint requires Now, I maintain at this point that the Division is more effective now, where it is, then it was before. But I maintain that we need a stronger Division, a far stronger and better protection division then we have, and I maintain that it belongs with the Department of Fish and Game and I maintain that it should be a full partner in the management of the resource and in the planning for the protection and handling of the Fish and Game resources throughout the state. And my recommendations would be to leave it right where it is, until and unless you are fully prepared to establish a top-notch, top

quality protection division of people who are career minded, who will remain with the State and remain in the position for a long enough time to pay for their training and pay for all the costs to the State, and I maintain that this requires first that a man have a college degree of some sort when he is hired, now I would not fire everbody that you have now, I'd give grandfather rights to the officers who are working for the protection of Wildlife, Fish and Wildlife Division as it is now called, and allow those who wish to be transferred back to the Department of Fish and Game to go, but here after I would require a college degree, whether it would be in Law Enforcement, Fisheries Management, Biology, Wildlife Management. From here I would then require them to attend the police academy at Sitka or a similar school to receive the absolutely essential law enforcement work, the next step I would require that they attend a 3 to 4 month intensive program on Fish and Game Management within Alaska so that they will have a knowledge of the reasons behind the regulations and the policies of the Department of Fish and Game, they'll have the conservation information they need to defend the regulations and to explain them to the public. Now, you say a school like this would be costly, I don't think it necessarily would have to be. We have within the Department of Fish and Game some of the finest Fish and Game scientists within the United States and they are recognized as such throughout the United States, these people could very easily prepare a curriculum and teach such a school to the Protection Officers and one other factor I think that is extremely important is that I believe strongly in what I call preventive enforcement and preventive enforcement to me means that an officer who is aquainted with an area doesn't get transfered every

6 months or every year or every 2 years, an officer would be stationed in an area and he would remain there, he would become a part of a community, he would become intimately acquainted with the physical features of the area, the resources of the area, the people of the area, so that he could become truly effective. Now if the officer isn't any good, he isn't gonna, and this happens why, you aren't gonna get any place anyway, so you've got to be sure that the officers are good before you put them in there and there has to be a constant reading process through the recruitment and the training program. This is done in other states and it is quite successful. At the moment an officer represents really the state when he checks fishing licenses, when he watches sportsman on the stream, when he watches hunters out in the field, they have at the moment, no real reason to defend the program of the and the regulations of the Department of Fiah and Game, if they don't believe in them the tendency is frequently to say well, yea it's a screwy regulation but I got to enforce it. That basically is about all I have to say Mr. Chairman.

QUESTIONS AND ANSWERS

Rep. Osterback - Mr. Rearden are you aware we have a bill in the House on the floor today, I voted against it but it passed, didn't it pass, and directing the regulations for the Board, or the Department of Fish and Game to follow and the only reason bills like that are coming up is because nobody is satisfied with the way the Department of Public Safety and the Department of Fish and Game are run. When they are coming to the legislators and asking them to pass the laws there has got to be something wrong somewhere along with the Department of Fish and Game or something and this is what we are trying to do

down here where we can get a Department what can handle our resources and try to build them up. The way they have been going the last few years, we've been going down hill and until we do something we are going to keep on going down hill.

Rep. Malone - Thank you Mr. Chairman. Mr. Rearden, Basically what you are saying is that simply moving the Division back and forth isn't gonna help things, it's gonna have to be upgraded and that it should be logically in the Department of Fish and Game and it is not gonna do much good to move it back there unless the State's willing to make a commitment to provide for proper education and training and professionalism on the part of the people in that Division. Is that right?

Mr. Rearden - That's it exactly, yes sir.

Rep. Eliason - Jim I think I agree with most of what you have to say especially about the training programs for the enforcement officers however, I get just a little, I'm gonna put this politely, I get a little bit tired with this college degree syndrome we have when it come to Biologists versus the common ordinary everyday citizens. It seems that a good example today on the floor of the House there has been some, we have been listening and doing and performing what their recommendations have been for years and it seems like they don't have all the answers ither. I don't know what the qualifications are for a ordinary State Trooper who is charged with the responsibility of protecting the human resources, I don't suspect that they have to have a college degree so I think that would be just as important, I don't think there is anything in our law that says you have to have a college degree to sit in on Board of

Fish of on the Board of Game. They have some real responsible decisions to make. But it seems to me that we could find very capable people without having the necessary type of qualifications you are looking for.

Mr. Rearden - Representative Eliason let me explain my reasoning and my thinking behind it. As I pointed out the Divison of Protection under the Department of Fish and Game was a very weak division it was not a full partner in the operations of the Department of Fish and Game. There were reasons for this. When there was input, frequently it was not well thought out input. There was a social barrier between the professional scientists of the Department of Fish and Game many of whom have masters degrees at the very least, and to have individuals who have a high school diploma and a drivers license essentially and they were very, basically the Division were young men and it still is young men because of the tremendous turnover, there is a barrier there communications barrier and a 3 months or 4 months intensive course in Fish and Game Management is not gonna remove that barrier. I want people who are equal and knowledgable in management of the resources. Looking at each other across the table within the Department of Fish and Game to develop a program in Protection and Management. I don't want this so called social inequality, I want these people to be a full partner and I feel that if you did not increase your educational requirements to equal those of the scientists that we require to have college degrees working for the Department of Fish and Game then you are going to have this problem. Now there are exceptional individuals now, there are some

of them sitting in this room right at thsi minute. Protection Officers who do not have degrees who could, did and can sit right across the table from any professional and do just as fine as job but the chances of your getting a full staff capable of doing this without requiring this do not seem as great to me.

Rep. Eliason - This is one of the reasons why they split it off to start with, is that right, it was because they had, it was, they were taking the back seat, so to speak.

Mr. Rearden - Mr. Eliason, I think there were many many reasons. I can't really give them all to you.

Rep. Eliason - I can understand the full need for full partnership, but realistically you would think that if we did transfer this Division with college graduates and this training to Fish and Game that they would be given the same consideration as the Division of Commercial Fish or the Division of Sport Fish?

Mr. Rearden - I think it would have to be, they, it would be essential, I think that the Department should be structured so that perhaps the top man in protection would be a Deputy Commissioner and it would be a very strong Division.

Rep. Malone - This is just a question relating to the education question that Dick asked, and that is, to what extent do you think that a person's experience, and we have some people with considerable amount of experience within t' Division now, would be a substitute for you know, that educational background that you are talking about.

It's one thing to have somebody coming in off of the street, with say a driver's license and a high school diploma, another thing to have somebody come in from the field with 10 years of experience under their belt, to what extent do you think that that is a substitute?

Mr. Rearden - I think it could be a full substitute in some instances and I think it should be considered, certainly.

Rep. Malone - Thank you Mr. Chairman.

Ernie Haugen - Mr. Chairman I am not in your committee but

Rep. Osterback - Well you are free to speak any time you want with the legislature.

Ernie Haugen - You know I've seen both sides of this here situation when we had the enforcement in the Department and some of the problems that you discussed and the status of the people in protection, but a what's wrong with the Biologists while they are out in the field because a Fish and Game Protection Officer wasn't present that they could make the same arrest as the guy that has protection status?

Mr. Rearden - Some of the Biologists all of whom have authority to make cases . . .

Ernie Haugen - Do they exercise it?

Mr. Rearden - Some do, some do not, some avoid it.

Ernie Haugen - Isn't that probably the reason that Eagan , with all the things that are being developed here made a decision they weren't compatable?

Mr. Rearden - I don't know why Governor Eagan made . . .

Ernie Haugen - Well, I remember. I'm a commercial fisherman and I've seen it all and a last Fall in a certain area there happened to be only one protection officer between Bays that were open but there were Biologists on the ground, violations were taking place and they weren't a, they weren't doing anything in the way of enforcement. Do you think that is right.

Mr. Rearden - It is not right sir and the Commissioner has informed the Boards

REST OF TESTIMONY NOT RECORDED DUE TO TAPE RECORDER COMPLICATIONS. (APROXIMATELY 3 - 5 MINUTES OF QUESTION/ANSWER)

Mr. Chairman:

My name is Don Tetzlaff, I have been a resident of Alaska since 1956.

In 1961, I started working for the Department of Fish and Game as a Biologist Aide for the Game Division.

In 1965, I transfered from the Game Division to the Protection Division and have been so employed as a Fish and Wildlife Protection officer ever since.

I am presently the Detachment Commander for Southeast Alaska, and have been for the last five years. I presently hold the rank of lieutenant.

Mr. Chairman, I am against House Bill 337, or any bill to transfer the Fish and Wildlife Protection Division to another department.

Over the years, and especially since our transfer in 1972 from the Department of Fish and Game to the Department of Public Safety, we have built one of the best working Fish and Wildlife Divisions in the country.

Even Commissioner Brooks, in his white paper submitted to Gov. Hammond and the Board of Fisheries and Game readily admitted that the 1972 transfer of our division to the Department of Public Safety created, and I quote "better directed and disciplined performance" and said "protection officers now have high morale, enjoy more security in an orderly disciplined work environment".

All of these points are true, plus, I assure you, our goals and objectives when we were with the Department of Fish and Game and those of today are the same, and those are:

1. Protection of resources.
2. To gain a reasonable level of compliance to the state's regulations and laws.

So I ask you, why should we be transfered again? What will this transfer prove? What will be accomplished by the transfer? Will it mean better and more protection of the resources?

Statements have been made that we are more interested in playing cops and robbers and that we are more interested in making a case rather than protecting the resources. NOT TRUE.

Cases are made, yes, it's part of our job to issue citations to those individuals that violate the state's laws and regulations pertaining to our Fish and Wildlife resources, but I assure you the protection of resources comes first, not the case. In fact, my written policy here in Southeast is quality in cases not quantity and prevention of violations, not letting them happen. And by quality I mean those violations that do damage to the resource and not administrative type infractions.

And for the record, let me state, I am not a cop, I was a Fish and Wildlife Protection Officer when we were under the Department of Fish and Game and I am still a Fish and Wildlife Officer under the Department of Public Safety.

It has been stated, that all we are interested in is making cases and that we are not protecting the resource. Point of fact, last year the 11 officers that I have in Southeast logged some 3,626 vessel hours, that's 3,626 patrol hours which were patrols that are initated with the sole purpose of trying to protect the resources, being seen, and preventing violations. We use stake-out teams in some situations, yes, but last year only 550 some odd hours were logged in as stake-out operations versus the 36 hundred hours that were logged in as preventive type enforcement. Sure some cases were made, what are we suppose to do, look the other way? If those 36 hundred hours are not accepted as an effort to protect the resources, I don't know of any other facts that would.

It has been said that our tactics are equal to "riot squads of Chicago". I'm not sure how this person reached this conclusion, but let me say this, Fish and Wildlife Officers within this department are trained, schooled, taught drilled and encouraged to use discretion, and common sense, be fair but firm and always professional, and consider the resource and the intent of

the regulation. However, if the fish and wildlife user is going to sneak in taking illegal game, so are we going to play sneak to catch him.

It has been stated that our transfer to Public Safety from the Department of Fish and Game has created a communications gap that cannot be bridged, gentlemen, we had communications problems when we were with the Department of Fish and Game and under the same roof, the problem is no greater now. But communications is a two way street. Over the past five years I've probably averaged 50 to 60 visits per year to the Department of Fish and Game offices to communicate with Fish and Game staff. My field officers have a much higher average. How many times have I had a Department of Fish and Game employee come to my office to communicate with me? Well, I can count the times using the fingers on one hand. In fact, just recently I was very impressed with a new Department of Fish and Game employee that had just started working with the Fish and Game department when he came to my office one morning and introduced himself, we discussed fish and game matters to quite some extent and I was really impressed, then prior to his leaving he produced a speeding ticket that he had received the night before and wanted to know if I could help him in any way with the ticket.

In summary, our objectives, which have not changed from Department of Fish and Game days, are:

1. Protection of the Fish and Wildlife resources of the state of Alaska.
2. To gain a reasonable level of compliance to the state's fish and wildlife regulations.
3. (I'm quoting here from a past commissioner's policy memo which is still in effect today) "To develop a group of law enforcement officers who's specialty is enforcement of statutes and regulations as they pertain to Alaska's fish and wildlife resources. To provide to the state, the citizens, and the resources, meaningful, professional and effective law enforcement".

Once again, I ask that you do not approve House Bill 337, for I feel that it would be more damaging to the resources of this great state, rather than an advantage. Thank you.

Presentation to

HOUSE RESOURCE COMMITTEE

and

Joint Session

of the

BOARDS OF GAME & FISH

April 1, 1977

By: Capt. Don M. Roberts
Division of Fish & Wildlife Protection
Department of Public Safety

My name is Don Roberts. I'm a 25-year resident of the state and have 20 years experience in fish and wildlife law enforcement in Alaska. I have worked for the U. S. Fish & Wildlife Service, the Alaska Department of Fish & Game, and the Alaska Department of Public Safety. I'll draw my paycheck each month regardless of whether I work for the Department of Fish & Game or the Department of Public Safety. Also, I'm eligible for retirement in eight months. I'm telling you this because I want you to understand that I speak to you without any axes to grind or fear of reprisal.

There are two primary concerns that we should consider when discussing the fate of the Division of Fish and Wildlife Protection: They are the resource and the resource user. The question then is, "under the supervision of which department can the Fish and Wildlife Officer best serve the public and the resource?"

There are approximately 27 officers of our present staff that were members of the Division when we were part of the Department of Fish and Game. We were horrified at the news on March 28, 1972, that by the stroke of a pen, we were transferred to the Department of Public Safety. We were convinced that it would never work. After all, with the exception of Oregon, wildlife law enforcement in the U. S. had historically been administered by fish and game departments. Our minds were really locked in to this concept. However, as time progressed, it became more and more evident that our stereotyped idea of how an enforcement program should be conducted was completely out of touch with reality.

Under Fish & Game, only a small percentage of our officers had formal law enforcement training; our communications system was poor at its best; we had no dispatch system, which meant that during the time that officers were conducting the majority of patrols (4:30 pm to 8:00 am, weekends & holidays), they had no radio contact with their office or headquarters or other patrol units. This type of program puts the officer's life in jeopardy.

The Division's requests for appropriate equipment and more officers failed to receive the support of the Fish & Game Commissioner's Office. The various commissioners did not comprehend the needs of law enforcement.

Also, under Fish & Game, a portion of our time was devoted to fish and game management type duties such as assisting in test netting lakes, poisoning and restocking lakes, game counts, stream surveys, etc. At the time of our transfer to Public Safety, there was a plan in Fish & Game to assign more of these type of duties to the Protection Officer. That was one of the bones of contention within the division that helped perpetuate the move from Fish & Game to Public Safety.

With the pressures that are on our wildlife resources today, wildlife law enforcement must be conducted on a full-time basis by professional wildlife enforcement officers. We now have those kind of officers.

One of my duties with the Division of Fish & Wildlife Protection is to conduct Division Reviews. It's another way of saying inspections.

In this capacity, I travel statewide and inspect our programs, personnel, office and warehouse equipment, and so forth. In every area I travel to, I call upon the local judges, district attorneys, fish and game personnel and other agencies that our officers do business with. The purpose of my visits to these agencies is to determine what our working relationship is with each of them. Almost without exception, I have received glowing reports from those interviewed. The judges and district attorneys have told me how impressed they are with the professional manner in which our officers handle their cases. Alaska Department of Fish and Game biologists tell me that they feel that we are giving them better service than we did when we were a member of their department. The biologists also tell me that they feel that the rapport among our officers and their staffs is excellent.

One of the points that has been used by those who desire to put Protection back in Fish & Game is that communication between biologists and enforcement officers is essential to a good management program. I most certainly agree. From what the biologists tell me, that communication is there. We must remember one thing however: If two people are not going to communicate because of personality conflicts of one sort or another, they won't communicate even if they are occupying the same room eight hours a day.

As I said earlier in this presentation, the question is, "Under the supervision of which department can the Fish & Wildlife Officer best serve the resource and the public?" My advice, having worked on both sides of

the fence, is to leave the Division in the Department of Public Safety.

You have a fish and wildlife enforcement agency that you can be proud of. That agency is giving you the best wildlife law enforcement program Alaska has ever had, and, under the Department of Public Safety, is improving each year. Other western states are watching us and are considering following suit. I believe that the Alaska Division of Fish and Wildlife Protection is setting the pace for the nation in modern fish and wildlife law enforcement.

STATE of ALASKA

MEMORANDUM

TO: The Honorable Jay S. Hammond
Governor
State of Alaska

DATE : May 6, 1976

FROM: Richard L. Burton, Commissioner
Department of Public Safety

SUBJECT: Response to Resolution 76-2 of the Boards of Fisheries and Game

Attached are memoranda of response from two individuals - Colonel Fred Woldstad, Director of the Division of Fish and Wildlife Protection; and Colonel James P. Wellington, Director of the Division of Alaska State Troopers. I asked Colonel Wellington to respond because at the time of the transfer of the Division of Fish and Wildlife to the Department of Public Safety, Colonel Wellington was Deputy Commissioner of the Department of Public Safety.

My comments are simple and are as follows.

In my opinion, the Division of Fish and Wildlife Protection should remain within the Department of Public Safety for the following reasons:

1. The officers are better trained than they were when they were in the Department of Fish and Game.

2. The officers are better equipped.

3. The Division has better communications.

4. The level of enforcement and the quality of the cases put together by the enforcement officers are better than ever before.

The primary mission of the Department of Public Safety is law enforcement and regulation. That is also the prime mission of the Division of Fish and Wildlife Protection; which is different than the mission of the Department of Fish and Game.

These comments briefly summarize those contained in the two attached memoranda.

If you have any questions or desire further information on the matter, please contact me, the Deputy Commissioner, or either of the two Colonels mentioned above.

Attachments

STATE of ALASKA

MEMORANDUM

TO: Richard L. Burton
Commissioner

DATE : April 28, 1976

FROM: Col. Fred M. Woldstad
Director
Fish & Wildlife Protection
Department of Public Safety

SUBJECT: Board Resolution 76-2

To respond objectively to the Alaska Board of Fisheries and Alaska Board of Game Joint Board Resolution No. 76-2 regarding the Division of Fish and Wildlife Protection, it should be appropriate to analyze the cause for such a resolution. The style of this resolution neglects to define the "WHEREAS" portion commonly used as prefacfe to the resolution itself, and thus appears to open the subject for general debate rather than responding to specific issues.

Initially, it must be assumed that there are objections or doubt that the Division of Fish and Wildlife Protection belongs within the Department of Public Safety. This organizational structure certainly is a severence from tradition, and the pattern of 47 other states, but it should also be recognized that Alaska does not follow the national standard for conservation enforcement in other fashions that are of importance to this discussion. Conservation Officers nationally comprise 32.2 percent of all employees in state fish and wildlife agencies and account for an average annual operating budget outlay of 27.4 percent. In Alaska, Fish and Wildlife Officers comprise only 16.5 percent of all employees in the Alaska Department of Fish and Game and account for only 18.76 percent of the operating budget. A chart depicting this comparison is attached and reproduced from a 1973 study published by the Wildlife Mangement Institute. Several additional tables are provided to further complete the comparison.

While Alaska is considerably below national standards in personnel and funding, its officers can be favorably compared to any within the country. An article published by the Wildlife Society in the Spring of 1973, describes rather accurately the position of the wildlife enforcement officer nationwide and is worth reproducing. Oddly enough this article recognizes a national problem of intra-department communication in wildlife law enforcement.

Comparing twelve years of accomplishment for a Division under one department with four years of accomplishment with another department is most difficult. The objectives of the Protection Division are simply stated within the budget document and reads; "The primary goal of Fish and Wildlife Enforcement is to protect the renewable resources of the state and to provide an adequate level of enforcement to insure an optimum opportunity for management of Alaska's fish and wildlife resources on a sustained yield basis."

To accomplish this objective, requires both personnel and operating funds.

Under the State system of budgeting, the commissioner of each department exercises authority over the growth of divisions within a department. Upon this initial review system, the growth is then determined by the administration and then the legislature. Growth of the Division of Fish and Wildlife has been less than spectacular at any time during the 16 year history of the division. It can be accurately said, however, the growth potential has been far greater under the Department of Public Safety than at any time during the sixteen years, based primarily on the ability to at least reach administrative and legislative review steps. Prior to 1973, growth was competitive to research and management, and enforcement failed to receive priority status, remaining number six among six divisions.

Growth in ability to achieve the goal of an adequate level of enforcement depends upon financial ability and efficiency. Efficiency without financial assistance has limits, and reaches a point of necessity to select priorities. The selection of priorities is not compatible for satisfaction to the general public or to management and ultimately the Boards of Fish and Game. It can be called lack of communication, coordination, or poor relations, but it is lack of financial ability to meet the needs of the public and management at their level of expectation. The basic difference of the Division of Fish and Wildlife under the Department of Public Safety is that enforcement is not assuming the subservient posture that had characterized twelve years within the Department of Fish and Game, and the morale of the officer produces quality and efficiency, as compared to frustration.

Selection of priorities is not limited to allocation of manpower to activity, but also it is placing a priority on the amount of time an officer spends with his primary responsibility-enforcement-compared to other functions, management assistance and support, hunter safety, etc. Traditionally, the Division of Protection participated actively in sealing programs, nuisance animal problems, collecting programs, permit monitoring and similar management responsibilities. This support has been minimized in favor of enforcement and protection of the resources with minimum dilution of enforcement responsibility.

The Board of Fish and Game has contributed greatly to the problems which seem apparent today. They have given eager reception to management proposals and various refinements to sporstman ethics, administratively legislating regulations for the hunter and fisherman. A notable difference between the Board and the state legislature is the attachement of a fiscal note to the output. Means to accomplish the ends has not been part of the role for the Board. Regulations have been promulgated regardless of enforcement potential or even enforceability of the regulation. The system has reached the point of crisis.

Alaska's resources are being managed, using 20th century philosophy and the complexities of the regulations near exceed the ability of the average sportsman to comprehend. The commercial fisherman needs Loran and radar to determine his legality and the sportsman who leaves familiar terrain has to visit an office of the Department to clarify his legal obligations. Obviously, personnel of the Department of Fish and Game believe in adequate law and regulation, but are unable to distinguish between that which is morally wrong and legally wrong, and firmly believe in the 19th century enforcement philosophy that has been taught in the nation's colleges to resource students for the past forty years, that good research data cannot be secured when involved with legality.

The basic difference between the Department of Public Safety and the Department of Fish and Game is essentially, one is concerned with people and their behavior, and the other fish and animals with their related behavior and needs. Enforcement is people management and it is a full time profession. The behavior of our citizens directly influence the quality and quantity of our resources. Social behavior, patterns and values have displayed dramatic changes within a very short period of time. The right to question the competence of professional theory is not a stranger in Alaska's resource management, nor is the right to challenge the validity and authority of resource laws and regulations. People management and biological management of resources are not in harmony in Alaska, nor elsewhere. Each has its own peculiar need for competence and professionalism and that need can only be accomplished if neither is diluted to the point of inefficency. A department separation of both functions is the only means to secure a maximum benefit to the resources.

Wildlife Enforcement is not apart from any career in law enforcement, and it demands knowledge, high standards of ethics and personal conduct. The law enforcement officer must have personal attributes to allow the job to be done efficiently, such as physical, emotional, intellectual, social and moral. The combination of these attributes in an organization produces an esprit de corps that promotes quality and efficiency and commands respect for the organization and the goals of the organization. These attributes are not part of a wildlife management curiculum and are not attainable within a department that confines its standards to biological considerations.

The material benefits and merits of retaining the Protection Division within the Department of Public Safety have not been elaborated upon, but essentially, are obvious and include:

1) recruit training of the highest standard nationwide
2) in-service training
3) quality vehicular equipment, including aircraft and marine applications
4) communications

All of these are essential to law enforcement, and perhaps the greatest benefit that can be secured is support, both in manpower and practical knowledge.

The state is not financially willing or capable of supporting a Division of Fish and Wildlife Protection that can serve the protection needs of the resources and yet supply a service and maintenance section for the Department of Fish and Game, similar to the traditional pattern of ther states. To meet a national standard, would require the addition of 158 new positions in the Division of Protection, and to meet only a western state's standard would require 110 new positions.

To address a statement to present and potential relationship of Protection and Fish and Game Management personnel, is to assume the Board has been convinced that poor relationship is detrimental to resources and poor relationship now exists. It is unfortunate the concern of the Board becomes evident four years after the crisis, and the management plan is being considered with only one set of charts and graphs. Basically, the Division of Protection feels there is a state of being mutually or reciprocally interested in the same objective, but a lack of affinity. This lack of kinship is caused by wide differences in opinion towards professional standards. Mandates will not alter this problem and it is most difficult to associate this with benefits towards resources. Sound management requires wise judgement to accomplish and should include consideration of all sources of pertinent data to achieve the desired end. It took twelve years to gain a seat at the table of deliberation before the Board of Fish and Game, and only when enforcement was accountable to another department was input accepted that was contrary to the fixed posture of management proposals. At the present, relationship is healthy for resources and this should be the objective of the state. The potential relationship will remain healthy to the extent that enforcement is permitted to offer input for consideration.

	WEST	MIDWEST	NORTHEAST	SOUTHEAST	NATIONWIDE	1972 ALASKA	1976 ALASKA
Percent Enforcement Personnel compared to Total Fish & Game Staff	22.5	26.8	31.9	42.7	32.3	16.5	16.5
Percent Budget for Enforcement compared to Total Fish & Game Budget	22.8	28.5	27.9	32.3	27.4	19.0	18.76
Average Patrol District Per/Officer Sq. Miles	1,204	605	182	412	543	8,623	7,239
Arrests/Officer	48	53.7	32.6	54.6	48.7	25	13.5*
Average Fine Collected	27.17	22.29	31.03	22.96	25.12	-----	100.00
Arrests per 1,000 Licenses	5.9	5.0	5.6	8.6	6.4	8.3	6.4

National Statistics shown are for the year 1972, the last year when national statistics were available.

*Arrests/Officer is a function proportionate to the size of the area patrolled and population density. Because of overall size of the state and lower comparative population, Alaska cannot compete in National averages in this category. Arrests are directly proportionate to user contacts, and because of size and lesser density of user, contacts are less than other states. The marked decline in arrests/officer from 1972 compared to 1976 results from a forced reduction in hours worked per day by each officer, and days worked per week by each officer created by budget limitations for overtime payment.

In 1972, officers were on a straight salary basis and work performed as required. Mandatory overtime in 1976 with severe budget limitations for overtime payment has resulted in less hours worked, fewer contacts per officer, hence less arrests per officer.

LAW ENFORCEMENT—ONE THIRD OF THE TRIANGLE

WILLIAM B. MORSE, *Wildlife Management Institute, Portland, Oregon*

Abstract: Law enforcement is as important as research and management in administration of wildlife resources but it has not received proportionate attention from administrators and researchers. Enforcement accounts for ⅓ of the personnel and over ¼ of the budget of state wildlife agencies. Trends show a continued dilution of law enforcement effort per hunter and angler, and an increase in the number of laws enforced. Conservation officers will some day become recreation enforcement officers, but should remain a part of fish and wildlife departments. Recommendations for improving law enforcement include a productive research program, uniform records system, adequate officer numbers for the workload, professional enforcement communications between states, and obtaining general police powers for all conservation officers.

Management of fish and wildlife resources in the United States involves three fundamental activities: research, management, and law enforcement. Research has received primary professional emphasis from The Wildlife Society in both interest and publications. Management is the primary task of administrative agencies, which put research knowledge into operation on the land in order to improve habitat, and to regulate harvests of game species to achieve sustained yields. Law enforcement is the effort, both passive and active, to secure public compliance with the laws and regulations that management uses as tools.

Too often, enforcement is looked upon as a necessary evil, even as an anachronism that must be accepted simply because it exists. Nothing can be further from the truth. Without adequate law enforcement, the finest research and management will have little or no effect in protecting the resource. Scientist and manager alike must realize that wildlife depends on three-way teamwork, and must help give enforcement the stature and tools it needs to operate.

Law enforcement requires consideration, thought, research, and planning in order to be conducted as the major conservation business that it is. On January 1, 1972, there were more than 5,800 employees in state wildlife and fisheries law enforcement, comprising 32.2 percent of all employees of state wildlife agencies. Authorized enforcement budgets exceeded $72 million per year, or 27.4 percent of the annual operating budgets of state agencies (Morse 1972). Yet a hard analytical look at overall state enforcement operations will show that there has been only limited improvement in many years. Most of these improvements have been simple: officers now have automobiles, two-way radios, some jet boats and airplanes, and there have been improvements in recruiting and teaching. Other needs have been overlooked consistently during a period when both research and management techniques have entered the space age. For example, does the officer know why the violator violates? Can he use theory of games on a search for jacklighters? Can he check an offender's record by radio?

Enforcement officers tend to feel alienated to some degree because they are not always considered essential or professional. Better intra-department communication would reduce this feeling. Administrators could help increase the officers' morale, prestige and feelings of worth by spending more time with the officers in the field to learn their problems and needs. Regional forums, where officers from several states could gather to discuss and coordinate mutual problems, would also help. These forums should be in addition to regional association meetings and should be similar to symposia held on individual wildlife species.

Long overdue changes and improvements in enforcement will not be forthcoming until there is a change in attitude of agency administrators and an emphasis on selling improvements in enforcement to budget-approving personnel and agencies. Even in the most progressive states, the officer in the field still operates by the seat of his pants and his instincts rather than as a modern technician striving to accomplish planned and programmed goals with techniques developed by many disciplines. If law enforcement is to meet present, let alone future needs, it must receive administrative interest commensurate with its personnel numbers, expenditures, and importance as a member of the three-way wildlife and fisheries team. Such co-equal recognition of enforcement with research and management efforts is one of the principal tasks facing wildlife agencies in the '70s.

Table 8A
Basic Information on Conservation Officers, 1972

West	Title of Officer	No. Empl. in Dept.	No. C.O.	No. C.O. Super-visors	2-yr Expan-sion	2-yr Replace-ment	C.O. w/WL Degree	C.O. Other Degree	w/Mini-mum Edu-cation	Res. Rqmt. in Months	No. C.O. w/Fed. Comm.
Alaska	F&W Off.	418	61	8	6	6	5	10	HS	0	40
Arizona *	F&W Mgr. or Ranger	143	76	12	14	18	18	0	BS-WL	0	75
Calif.	F&G Warden	1,291	279	10	20	28	56	75	2-yr.Col,	Ctzn.	260
Colorado	WL C.O.	425	106	6	20	12	57	0	BS-WL	0	70
Hawaii	F&G Warden	69	27	5	0	1	0	1	HS	36	19
Idaho	C.O.	278	65	10	9	6	42	1	BS-WL	0	29
Montana	F&G Warden	286	83	4	0	9	17	5	HS	12	25
Nevada	F&G Warden	105	36**	4	3	0	32	0	BS-WL	0	5
New Mexico	Dist. WL Offr.	163	31	5	2	4	6	4	BS-WL	12	34
Oregon	State Police	445	90	15	8	10	10	8	HS	Resdnt.	0
Utah	C.O.	236	58	9	8	27	34	4	BS-WL	0	23
Wash. (Game)	WL Agent	458	118	13	0	10	20	5	2-yr Col.	0	42
Wash. (Fish)	Fish Pat. Off.	385	36	2	0	0	0	3	HS	0	11
Wyoming	Dep. Gm. Wdn.	285	57	2	0	4	12	6	BS	0	0
Total		4,987	1,123	105	90	135	309	122	(BS-7)	(No.Res. 9)	633

* Some Rangers full time ** Only 15 full time

Midwest											
Illinois	Cons. Plc.Off.	-	139	6	10	-	0	-	HS	Co. Res.	-
Indiana	C.O.	-	142	4	0	10	0	3	HS	12	120
Iowa	C.O.	321	66	1	0	2	2	7	1-yrCol.	0	66
Kansas	Game.Prot.	202	60	7	6	5	2	2	HS	0	32
Michigan	C.O.	678	198	6	25	10	8	19	HS	0	61
Minnesota	C.O.	527	142	10	40	10	8	25	-	24	136
Missouri	Consv.Agt.	429	122	12	10	10	0	9	HS	24	134
Nebraska	C.O.	211	46	2	4	-	0	0	HS	0	37
N. Dakota	Game Wrdn.	77	24	5	0	1	1	0	HS	6	16
Ohio	Game Prot.	413	114	7	4	5	5	1	HS	0	30
So. Dakota	C.O.	231	56	16	0	4	14	3	BS-WL	Res.Pref.	50
Wisconsin	Cons. Wrdn.	465	136	18	0	15	28	11	BS	12	0
Total		3,554	1,245	94	99	72	68	80	(BS-2)	(No Res. Req. 6)	682

Table 9A
How the Conservation Officer Spends His Time, 1972

West	Law Enf. %	Game Mgmt. %	Fish Mgmt. %	Hunter Safety %	Youth Ed. %	Public Rel. %	* Lands %	Pollution Control %	Forestry %	Snowmobile %	Boating %	Misc. & Other %
Alaska	80	5	5	2	2	3	-	3	-	-	-	-
Arizona	40	20	10	1	1	1	2	-	1	-	-	24
California	89	-	-	-	-	-	-	-	-	-	-	11
Colorado	28	28	4	7	7	-	4	-	-	4	2	14
Hawaii	80	5	5	-	3	6	-	-	-	-	-	-
Idaho	65	6	4	2	1	1	4	2	1	-	-	15
Montana	20	10	10	3	2	30	-	5	-	-	5	15
Nevada	60	10	8	-	5	12	1	2	2	-	-	-
New Mexico	25	20	20	2	5	2	20	2	1	-	-	3
Oregon	70	5	5	2	1	2	-	-	-	-	-	15
Utah	66	8	7	-	-	6	-	-	-	-	-	13
Wash. (Game)	53	8	8	3	3	17	4	-	-	-	-	5
Wash. (Fish)	100	-	-	-	-	-	-	-	-	-	-	-
Wyoming	46	15	-	-	-	-	-	-	-	-	-	39
Average	59	10	6	2	2	7	1	1	.5	.3	.5	11

* Includes Acquisition and Management

Midwest												
Illinois	82	-	-	5	2	-	3	3	5	-	-	-
Indiana	50	-	-	1	3	14	-	2	5	-	25	-
Iowa	50	5	5	2	2	31	3	1	1	-	-	-
Kansas	50	5	5	5	5	20	4	5		-	-	-
Michigan	60	1	2	3	3	8	2	-		-	-	21**
Minnesota	46	7	5	2	1	5	2	2	-	15	15	-
Missouri	-	-	-	-	-	-	-	-	-	-	-	-
Nebraska	60	10	5	4	4	4	-	3	-	-	10	-
North Dakota	65	10	10	-	-	10	-	-	-	-	-	5
Ohio	35	20	20	5	-	5	5	10	-	-	-	-
South Dakota	25	15	9	3	3	12	22	3	-	-	-	8
Wisconsin	-	-	-	-	-	-	-	-	-	-	-	-
Average	52	7	6	3	2	11	4	3	1	1	5	3

* Includes Acquisition and Development
** Includes Boating and Snowmobile

STATE of ALASKA

MEMORANDUM

TO: Richard L. Burton, Commissioner
Department of Public Safety
Juneau

DATE: April 26, 1976

FROM: Colonel J. P. Wellington, Director
Alaska State Troopers
Anchorage

SUBJECT: Division of Fish and Wildlife Protection - Retention Within the Department of Public Safety

As you know, Commissioner, when the Division of Fish and Wildlife Protection was transferred from the Department of Fish and Game to the Department of Public Safety I was the Deputy Commissioner of the Department of Public Safety and am therefore familiarwith some of the problems that we experienced during the transition.

What we found was that we inherited a division that was financially in tough shape, the morale was down and there were a number of factions within the division which were creating problems.

Now Commissioner, I don't want to pick at old sores or try to create any problems because I think the Division of Fish and Wildlife Protection, since coming to Public Safety, has operated quite efficiently and quite effectively; but I think if there is any attempt to move the Division back to Fish and Game, then we have to look objectively at what the Division was when it arrived in Public Safety.

TRAINING - For the most part the officers did not have any formal training program. Some of them attended the State Trooper Academy and others attended various short courses and also the Division conducted a yearly meeting which was a mixture of partying and training, but for the most part lasted no more than three or four days. In other words, they had no formal training program, which is now afforded them at the Public Safety Academy in Sitka.

EQUIPMENT - For the most part their equipment was in a poor state of repair and in a lot of cases not appropriate for the work to be performed. As you will probably recall yourself, a majority of the Protection officers were equipped with station wagons which certainly is not the type of vehicle that is geared to do the type of work that the Protection Officers do. This would include off-road travel plus hauling outboard motors, moose meat, gasoline, etc. Apparently the station wagons were very comfortable for the Protection Officer to ride in, but certainly were not functional, and since the Division has come to Public Safety a majority of the vehicles have been changed over to a functional pickup.

As far as radio communication is concerned, the Protection Officers had no radio contact with anybody after 4:30 or on week ends and holdidays. At the present time they are tied in with the Department of Public Safety network and have radio communications

in all the major areas, plus the use of the Department teletype system. This was all put in after the Division came to Public Safety. Since coming to Public Safety additional vessels have been acquired and additional aircraft. Again, because the Department of Public Safety is primarily law enforcement oriented and a need for adequate equipment is thoroughly understood, the Division of Fish and Wildlife Protection has benefited from this progressive thinking within the Department, both in the past and at the present.

It appeared, Commissioner, as if the purchasing of equipment was kind of on a haphazard method, with each regional supervisor determining what he needed. As a result of that there appeared to be an overbuying in certain areas and underbuying in other areas. For example, each Protection Officer had a pair of hip boots, a spotting scope, binoculars and a very expensive Pen-tex camera; but they had no radio equipment, either portable or mobile, they had no hard copy communication system, and did not even carry suitable firearms when in the field.

ORGANIZATIONAL STRUCTURE AND SUPERVISION - This is the area, Commissioner, that gets a little touchy, but I think in order to thoroughly evaluate the problem you have to look at the guts of the organization that the Department of Public Safety inherited.

It appeared as if there was very little control from the top, or if there was, the supervisors took an indifferent attitude to supervision and therefore many things were going on within the Division which would not be tolerated by you or I and certainly are not tolerated today.

When the Division came over to Fish and Wildlife Protection, the aircraft were being utilized for semi-personal business, such as transporting moose meat, personal gear, signtseeing, etc. The stakeout camps were also being utilized as pesonal hunting lodges and departmental equipment was being utilized for personal use, such as boats, binoculars, hip boots, etc. were all being used support private hunting or fishing trips. In addition, their evidence handling, recording and disposition procedure left a lot to be desired. In fact, to the embarrassment of the Department, we found that at least two polar bear hides were improperly disposed of, one being given to the Catholic Church in Fairbanks for a raffle and the other being lost which cost the State in excess of $6,000.

In other words, Commissioner, the whole administrative operation seemed to be very shoddy and without proper direction, thus creating several embarrassing situations for the State and the Division.

Now I'm sure that somebody might say that these situations could all be taken care of within the Deparment of Fish and Game if the Division was transferred back; and my answer to that would be, "Why wasn't it done during the first ten years?"

CONCLUSION - I feel that the Division of Fish and Wildlife Protection, since coming to the Department of Public Safety, is better equipped, better trained, better disciplined

and has better morale than it did while being under the Department of Fish and Game. Also I feel that the enforcement effort has been increased as a result of having better equipment, better communications, better training and better direction.

I think an individual who proposes that the Division be transferred back to Fish and Game should objectively look at what the Division was and doing prior to its coming to Public Safety and what it has accomplished after coming to Public Safety; and I think if you objectively review both situations, you will find that the Division is functioning 100% better today than it was when it was transferred.

I think also that people who have worked under both systems would readily admit that the procedures today are better than they were under Fish and Game. Now I know that we still have some individuals who are not inclined to support the fact that the Division is functioning better today than it was four years ago; and to that I can only say, Commissioner, those individuals are probably the ones who were misusing the State equipment, abusing their authority and creating problems for the Director of Fish and Wildlife Protection while it was under Fish and Game.

I think also it is important to look at what the Department of Fish and Game is designed to do and what the Department of Public Safety is designed to do. By this I mean primarily the Department of Fish and Game is research orientated, whether it be commercial fishery research and rehabilitation or wildlife research and rehabilitation, whereas the Department of Public Safety is primarily a law enforcement agency. As we have so often said, the enforcement of the Fish and Game laws are no different than the enforcement of our criminal statutes. All the rules of criminal procedure apply, and I think the records will reflect, and I'm sure the D.A.'s will concur, that the cases being made by the Division of Protection in the last three years are considerably better than the cases made prior to the Division's transfer. This can only be attributed to the increase in training and the administrative review given the report.

Again, I think one should ask: "What is being done today versus what was being done under the old concept," and I defy anybody to substantiate with hard facts the proposition that the Division of Fish and Wildlife Protection should be returned to the Department of Fish and Game.

JPW:me

OFFICE OF THE GOVERNOR

Commissioner James Brooks
Commissioner Richard Burton

April 19, 1976

Jay S. Hammond
Governor

Attached Resolution 76-2 of the Boards of Fisheries and Game

At the request of the Boards of Fisheries and Game, I am asking that each of you carry out the request of the Boards enunciated in their Resolution 76-2.

I would ask that you submit your initial response to me by May 15. After review by myself, I will then ask each of you to respond to the points raised in that input.

Additionally, I would request that each of you in your initial submission include a section of pertinent questions which would be addressed, in questionnaire form, to appropriate enforcement and management personnel at the field level.

cc: All Members
Boards of Fisheries & Game

'76 APR 26 PM 12 31
DEPT. OF PUBLIC SAFETY
JUNEAU, ALASKA

B	Commissioner	2	Deputy Comm.
3	Director, F&W		Dir., Adm. Ser.
	Fire Marshall		Building Ser.
	Info. Officer		

( ) FOR YOUR INFORMATION
(X) ACTION — Draft response
( ) REPLY

FROM: DATE

Comm. Off. PUBLIC SAFETY JNO

#

02257 POM ANCHORAGE AK 15 03-17 506P AST 1977 MAR 17 PM 9:51

TELEGRAM

FROM ALASKA COMMUNICATIONS, INC.

PHONE: 586-8440

PMS EP ALVIN OSTERBACK

JUN

I SUPPORT HB337 STOP CRIME BEFORE IT STARTS NO MORE

COPS AND ROBBERS

JACK NEWELL

BOX 4-2344

ANCHORAGE AK 99509

ALASKA BOARD OF FISHERIES AND ALASKA BOARD OF GAME

JOINT BOARD RESOLUTION NO. 76-2

REGARDING THE DIVISION OF FISH AND WILDLIFE PROTECTION

The Board of Game and the Board of Fisheries, meeting in joint session on April 2, 1976 in Anchorage, Alaska, respectfully request the Governor to direct the Commissioners of Fish and Game and Public Safety to prepare a "white paper" statement regarding the relative merits of the Protection Division under the jurisdiction of their respective departments. Such statements should include but not be limited to:

1. Objectives of the Protection Division

2. Present and potential relationship of Protection and Fish and Game management personnel

Following the preparation of the "white paper" said Commissioners should prepare briefs of response to each others statement.

The Governor is further requested to provide the Boards with all, or part, at his discretion, of said "white paper" and responses. Further, should the Governor wish comment from the interest of the public, that he seek response from one or more disinterested but knowledgeable person or persons on this subject.

Gordon Jensen, Chairman of the
Joint Session of the
Alaska Board of Fisheries and
Alaska Board of Game

DATED: April 2, 1976
Anchorage, Alaska

March 15, 1977

Richard L. Burton, Commissioner
Department of Public Safety
Pouch N
Juneau, Alaska 99811

Dear Commissioner Burton:

Please be available to the House Resources Committee on Friday, April 1, 1977 at 3:30 p.m. to testify on House Bill 337 "An Act relating to the transfer of the division of fish and wildlife protection from the Department of Public Safety to the Department of Fish and Game; and providing for an effective date."

Sincerely,

Alvin Osterback, Chairman
House Resources Committee

AO/dn

cc: Office of the Governor

March 15, 1977

James W. Brooks, Commissioner
Department of Fish and Game
Subport Building
Juneau, Alaska 99801

Dear Commissioner Brooks:

Please be available to the House Resources Committee on Friday, April 1, 1977 at 3:30 p.m. to testify on House Bill 337 "An Act relating to the transfer of the division of fish and wildlife protection from the Department of Public Safety to the Department of Fish and Game; and providing for an effective date."

Sincerely,

Alvin Osterbak, Chairman
House Resources Committee

AO/dn

cc: Office of the Governor

DEPARTMENT OF FISHERIES
ROOM 115, GENERAL ADMINISTRATION BLDG.
OLYMPIA, WASHINGTON 98504
Phone: 753-6600

Dixy Lee Ray
GOVERNOR

Frank Haw
DIRECTOR

March 10, 1977

[redacted]
House of Representatives' Resource Committee
Pouch V
Juneau, Alaska 99801

[redacted]

I am responding to your recent telephone request for inf mation regarding fishery law enforcement in the State of Washington.

The enclosed material was taken from our budget requests and, for the most part, should be self explanatory. It shows the overall agency organization and then details the law enforcement division under the Field Services Program with a written summary of duties and responsibilities of that division.

If you require someone from the Department to testify on House Bills 337 and 338, I recommend you contact Mr. Bruce Gruett, Assistant Director for Field Services. Mr. Gruett was instrumental in developing the Department's present enforcement program and can (and will) speak candidly on any phase of it.

Sincerely,

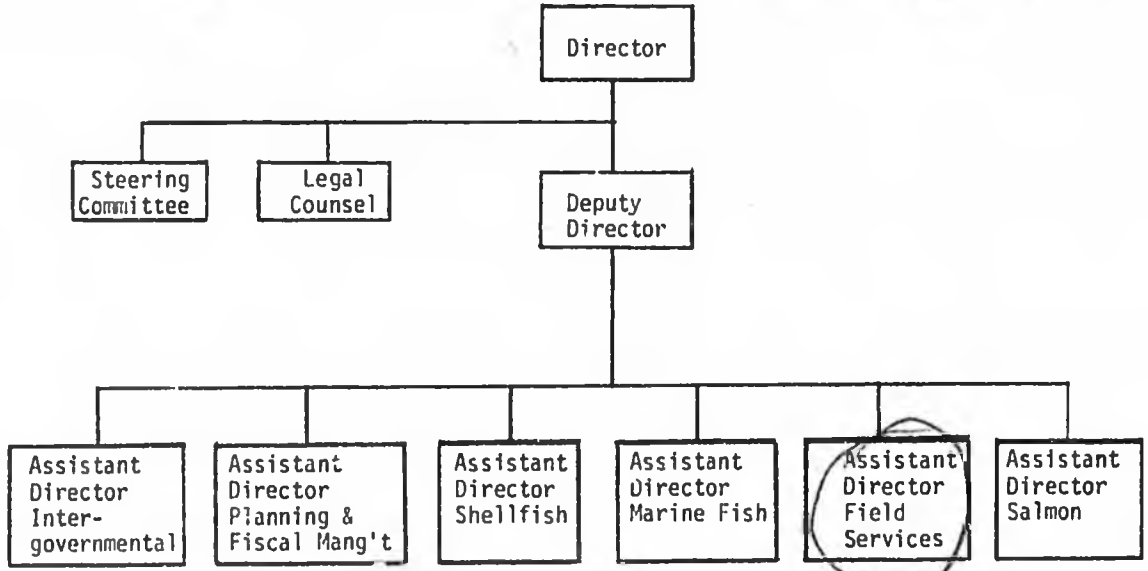
Henry O Wendler

Henry O. Wendler, Manager
Intergovernmental Operations

Enclosure

cc: B. Gruett

	Code	Title
AGENCY	480	Department of Fisheries
PROGRAM		Agency Organizational Chart - Page 1
ELEMENT		



SEE DETAILS ON PAGES 2,3,4,5.

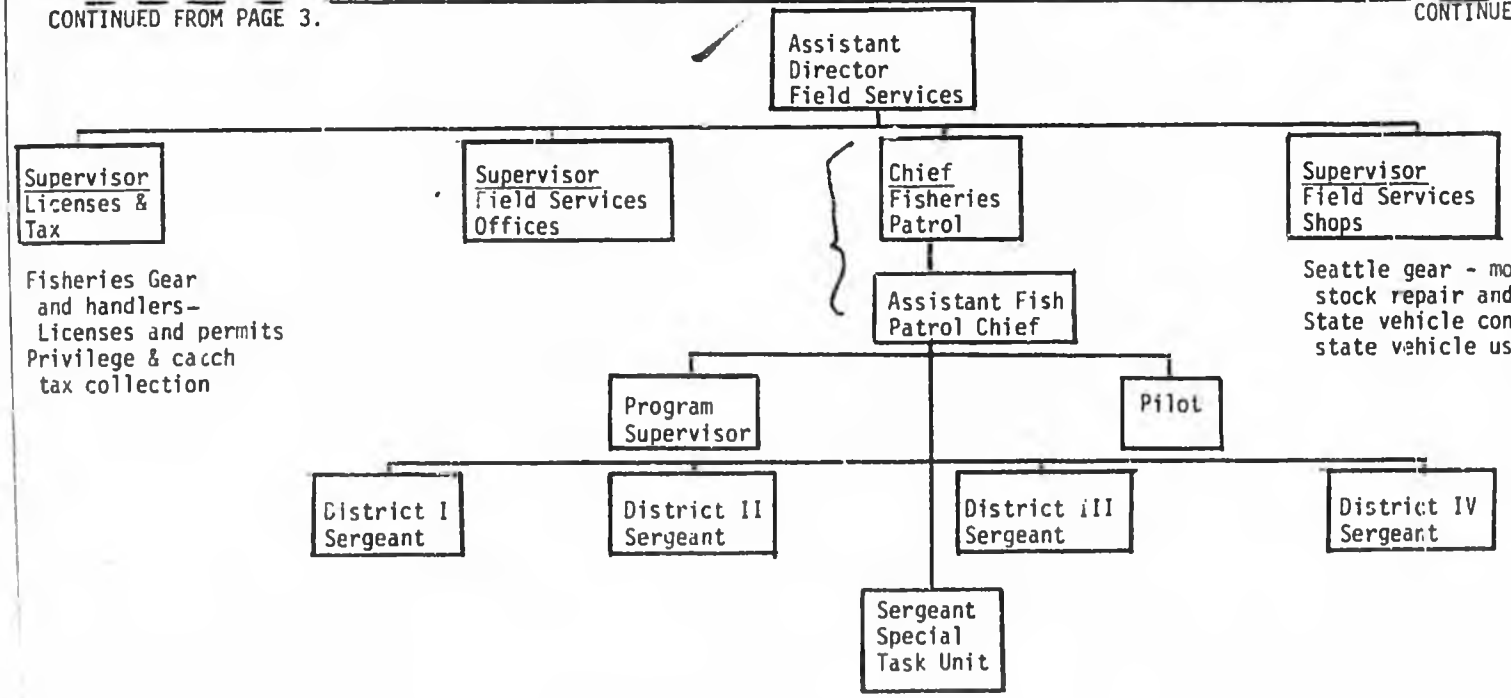
relates to following material. →

Agency

	Code	Title
AGENCY	480	DEPARTMENT OF FISHERIES
PROGRAM		AGENCY ORGANIZATIONAL CHART - PAGE 4
ELEMENT		

CONTINUED FROM PAGE 3.

CONTINUED ON PAGE 5.



Fisheries Gear
and handlers—
Licenses and permits
Privilege & cacch
tax collection

Seattle gear - motor and rolling
stock repair and maintenance
State vehicle control - enforce
state vehicle use policies

Law Enforcement
State, Federal, Inter—
National Fisheries laws,
statues and fish treaties
and compacts
Gear Moratorium - limit entry
Data collection - recreation, comm'l
Indian and other resource impacts
Collectors & special fisheries permits

B 1 (Rev. 4-76)

Agency

	Code	Title
AGENCY	480	WASHIGNTON DEPARTMENT OF FISHERIES
PROGRAM	050	FIELD SERVICES
ELEMENT		PROGRAM NARRATIVE

INTRODUCTION

The Field Services Program is made up of long-established elements in the Department. During the reorganization, which took place in August 1975, the Patrol and Licensing Sections were taken out of Category Support and placed in a separate program, Field Services. The elements within this program are Law Enforcement, representing all patrol activities; Shop Support, which was formerly part of the Patrol Division; Licenses; and Administrative Support.

Law Enforcement

The Law Enforcement, or Patrol element, is responsible for the enforcement of all fisheries laws and regulations pertaining to fishing (both sport and commercial), habitat protection, and protection of State facilities. Such work pertaining to the sport and commercial fisheries for salmon involves over 57 marine and Columbia River management areas for one to five species; over 12,000 licensed commercial fishermen and dealers; several thousand Indian fishermen; and over 580,000 sports fishermen. In addition to the salmon fisheries, the Fisheries Patrol Officers must protect the shellfish and marine fish resources by enforcing the various fishing regulations. These same officers must also enforce the rules and regulations pertaining to the Hyraulics Code, Forest Practices Code, and other similar laws designed to protect the state's fisheries resources by other resource users.

The goal of Law Enforcement is to attain maximum compliance with food fish and shellfish laws and regulations by members of the three user groups: Indian, non-Indian, and sport. Prior to 1974 it was evident that in order to attain that goal, a steady and continuing increase in manpower and equipment would be necessary. The full impact of the "Boldt" decision must now be recognized and the need for sharp increases in effort must be met if we are to restore order to the fishery.

During the past several years the growing complexities of the fishing regulations and needs to meet the conditions set by the Federal courts resulted in over 162 separate regulation changes in 1975, more than double the preceding year. Such a variety of changes has multiplied the workloads for our Fisheries Patrol Officers without a similar increase in staffing. A further complicating factor has been the setting of different fishing seasons, areas, and gears for Indian and non-Indian commercial fishermen. This discrepancy encourages law violations and vastly complicates the job of gaining compliance with the law.

The Patrol Division is organized with a Chief, Assistant Chief, Program Supervisor, four Sergeant districts, and an aircraft support section. The Sergeant districts cover different areas throughout the state and each presently has eight patrol officers, an equivalent number of vehicles, and various numbers of boats ranging from 8-foot prams to 40-foot ex-Coast Guard vessels.

The Federal Government has provided law enforcement with funds for 12 Fisheries Patrol Officers through the Federal fiscal year ending September 30, 1977. State funding is requested for the remainder of the 1978-79 State biennium in order to continue with that program in case those Federal funds are not available in the Federal fiscal year beginning October 1, 1977.

The Patrol Division has found it necessary to concentrate men and equipment in "hot spots" on emphasis patrols. Up to now this has been done by taking men from their assigned duty areas for several days and sometimes weeks at a time. This practice was acceptable until recently due to the limited number of occasions during the course of a year when the need for emphasis patrols occurred. This is no longer the case due to the frequent need for emphasis patrols in high-violation-rate areas. We are asking for a unit consisting of a Patrol Sergeant and six officers to handle those problems.

In order to meet present-day problems, Harvest Management people must have accurate and timely statistical data to work with. Our experiences since the "Boldt" decision graphically show that much stronger emphasis must be placed on enforcement of fish ticket regulations in order that all catches are properly recorded and reported.

We have for many years been called upon to patrol the Pacific Ocean coastal waters and the offshore waters in order to gain compliance with our laws and regulations. We do not have patrol boats suitable for that type of patrol, and are asking for funds to purchase a 60-foot vessel at a cost of $225,000. This vessel would be used primarily in coastal waters for law enforcement purposes but would also be available to the Salmon, Marine Fish, and Shellfish Programs for test fishing purposes. We believe part of the costs of operating this vessel will be recovered by contracting with the Federal Government as a result of the Extended Jurisdiction Law.

Most of the small boats we are now operating have been used for many years under difficult, hard-use conditions. We are asking for funds to replace five of our older 19-foot fiberglass, inboard-outboard drive boats with 23 footers.

Aircraft Support

The Aircraft Support Section consists of two surplus DeHavilland Beaver aircraft, both on floats, one of which is amphibian. These aircraft are flown and maintained by two pilots and a pilot-mechanic. All programs within the Department utilize these aircraft for a variety of Departmental functions and, in Fiscal Year 1976, these two aircraft logged over 824 hours on Department duties. Such aircraft usage has greatly aided the Department in meeting its pyramiding obligations without a similar increase in staffing.

Shop Support

This element was, prior to reorganization, split in the Patrol and Research & Management Divisions, and has since been

GENERAL JUSTIFICATION MATERIAL

	Code	Title
AGENCY	480	WASHINGTON DEPARTMENT OF FISHERIES
PROGRAM	050	FIELD SERVICES
ELEMENT		PROGRAM MANAGEMENT

transferred to the Field Services Program. Its functions are to provide maintenance and repair for marine and marine-oriented equipment and Department-owned and operated vehicles in all programs.

This consists of helping to maintain the many boats, motors, vehicles, and other equipment needed to keep the patrol functioning. Such work involves the repairs and normal maintenance of 35 patrol vehicles, 30 boats, and 11 outboard motors. This section has also experienced an increased workload brought on by greater usage of the equipment and an increase in the number of officers.

We are asking for one additional person in that element to cope with this increased workload.

Licenses

The Fisheries License Division processes approximately 21,000 license applications, renewals, and transfers annually. In addition, it is responsible for several other functions such as privilege tax collection, issuance of special buoy brands, herring fishing validation decals, and special permits.

Both the salmon license moritorium and herring validation laws caused many new, time-consuming problems for our license people, adn this increased workload will be extended and possibly expanded as a result of Phase II of the salmon license moritorium and limited-entry laws.

We are asking for an increase of 1.5 FTE's and the appropriate funds to handle that [illegible].

Administrative Support

Field Services Administration [illegible] overseeing and guiding all activities carried out [illegible].

During the 1975-77 biennium we [illegible] to provide special services to user groups in [illegible] over and above that which could be provided [illegible] offices. Most of the problems and [illegible] offices are enforcement and license-related, [illegible] who have a great deal of knowledge and [illegible]. For that reason, we will staff the [illegible] offices with a Fisheries Patrol Officer and a [illegible].

The fifth FTE requested for this element [illegible] Assistant Director, Field Services, [illegible] gram. This position, created during the [illegible] been utilizing a vacant Patrol Officer [illegible] and funding of this Assistant Director [illegible] Patrol Officer position to report to [illegible] needed.

10 MARCH 1977

HARRY WENDLER, WITH THE STATE OF WASHINGTON DEPARTMENT OF FISH & GAME WILL BE SENDING US A RUN DOWN ON THEIR PROTECTION PROGRAM. IT IS HANDLED WITHIN THE DEPARTMENT. IT IS CONSIDERED A "MODEL" PROGRAM. IN WASHINGTON, THE FISH & GAME BIOLOGISTS WORK RIGHT ALONG WITH THE FISHERMEN IN THE STREAM & TICKET THEM ON THE SPOT FOR VIOLATIONS.

Alaska State Legislature

House

JUNEAU ALASKA

M E M O R A N D U M 10 March 1977

SUBJECT: Fish & Game Protection

TO: Fellow Legislators

FROM: Alvin Osterback, Representative

I am concerned with the management of the fisheries resource, particularly the fisheries protection program in our State. The Department of Public Safety is handling enforcement from a "cop and robber" viewpoint, rather than from one of protecting and saving the resource. I think these two bills are a step in the right direction towards saving the resource.

As it is now, the Department of Fish and Game makes the regulations, expecting Public Safety to enforce them. Many times this causes discrepancies between regulating and enforcing. The Departments are not coordinating these activities, which are so valuable to saving the resource.

For example, we see the Fish and Game people involved on a daily basis up here in the legislature. They are always here to testify pro or con. Sometimes they do not even come to testify (usually when they have testified on the particular bill at a previous meeting) but the Department

always makes sure there is someone here to answer questions on Fish and Game matters. Many discussions focus around enforcement matters -- and who is our expert advisor? Not the Department of Public Safety, but Fish and Game.

I do see one problem that may arise with this bill. That is whether or not the stream surveillance guards will be allowed to be trained at the Sitka Police Academy. I realize that this is an inhouse problem, so Fish & Game will have to work this out with Public Safety.

I know the fishermen in my district will back me up on this legislation. As a matter of fact, I think fishermen all over the state will support this legislation. I asked Phil Daniels before I drafted this bill about the merits of it. He is here tonight to answer any questions you may have on the fisherman's viewpoint.

Banks hire their own security guards. Likewise, I think with Fish and Game doing their own security work, we'd be buying our insurance to save the resources, since this is the Department's overall concern.

I was concerned about this matter long before the Commissioner of Public Safety gave some testimony before my committee regarding stream surveillance. At that time he said (and I quote) "You wouldn't get me to go out there and stand with a sign on my head saying I'm standing there, not

unless I had a twin 50 caliber machine gun to back me up." Personally, I would expect this way of thinking from a riot squad in Chicago, but never from a typical Alaskan.

I look forward to this legislation accomplishing better management of our fish and game resources. I know it will bring about better coordination between regulations and enforcement.

"WHITE PAPER"

on

Relative Merits of Fish and Game Protection Under the Jurisdiction of the Department of Public Safety Versus the Department of Fish and Game.

by

James W. Brooks
Commissioner of Fish and Game

Submitted to Governor Jay S. Hammond
May 15, 1976

Relative Merits of Fish and Game Protection Under the Jurisdiction of the Department of Public Safety Versus the Department of Fish and Game.

Governor Hammond requested that the Commissioner of the Department of Public Safety and the Commissioner of the Department of Fish and Game respond to the Board of Fisheries and Board of Game Joint Resolution 76-2 which sought the preparation by each Commissioner of a "white paper" statement "...regarding the relative merits of the Protection Division under the jurisdiction of their respective departments." In addition, the statement was to include a discussion of the objectives of the Protection Division and the present and potential relationship of protection and fish and game management personnel. (A copy of Resolution 76-2 is appended.) The Governor further requested that each Commissioner prepare a list of pertinent questions which would be addressed to appropriate enforcement and management personnel at the field level.

Background

The responsibility for fish and game protection was assigned to the Department of Fish and Game with the enactment of Title 16 in 1959, and remained there until transferred to the Department of Public Safety in March, 1972, by Governor Egan's Administrative Order No. 16 (copy appended).

An explanation of the circumstances and reasons that prompted the Governor to take such action is germane to this review. Because I was not associated with the state government at the time of these events, the following account relies on reports by fish and game personnel, my own observations after being appointed Commissioner in August, 1972, and discussions with Governor Egan.

The basic trouble seemed to be rooted in a lack of effective leadership and control during the year or two preceding the transfer. Protection personnel were permitted a loose, undisciplined mode of individual activities. Each officer was generally allowed to function independently and establish and record his own duty hours. In some cases, unverified compensatory time claims totaled several weeks or even months annually. One officer is reputed to have lived in Hawaii several months a year on compensatory time (I have no means of substantiating this statement, but it enjoyed wide circulation in 1972). Such autonomy of protection personnel yielded extremes in performance. In the Kodiak-Alaska Peninsula area, management and protection personnel developed highly cooperative working relationships and their programs were superior. Unfortunately, there were other places, where at times, protection programs were notably poor. It appears that where the protection program went well, it was due to the initiative and conscientious efforts of field personnel rather than leadership and a structured system that encouraged good performance.

During 1971 and early 1972, several protection officers organized a Fish and Game Protection Officer's Association to bring pressure both within and outside of normal administrative channels to further their special interests. Their demands were widely published in newspapers and other media and were directly conveyed to the Legislature. At this point, it was evident to all that the Commissioner and the Director of the Protection Division had allowed the situation to deteriorate beyond their ability to effect immediate remedy.

With the problems in the open and their causes reasonably well understood, there were various actions indicated and available to correct the wrongs and reestablish an orderly, properly administered protection program. However, only one of the options promised instant effectiveness and that was the Governor's choice. He transferred the Protection Division out of ADF&G and into the Department of Public Safety. The aircraft section went along intact; several of the smaller vessels were also transferred although the larger vessels remained with the Department of Fish and Game.

Transition Period 1972-1975

The immediate effect of placing the Protection Division within the Department of Public Safety was to disorganize the clique that presumed to represent most protection officers and bring a stop to their unauthorized power thrusts and expressions. Within a short time, some officers resigned and others were reassigned. A colonel in the troopers was soon placed in charge of the Division. There was a period of a year or two when many officers felt great uncertainty about their status, although each change seemed to contribute to improved stability. The independent work habits of protection personnel gave way to a better directed and disciplined performance. Training programs in police science enhanced the professional capabilities of the officers and seemed to improve their stature and pride in their positions. Perhaps the peer relationship with troopers in contrast to their former association with resource managers was beneficial to morale. While the early period of transition from ADF&G to DPS was indeed traumatic to many individuals and to the protection program, accommodation to

the new organization has been rapid. Program changes have been significant with genuine improvement in some functional areas and some deficiencies in others.

The early deliberate effort to dissociate protection from the Department of Fish and Game, which understandably followed on the Governor's action, caused a serious diminution of effective protection work. With insufficient communications between protection and management personnel, the deployment of protection effort sometimes bore no apparent relationship to resource needs. It will not further the purpose of this review to dwell on or document incidents, although I will cite a couple that reveal how unpredictable decisions could misdirect effort. In late summer of 1972, a rather critical period with respect to protection of commercial fisheries (salmon escapement being vulnerable to poaching off stream mouths) every protection officer was ordered to Anchorage for a training session. Salmon losses occurred. In 1973, protection officials disagreed with certain of the Board's fishing regulations in the Kuskokwim River. When the managers failed to waive the regulations(they lacked the authority), every protection officer was removed from the entire river for the duration of the season. During the past two years, however, actions of the above described nature have ceased to occur. Some improvement in communication and coordination between management and protection can be noted, but many believe it is still inadequate.

Present Protection Program

Administrative Status:

Within the past year and a half, senior protection officers have replaced troopers in certain key leadership positions in the Division

of Fish and Wildlife Protection. All protection personnel who made the transition from pre 1972 years now seem to have high morale, enjoy new security and an orderly, disciplined work environment. They are paid overtime according to a fair and reasonable schedule in contrast to the irregular compensatory time arrangements that prevailed in the Department of Fish and Game. Administrative areas adopted by Public Safety originally differed from those established by Fish and Game and precipitated real difficulties in field communication during the early years, but such problems have been largely resolved. Administratively, protection officers and troopers enjoy parity, and as mentioned earlier, this has stimulated professional pride. It appears that the administrative structure of the Division of Fish and Wildlife Protection within the Department of Public Safety is tight and sound, a situation that may be aided by deemphasizing the use of temporary employees in favor of permanent staffing.

Functional Status"

There is near-consensus among fish and game managers that, once violations are known, protection personnel generally do an excellent job of police work, of putting together a case that will result in a court conviction. The training and orientation of protection officers seems to be directed toward such skills. There is also high praise for protection efforts in connection with easily predictable and accessible problem areas. The Director of Sport Fisheries is most gratified with the protection recently given recreational fisheries along road and river systems. A lesser degree of satisfaction with the protection field program is voiced

by commercial fisheries and game managers, who believe that more emphasis must be placed on preventive enforcement and directing effort more precisely into situations where resource values are high. It is recognized that the protection program suffers from limitations of manpower, equipment and money. Nevertheless, there is pessimism among commercial fish and game managers that any amount of protection effort that might materialize would be effectively directed according to conservation requirements.

Protection Objectives

The basic objectives of fish and game protection include at least the following elements:

1. Protection of fish and game from taking outside of the approved management regime. Such illegal taking could involve numbers, time, place, or mode of taking, license violations or other infractions of laws or regulations.

2. Apprehension of violators, including the development of evidence and preparation of cases for prosecution.

There are numerous other collateral things that might be considered second order objectives although they are more in the nature of actions that relate directly to one or the other basic objective. The following responsibilities are among those that would fall into this category:

1. Rendering assistance to the public.

2. Promoting public appreciation of fish and game resources.

3. Promoting an understanding of and respect for fish and game laws.

4. Developing good communications with resource managers.

5. Striving to be at the right place at the right time, etc.

There can be little doubt that the issue of whether the fish and

game protection program should be administered by ADF&G or DPS will turn on the relative importance that is placed on each of the basic objectives. Both objectives are absolutely essential, but it is possible that the proper balance between them can only be struck within the administrative structure and environment of one or the other department. This question is discussed later in the evaluation of the proposal to return the protection function to Alaska Department of Fish and Game.

Comments on the Status Quo:

1. It's easier not to change. Any major organizational shift is disrupting to people and established programs.

2. The Department of Public Safety projects authority; public attacks on it aim less at programs than on incidents of alleged misconduct of individual officers. Complaints reaching the office of the Commissioner of Fish and Game declined in relation to public awareness that protection was being administered by Public Safety. This decline was probably real and did not altogether represent a redirection of complaints.

3. Protection officers receive excellent police training and have back up support of the troopers' investigative resources. While the same training and support might be furnished to protection officers in ADF&G, it was not obtained for various reasons prior to the Protection Division transfer.

4. Protection officers are paid overtime in common with troopers. In ADF&G, biologists are not paid overtime. It is likely that problems would arise where two types of professionals were compensated differently.

5. Protection officers and troopers meet common qualifications, wear uniforms, and frequently assist each other which obviously enhances their professional relationships. Should the Division of Fish and Wildlife Protection be returned to ADF&G, a different relationship would exist between managers and protection personnel. Great care would be necessary in making certain that equality was preserved; that mutual respect and cooperation dominated attitudes.

6. It is probable that more efficient use of aircraft, vessels, and their support resources would be possible if these were consolidated in the Department of Fish and Game. Presently, management and protection field personnel rarely share equipment because of the complexities of coordinating use and, to some degree perhaps, a covetous attitude about it.

7. The protection program presently appears to give priority to law enforcement with the aim of apprehending violators and making good strong cases, as opposed to preventing as many violations as possible by promoting the idea that detection is highly certain. As mentioned earlier, this view is strongly supported by commercial fisheries managers whose knowledge about the vulnerability of resources and the incentives to violate does not regularly mesh with the protection efforts in their areas. This problem may represent more than poor communications.

Evaluation of Options

The basic question being examined in this report is whether the responsibility for fish and game protection should remain in DPS or be returned to ADF&G. It is perfectly clear that either arrangement can work if given the support and direction it needs, but it is probable that one could be superior in long term results.

Fish and Game personnel recognize the excellent job of case development and pure law enforcement work that is being accomplished in the existing system, but they maintain that it does not offer sufficient resource protection, too often coming after the damage is done.

Whether right or not, experienced resource managers insist that certainty of being found guilty and punished after being caught does not inhibit violations. Rather, probability of being detected and caught in the act does discourage attempts to violate. Thus, commercial fisheries and game managers want preventive enforcement directed at protecting resources; their concerns are not allayed by the large number of convictions for license and similar technical violations. While such laws and regulations have a good purpose and must be enforced, they should not demand inordinate attention in relation to the potentially large losses of resources through illegal harvests, particularly in our commercial fisheries. Resource managers fear that protection will never complement management well enough to bring about the best possible conservation program if it remains isolated both administratively and functionally The intimate association with the troopers may well encourage an increased orientation toward strict law enforcement allowing the greater charge of resource protection to be less influential in setting priorities and deploying effort. It is probable, however, that the actions of protection personnel to operate with the barest minimum of formal contacts with fish and game personnel during the early transition period is partly responsible for the evolution of presently held opinions.

There are practical constraints to be dealt with if ADF&G were to once again assume the primary responsibility for protection. Because administrative support for the Fish and Wildlife Protection Division is shared with the troopers, it seems unlikely that it could readily be split off and transferred to ADF&G. Similarly, there may be problems in separating the record processing and storing functions. Then too, the office space vacated by the Protection Division when it left ADF&G has long since been filled, requiring in several locations that new space be rented to accommodate the return of protection personnel. All of these matters could be dealt with properly only if advance planning and preparations were carried out.

In summary, fair consideration of most pertinent element lends to the conclusion that there are advantages and disadvantages associated with any course of action. Looking to the best long term performance, the weight of opinion of resource managers favors the return of protection to ADF&G. They believe that the partnership of purpose that exists between resource management and resource protection cannot be satisfactorily implemented in the field while separate departments are involved. Policy and programs aimed at promoting proper priorities and coordination would, they fear, simply break down before achieving their intended purposes. They point out that 48 of the 50 states have reached the same conclusion, partly at least, for the same reasons.

Recommendations

1. Planning and budgeting procedures should be initiated to provide for the transfer of primary fish and game protection responsibility back to the Department of Fish and Game on July 1, 1977. These actions can go forward without immediate

need for a final decision, pending further evaluation of the desirability of such transfer.

2. Direct that both Commissioners attempt to find policy and procedural remedies to shortcomings of the present protection program as identified in this report.

Questions to Protection and Management Personnel

1. Do you believe that management personnel should participate in development of protection priorities involving field operations?

2. Do you believe that communications on a day-to-day basis between management and protection personnel are adequate? If not, is improvement achievable?

3. Do you believe that management personnel should be paid overtime on the same basis as protection officers?

4. Do you believe that case development and convictions are more important than preventive type functions?

5. Do you believe that the declining use of temporary protection officers and stake-out activities are justified by the benefits of strengthening a permanent corps of officers?

6. Do you believe that the overall, long term performance of the protection program will be better served by retention of the protection responsibility in the Department of Public Safety? Please state reason, but avoid reciting incidents or names.

Appendix I

ALASKA BOARD OF FISHERIES AND ALASKA BOARD OF GAME

JOINT BOARD RESOLUTION NO. 76-2

REGARDING THE DIVISION OF FISH AND WILDLIFE PROTECTION

The Board of Game and the Board of Fisheries, meeting in joint session on April 2, 1976 in Anchorage, Alaska, respectfully request the Governor to direct the Commissioners of Fish and Game and Public Safety to prepare a "white paper" statement regarding the relative merits of the Protection Division under the jurisdiction of their respective departments. Such statements should include but not be limited to:

1. Objectives of the Protection Division

2. Present and potential relationship of Protection and Fish and Game management personnel

Following the preparation of the "white paper" said Commissioners should prepare briefs of response to each others statement.

The Governor is further requested to provide the Boards with all, or part, at his discretion, of said "white paper" and responses. Further, should the Governor wish comment from the interest of the public, that he seek response from one or more disinterested but knowledgeable person or persons on this subject.

Gordon Jensen, Chairman of the
Joint Session of the
Alaska Board of Fisheries and
Alaska Board of Game

DATED: April 2, 1976
Anchorage, Alaska

Appendix II

STATE OF ALASKA

OFFICE OF THE GOVERNOR

ADMINISTRATIVE ORDER

#16

Pursuant to the authority vested in me by Article III, Section 23 of the Constitution of the State of Alaska, it is hereby ordered:

1. That the Division of Protection within the Department of Fish and Game is now and hereafter shall be a Division within the Department of Public Safety;

2. That the Commissioner of Public Safety shall exercise full supervisory and administrative authority over all personnel assigned to the Division of Protection, over budgetary items allocated to the Division and equipment and facilities used primarily in its work and currently assigned to the custody of the Department of Fish and Game;

3. That the responsibility for the enforcement of statutes and regulations enacted or adopted for the protection of the State's fish and game resources which involve criminal or civil penalty shall henceforth be administered by the Department of Public Safety;

4. That this order is effective immediately as to the direction, supervision and administrative authority over personnel of the Division. The Commissioner of Public Safety is authorized, according to law, to make such changes in the organization of the Division and the assignment of responsibilities among its personnel as he deems appropriate to the efficient administration of the Division and the performance of its duties;

5. That during a transitional period, the Department of Fish and Game in cooperation with the Department of Public Safety shall continue to do all things necessary or appropriate in the maintenance of administrative services, payroll maintenance, the upkeep of equipment and facilities and the exercise of other responsibilities necessary to assure a smooth transition;

6. That as the Commissioner of Public Safety determines the readiness of the Department of Public Safety to assume responsibility for such support activity, facilities and equipment he shall from time to time in consultation with the Commissioner of Fish and Game issue directives effecting such transfers which shall have the same force and effect as this order;

The transfer of the Division of Protection from the Department of Fish and Game to the Department of Public Safety constitutes a change in the organization of the executive branch and in the assignment of functions among its units considered necessary for efficient administration and not requiring statutory change. This Administrative Order, implementing that transfer, takes effect March 28, 1972.

William A. Egan
Governor

STATE of ALASKA

MEMORANDUM

TO: The Honorable Jay S. Hammond
Governor
State of Alaska

DATE : May 6, 1976

FROM: Richard L. Burton, Commissioner
Department of Public Safety

SUBJECT: Response to Resolution 76-2 of the Boards of Fisheries and Game

Attached are memoranda of response from two individuals - Colonel Fred Woldstad, Director of the Division of Fish and Wildlife Protection; and Colonel James P. Wellington, Director of the Division of Alaska State Troopers. I asked Colonel Wellington to respond because at the time of the transfer of the Division of Fish and Wildlife to the Department of Public Safety, Colonel Wellington was Deputy Commissioner of the Department of Public Safety.

My comments are simple and are as follows.

In my opinion, the Division of Fish and Wildlife Protection should remain within the Department of Public Safety for the following reasons:

1. The officers are better trained than they were when they were in the Department of Fish and Game.

2. The officers are better equipped.

3. The Division has better communications.

4. The level of enforcement and the quality of the cases put together by the enforcement officers are better than ever before.

The primary mission of the Department of Public Safety is law enforcement and regulation. That is also the prime mission of the Division of Fish and Wildlife Protection; which is different than the mission of the Department of Fish and Game.

These comments briefly summarize those contained in the two attached memoranda.

If you have any questions or desire further information on the matter, please contact me, the Deputy Commissioner, or either of the two Colonels mentioned above.

Attachments

STATE of ALASKA

MEMORANDUM

TO: Richard L. Burton
Commissioner

DATE : April 28, 1976

FROM: Col. Fred M. Woldstad
Director
Fish & Wildlife Protection
Department of Public Safety

SUBJECT: Board Resolution 76-2

To respond objectively to the Alaska Board of Fisheries and Alaska Board of Game Joint Board Resolution No. 76-2 regarding the Division of Fish and Wildlife Protection, it should be appropriate to analyze the cause for such a resolution. The style of this resolution neglects to define the "WHEREAS" portion commonly used as prefacfe to the resolution itself, and thus appears to open the subject for general debate rather than responding to specific issues.

Initially, it must be assumed that there are objections or doubt that the Division of Fish and Wildlife Protection belongs within the Department of Public Safety. This organizational structure certainly is a severence from tradition, and the pattern of 47 other states, but it should also be recognized that Alaska does not follow the national standard for conservation enforcement in other fashions that are of importance to this discussion. Conservation Officers nationally comprise 32.2 percent of all employees in state fish and wildlife agencies and account for an average annual operating budget outlay of 27.4 percent. In Alaska, Fish and Wildlife Officers comprise only 16.5 percent of all employees in the Alaska Department of Fish and Game and account for only 18.76 percent of the operating budget. A chart depicting this comparison is attached and reproduced from a 1973 study published by the Wildlife Mangement Institute. Several additional tables are provided to further complete the comparison.

While Alaska is considerably below national standards in personnel and funding, its officers can be favorably compared to any within the country. An article published by the Wildlife Society in the Spring of 1973, describes rather accurately the position of the wildlife enforcement officer nationwide and is worth reproducing. Oddly enough this article recognizes a national problem of intra-department communication in wildlife law enforcement.

Comparing twelve years of accomplishment for a Division under one department with four years of accomplishment with another department is most difficult. The objectives of the Protection Division are simply stated within the budget document and reads; "The primary goal of Fish and Wildlife Enforcement is to protect the renewable resources of the state and to provide an adequate level of enforcement to insure an optimum opportunity for management of Alaska's fish and wildlife resources on a sustained yield basis."

To accomplish this objective, requires both personnel and operating funds.

Under the State system of budgeting, the commissioner of each department exercises authority over the growth of divisions within a department. Upon this initial review system, the growth is then determined by the administration and then the legislature. Growth of the Division of Fish and Wildlife has been less than spectacular at any time during the 16 year history of the division. It can be accurately said, however, the growth potential has been far greater under the Department of Public Safety than at any time during the sixteen years, based primarily on the ability to at least reach administrative and legislative review steps. Prior to 1973, growth was competitive to research and management, and enforcement failed to receive priority status, remaining number six among six divisions.

Growth in ability to achieve the goal of an adequate level of enforcement depends upon financial ability and efficiency. Efficiency without financial assistance has limits, and reaches a point of necessity to select priorities. The selection of priorities is not compatible for satisfaction to the general public or to management and ultimately the Boards of Fish and Game. It can be called lack of communication, coordination, or poor relations, but it is lack of financial ability to meet the needs of the public and management at their level of expectation. The basic difference of the Division of Fish and Wildlife under the Department of Public Safety is that enforcement is not assuming the subservient posture that had characterized twelve years within the Department of Fish and Game, and the morale of the officer produces quality and efficiency, as compared to frustration.

Selection of priorities is not limited to allocation of manpower to activity, but also it is placing a priority on the amount of time an officer spends with his primary responsibility-enforcement-compared to other functions, management assistance and support, hunter safety, etc. Traditionally, the Division of Protection participated actively in sealing programs, nuisance animal problems, collecting programs, permit monitoring and similar management responsibilities. This support has been minimized in favor of enforcement and protection of the resources with minimum dilution of enforcement respensibility.

The Board of Fish and Game has contributed greatly to the problems which seem apparent today. They have given eager reception to management proposals and various refinements to sporstman ethics, administratively legislating regulations for the hunter and fisherman. A notable difference between the Board and the state legislature is the attachement of a fiscal note to the output. Means to accomplish the ends has not been part of the role for the Board. Regulations have been promulgated regardless of enforcement potential or even enforceability of the regulation. The system has reached the point of crisis.

Alaska's resources are being managed, using 20th century philosophy and the complexities of the regulations near exceed the ability of the average sportsman to comprehend. The commercial fisherman needs Loran and radar to determine his legality and the sportsman who leaves familiar terrain has to visit an office of the Department to clarify his legal obligations. Obviously, personnel of the Department of Fish and Game believe in adequate law and regulation, but are unable to distinguish between that which is morally wrong and legally wrong, and firmly believe in the 19th century enforcement philosophy that has been taught in the nation's colleges to resource students for the past forty years, that good research data cannot be secured when involved with legality.

The basic difference between the Department of Public Safety and the Department of Fish and Game is essentially, one is concerned with people and their behavior, and the other fish and animals with their related behavior and needs. Enforcement is people management and it is a full time profession. The behavior of our citizens directly influence the quality and quantity of our resources. Social behavior, patterns and values have displayed dramatic changes within a very short period of time. The right to question the competence of professional theory is not a stranger in Alaska's resource management, nor is the right to challenge the validity and authority of resource laws and regulations. People management and biological management of resources are not in harmony in Alaska, nor elsewhere. Each has its own peculiar need for competence and professionalism and that need can only be accomplished if neither is diluted to the point of inefficency. A department separation of both functions is the only means to secure a maximum benefit to the resources.

Wildlife Enforcement is not apart from any career in law enforcement, and it demands knowledge, high standards of ethics and personal conduct. The law enforcement officer must have personal attributes to allow the job to be done efficiently, such as physical, emotional, intellectual, social and moral. The combination of these attributes in an organization produces an esprit de corps that promotes quality and efficiency and commands respect for the organization and the goals of the organization. These attributes are not part of a wildlife management curiculum and are not attainable within a department that confines its standards to biological considerations.

The material benefits and merits of retaining the Protection Division within the Department of Public Safety have not been elaborated upon, but essentially, are obvious and include:

1) recruit training of the highest standard nationwide
2) in-service training
3) quality vehicular equipment, including aircraft and marine applications
4) communications

All of these are essential to law enforcement, and perhaps the greatest benefit that can be secured is support, both in manpower and practical knowledge.

The state is not financially willing or capable of supporting a Division of Fish and Wildlife Protection that can serve the protection needs of the resources and yet supply a service and maintenance section for the Department of Fish and Game, similar to the traditional pattern of ther states. To meet a national standard, would require the addition of 158 new positions in the Division of Protection, and to meet only a western state's standard would require 110 new positions.

To address a statement to present and potential relationship of Protection and Fish and Game Management personnel, is to assume the Board has been convinced that poor relationship is detrimental to resources and poor relationship now exists. It is unfortunate the concern of the Board becomes evident four years after the crisis, and the management plan is being considered with only one set of charts and graphs. Basically, the Division of Protection feels there is a state of being mutually or reciprocally interested in the same objective, but a lack of affinity. This lack of kinship is caused by wide differences in opinion towards professional standards. Mandates will not alter this problem and it is most difficult to associate this with benefits towards resources. Sound management requires wise judgement to accomplish and should include consideration of all sources of pertinent data to achieve the desired end. It took twelve years to gain a seat at the table of deliberation before the Board of Fish and Game, and only when enforcement was accountable to another department was input accepted that was contrary to the fixed posture of management proposals. At the present, relationship is healthy for resources and this should be the objective of the state. The potential relationship will remain healthy to the extent that enforcement is permitted to offer input for consideration.

	WEST	MIDWEST	NORTHEAST	SOUTHEAST	NATIONWIDE	1972 ALASKA	1976 ALASKA
Percent Enforcement Personnel compared to Total Fish & Game Staff	22.5	26.8	31.9	42.7	32.3	16.5	16.5
Percent Budget for Enforcement compared to Total Fish & Game Budget	22.8	28.5	27.9	32.3	27.4	19.0	18.76
Average Patrol District Per/Officer Sq. Miles	1,204	605	182	412	543	8,623	7,239
Arrests/Officer	48	53.7	32.6	54.6	48.7	25	13.5*
Average Fine Collected	27.17	22.29	31.03	22.96	25.12	-----	100.00
Arrests per 1,000 Licenses	5.9	5.0	5.6	8.6	6.4	8.3	6.4

National Statistics shown are for the year 1972, the last year when national statistics were available.

*Arrests/Officer is a function proportionate to the size of the area patrolled and population density. Because of overall size of the state and lower comparative population, Alaska cannot compete in National averages in this category. Arrests are directly proportionate to user contacts, and because of size and lesser density of user, contacts are less than other states. The marked decline in arrests/officer from 1972 compared to 1976 results from a forced reduction in hours worked per day by each officer, and days worked per week by each officer created by budget limitations for overtime payment.

In 1972, officers were on a straight salary basis and work performed as required. Mandatory overtime in 1976 with severe budget limitations for overtime payment has resulted in less hours worked, fewer contacts per officer, hence less arrests per officer.

LAW ENFORCEMENT—ONE THIRD OF THE TRIANGLE

WILLIAM B. MORSE, *Wildlife Management Institute, Portland, Oregon*

Abstract: Law enforcement is as important as research and management in administration of wildlife resources but it has not received proportionate attention from administrators and researchers. Enforcement accounts for ⅓ of the personnel and over ¼ of the budget of state wildlife agencies. Trends show a continued dilution of law enforcement effort per hunter and angler, and an increase in the number of laws enforced. Conservation officers will some day become recreation enforcement officers, but should remain a part of fish and wildlife departments. Recommendations for improving law enforcement include a productive research program, uniform records system, adequate officer numbers for the workload, professional enforcement communications between states, and obtaining general police powers for all conservation officers.

Management of fish and wildlife resources in the United States involves three fundamental activities: research, management, and law enforcement. Research has received primary professional emphasis from The Wildlife Society in both interest and publications. Management is the primary task of administrative agencies, which put research knowledge into operation on the land in order to improve habitat, and to regulate harvests of game species to achieve sustained yields. Law enforcement is the effort, both passive and active, to secure public compliance with the laws and regulations that management uses as tools.

Too often, enforcement is looked upon as a necessary evil, even as an anachronism that must be accepted simply because it exists. Nothing can be further from the truth. Without adequate law enforcement, the finest research and management will have little or no effect in protecting the resource. Scientist and manager alike must realize that wildlife depends on three-way teamwork, and must help give enforcement the stature and tools it needs to operate.

Law enforcement requires consideration, thought, research, and planning in order to be conducted as the major conservation business that it is. On January 1, 1972, there were more than 5,800 employees in state wildlife and fisheries law enforcement, comprising 32.2 percent of all employees of state wildlife agencies. Authorized enforcement budgets exceeded $72 million per year, or 27.4 percent of the annual operating budgets of state agencies (Morse 1972). Yet a hard analytical look at overall state enforcement operations will show that there has been only limited improvement in many years. Most of these improvements have been simple: officers now have automobiles, two-way radios, some jet boats and airplanes, and there have been improvements in recruiting and teaching. Other needs have been overlooked consistently during a period when both research and management techniques have entered the space age. For example, does the officer know why the violator violates? Can he use theory of games on a search for jacklighters? Can he check an offender's record by radio?

Enforcement officers tend to feel alienated to some degree because they are not always considered essential or professional. Better intra-department communication would reduce this feeling. Administrators could help increase the officers' morale, prestige and feelings of worth by spending more time with the officers in the field to learn their problems and needs. Regional forums, where officers from several states could gather to discuss and coordinate mutual problems, would also help. These forums should be in addition to regional association meetings and should be similar to symposia held on individual wildlife species.

Long overdue changes and improvements in enforcement will not be forthcoming until there is a change in attitude of agency administrators and an emphasis on selling improvements in enforcement to budget-approving personnel and agencies. Even in the most progressive states, the officer in the field still operates by the seat of his pants and his instincts rather than as a modern technician striving to accomplish planned and programmed goals with techniques developed by many disciplines. If law enforcement is to meet present, let alone future needs, it must receive administrative interest commensurate with its personnel numbers, expenditures, and importance as a member of the three-way wildlife and fisheries team. Such co-equal recognition of enforcement with research and management efforts is one of the principal tasks facing wildlife agencies in the '70s.

Table 8A
Basic Information on Conservation Officers, 1972

West	Title of Officer	No. Empl. in Dept.	No. C.O.	No. C.O. Supervisors	2-yr Expansion	2-yr Replacement	C.O. w/WL Degree	C.O. Other Degree	w/Minimum Education	Res. Rqmt. in Months	No. C.O. w/Fed. Comm.
Alaska	F&W Off.	418	61	8	6	6	5	10	HS	0	40
Arizona *	F&W Mgr. or Ranger	143	76	12	14	18	18	0	BS-WL	0	75
Calif.	F&G Warden	1,291	279	10	20	28	56	75	2-yr.Col,	Ctzn.	260
Colorado	WL C.O.	425	106	6	20	12	57	0	BS-WL	0	70
Hawaii	F&G Warden	69	27	5	0	1	0	1	HS	36	19
Idaho	C.O.	278	65	10	9	6	42	1	BS-WL	0	29
Montana	F&G Warden	286	83	4	0	9	17	5	HS	12	25
Nevada	F&G Warden	105	36**	4	3	0	32	0	BS-WL	0	5
New Mexico	Dist. WL Offr.	163	31	5	2	4	6	4	BS-WL	12	34
Oregon	State Police	445	90	15	8	10	10	8	HS	Resdnt.	0
Utah	C.O.	236	58	9	8	27	34	4	BS-WL	0	23
Wash. (Game)	WL Agent	458	118	13	0	10	20	5	2-yr Col.	0	42
Wash. (Fish)	Fish Pat. Off.	385	36	2	0	0	0	3	HS	0	11
Wyoming	Dep. Gm. Wdn.	285	57	2	0	4	12	6	BS	0	0
Total		4,987	1,123	105	90	135	309	122	(BS-7)	(No.Res. 9)	633

* Some Rangers full time ** Only 15 full time

Midwest											
Illinois	Cons. Plc.Off.	-	139	6	10	-	0	-	HS	Co. Res.	-
Indiana	C.O.	-	142	4	0	10	0	3	HS	12	120
Iowa	C.O.	321	66	1	0	2	2	7	1-yrCol.	0	66
Kansas	Game.Prot.	202	60	7	6	5	2	2	HS	0	32
Michigan	C.O.	678	198	6	25	10	8	19	HS	0	61
Minnesota	C.O.	527	142	10	40	10	8	25	-	24	136
Missouri	Consv.Agt.	429	122	12	10	10	0	9	HS	24	134
Nebraska	C.O.	211	46	2	4	-	0	0	HS	0	37
N. Dakota	Game Wrdn.	77	24	5	0	1	1	0	HS	6	16
Ohio	Game Prot.	413	114	7	4	5	5	1	HS	0	30
So. Dakota	C.O.	231	56	16	0	4	14	3	BS-WL	Res.Pref.	50
Wisconsin	Cons. Wrdn.	465	136	18	0	15	28	11	BS	12	0
Total		3,554	1,245	94	99	72	68	80	(BS-2)	(No Res. Req. 6)	682

Table 9A
How the Conservation Officer Spends His Time, 1972

West	Law Enf. %	Game Mgmt. %	Fish Mgmt. %	Hunter Safety %	Youth Ed. %	Public Rel. %	* Lands %	Pollution Control %	Forestry %	Snowmobile %	Boating %	Misc. & Other %
Alaska	80	5	5	2	2	3	-	3	-	-	-	-
Arizona	40	20	10	1	1	1	2	-	1	-	-	24
California	89	-	-	-	-	-	-	-	-	-	-	11
Colorado	28	28	4	7	7	-	4	-	-	4	2	14
Hawaii	80	5	5	-	3	6	-	-	-	-	-	-
Idaho	65	6	4	2	1	1	4	2	1	-	-	15
Montana	20	10	10	3	2	30	-	5	-	-	5	15
Nevada	60	10	8	-	5	12	1	2	2	-	-	-
New Mexico	25	20	20	2	5	2	20	2	1	-	-	3
Oregon	70	5	5	2	1	2	-	-	-	-	-	15
Utah	66	8	7	-	-	6	-	-	-	-	-	13
Wash. (Game)	53	8	8	3	3	17	4	-	-	-	-	5
Wash. (Fish)	100	-	-	-	-	-	-	-	-	-	-	-
Wyoming	46	15	-	-	-	-	-	-	-	-	-	39
Average	59	10	6	2	2	7	1	1	.5	.3	.5	11

* Includes Acquisition and Management

Midwest												
Illinois	82	-	-	5	2	-	3	3	5	-	-	-
Indiana	50	-	-	1	3	14	-	2	5	-	25	-
Iowa	50	5	5	2	2	31	3	1	1	-	-	-
Kansas	50	5	5	5	5	20	4	5	1	-	-	-
Michigan	60	1	2	3	3	8	2	-	-	-	-	21**
Minnesota	46	7	5	2	1	5	2	2	-	15	15	-
Missouri	-	-	-	-	-	-	-	-	-	-	-	-
Nebraska	60	10	5	4	4	4	-	3	-	-	10	-
North Dakota	65	10	10	-	-	10	-	-	-	-	-	5
Ohio	35	20	20	5	-	5	5	10	-	-	-	-
South Dakota	25	15	9	3	3	12	22	3	-	-	-	8
Wisconsin	-	-	-	-	-	-	-	-	-	-	-	-
Average	52	7	6	3	2	11	4	3	1	1	5	3

* Includes Acquisition and Development
** Includes Boating and Snowmobile

STATE of ALASKA

MEMORANDUM

TO: Richard L. Burton, Commissioner
Department of Public Safety
Juneau

DATE: April 26, 1976

FROM: Colonel J. P. Wellington, Director
Alaska State Troopers
Anchorage

SUBJECT: Division of Fish and Wildlife Protection - Retention Within the Department of Public Safety

As you know, Commissioner, when the Division of Fish and Wildlife Protection was transferred from the Department of Fish and Game to the Department of Public Safety I was the Deputy Commissioner of the Department of Public Safety and am therefore familiarwith some of the problems that we experienced during the transition.

What we found was that we inherited a division that was financially in tough shape, the morale was down and there were a number of factions within the division which were creating problems.

Now Commissioner, I don't want to pick at old sores or try to create any problems because I think the Division of Fish and Wildlife Protection, since coming to Public Safety, has operated quite efficiently and quite effectively; but I think if there is any attempt to move the Division back to Fish and Game, then we have to look objectively at what the Division was when it arrived in Public Safety.

TRAINING - For the most part the officers did not have any formal training program. Some of them attended the State Trooper Academy and others attended various short courses and also the Division conducted a yearly meeting which was a mixture of partying and training, but for the most part lasted no more than three or four days. In other words, they had no formal training program, which is now afforded them at the Public Safety Academy in Sitka.

EQUIPMENT - For the most part their equipment was in a poor state of repair and in a lot of cases not appropriate for the work to be performed. As you will probably recall yourself, a majority of the Protection officers were equipped with station wagons which certainly is not the type of vehicle that is geared to do the type of work that the Protection Officers do. This would include off-road travel plus hauling outboard motors, moose meat, gasoline, etc. Apparently the station wagons were very comfortable for the Protection Officer to ride in, but certainly were not functional, and since the Division has come to Public Safety a majority of the vehicles have been changed over to a functional pickup.

As far as radio communication is concerned, the Protection Officers had no radio contact with anybody after 4:30 or on week ends and holdidays. At the present time they are tied in with the Department of Public Safety network and have radio communications

in all the major areas, plus the use of the Department teletype system. This was all put in after the Division came to Public Safety. Since coming to Public Safety additional vessels have been acquired and additional aircraft. Again, because the Department of Public Safety is primarily law enforcement oriented and a need for adequate equipment is thoroughly understood, the Division of Fish and Wildlife Protection has benefited from this progressive thinking within the Department, both in the past and at the present.

It appeared, Commissioner, as if the purchasing of equipment was kind of on a haphazard method, with each regional supervisor determining what he needed. As a result of that there appeared to be an overbuying in certain areas and underbuying in other areas. For example, each Protection Officer had a pair of hip boots, a spotting scope, binoculars and a very expensive Pen-tex camera; but they had no radio equipment, either portable or mobile, they had no hard copy communication system, and did not even carry suitable firearms when in the field.

ORGANIZATIONAL STRUCTURE AND SUPERVISION - This is the area, Commissioner, that gets a little touchy, but I think in order to thoroughly evaluate the problem you have to look at the guts of the organization that the Department of Public Safety inherited.

It appeared as if there was very little control from the top, or if there was, the supervisors took an indifferent attitude to supervision and therefore many things were going on within the Division which would not be tolerated by you or I and certainly are not tolerated today.

When the Division came over to Fish and Wildlife Protection, the aircraft were being utilized for semi-personal business, such as transporting moose meat, personal gear, sightseeing, etc. The [illegible]akeout camps were also being utilized as pesonal hunting lodges and departmental equipment was being utilized for personal use, such as boats, binoculars, hip boots, etc. were all being used support private hunting or fishing trips. In addition, their evidence handling, recording and disposition procedure left a lot to be desired. In fact, to the embarrassment of the Department, we found that at least two polar bear hides were improperly disposed of, one being given to the Catholic Church in Fairbanks for a raffle and the other being lost which cost the State in excess of $6,000.

In other words, Commissioner, the whole administrative operation seemed to be very shoddy and without proper direction, thus creating several embarrassing situations for the State and the Division.

Now I'm sure that somebody might say that these situations could all be taken care of within the Deparment of Fish and Game if the Division was transferred back; and my answer to that would be, "Why wasn't it done during the first ten years?"

CONCLUSION - I feel that the Division of Fish and Wildlife Protection, since coming to the Department of Public Safety, is better equipped, better trained, better disciplined

and has better morale than it did while being under the Department of Fish and Game. Also I feel that the enforcement effort has been increased as a result of having better equipment, better communications, better training and better direction.

I think an individual who proposes that the Division be transferred back to Fish and Game should objectively look at what the Division was and doing prior to its coming to Public Safety and what it has accomplished after coming to Public Safety; and I think if you objectively review both situations, you will find that the Division is functioning 100% better today than it was when it was transferred.

I think also that people who have worked under both systems would readily admit that the procedures today are better than they were under Fish and Game. Now I know that we still have some individuals who are not inclined to support the fact that the Division is functioning better today than it was four years ago; and to that I can only say, Commissioner, those individuals are probably the ones who were misusing the State equipment, abusing their authority and creating problems for the Director of Fish and Wildlife Protection while it was under Fish and Game.

I think also it is important to look at what the Department of Fish and Game is designed to do and what the Department of Public Safety is designed to do. By this I mean primarily the Department of Fish and Game is research orientated, whether it be commercial fishery research and rehabilitation or wildlife research and rehabilitation, whereas the Department of Public Safety is primarily a law enforcement agency. As we have so often said, the enforcement of the Fish and Game laws are no different than the enforcement of our criminal statutes. All the rules of criminal procedure apply, and I think the records will reflect, and I'm sure the D.A.'s will concur, that the cases being made by the Division of Protection in the last three years are considerably better than the cases made prior to the Division's transfer. This can only be attributed to the increase in training and the administrative review given the report.

Again, I think one should ask: "What is being done today versus what was being done under the old concept," and I defy anybody to substantiate with hard facts the proposition that the Division of Fish and Wildlife Protection should be returned to the Department of Fish and Game.

JPW:me

OFFICE OF THE GOVERNOR

Commissioner James Brooks
Commissioner Richard Burton

April 19, 1976

Jay S. Hammond
Governor

Attached Resolution 76-2 of the Boards of Fisheries and Game

At the request of the Boards of Fisheries and Game, I am asking that each of you carry out the request of the Boards enunciated in their Resolution 76-2.

I would ask that you submit your initial response to me by May 15. After review by myself, I will then ask each of you to respond to the points raised in that input.

Additionally, I would request that each of you in your initial submission include a section of pertinent questions which would be addressed, in questionnaire form, to appropriate enforcement and management personnel at the field level.

cc: All Members
Boards of Fisheries & Game

'76 APR 26 PM 12 31
DEPT. OF PUBLIC SAFETY
JUNEAU, ALASKA

	Commissioner		Deputy Comm.
	Director, F&W		Dir., Adm. Ser.
	Fire Marshall		Building Ser.
	Info. Officer		

( ) FOR YOUR INFORMATION
(X) ACTION Draft response
( ) REPLY

FROM: DATE

Comm. Off. PUBLIC SAFETY JNO

ALASKA BOARD OF FISHERIES AND ALASKA BOARD OF GAME

JOINT BOARD RESOLUTION NO. 76-2

REGARDING THE DIVISION OF FISH AND WILDLIFE PROTECTION

The Board of Game and the Board of Fisheries, meeting in joint session on April 2, 1976 in Anchorage, Alaska, respectfully request the Governor to direct the Commissioners of Fish and Game and Public Safety to prepare a "white paper" statement regarding the relative merits of the Protection Division under the jurisdiction of their respective departments. Such statements should include but not be limited to:

1. Objectives of the Protection Division

2. Present and potential relationship of Protection and Fish and Game management personnel

Following the preparation of the "white paper" said Commissioners should prepare briefs of response to each others statement.

The Governor is further requested to provide the Boards with all, or part, at his discretion, of said "white paper" and responses. Further, should the Governor wish comment from the interest of the public, that he seek response from one or more disinterested but knowledgeable person or persons on this subject.

Gordon Jensen, Chairman of the
Joint Session of the
Alaska Board of Fisheries and
Alaska Board of Game

DATED: April 2, 1976
Anchorage, Alaska

DEPARTMENT OF PUBLIC SAFETY
TESTIMONY
10 FEBRUARY 1977

Mr. Chairman, my name is Dick Burton. I'm the Commissioner of the Department of Public Safety.

I didn't know until now we were in paratroop business. It's news to me.

Unfortunately, after listening to the testimony of the sponsor of the bill that is was introduced with good faith and with good intent. However, limited entry, Mr. Ron Rickey, Fish and Game, or no one else is responsible for stake out crews except me and this is the first time I've had an opportunity to speak to the bill. I wasn't afforded the opportunity to have any input into the bill and some factual figures prior to its drafting and introduction. I have some copies, not enough to go around, but I'll share them with you when I have comments from the Director of Fish and Wildlife and then I have a few comments of my own. For the record I'd like to read one of the major impacts of the bill, the comments some from Colonel Walstead. Implementation of the Bill would have severe detrimental results to the fisheries resources unless an approximate 400% increase in temporary man months were funded to provide stream guards for protection of salmon spawning streams. In addition to the temporary man power, additional support funds would be necessary to provide field gear, such as, tents, skiffs, outboard motors, matresses, cots, etc. - everything that goes to support a man in the field. Implementation of the bill is legislation of enforcement methods and provides a license to steal. It would afford and offer the maximum advantage to theft of fish stocks by commercial fisherman that can be envisioned. Perpetuation of fish stocks would be limited to those areas where a stream guard was stationed

to the funding provided for temporary personnel. Southeast Alaska alone has an excess of 2,500 spawning streams and each should be protected. It would be physically and financially impossible to thoroughly protect the areas unless the fisherman is faced with the prospect of apprehension during the violation thru a means he cannot predetermine under the terms of the bill absence of a visible stream guard would assure the fisherman that the stream is unprotected and vulnerable.

I have a fiscal note attached to this. As near as we could figure in the time we had allowed for what it would take to provide adequate protection we figure in just temporary man months for a fishing season throughout the state of 459 man months and with extra commodities and equipment involved, a very conservative figure of $1.3 million just for stream guards during the summer.

I equate this with, its like saying there are 2,500 First National Banks scattered around and you have people in 100 of them. The other 2,400 not even having cashiers, tellers at the windows. You can go in and help yourself to the money. I consider stealing resources from the state every bit as important as stealing money from a bank. People who steal 20-30,000 fish are as much a criminal and felon as the guy who holds up the bank. I would say that in the same respect, if we're going to have to stand out there and be visible on those few streams that we can barely afford to cover because of manpower and money requirements, that if this was a fair way to enforce the law, perhaps on the patrol cars of our troopers we should have a sign saying we are answering a call to an armed robbery at the bank and let them have a chance to get out of there, or we only answer calls to these banks on Wednesdays or Thursdays and not on Mondays or Fridays. Thats a little facetious but its the same kind of approach. I wish I would have been afforded the opportunity to have this discussed with us and with the people responsible for this prior to it.

I think we could have come to an equitable solution, whether it be budget approach or whatever to increase the enforcement capability. When you take the coastline of Alaska and we're responsible for the 3 mile off shore limit and we're responsible for 38,000 miles of shoreline, that makes roughly 105 square miles of water to cover alone. With 86 men I couldn't even cover that, let alone the land mass of the state.

Snider: Commissioner, what other forms of surveillance do you use in comparison to the number of stream guards? And what is the stream guard's salary on a temporary basis in the summer months?

Mr. Herman, Director of Administrative Services, Department of Public Safety: $3,375/summer (3 months), $2,000 overtime, and equipment $3,3000/man.

Burton: other methods of surveillance aircraft, boats, we move the people

The combined Board of Fish and Game at their last meeting in Soldotna, came on record very strongly about wanting to increase the stakeout and stream guard program in use in the same manner as it is now. We've met with the seine boat associations around southeast and other people and the honest fishermen, they're after us to increase this type of enforcement effort. Prior to statehood, this was used to a good degree and they had alot of temporary manpower. Of course the dollar an hour figure has changed with today's collective bargaining and everything. But they had a great number of people involved in those programs and it was successful and it can be. And we had apprehended people in major areas prior to them taking the fish out of there. We've made some significant changes, particularly in Mr. Osterback area this last year. I opened a post at Sand Point. It was the first time they've had anyone there in a long time. The overlength gear

well a serre forts. You probably read recently we had a $19,000 fine from on a crab boat from out there, a major (ill). We're still working after the boat too. Although for the area and the amount of people we got to cover I would venture a guess that 30%-40% of all crab and shrimp taken out in that area, not just salmon, is taken illegally and that is taken in closed areas. I don't have the copy with me, I had it on my desk this morning comparing this past year with 4 years ago, the type of cases being made where protected resources are not and the number of cases for fishing in closed areas has increased several hundred percent over what it was a few years past. Alot of this is attributed to the stream guard. I do not know about anybody parachuting into the alders until I heard it here. That is news to me. I'd like to know about that. It may have been some other department because nobody talked to me about it.

Snider: Do you know of any stream guards being shot at because of sneaking around in the brush or camoflague techniques?

Burton: I've been in law enforcement since 1954 starting in 1954 in Ketchikan, mostly Southeast Alaska, and I've heard over the years many stories of people. They'll go in and shoot up a beach, whether they know there is anyone there or not -- just to let them know they're coming in and anybody thats fished knows this. We had a case years ago of a federal stream guard that flat disappeared off the face of the earth, don't know what happened to him except that we're pretty sure it was a homicide. Sure, that happens. I doubt if I could hire anybody, especially the temporaries that you get who are college kids and so forth. You wouldn't get me to go out there and stand with a sign on my head saying I'm standing there,not unless I had a twin 50 caliber machine gun to back me up.

I would like to have more stream protection, but just the impact of this HB 111 to try to provide and identify the major streams of where

we would put people to meet the requirements of what we'd have to feel we were providing some protection, with the changes of this bill would take an additional $1.3 million.

Malone: Commissioner, I don't understand. You say if you don't have anyone there you say its protected now?

Burton: They don't know where we're at. We have stream guard in one area.

Malone: Just a minute, you said 30-40% of the catch was being taken illegally.

Burton: In the crab and shrimp area out in that Aleutian Peninsula Ch.in. I'm talking about crab/shrimp. We don't have spawning streams for that. Pure and simple manpower coverage.

Malone: What were the recommendations of the Board regarding increased stream surveillance.

Burton: Well, most of their recommendations is they just want it done. Thats all. They just want to see it increased.

Malone: To what extent?

Burton: They didn't convey that to me. I just got it off the minutes when they were discussing it with the Department of Fish and Game.

Malone: Well, do you think it needs to be increased?

Burton: Certainly

Malone: Does that increase reflecting the Department's budget?

Burton: As best we could reflect it, yes.

Malone: What sort of increase is planned for the budget year?

Burton: Presently, right now, in the budget for Fish and Wildlife protection, an additional 10 new officers and I couldn't quote you the number of temporary man months for temporaries in the summer, which was increased, but is was increases over the last year. We've got a significant increase.

Malone: Do you have any estimate the value of confiscated catches or gear equipment by stream guards?

Burton: I don't have it broken down like that we could do it.

Lt. Tedsloff, Commander of Southeast Region who operates stream guard programs

Malone: Do you have any way of estimating what the illegal catch do to stream robbers right now, in terms of dollars?

Lt. Tedsloff: I think you'd first have to establish what you're talking about, crab, shrimp, salmon, and are we talking about the

Sound or Cook Inlet or Bristol Bay. Each area's different you see and I can speak on Southeast in Southeast, maybe 10-20% salmon is taken illegally. I feel in good control of Southeast Alaska Peninsula, Kodiak, etc., is a completely picture.

Burton: It would take a concerted effort by several agencies to come up with a scientific guess of how many fish are being caught illegally. We'd like to think that all the ones fishing illegally are the ones we're catching but we know better than that, so it's strictly an assumption.

Burton:You got a problem and I'll tell you in a minute, regardless of whether stream guards are going to be standing out there with signs on them, visible or hidden. It's a summer time, temporary employee you're hiring. This is why we've cut down in the past few years on our temporary and asked for more permanent, full time, trained, professional offices because you've got these kids that are out of school, you have a training problem, you have a problem when they get out there and see a couple boat loads of fishermen, it makes your knees shake a little bit and your hands shake a little bit to go up and approach them. We have it, but not in every case. We do have some good young people. The other problem that comes around is about the time the D.A.'s and the fisherman defense funds and everything gets involved and drag it out until time to go to court, that kid's back in college. He might be in South America and then the D.A. won't prosecute because the witness is not there. Those are real problems, but I don't think we're going to change anything by having stream guards standing out there where everybody can see them.

Burton: It would be fruitful to get together and talk this over but an alternative would include the same thing that this does and it gets down to bucks... I would welcome the opportunity to talk to somebody... Any questions you have, a subcommittee on it, or anything

else, we'd be more than happy to.

This is the first contact I've had with anyone on this bill. I did not know exactly what was wanted, what was expected, or what was going to be asked as far as preparing for this. If you'd like as was discussed earlier, for a small group of us to get together we'd certainly be more than happy to sit down and make all the information that we can get together.

1934
un 16 03
BC-Wildlife Protection - ? Takes, 460-920
SE: REFILE FOR PMS
By G. MICHAEL HARMON
Associated Press Writer
JUNEAU AP -Legislation to transfer fish and wildlife protection officers from the Department of Public Safety to the Department of Fish and Game has lifted the lid from a intense tug-of-war which has been simmering behind the scenes for more than a year.
The discoveries include previously undisclosed exchanges between the two agencies over the issue, including bitter allegation from the Department of Public Safety questioning the motives of proponents within the Department of Fish and Game.
In return, supporters have accused the Department of Public Safety of fostering un-Alaskan, riot squad attitudes.
The controversy surfaced with a bill HB337 by House Resources Chairman Alvin Osterback, D-Sand Point, to return fish and wildlife protection officers to the Department of Fish and Game.
The Division of Protection was moved to the Department of Public Safety five years ago by then-Gov. Bill Egan.
Osterback, who has scheduled a hearing on the bill April 1 in connection with a joint meeting of the fish and game boards, says he introduced the legislation after concluding that the Department of Public Safety is "more interested in playing cops and robbers than protecting our resources."
In an enforcement program aimed exclusively at obtaining convictions, Osterback says protection officers sit by and watch as salmon stream robbers net and boat thousands of fish before making arrests.
"They could arrest these people after they catch three or four fish," Osterback says. "But they are letting them get 50,000. I want them to protect our resources and stop crime before it occurs."
Osterback says attitudes in the Department of Public Safety were graphically demonstrated during a recent appearance before his committee by Commissioner Richard Burton.
Burton was appearing in opposition to another Osterback-backed bill to require stream guards to remain visible under the premise that crime prevention in the area of fish and wildlife protection is more important than arresting offenders.
Based on a tape recording of the committee meeting, Osterback quoted Burton as saying: "You would'nt get me to go out there and stand with a sign on my head saying I'm standing here, not unless I had a twin 50 caliber machine gun to back me up."
"Personally," Osterback replied, "I would expect this way of thinking from a riot squad in Chicago, but never from a typical Alaskan.
"The Department of Public Safety is handling enforcement from a 'cop and robber' viewpoint, rather than from one of protecting and saving the resource."
Burton was out of town and could not be reached for comment, and Fish and Game Commissioner James Brooks declined to discuss the issue because Gov. Jay Hammond has not reached a position on the controversy.
More

1935
un 16 03
BC-Wildlife Protection - 1st add, 450
SE: REFILE FOR FMS
JUNEAU: controversy.
But the opposing views of Burton and Brooks were gleaned from position papers they prepared last May in response to a joint resolution from the boards of fish and game.
In his paper, Brooks acknowledged that the transfer to Public Safety was prompted by a lack of effective leadership and control within the agency which led to a ''loose, undisciplined mode of individual activities'' by protection personnel.
He also readly admitted that the 1972 transfer to the Department of Public Safety created ''a better directed and disciplined performance,'' and said protection officers now ''have high morale, enjoy new security and an orderly, disciplined work environment.''
But Brooks added that ''the protection program presently appears to give priority to law enforcement with the aim of apprehending violators and making good strong cases, as opposed to preventing a many violations as possible by promoting the idea that detection is highly certain.''
In conclusion, Brooks supported the view of managment personnel in his department that ''the partnership of purpose that exists between resource management and resource protection cannot be satisfacorily implemented in the field while separate departments are involved.''
In his position paper, Burton appeared to substantiate the claim that under the Department of Public Safety, fish and wildlife officers are more interested in enforcement than protection.
Like the department, Burton said the ''prime mission'' of the division is law enforcement and regulation and should not be moved.
Burton's position paper also included the comments of Alaska State Troopers Director J. P. Wellington who reiterated Brooks' acknowledgement of poor control from the top during the previous organization and hinted that things may not have changed.
''Now I'm sure that somebody might say that these situations could all be taken care of within the Department of Fish and Game if the division was transferred back,'' Wellington said. ''And my answer to that would be, 'Why wasn't it done during the first ten years.' ''
Wellington said he was aware of criticism of his agency and moves to regain control of protection officers from within the Department of Fish and Game and concluded that ''those individuals are probably the ones who were misusing the state equipment, abusing their authority and creating problems for the director of fish and wildlife protection while it was under fish and game.''
Asked for comment, Hammond said he had not made up his mind on the issue, but the transfer proposal picked up the support of House Speaker Hugh Malone, D-Kenai.
Hammond said he had questions about ''the costs required to make the change and whether this change would really solve problems or if it is more cosmetic in nature.''

Alaska State Legislature

House

JUNEAU ALASKA

M E M O R A N D U M 10 March 1977

SUBJECT: Fish & Game Protection

TO: Fellow Legislators

FROM: Alvin Osterback, Representative

I am concerned with the management of the fisheries resource, particularly the fisheries protection program in our State. The Department of Public Safety is handling enforcement from a "cop and robber" viewpoint, rather than from one of protecting and saving the resource. I think these two bills are a step in the right direction towards saving the resource.

As it is now, the Department of Fish and Game makes the regulations, expecting Public Safety to enforce them. Many times this causes discrepancies between regulating and enforcing. The Departments are not coordinating these activities, which are so valuable to saving the resource.

For example, we see the Fish and Game people involved on a daily basis up here in the legislature. They are always here to testify pro or con. Sometimes they do not even come to testify (usually when they have testified on the particular bill at a previous meeting) but the Department

always makes sure there is someone here to answer questions on Fish and Game matters. Many discussions focus around enforcement matters -- and who is our expert advisor? Not the Department of Public Safety, but Fish and Game.

I do see one problem that may arise with this bill. That is whether or not the stream surveillance guards will be allowed to be trained at the Sitka Police Academy. I realize that this is an inhouse problem, so Fish & Game will have to work this out with Public Safety.

I know the fishermen in my district will back me up on this legislation. As a matter of fact, I think fishermen all over the state will support this legislation. I asked Phil Daniels before I drafted this bill about the merits of it. He is here tonight to answer any questions you may have on the fisherman's viewpoint.

Banks hire their own security guards. Likewise, I think with Fish and Game doing their own security work, we'd be buying our insurance to save the resources, since this is the Department's overall concern.

I was concerned about this matter long before the Commissioner of Public Safety gave some testimony before my committee regarding stream surveillance. At that time he said (and I quote) "You wouldn't get me to go out there and stand with a sign on my head saying I'm standing there, not

unless I had a twin 50 caliber machine gun to back me up." Personally, I would expect this way of thinking from a riot squad in Chicago, but never from a typical Alaskan.

I look forward to this legislation accomplishing better management of our fish and game resources. I know it will bring about better coordination between regulations and enforcement.

(11) HB 337-338

Akers	4947-
Barnie	4948 - 930 3/11 ok
Eleason	4959-
Freeman	4993-
Gardiner	3718-
Haugen	3879-
Malone	3720-
Miller	3738-
Schaeffer	3892-
Specking	3879-
Swanson	4930-

Phil Daniels 6-2820
Jim Beaton

HB

348

Representative Alvin Osterback
Chairman, House Resources Committee
Pouch V
Juneau, Alaska 99811

1220 "F" Street
Anchorage, Alaska 99501
April 22nd, 1977

Dear Representative Osterback:

I realize that this session of the legislature is rapidly drawing to a close. However, since it still has to make it through the House Finance Committee, the full House, and then the Senate, if it is ever to be enacted into law, and since so far as I'm aware your committee hasn't yet held any hearings on it or given it any consideration, I hope that you will do your best to take action on H.B. 348, dealing with tax assessment of agricultural lands in our state. I believe that the passage of this bill is vital to the future of agriculture in our state, and I urge your favorable consideration of it at the earliest possible time.

I am, Sincerely,

Gerald R. Brookman

Gerald R. Brookman

Michael S. O'Meara
P. O. Box 1125
Homer, Alaska 99603

April 18, 1977

Hon. Alvin Osterback,
Chairman, Resources Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Osterback:

Upon reading House Bill No. 348, "An Act Relating to Assessment of Farm Use Lands," I was most favorably impressed. It is my desire to see legislation of this sort passed, and I strongly support the intent and general wording of this bill.

Having come to Alaska eight years ago, I obtained 120 acres of land near Homer with the intent of developing its agricultural potential. Not being an experienced farmer, and lacking great amounts of capital, I have been forced to proceed slowly, confining my efforts to research, small scale experimentation, and fence building, while supporting myself as a teacher. As a cooperator with the Soil Conservation District, I am starting to formulate a long-term agricultural plan and am attempting to develop my land in a methodical, responsible, environmentally sound manner. I do not look forward to enjoying any significant income from the land in the near future, therefore.

It has so far been my experience that those people who eventually have success with the land are willing to make a long term commitment to their goals, while those expecting a rapid return on their investments most frequently fail, destroying the quality of their land in the process. Unfortunately, the existing system of assessing and taxing land has served to discourage those patient people who could best manage our valuable agricultural lands. Conversely, this system supports and encourages the land speculator who is characteristically concerned with nothing but personal, short term, financial gain.

In our area, land values remained rather constant until the population expansion resulting from North Slope oil development and the resulting Alyeska Project became evident. At this time various individuals began to subdivide and market small parcels of land at relatively high prices. As inflation devalued our dollars, and high wages from oil related employment made more cash available, demand for real property increased dramatically. Much of the land, as I am sure you know, was and is purchased as a defense against inflation or for further speculation. Under existing law, of course, the local assessor values all

lands in the vicinity of such activity at or near the price of most recent sale, and there is a corresponding rise of everyone's tax rate. This is almost meaningless for the new property owner who holds small acreage, and the speculator is able to compensate through tax credit maneuvering or increased sale prices (in turn further inflating land values). What is the effect upon the agriculturalist, who must retain relatively large parcels of land, while enjoying at the most a modest income? Obviously we both know what happens as this process unfolds. Unable to support the expanding tax burden, farmers are forced to sell their holdings and the land is subdivided, further increasing what are already intolerable conditions for those who continue to pursue the agricultural course. This is, of course, a major reason that agricultural land in the United States is being removed from production at a rate of 1-1/4 million acres each year.

Since obtaining my property in 1971, I have watched the above mechanism function, raising my taxes by 130% in 1975, while this year my assessment forms indicate an intended increase of 82% over that high figure. Continuing at this rate, few years will be required to make it impossible for me to exist on this land. How can it be just for people such as myself to be destroyed while unscrupulous promoters are encouraged to realize as high as 1000% profit from sales of 1/4 acre, muskeg lots to youngsters from California who come seeking the Alaskan dream?

If the State of Alaska does, as stated so frequently, wish to encourage agriculture, a bill such as H.B. 348 is needed now. I would support any effort to establish such protection for the farm, while suggesting that two items be considered for inclusion in the final legislation. In Section 1(a) the bill refers to a "farm unit." To protect those of us now engaged in agricultural development, this should be clearly defined in such a way as to allow us to be qualified for agricultural assessment. Please do not allow this term to be so structured as to apply only to those areas of the state where new developments are being proposed. Then, in the last line of Section 2, the phrase "not compatible with farm use" appears. So as to avoid the error of forcing the clearing of land at a rate which is inconsistent with sound soil management and long-term planning, be sure to include lands held in the natural state in the "farm use" classification. With the application of the penalty clause to be found in Section 1, the bill can protect against abuse of the law by speculators claiming to be farmers.

Perhaps I am a fool to persist in the idea that this Alaskan soil of ours means more than dollars. As I sit and look across it, however, I see open space for people and wildlife, wholesome food for a hungry world, and the promise of a non-destructive integration of human effort with abundant resources. Without your continuing support, such a vision may well prove to be an impossible delusion, however.

Sincerely,

Michael S. O'Meara

MICHAEL S. O'MEARA

MSO:jo

HB 348

March 14, 1977

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill relating to the assessment of farm use land.

The bill would create an enforcement mechanism by which the state could recover funds it currently pays to municipalities to reimburse them for revenues lost as a result of the differential assessment of farm use land under AS 29.53.035. The current statute provides that the owner of the land is liable to the state for this money when the land is converted to a use incompatible with farm use, but there is no mechanism for collection of these funds. Experience has shown that it is virtually impossible to do so, particularly since a change in land use frequently follows a change in ownership, and the previous owner frequently is outside the jurisdiction of the Alaska court. This bill would provide a mechanism for collection of this money following a change in land use by creating a lien in favor of the state against the property. The lien becomes enforceable on change of the land to a purpose not compatible with farm use.

The bill also would eliminate an apparent contradiction in the existing statute.

Sincerely,

Jay S. Hammond
Governor

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Proposed Legislation HB 348
Title An Act Relating to the Assessment of Farm Use Land
Requested by Office of the Governor Date March 3, 1977

II. FISCAL DETAIL
Agency Affected Department of Community and Regional Affairs
Program Category Affected Development
Budget Request Unit(s) Affected State Assessor - 21-73-3-01-16-00

EXPENDITURES (Thousands of Dollars)

		FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES		.3	.3	.3	.4	.4
200	TRAVEL						
300	CONTRACTUAL		.5	.5	.5	.6	.6
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.		0	0	0	0	0
	TOTAL		.8	.8	.8	1.0	1.0

FUNDING (Thousands of Dollars)

GENERAL FUND	.8	.8	.8	1.0	1.0	
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME	0	0	0	0	0	
PART TIME	0	0	0	0	0	
TEMPORARY	0	0	0	0	0	

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

Administrative Costs; include approximately one week of clarical time involved in the preparation of approximately 100 lien forms ($285) and recording fees of $5.00 for each lien form filed for recordation. ($500) No additional grant funds required.

Section 1 of the bill would eliminate an apparent contradiction in existing law relating to the dual assessment requirement which is necessary to determine the dollar amount of deferred tax liability.

Section 2 of the bill would create an enforcement mechanism by which the state could recover funds it currently pays to municipalities to reimburse them for revenues lost as a result of the differential assessment of farm use land under AS 29.53.035. The current statute provides that the owner of the land is liable to the state for this money when the land is converted to a use incompatible

Analysis Continued:

IV. DATE March 3, 1977 PREPARED BY Robert Dougherty
AGENCY Department of Community and Regional Affairs
PHONE 465-4730

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

33-001 (Rev. 10/76)

with farm use, but there is no mechanism for collection of these funds. Experience has shown that it is virtually impossible to do so, particularly since a change in land use frequently follows a change in ownership, and the previous owner frequently is outside the jurisdiction of the Alaska court. This bill would provide a mechanism for collection of this money following a change in land use by creating a lien in favor of the state against the property. The lien becomes enforceable on change of the land to a purpose not compatible with farm use.

No Additional Grant Funding Required.

FY 77 BRU Grant (Authorized $110,000)

Preliminary Program Analysis		Average Per Applicant
No. of Applicants	88	
No. of Acres	16,150	184
Deferred Value	11,562,457.	131,392.
Deferred Tax Dollars	$99,179.	$1,127.

FY 78 BRU Grant (Governor's request $125,000)

HB

359

AGO 122820

Hearing
on
4/26 -
Bill held for
Rep. Beene amendments -

Federal-State
Land Use Planning Commission
For Alaska

April 15, 1977

Copy

Honorable Kris W. Lethin
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99801

Dear Mr. Lethin:

RE: Proposed Alaska Homestead Act, HB 359

I appreciate your request for input on your proposed "Alaska Homestead Act," (HB 359). The Commission has also been considering methods of State land disposal to private parties. You may have read Agenda for State Lands which is our basic background analysis of this issue. We have come to a conclusion about State land disposal methods which is different from yours. Our recommendation is for a range of disposal methods carefully tailored to meet the differing needs of people who want to acquire State property.

We believe a diversified approach is needed because the land requirements of parties seeking to acquire State lands vary widely depending on the use and purpose proposed. In southeastern Alaskan communities, there is a shortage of sites for expansion of the permanent community. Here the supply of usable land is extremely scarce, and lots should be laid out so that service by urban utilities is feasible. Careful subdivision planning to make good use of scarce buildable land is essential in this situation. On the other hand, in areas of Alaska where the demand for State land is for agricultural use, tracts should be large enough to enable economic farming. As much as 640 acres per unit may be necessary for some forms of agriculture. In other areas of Alaska, people want to acquire State land so they can build a cabin for weekend recreation. For this purpose, sites fronting on a lake large enough for a float plane, or sites with road access, are at a premium. In this case, as in the urban situation, the State supply of suitable land is extremely limited, and the method of disposal should be designed to make land available to as many potential users as possible. To do so, lots or tracts must be sized to fit the purpose of the user. Industrial developers also have very specific locational requirements, and often prefer a leasehold interest to fee ownership.

To accommodate these and other different needs for State lands, now and in the indefinite future, the Commission believes that the State should utilize a range of land disposal methods fitting a variety of situations. Fulfilling the constitutional intent to make land available for "maximum use and development consistent with the public interest" requires careful consideration of the varying needs of different users in terms of location, accessibility, tract size, and method of tenure. As our

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

background study revealed, a major failing of the large tract disposals of the past was that properties were acquired by parties whose primary purpose was speculative and the individual who actually wanted to use and develop the land was preempted.

As you analyze the practical effects and long-range impacts of your proposal, we suggest consideration of the following questions:

1. How would you equalize the distribution of benefits under your grant program? Won't the few parties who are able to acquire 160 acres in an accessible location receive an enormous windfall, while most would receive inaccessible and therefore unusable land?

2. The State's main source of leverage in relation to the Federal government in the forthcoming d-2 decision lies in the fact the State controls vast acreages which are intermingled with Federal lands. Land use in one area of ownership affects the other. On this basis, various parties, including Governor Hammond, Senator Stevens, Representative Young, Senator Gravel and this Commission, have proposed a cooperative management system giving the State a voice in the management of Federal lands. If up to 80 percent of the State land is committed to private ownership, as proposed in your bill, would the State severely weaken its voice in the planning of Federal lands?

3. Is the State's responsibility regarding State-owned lands limited to residents as of 1977? What about future generations?

4. What are the implications of your proposal in terms of public demand for roads, schools, and fire and police services?

5. What we know as the Alaska way of life has a great deal to do with the availability of accessible public lands where people can hunt, fish, and enjoy nature without confronting "no trespassing" signs State lands are essentially the close-in public lands accessible to the average citizen. How will closure of these lands to public access alter the Alaska life style?

There are numerous other questions that come to mind about the impact of the proposed bill, but I expect you are analysing these and other matters in the process of your review.

Again, we appreciate the opportunity to comment on your proposal.

Sincerely,

Walter B. Parker

Walter B. Parker
State Co-Chairman

cc: Members of House and Senate Committees on Resources, Community and Regional Affairs, and State Affairs.

Alaska State Legislature

House of Representatives

Office of the Speaker

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Representative Al Osterback, Chairman
House Resources Committee

FROM: Hugh Malone

DATE: May 24, 1978

Enclosed for your information is a copy of the fiscal note on the homestead initiative provided by Department of Natural Resources.

FISCAL NOTE

Rec'd 2/30/5/24

I. REQUEST

Bill/Resolution No. HB 353/Proposition 10

Title Alaska Homestead Act/Initiative

Requested by House Resources Committee Date April 19, 1978

II. FISCAL DETAIL

Agency Affected Department of Natural Resources, Department of Administration, Court System

Program Category Affected Lands, Reporting

Budget Request Unit(s) Affected

EXPENDITURES (Thousands of Dollars)

		FY 78	Scenario A FY 79	Scenario B FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES		$20,163	$ 8,067			
200	TRAVEL		40	32			
300	CONTRACTUAL		5,823	2,325			
400	COMMODITIES		717	187			
500	EQUIPMENT		523	209			
600	LAND & STRUCTURES		--------	--------			
700	GRANTS, CLAIMS, ETC.		--------	--------			
	TOTAL		$27,267	$10,738			

FUNDING (Thousands of Dollars)

GENERAL FUND		$27,267	$10,738			
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		850	338			
PART TIME						
TEMPORARY						

The above costs assume all eligible Alaskans (about 250,000) will make only one application during the first year. See attached background fiscal analysis.

Scenario B

The above costs assume 100,000 Alaskans will make only one application during the first year. See attached background fiscal analysis.

IV. DATE April 25, 1978 PREPARED BY Douglas Mutter
AGENCY Department of Natural Resources
PHONE 279-5577

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

Background
Fiscal Analysis
of the
Homestead Initiative/HB 359

Two scenarios are presented for estimating costs and revenues possibly resulting from enactment of the Homestead Initiative in November. The low scenario assumes 100,000 applicants the first year -- a figure estimated by the Initiative sponsors. The high scenario assumes 250,000 applicants the first year -- this is approximately the estimated eligible population as of January 1979.

Costs developed for each scenario may be low due to the fact that a person may apply for a grant every 90 days under the Initiative, even though they can receive only one grant per year. Conceivably then, each person could make four applications per year. Costs are even more difficult to predict for succeeding years because population growth, re-applications, applications of newer versus longer term residents, etc. are dynamic factors affecting use of the "homesteading" program.

The Department is prepared to develop additional fiscal information for scenarios of 500,000 applicants or 1,000,000 applicants (with the assumption that the 3-year residency is struck down to 30 days by the courts) at the request of the legislature.

Scenario A: 250,000 Applicants

Applicant Costs

1. A $6.00 fee is normally required per recording:

   $6.00 X 250,000 applications = $1,500,000

2. Each application must be accompanied by a

   $75.00 fee (if applicant forwishes title search) or $100.00 fee (if no title search is submitted):

   assume: 100,000 applications X $75.00 and;
   150,000 applications X $100.00 = $22,500,00

3. A successful applicant must provide a survey within 5 years to gain patent. Survey costs for the first years grants would be (although costs may occur over a five year period, for convenience this figure represents costs resulting from the first years activity; in succeeding years, new applicant's survey costs would further complicate annual estimates):

   assume: $1,500 per 40 acres X 250,000 grants = $375,000,000

4. Each applicant must publish notice of his application once a week for three consecutive weeks in a local newspaper:

   assume: $23.00/3 lines/3 days X 250,000 = $5,750,000

5. TOTAL applicant costs, first year = $404,750,000

Lost Revenues

1. Possible revenue lost to the public because state lands will be gratis (assuming the state sold all acres and not considering lease possibilities, inflation over the time it would take for state disposals of this size, etc.):

   assume: an average cost of $500 per acre, so:
   $500.00 X 40 acres X 250,000 = $500,000,000

2. Revenue lost to the public because property taxes are not paid until one year after patent (which will mean 6 years because patent comes after the 5 year survey requirement is met):

   this depends on assessed value of land, whether located in a borough and which one, annual assessment procedures, etc. = $ unknown

3. TOTAL lost revenues, first year = at least $500,000,000

Unaccounted Taxpayer or Landowner Costs

1. Many services will be required by 'homesteaders' including roads (at $15,000 to $150,000 per mile, construction only), schools (as required by law), utilities, police, fire, health, etc. The provision withholding state services for 15 years is questionable, in the case of schools at least, and still leaves costs at year 16 to be accounted for = $ unknown

Administrative Costs

1. The sheer volume of paperwork, legal requirements, verification, notification, etc. for the anticipated number of applications will require the manpower/ dollars outlined in the following table, or a tremendous backlog and delay in the title clearing process will be encountered. TOTAL = $27,297,238

Revenue

1. Revenue to the State resulting from the $5.00 filing (recording) fee would be:

   $5.00 X 280,000 applications = $1,500,000

2. Revenue to the State resulting from the $75.00 to $100.00 application fee, based upon the above cost breakdown, would be = $22,500,000

3. TOTAL revenues to the State = $24,000,000

Summary of Estimated
First Year Administrative Costs
@ 250,000 Applicants -- Homestead Initiative

Agency	No. Employees	Personal Services	Travel	Contractual	Commodity	Equipment	Totals
Department of Natural Resources							
A. Planning & Classification	4	$ 116,574	$ 7,601	$ 33,195	$ 1,377	$ 1,732	$ 160,55
B. Survey & Records	693	16,599,249	50,000	5,400,000	500,000	450,000	22,999,24
C. Land & Water Management	50	1,299,213	5,000	140,000	25,000	50,000	1,519,21
D. Administration	30	552,223	2,874	38,880	51,000	6,040	651,01
E. Subtotal	777	$16,567,259	$65,555	$5,612,075	$577,377	$507,772	$25,330,03
Department of Administration & Court System							
A. Recording	83	$ 1,601,400	$14,900	$ 210,900	$140,000	$ -0-	$ 1,967,20
TOTALS	860	$20,168,659	$80,455	$5,822,975	$717,377	$507,772	$27,297,23

Note: See the appendix for a detailed cost breakdown of this scenario.

Scenario B: 100,000 Applicants

Applicant Costs

1. A $5.00 fee is normally required per recording:

   $5.00 X 100,000 applications = $500,000

2. Each application must be accompanied by a

   $75.00 fee (if applicant furnishes title search) or
   $100.00 fee (if no title search is submitted):

   assume: 40,000 applications X $75.00 and;
   60,000 applications X $100.00 = $9,000,000

3. A successful applicant must provide a survey within 5 years to gain patent. Survey costs for the first years grants would be:

   assume: $1,500 per 40 acres X 100,000 grants = $150,000,000

4. Each applicant must publish notice of his application once a week for three consecutive weeks in a local newspaper:

   assume: $33.00/8 lines/3 days X 100,000 = $2,300,000

5. TOTAL applicant costs, first year = $161,800,000

Lost Revenues

1. Possible revenue lost to the public because state lands will be gratis (assuming the state sold all acres and not considering lease possibilities, inflation over the time of state disposals of this size, etc.):

   assume: an average cost of $500 per acre, so:
   $500.00 X 40 acres X 100,000 = $200,000,000

2. Revenue lost to the public because property taxes are not paid until one year after patent (which will mean 6 years because patent comes after the 5 year survey requirement is met):

   this depends on assessed value of land, whether located in a borough and which one, annual assessment procedures, etc. = $ unknown

3. TOTAL lost revenues, first year = at least $200,000,000

Unaccounted Taxpayer or Landowner Costs

1. Many services will be required by "homesteaders" including roads (at $15,000 to $150,000 per mile, construction only), schools (as required by law), utilities, police, fire, health, etc. The provision withholding state services for 15 years is questionable, in the case of schools at least, and still leaves costs at year 16 to be accounted for = $ unknown

Administrative Costs

1. The sheer volume of paperwork, legal requirements, verification, notification, etc. for the anticipated number of applications will require the manpower/ dollars outlined in the following table, or a tremendous backlog and delay in the title clearing process will be encountered (calculated at 90% of the costs of scenario A). TOTAL = $10,738,896

Revenue

1. Revenue to the State resulting from the $6.00 filing (recording) fee would be:

   $6.00 X 100,000 applications = $600,000 .

2. Revenue to the State resulting from the $75.00 to $100.00 application fee, based upon the above cost breakdown, would be = $9,000,000

3. TOTAL revenues to the State = $9,500,000

Summary of Estimated
First Year Administrative Costs
@ 100,000 Applicants -- Homestead Initiative
(figured at 4% of scenario A)

Agency	No. Employees	Personal Services	Travel	Contractual	Commodity	Equipment	Totals
Department of Natural Resources							
A. Planning & Classification	2	$ 46,630	$ 3,072	$ 13,278	$ 551	$ 693	$ 64,224
B. Survey & Records	272	6,639,700	20,000	2,160,000	20,000	180,000	9,019,700
C. Land & Water Management	20	519,685	2,000	56,000	10,000	20,000	607,685
D. Administration	12	220,809	1,150	15,552	20,400	2,416	260,407
E. Subtotal	306	$7,426,904	$26,222	$2,244,830	$ 50,951	$203,109	$ 9,952,016
Department of Administration & Court System							
A. Recording	33	$ 640,560	$ 5,960	$ 84,360	$ 56,000	$ -0-	$ 786,880
TOTALS	339	$8,067,464	$32,182	$2,329,190	$106,951	$203,109	$10,738,896

TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 359/Proposition 10

Title Alaska Homestead Act/Initiative

Requested by House Resources Committee Date April 19, 1978

II. FISCAL DETAIL

Agency Affected Department of Natural Resources, Department of Administration, Court System

Program Category Affected Lands, Recording

Budget Request Unit(s) Affected

EXPENDITURES (Thousands of Dollars)

		FY 78	Scenario A FY 79	Scenario B FY 79	FY 81	FY 82	FY 83
100	PERSONAL SERVICES		$20,169	$ 8,067			
200	TRAVEL		80	32			
300	CONTRACTUAL		5,823	2,329			
400	COMMODITIES		717	107			
500	EQUIPMENT		508	203			
600	LAND & STRUCTURES		-------	-------			
700	GRANTS, CLAIMS, ETC.		-------	-------			
	TOTAL		$27,297	$10,739			

FUNDING (Thousands of Dollars)

GENERAL FUND		$27,297	$10,739			
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		860	339			
PART TIME						
TEMPORARY						

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

Scenario A

The above costs assume all eligible Alaskans (about 250,000) will make only one application during the first year. See attached background fiscal analysis.

Scenario B

The above costs assume 100,000 Alaskans will make only one application during the first year. See attached background fiscal analysis.

IV. DATE April 25, 1978 PREPARED BY Douglas Mutter

AGENCY Department of Natural Resources

PHONE 279-5577

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

03-001 (Rev. 12/77)

Background
Fiscal Analysis
of the
Homestead Initiative/HB 359

Two scenarios are presented for estimating costs and revenues possibly resulting from enactment of the Homestead Initiative in November. The low scenario assumes 100,000 applicants the first year -- a figure estimated by the Initiative sponsors. The high scenario assumes 250,000 applicants the first year -- this is approximately the estimated eligible population as of January 1979.

Costs developed for each scenario may be low due to the fact that a person may apply for a grant every 90 days under the Initiative, even though they can receive only one grant per year. Conceivably then, each person could make four applications per year. Costs are even more difficult to predict for succeeding years because population growth, re-applications, applications of newer versus longer term residents, etc. are dynamic factors affecting use of the "homesteading" program.

The Department is prepared to develop additional fiscal information for scenarios of 500,000 applicants or 1,000,000 applicants (with the assumption that the 3-year residency is struck down to 30 days by the courts) at the request of the legislature.

Scenario A: 250,000 Applicants

Applicant Costs

1. A $6.00 fee is normally required per recording:

   $6.00 X 250,000 applications = $1,500,000

2. Each application must be accompanied by a

   $75.00 fee (if applicant furnishes title search) or
   $100.00 fee (if no title search is submitted):

   assume: 100,000 applications X $75.00 and;
   150,000 applications X $100.00 = $22,500,00

3. A successful applicant must provide a survey within 5 years to gain patent. Survey costs for the first years grants would be (although costs may occur over a five year period, for convenience this figure represents costs resulting from the first years activity; in succeeding years, new applicant's survey costs would further complicate annual estimates):

   assume: $1,500 per 40 acres X 250,000 grants = $375,000,000

4. Each applicant must publish notice of his application once a week for three consecutive weeks in a local newspaper:

   assume: $23.00/8 lines/3 days X 250,000 = $5,750,000

5. TOTAL applicant costs, first year = $404,750,000

Lost Revenues

1. Possible revenue lost to the public because state lands will be gratis (assuming the state sold all acres and not considering lease possibilities, inflation over the time it would take for state disposals of this size, etc.):

   assume: an average cost of $500 per acre, so:
   $500.00 X 40 acres X 250,000 = $500,000,000

2. Revenue lost to the public because property taxes are not paid until one year after patent (which will mean 6 years because patent comes after the 5 year survey requirement is met):

   this depends on assessed value of land, whether located in a borough and which one, annual assessment procedures, etc. = $ unknown

3. TOTAL lost revenues, first year = at least $500,000,000

Unaccounted Taxpayer or Landowner Costs

1. Many services will be required by "homesteaders" including roads (at $15,000 to $150,000 per mile, construction only), schools (as required by law), utilities, police, fire, health, etc. The provision withholding state services for 15 years is questionable, in the case of schools at least, and still leaves costs at year 16 to be accounted for = $ unknown

Administrative Costs

1. The sheer volume of paperwork, legal requirements, verification, notification, etc. for the anticipated number of applications will require the manpower/ dollars outlined in the following table, or a tremendous backlog and delay in the title clearing process will be encountered. TOTAL = $27,297,238

Revenue

1. Revenue to the State resulting from the $6.00 filing (recording) fee would be:

   $6.00 X 250,000 applications = $1,500,000

2. Revenue to the State resulting from the $75.00 to $100.00 application fee, based upon the above cost breakdown, would be = $22,500,000

3. TOTAL revenues to the State = $24,000,000

Summary of Estimated
First Year Administrative Costs
@ 250,000 Applicants -- Homestead Initiative

Agency	No. Employees	Personal Services	Travel	Contractual	Commodity	Equipment	Totals
Department of Natural Resources							
A. Planning & Classification	4	$ 116,574	$ 7,681	$ 33,195	$ 1,377	$ 1,732	$ 160,55
B. Survey & Records	693	16,599,249	50,000	5,400,000	500,000	450,000	22,999,24
C. Land & Water Management	50	1,299,213	5,000	140,000	25,000	50,000	1,519,21
D. Administration	30	552,223	2,874	38,880	51,000	6,040	651,01
E. Subtotal	777	$18,567,259	$65,555	$5,612,075	$577,377	$507,772	$25,330,03
Department of Administration & Court System							
A. Recording	83	$ 1,601,400	$14,900	$ 210,900	$140,000	$ -0-	$ 1,967,20
TOTALS	860	$20,168,659	$80,455	$5,822,975	$717,377	$507,772	$27,297,23

Note: See the appendix for a detailed cost breakdown of this scenario.

Scenario B: 100,000 Applicants

Applicant Costs

1. A $6.00 fee is normally required per recording:

   $6.00 X 100,000 applications = $600,000

2. Each application must be accompanied by a

   $75.00 fee (if applicant furnishes title search) or
   $100.00 fee (if no title search is submitted):

   assume: 40,000 applications X $75.00 and;
   60,000 applications X $100.00 = $9,000,000

3. A successful applicant must provide a survey within 5 years to gain patent. Survey costs for the first years grants would be:

   assume: $1,500 per 40 acres X 100,000 grants = $150,000,000

4. Each applicant must publish notice of his application once a week for three consecutive weeks in a local newspaper:

   assume: $23.00/8 lines/3 days X 100,000 = $2,300,000

5. TOTAL applicant costs, first year = $161,900,000

Lost Revenues

1. Possible revenue lost to the public because state lands will be gratis (assuming the state sold all acres and not considering lease possibilities, inflation over the time of state disposals of this size, etc.):

   assume: an average cost of $500 per acre, so:
   $500.00 X 40 acres X 100,000 = $200,000,000

2. Revenue lost to the public because property taxes are not paid until one year after patent (which will mean 6 years because patent comes after the 5 year survey requirement is met):

   this depends on assessed value of land, whether located in a borough and which one, annual assessment procedures, etc. = $ unknown

3. TOTAL lost revenues, first year = at least $200,000,000

Unaccounted Taxpayer or Landowner Costs

1. Many services will be required by "homesteaders" including roads (at $15,000 to $150,000 per mile, construction only), schools (as required by law), utilities, police, fire, health, etc. The provision withholding state services for 15 years is questionable, in the case of schools at least, and still leaves costs at year 16 to be accounted for = $ unknown

Administrative Costs

1. The sheer volume of paperwork, legal requirements, verification, notification, etc. for the anticipated number of applications will require the manpower/ dollars outlined in the following table, or a tremendous backlog and delay in the title clearing process will be encountered (calculated at 40% of the costs of scenario A). TOTAL = $10,738,896

Revenue

1. Revenue to the State resulting from the $6.00 filing (recording) fee would be:

   $6.00 X 100,000 applications = $600,000

2. Revenue to the State resulting from the $75.00 to $100.00 application fee, based upon the above cost breakdown, would be = $9,000,000

3. TOTAL revenues to the State = $9,600,000

Summary of Estimated
First Year Administrative Costs
@ 100,000 Applicants -- Homestead Initiative
(figured at 40% of scenario A)

Agency	No. Employees	Personal Services	Travel	Contractual	Commodity	Equipment	Totals
Department of Natural Resources							
A. Planning & Classification	2	$ 46,630	$ 3,072	$ 13,278	$ 551	$ 693	$ 64,224
B. Survey & Records	272	6,639,700	20,000	2,160,000	20,000	180,000	9,019,700
C. Land & Water Management	20	519,685	2,000	56,000	10,000	20,000	607,685
D. Administration	12	220,889	1,150	15,552	20,400	2,416	260,407
E. Subtotal	306	$7,426,904	$26,222	$2,244,830	$ 50,951	$203,109	$ 9,952,016
Department of Administration & Court System							
A. Recording	33	$ 640,560	$ 5,960	$ 84,360	$ 56,000	$ -0-	$ 786,880
TOTALS	339	$8,067,464	$32,182	$2,329,190	$106,951	$203,109	$10,738,896

A P P E N D I X

Detailed Cost Estimates

For Administration

of

Scenario A: 250,000 Applications (first year)

Department of Natural Resources/Division of Lands

- Planning & Classification
- Survey & Records
- Land & Water Management
- Administration

Department of Administration/Alaska Court System

S. Reeve

Planning & Classification Section

Initiative Administrative Costs

Personal Services

Title	No. Positions	Grade	Amount
Land Management Officer III	2	18	$ 62,202
Cartographer III	2	16	54,372
TOTAL	4		$116,574

Travel

$7,681

Contractual

Space	$ 5,195
Printing, Communications, Leases	13,000
Air photography	15,000
TOTAL	$33,195

Commodity

$1,377

Equipment

$1,732

TOTAL

$160,559

DRAFT INFORMATION
FEB. 23, 1978

MEMO TO: Theodore G. Smith, Director
Division of Land and Water Management

FROM: Claud M. Hoffman
Chief Cadastral Engineer

SUBJECT: Land Disposal Cost Projections
Homestead Initiative. Your Memo
January 19, 1978 (Mike Beirne's Bill)

In order to supply data as requested the following assumptions (A through G) have been made. Also I suggest a serious review be given to the establishment of several small area offices in specific areas, where the action is going to be (State land ownership). These offices would operate with lines of responsibility to the District Manager. No Engineering cost is provided for such as I envision our operations at the District and State level.

(A) A.D.L. LAND RECORDS: (Land Status Plats, Historical Indexes and Serial Pages). This has been broken into four phases of work as discussed below. We consider that each "grant" is acted upon independant of how many "grants" an individual may legally obtain, i.e. 40, 80, 120 or 160 acres of land under the terms of the proposed law.

Phase No. 1. In compliance with Section 38.05.420, Sub-paragraph 2. At this time the "recorded application" for a land grant is acknowledged, a Serial Page is constructed, location data shown on the status plat, a historical plat constructed, blueprint copies submitted to the respective district offices and copies placed in the A.D.L. Public Land Office and the microfilming of plats and serial pages is accomplished.

MEMO TO: Ted Smith, Director

Phase No. 2. In compliance with Section 38.05.430. During, or at, the end of the 90 days and/or whenever "notification" is given, the same data as discussed in Phase No. 1 is again updated on our Land Records, plus, at this time, an entry is made on the Historical Index Plats that were constructed in Phase 1.

Phase No. 3. In compliance with Section 38.05.440. At the time a "copy of the survey" is sent to the Director, data is again updated and entered into the Public Land Records as discussed in Phase No's, 1 and 2.

Phase No. 4. In compliance with the issuance of the "patent" the proceedures as we now utilize are to be complied with and again data is entered into our Public Records as discussed in Phase No's. 1, 2 and3 above.

(B) A.D.P. LAND RECORDS: For A.D.P review and estimation purposes we are assuming the Public Land Records Automation System has to be updated harmoniously with any and all changes on the Public Land Records for each land "grant"; therefore Phases' 1 through 4 for "tracking of land", In order to enable the Director and his staff to make management decisions, has to be compiled with,

(C) AN OVERVIEW ASSUMPTION OF THE PUBLIC LAND RECORDS: The system that we now have on a "rectangular survey Grid System" is to continue as the basis of maintaining our Public Land Records and the system of land recordation and records location is a 40-acre, and/or aliquot part of a section concept

MEMO TO: Ted Smith, Director

and is to continue to be in harmony with the system that we now "maintain manually".

(D) CADASTRAL SURVEYS: Although no surveys are to be reviewed in the field (the proposed law is quite explicit as to our survey functions and responsibilities), within Section 38.05.440 it is discussed that "the survey shall conform to "regualtions" adopted by the Division of Lands and in force on the effective date of this act". I am assuming that we will come forth with "simple regulations" whereby we concentrate our total manageme· and technical functions and efforts to the last paragraph of that section which states "a copy of the survey shall be sent to the Director" (I interpret this as meaning a final survey plat). We must remember the plat at this stage, according to the proposed law, has already been filed in the Recording Office thereby we will review this plat as a final plat for title passage purposes. It has been accepted for recordation by the appropriate Magistrates Office. If we, during a cursory review, do happen to find errors (of which I would gather ten percent of the plats will have) that we feel is critical to the passage of State title to land, the "amendment process" will have to be accomplished by the surveyor and the claimant prior to when a state land title for the alienation of state lands can be accomplished. Statutory title may exist but still no state document is issued.

(E) INFORMATION AND EDUCATION (REFERENCE TO RECORDS AND CADASTRAL SURVEYS) Due to the impact of requests and information surrounding such a program, I feel that it mandentory for each ADL district to have a Cadastral Surveyor II on the managers staff to do nothing but handle general survey

MEMO TO: Ted Smith, Director

problems for this "Land Act". This surveyor would not "per-sey" be doing any preliminary survey plat review but be offering over-the-counter oral and written assistance to locators, surveyors, title companies and the public. Again my overall concept being, no "preliminary plats" are to be reviewed by this office, as per the intent of the law. The surveyor has before him a final product, the plat and possibly an affidavit with the private surveyor being totally responsible for his product. These three Cadastral Surveyor II's, Grade 20, would cost $108,657. each year, and their services would be "pro-rated" for all land grants issued within the confines of the ADL district they are assigned to.

(F) LAND RECORDS FOR OWNERSHIP TITLE REVIEW: It is anticipated that .4 of an hour is necessary for a Grade 14, L.M.T. II per "grant" for Land Title work to accomplish a general review of the applicant (grant) with no specific "in depths" review given. This is just a quick title check of status at the time action on a land grant comes about in Public Records Unit. This = .4 X $11.93 = $4.77 per grant.

(G) STATISTICAL DATA:

1) LAND RECORDS: For each of the 4 phases as discussed and per each applicant for a grant, 1/10 of an hour for a Clerk IV is necessary; 3/10 of an hour for Draftsman II work; $3.00 for blueprints; $1.00 for microfilming of our plats and serial register.

In summary for each applicant (grant) this consists of 4/10 of an hour for a Clerk IV; 1.2 hours for a Draftsman II; $12.00 for blueprinting and $4.00 for microfilming.

MEMO TO: Ted Smith, Director

It is estimated that "Phases' 1 through 4" work would most likely be accomplished on our land records during the first year, but Phase Four could be accomplished anytime during the grant term of 5 years. Therefore I consider the impact being annually for all grants. This computes at a cost of $31.07 per site for Land Records only. (Does not include title review, Land Registration, A.D.P of Records or general typing and filing work)

2) DATA PROCESSING:

(a) PHASE 1. Again 1/10 of an hour for a Clerk IV for Serial Pages and 1/10 of an hour for a Clerk IV for Status Plats is necessary to continue the system we now have.

(b) PHASES' 2, 3 and 4: The same work time discussed above would be applicable and/or a total time of 8/10 of an hour for a Clerk IV for the "maintenance of automation" of A.D.L. Land Records per applicant (grant). (Again Phase 4 could be accomplished during the fifth year).

A total cost per applicant (grant) for A.D.P. =$6.83; with an Overall Land Records Cost being - $37.90 per grant (Does not include title review, Land Registration or general typing or filing work.)

3) CADASTRAL SURVEYS:

The emphasis herein is that only minimum control regulations will be effected due to background of the intent of the proposed law to quickly get lands into private hands as of

MEMO TO: Ted Smith, Director

the passage date of the act thereby only a final plat would be critiqued, via a Cadastral Surveyor I, Grade 19. It is estimated that each critiqueing would be 2 hours per (grant) applicant thereby the cost per application for two hours is $34.48 (per platted grant).

(H) TYPING AND FILING WORK: For General Survey Correspondence for Inter-office and public - .3 man hours for correspondence typing and filing of data per grant and .3 man hours for general Land Records and title information typing is needed. This = .6 man hours for a Clerk Typist III = $4.82 per grant.

(I) LAND REGISTRATION ACT: After the first year, each and every grant document will have to be recorded via the statement of Real Property Ownership.

This consists of .3 man hours for a Clerk III per document to type an entry and cross-reference the system we now use. This .3 equals $2.41 per grant for years 2 through 5 or whetever.

(J) STATE WIDE PLATTING: Section 38.05.450 (b) prohibits re-subdivision until after 1 year. Although our "control" is limited never-the-less an impact does exist. The impact is herein estimated that 25% of the total grants will have action annually for the first 5 years, this being due to the scarcity of lands. It is estimated that each such grant will consume 1 man hour therefore a .25 average per grant overall for a Grade 20 Cadastral Surveyor II. $18.57 X .25 hrs. = $4.64 per grant for overall years 2 through 5 of the grogram or whetever.

(K) SUMMARY OF IMPACT: What does the above indicate:

MEMO TO: Ted Smith, Director

(I) Each grant will cost $31.07 for normal serial page, status plat work and H.I. Plat work; $6.83 for continuation of Automation of Records; $34.84 for a final plat critique; $4.77 per title check; Typing and filing = $4.82; $2.41 per grant for Land Registration; $4.64 per grant for State-wide Platting and $108,657.00 for Cadastral Information and Education concerning the program at the District level, this cost being distributed equally to all "grants" within a respective A.D.L. Land Office Districts.

The cost per applicant (grant) = $31.07 + $6.83 + $34.48 + $4.77 + $4.82 + $2.41 + $4.64 = $89.02 + Undetermined District Surveyors cost due the variable; i.e. Scenario data.

(L) SUMMARY OF TOTAL MANHOURS FOR LAND RECORDS, TITLE SEARCH, A.D.P., CADASTRAL REVIEW, LAND REGISTRATION AND STATE-WIDE PLATTING PER APPLICANT (GRANT):

To process each grant the manhours computes to: Clerk IV = 1.2 hrs.; Draftsman II = 1.2 hrs., Cadastral Surveyor I = 2.0 hrs.; L.M.T.II = .4 hr.; Clerk Typist III = .6 hrs; Clerk III = .3 hrs.; Cadastral Surveyor II .25 hrs. and again the variable for the District Surveyor cost, i.e. Scenario data. This computes to 6.0 manhours per grant (does not include blueprinting and microfilming costs).

(M) CONCLUSIONS:

SCENARIO "A"

(a) Land Records (Land Status and A.D.P. - Does not include Land Registration)

(I) 1.2 manhours per applicant (grant) X 250,000 applications = 300,000 manhours, 300,000 manhours ÷ 1,950 manhours per year = 154 Clerk positions.

MEMO TO: Ted Smith, Director

(2) 1.2 manhours per applicant (grant) for drafting = 154 Drafting positions.

(3) 250,000 applicants X $12.00 per applicant (grant) for blueprinting + $4.00 for microfilming = 250,000 X $16.00 = $4-million.

(4) .4 manhours per applicant (grant) for general land title check = 250,000 X .4 ÷ 1,950 = 51 L.M.T.II positions.

(5) .3 manhours per applicant (grant) for general typing and filing = 250,000 X .3 ÷ 1,950 = 39 Typists.

(b) LAND REGISTRATION:

(1) .3 manhours per applicant (grant) for processing the "Statement of Real Property Ownership" = 250,000 X .3 ÷ 1,950 = 39 Clerks.

(c) STATE-WIDE PLATTING:

(1) .25 manhours for state-wide plat processing per applicant (grant) = 250,000 X .25 ÷ 1,950 = 32 Cadastral Surveyors.

(d) CADASTRAL SURVEY REVIEWS (NOT INCLUDING THE DISTRICT SUPPORT SURVEYOR OR STATE-WIDE PLATTING)

(1) 2 manhours per applicant (grant) X 250,000 applicants = 500,000 manhours ÷ 1,950 = 256 Cadastral Surveyors.

(2) .3 manhours per applicant (grant) for general typing and filing = 250,000 X .3 ÷ 1,950 = 39 Typists.

DRAFT INFORMATION

(PAGE 5)

MEMO TO: Ted Smith, Director

ANNUAL COST - 1ST YEAR FOR 250,000 APPLICANTS (GRANTS) ("C" STEP & 1.22 FACTOR)

(1)	154 Clerk IV's X $16,646.	=	(Land Records)	$ 2,563,484.
(2)	154 Draftsman II's X $18,929.	=	(Land Records)	$ 2,915,066.
(3)	256 Surveyor I's X $33,613.	=	(Cadastral)	$ 8,604,928.
(4)	$16. per applicant for paper/film	=	(Printing)	$ 4,000,000.
(5)	51 L.M.T. II's X $23,263.	=	(Land Records)	$ 1,186,413.
(6)	78 Typist III's X $15,650.	=	(Land Records and Cadast.)	$ 1,220,700.
	For 250,000 applicants (grants)		SUB-TOTAL =	$ 20,490,591.
				(20.5 million
(7)	District Surveyors (C.S. II)= (36,219 X 3)	=		$ 108,658.
(8)	Space (Office -693 People)	=		$ 400,000.
(9)	Travel, Per Diem, Commodities, Equipment	=		$ 1,000,000.
(10)	Special ADP/EDP Funds to handle increase in the Records System to meet demands	=		$ 1,000,000.
	SCENARIO "A" TOTAL 1ST YEAR	=		$ 22,999,249. (23.0 M)
	(23.0 M ÷ 250,000 grants = $92.0 per grant total 1st year)			

SCENARIO "A" 2ND YEAR THROUGH ??

1 through 6 above	=	$ 20,490,591.
7 through 9 above	=	$ 1,508,658.
10 above (adjusted for per year)	=	$ 500,000

IN ADDITION:

LAND REGISTRATION & STATE-WIDE PLATTING

(1a) 39 Clerk III's X $15,650.	=	$ 610,350.

MEMO TO: Ted Smith, Director

SCENARIO "A", SECOND YEAR (CONT.)

(1b) 32 Cadastral Surveyor II's X 36,219	=	$ 1,159,008.
TOTAL 2ND YEAR AND THROUGH ??	=	$24,268,600.
(Inflation not considered)		(24.3 M)

(24.3 M ÷ 250,000 grants = $97.07 per grant total 2nd year and thereafter)

Division of Land & Water Management

Program Summary
Alaska Homestead Initiative

Personal Services (Including 26% benefits)

Title	No. Positions	Grade	Total
Land Management Officer III	4	18	$ 129,856
Land Management Officer II	4	16	113,252
Land Management Officer I	15	14	370,875
Document Processing Clerk I	12	8	195,780
Clerk Typist III	15	8	244,725
TOTAL	50		$1,299,213

Travel

$5,000

Contractual

Printing, communication, legal fees, equipment rental	$ 75,000
Space	65,000
TOTAL	$140,000

Commodities

General supplies, etc. $25,000

Equipment

$50,000

TOTAL

$1,519,213

STATE
of ALASKA

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LAND AND WATER MANAGEMENT

TO: DICK LeFEBVRE
Chief
Lands and Water Section

DATE: March 8, 1978

FILE NO:

TELEPHONE NO:

FROM: LAR KRUG
Administrative Officer
Administrative Services Section

SUBJECT: Impact of Bierne Bill

The following items will affect the Administrative Services Section in the following manner:

A. Accounting:

1. Filing fees - Accounting Clerks II will be needed to process 1750 application receipts per day. This would necessitate 10 clerks and 10 typewriters and/or desk areas to process for first 3-month cycle, and then level off to 1/2 that number on successive land openings or disposal area announcements.

2. Additional forms must be ordered or special receipt form used. 500,000 forms would be necessary for the assumption of multiple filings

3. Impact on computer listings and data people outside Accounting would occur.

4. Office space, storage space (cabinets, files) and procedures, policies and supervision will be necessary - this would require the function of an Accountant III position to oversee and implement this function.

B. Word Processing:

1. At 5 minutes a letter and assuming 50,000 letters issued over 3 months for disclaiming applicant rights would take 8 Clerk Typist II or III's with Mag. II typewriters to do that volume. Drop-off levels of various proportion would occur.

2. Office space, equipment, supervision, policy development, and procedures would upgrade Clerk IV to Word Processing Supervisory to 12 or 14 position.

C. Mail Room/Supply:

1. Additional forms, ordering, registered mail, deliveries and pick-ups would require 3 full-time additional positions to carry on additional functions.

2. Office space, mailing costs, equipment, and increased supervision would result in elevating supervisor to 14 level of Administrative Assistant II - long-term carryover will result.

D. Personnel:

1. At least 14 new people in the Administrative Section alone plus additional staff in Land and Water Management and Records with additional requirements for training, orientation, paperwork, and payroll would require 2 more positions of Personnel Assistant I plus a Clerk Typist II position to handle volume.

2. Additional office space, equipment and files plus tremendous numbers of forms and supplies needed to process state-wide staff concerns.

3. Personnel Assistant I increased responsibilities elevated to Personnel Assistant II.

E. Administration:

1. Another Administrative Assistant I would be needed to coordinate efforts of expanded service demands, budget controls, and back-up necessary to coordinate state-wide Division services.

2. Increased workload requirements and system structure on Administrative Officer I would require upgrading or temporary positioning of Administrative Officer II duties.

3. Additional space requirements, equipment, and storage will be necessary to be provided.

The entire effect on our Administrative Services Section would be felt greatly unless these services were incorporated into Lands and Water Management. Such a step would critically impair any continuity of services with Juneau. Ongoing projects and requirements would suffer immensely without additional staff to carry the extra load, some of which would be temporary.

F. Juneau:

1. Increased staffing within the Division would likewise strain Administrative Services in Juneau to carry the backlog of paper, bills, and policy necessary for major onslaughts to the entire system.

***

Special Note: Without provisions for staff time to submit their applications for land we can expect initial high absenteeism to be

"first in line" etc., so that Division employees can have their cake, too. It is my understanding that all state employees will be eligible under this Homestead Act.

cc. Mike Smith.

C O S T S

Personal Services (Including 26% benefits)

Title	FTE	Grade	Total
Accounting Clerk II	6.25	9	$109,525
Accounting Clerk III	1	16	28,214
Clerk Typist III	8	8	131,604
Supervisor	1	14	24,328
Supply Clerk	8	8	131,604
Administrative Assistant (upgrade)	1	14	3,145
Personnel Assistant	3	12	63,549
Clerk Typist II	2	7	30,936
Personnel Assistant (upgrade)	1	14	3,342
Administrative Assistant I	1	12	21,183
Administrative Officer (upgrade)	1	19	4,793
TOTALS (upgrade) 3	(FTE) 30.25		$552,223

Travel

Total $2,874

Contractual

Space $38,880

Commodity

Supplies	$11,400
Auto lease	9,600
Equipment lease	30,000
TOTAL	$51,000

Equipment

Total $6,040

TOTAL

$651,017

Department of Administration/Court System

Richard Winchell, Deputy Director
Division of General Services & Supply
Juneau

March 28, 1978

Tom E. Main, Assistant Director
Division of General Services & Supply
Anchorage

The Alaska Homestead Act

This Initiative will have a substantial impact on the Recording Section as it requires that every application be recorded (Sec 38.05.420(a)(1)).

The Division of Lands estimates that there are 250,000 Alaskans who are eligible to apply for a grant. It is prudent for an applicant to record an application on more than one parcel. I think it is reasonable to expect about 500,000 recordings the first year and most of these will occur in the first 90 days.

We propose to maintain our regular business hours for the normal recording and filings. The section has insufficient staff even for this, but there is no reason to cause this facet of our service to suffer any more than it now does.

In most districts, recordings under the Initiative will be processed by 2 night shifts. Hand carried applications to be recorded will be accepted between 8 AM and 4:30 PM daily and will be placed in a receptacle in the order in which they are received. Applications arriving in the mail will be recorded in random order after all hand carried applications have been recorded. The recording stamp date will not be changed until all applications received that day have been recorded. Such applications must be accompanied by a check or money order for the recording fee.

An application form is being designed in cooperation with the Division of Lands. Although its use cannot be mandatory, we are hoping that the majority will use the form as it will provide uniformity in the location of information, acknowledgments and place for the recording stamp. We are also asking Lands to consider a self-mailer design so we can merely fold, tape and put postage on the copies to be returned. At a minimum, we would want the return address to fit a window envelope.

The best estimate of cost must be based on the number of recordings and our present cost per transaction. The only costs that wouldn't be duplicated are for office space, equipment maintenance, and there would be only one State Recorder and one Assistant.

Based on these assumptions, we estimate our costs to be:

FY 79 Budget	$996.3
Plus personal services underfunding	18.6
Less State Recorder & Assistant	(62.4)
Less equipment	(26.3)
Less rent	(21.3)
Total	$904.9

Estimated Number of Transactions	230,000
Cost per transaction	$ 3.9343
Cost of 500,000 additional transactions	$1,967,150
Fees charged for 500,000 additional transactions	$3,000,000

It's unfortunate that the drafters of the Initiative didn't consult with the people who have to do their work. The recording of applications should not have been necessary. Instead, applications could have been submitted directly to Lands. The order of filing could have been resolved other than thru the medium of the recording as Lands used a satisfactory procedure on their Homesites Act (A.S. 38.08.040(b)).

The Recording Section should not become involved until the State issued patents to the land and the conveyance is recorded.

A more important defect in the Initiative is that the only rights-of-way are on section lines. There will be interior parcels without access and whole areas of Alaska that will be inaccessible to surface travel because the section lines are impassible. There should be a 50 foot easement on both sides of every property line and at least a 25 foot easement around lakes and on each side of waterways. Also, they could have reserved a part of each section (1/4, 1/16, etc.) for public use.

cc: Commissioner Allen
Javan Beitinger

NOTE: In further conversations with Tom Main and Rick Barrier, Alaska Court System, the following cost breakdowns were identified to cover the recording aspects of the Initiative:

Personal Services	=	$1,601,400
Travel	=	14,900
Contractual	=	210,900
Commodities	=	140,000
Equipment	=	-0-
TOTAL		$1,967,200

HB

383

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

23 March 1977

Ted Smith, Director
Division of Land & Water Management
323 East 4th
Anchorage, Alaska 99501

Dear Mr. Smith,

The House Resources Committee will be reviewing HB 383 relating to State Land Leasing and HB 387 an Act relating to the Leasing of State Land other than for the extraction of Natural Resources; and providing for an effective date on Monday March 28, 1977 at 1:15 p.m. in room 118 of the Capitol Building.

Please supply us with position papers or material you have on these bills by the time of the meeting. If you have any information pertinent to these topics, the Committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have suggested amendments, please supply the staff with copies of that prior to the meeting.

If there are fiscal implications and notes are necessary, please prepare them and submit them to the Committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

cc: Fran Ulmer

AO:ts

AGO 935763

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

23 March 1977

Guy R. Martin, Commissioner
Department of Natural Resources
Pouch M
Juneau, Alaska 99811

Dear Commissioner,

The House Resources Committee will be reviewing HB 383 relating to State Land Leasing and HB 387 an Act relating to the Leasing of State Land other than for the extraction of Natural Resources; and providing for an effective date on Monday March 28, 1977 at 1:15 p.m. in room 118 of the Capitol Building.

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If you have suggested amendments, please supply the staff with copies of that prior to the meeting.

If there are fiscal implications and notes are necessary, please prepare them and submit them to the Committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

cc: Fran Ulmer

AO:ts

AGO 935764

STATE OF ALASKA

WILLIAM A. EGAN, Governor

DEPARTMENT OF EDUCATION

BOARD OF EDUCATION / POUCH F — ALASKA OFFICE BUILDING
JUNEAU 99801

April 8, 1977

Honorable Alvin Osterback, Chairman
House Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Chairman Osterback:

HB 383, relating to state land, was introduced at the request of the Governor on March 22 and is, we hope, among those bills that he indicated he would not press for passage this year.

In HB 383 we see areas of public concern that require review, record search and fuller public discussion. We do not oppose the bill at this time, but we recommend that action not be taken on it this year.

We believe HB 383 has certain drafting deficiencies and uncertainties, and we would hope these might be addressed between sessions. To mention one substantive point of concern, we think it too early to charge management costs against trust land income. We believe that the history of those lands and their management and proceeds should first be traced before the Legislature makes such a determination. Whatever such search reveals, we believe it inappropriate that some government agencies enjoy free use of trust lands while (under HB 383) such remaining trust lands as do yield income are charged for management costs. We believe this an unwitting subversion of such lands' intended purpose; namely, to create income for stated public programs. At very least, free use should be weighed against charging management costs to some trust lands.

Now that HB 383 has been introduced, we hope to make necessary analyses and to put them before this Legislature's second session.

We note that HB 387, introduced a day later, touches on at least one of the same

AGO 935765

subjects addressed by HB 383. Because of that, and because HB 387 is not in a form that permits ready comparison of the existing statutes with the proposed bill's new language, we suggest that legislative action on HB 387 also be deferred.

Sincerely,

Katherine T. Hurley

Katherine T. Hurley, President
State Board of Education

cc: Jay S. Hammond, Governor
State of Alaska

John Sackett, Chairman
Senate Finance Committee

Steve Cowper, Chairman
House Finance Committee

Kay Poland, Chairman
Senate Resources Committee

Hugh Malone, Speaker
House of Representatives

John L. Rader, President
Alaska State Senate

Theodore G. Smith, Director
Division of Land & Water Resources
Department of Natural Resources

Members, State Board of Education

AGO 935766

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LANDS / 323 E. 4TH AVENUE – ANCHORAGE 99501

April 7, 1977

Representative Alvin Osterback
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

Thank you for giving the members of the Governor's Ad Hoc Advisory Committee on State Land Practices and Procedures the time to testify before the House Resources Committee recently. There are several points that may not have been mentioned in detail that we wish to follow up on:

1) Sec. 38.05.108 in H.B. 383. The Committee wants to delete the word [illegible] at Line 11 so that it will be the Board of Land Appeals. In paragraph (c), the same section, Lines 2-4, page 6, we want to make a change to have the Land Appeals Board function in the place of the Commissioner in hearing appeals, with further appeal to the Superior Court.

2) It is the intention of the Committee that H.B. 383 contain language assuring that future leases will be at the rate set at inception by the Director of the Division of Lands throughout the life of the lease. Such language would probably fit best in Section 8 on page 3. Thus, only the fee value would change at the periodic reappraisals.

3) The lessees focussed considerable discussion on the provision for a 100% ceiling on increases at reappraisal. The Committee selected this ceiling based on experience in recent years in the Anchorage and Matanuska-Susitna markets where most of the leased land is. It should be kept in mind that this is a ceiling and that the actual rental value would be determined by appraisal. We would strongly oppose the lessees' contention that they are entitled to a leasehold interest in land leased by the State, such an interest resulting when the rental value is below market. When the State leases a piece of ground, it should only be providing a place from which to make a profit from development, not an opportunity for speculation.

4) Section 9, page 4, line 29. After the effective date of this Act should be changed to before the effective date of conversion. The effect of this would be to tie the rental value at conversion to a new lease to the date of conversion rather than to a date which might have no relation to the date of conversion.

AGO 935767

The Committee has also requested staff to prepare legislation requiring the State to record contracts of land sale, leases and modifications in lease or sale documents in the recording district where the land is located. This will make it easier for persons away from Anchorage to check on the status of State lands and make erroneous sales and leases less likely.

The Committee has also recommended that the Division of Lands establish as a matter of policy that where feasible appraisals be done by independent fee appraisers. We feel this would make the Division's operations more efficient and also lead to greater confidence in the appraisals.

Again, thank you for giving us time before the Resources Committee. Please call on us if you think we can be of assistance.

Best regards,

Hugh Gellert

Hugh Gellert
Co-chairman
Governor's Ad Hoc Advisory Committee on
State Land Practices and Procedures

Amendment 7

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL / POUCH K – STATE CAPITOL
JUNEAU 99811

March 24, 1977

The Honorable Al Osterback
Chairman
House Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: HB 383 (state land)
Our file no. J-77-136-77

Dear Representative Osterback:

We just noticed that the bill heading for HB 383, which was introduced March 22 and referred to your committee, mentions an effective date, but the bill does not contain a special effective-date clause. For this bill, the constitutional 90-day effective date would suffice, and page 1, lines 6 and 7 should be amended by deleting "; and providing for an effective date."

Thank you.

Yours truly,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Arthur H. Peterson
Arthur H. Peterson
Assistant Attorney General

2-17
6234

AHP:md

cc: Jack Roderick
Acting Commissioner
Department of Natural Resources

Mike Smith
Ass't. Comm'r./Director
Division of Lands
Department of Natural Resources

AGO 935769

cc (continued):

Ted Smith, Director
Division of Land & Water Mgt.
Department of Natural Resources

Pete Froehlich
Assistant Attorney General

Frances Ulmer
Legislative Assistant
Governor's Office

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LANDS

323 E. 4TH AVENUE – ANCHORAGE 99501

April 7, 1977

Representative Alvin Osterback
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

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1) Sec. 38.05.108 in H.B. 383. The Committee wants to delete the word Lease at Line 11 so that it will be the Board of Land Appeals. In paragraph (d) of the same section, Lines 2-4, page 6, we want to make a change to have the Land Appeals Board function in the place of the Commissioner in hearing appeals, with further appeal to the Superior Court.

2) It is the intention of the Committee that H.B. 383 contain language assuring that future leases will be at the rate set at inception by the Director of the Division of Lands throughout the life of the lease. Such language would probably fit best in Section 8 on page 3. Thus, only the fee value would change at the periodic reappraisals.

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AGO 935771

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The Committee has also recommended that the Division of Lands establish as a matter of policy that where feasible appraisals be done by independent fee appraisers. We feel this would make the Division's operations more efficient and also lead to greater confidence in the appraisals.

Again, thank you for giving us time before the Resources Committee. Please call on us if you think we can be of assistance.

Best regards,

Hugh Gellert

Hugh Gellert
Co-chairman
Governor's Ad Hoc Advisory Committee on
State Land Practices and Procedures

AGO 935772

HB 383
SB 159

The Honorable Rep. Alvin Osterback
Alaska State Legislature
Pouch V
Juneau, Alaska 99801
MAIL STOP 3100

Dear Rep. Osterback:

We, as State land leaseholders, are about to be faced with huge increases in the rentalrates of our leased property (Lot 5, B lock 1, Kasilof Pioneer Subdivision, With two homes on it). These new rates, if imposed, will force a severe hardship on us financially and may even force us to give up our lease.

Such rates substantially reduce the value of our improvements which we have worked long and hard at and spent substantial money on. We feel the present policies of the Division of Lands are not in our best interest, nor in the best interest of the State of Alaska.

We therefore urge you to support legislation currently on the floor which would:

1. Set a 25 year period of fixed rental, giving us time to finance and pay for our improvements.

2. Establish a six percent rate and a fifty percent ceiling on rent increases so we can compute what we will pay in rent over the 55 year period. Due to the present policies, it is almost impossible to finance improvements on our lease.

3. Provide for independent appraisal of our lease. Appraisal by our landlord, as is now done, is an obvious conflict of interest.

4. Provide a grandfather clause whereby we, as existing leaseholders, can take advantage of a new lease.

Passage of a law with the above provisions is critical if we are to be able to continue leasing our land.

Thank you for your help.

Very truly yours,

Mr. and Mrs. L. B. Watts

Mr. and Mrs. L. B. Watts

AGO 935773

HB

387

HB 387

MEMO

TO: Representative Al Osterback

FROM: Representative Bill Miles BM

DATE: April 4, 1977

RE: HB 387

Attached, for your information, is a telegram and my response concerning the above referenced memo.

HB 3

April 4, 1977

Mr. Robert H. Etukeok
Alaska Native Brotherhood
134 West 14th Avenue
Anchorage, Alaska 99501

Dear Mr. Etukeok:

Thank you for the telegram in support of HB 387, an act relating to the leasing of state lands.

As prime sponsor, I certainly will support the bill, although, I expect it to go through serious study in the House Resources Committee before being passed out.

If you have specific comments and suggestions on how the bill may be improved, I would appreciate them.

Again, thank you for taking the time to telegram your feelings.

Sincerely yours,

Bill Miles

BM:jad

cc: Al Osterback, Chairman
House Resources Committee

AGO 935789

TELEGRAM

ICA ALASKA COMMUNICATIONS, INC.

PHONE: 5[illegible]

1977 APR 1 AM 2 09

#

02098 NL ANCHORAGE AK 50 03-31 415P AST

PMS REP MILES 0031

JUN

THIS IS TO ADVISE YOU THAT THE ALASKA NATIVE BROTHERHOOD ANCHORAGE CAMP 33 STRONGLY ENDORSES HB387 AN ACT RELATING TO THE LEASING OF STATE LANDS. WE ASK YOUR SUPPORT OF THIS BILL.

ROBERT H ETUKEOK

ALASKA NATIVE BROTHERHOOD CAMP 33

265-5241 OR 279-7707

AGO 935790

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

23 March 1977

Ted Smith, Director
Division of Land & Water Management
323 East 4th
Anchorage, Alaska 99501

Dear Mr. Smith,

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Please supply us with position papers or material you have on these bills by the time of the meeting. If you have any information pertinent to these topics, the Committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have suggested amendments, please supply the staff with copies of that prior to the meeting.

If there are fiscal implications and notes are necessary, please prepare them and submit them to the Committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

cc: Fran Ulmer

AO:ts

AGO 935791

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

23 March 1977

Guy R. Martin, Commissioner
Department of Natural Resources
Pouch M
Juneau, Alaska 99811

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If there are fiscal implications and notes are necessary, please prepare them and submit them to the Committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

cc: Fran Ulmer

AO:ts

AGO 935792

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

#

02 103 NL ANCHORAGE AK 50 03-31 415P AST

PMS REP COTTON

0037

JUN

THIS IS TO ADVISE YOU THAT THE ALASKA NATIVE BROTHERHOOD ANCHORAGE CAMP 33 STRONGLY ENDORSES HB387 AN ACT RELATING TO THE LEASING OF STATE LANDS. WE ASK YOUR SUPPORT OF THIS BILL.

ROBERT H ETUKEOK

ALASKA NATIVE BROTHERHOOD CAMP 33

265-5241 OR 279-7707

1977 APR 1 02 13

AGO 935793

SB 159 - HB 387

1. In 1976 the Division of Lands raised rentals to what was considered an onerous level. This level is such that there is serious doubt of the practibility of continuing the present use of the land.

2. Because of the uncertainity occasioned by the actions of the Division of Lands, both commercial and residential development of the leases became "non-bankable" in terms of loans because of no feasible upper limit of rent could be determined.

3. The proposed bill corrects this situation by:

    a. Extending the initial period to 25 years to provide stability in the development stage, and providing for three additional reappraisals instead of about eight.

    b. Allows the mortagor to assume the payments in the event of a late payment or default by the lessee.

    c. Protects the state's interest by increasing the precent of the rental fee to 10%. The original appraisal will have to be correctly done.

    d. Results in a definable upper limit of the sum of the rental payments over the life of the lessee. This amount in 9 1/2 times the original appraisal. For example, for each $1,000 of the original appraisal value, the lessee will pay $9,500 in rent over a 55 year period.

4. A word on the fiscal note prepared by the Division of Lands and which states that passage of the Bill will result in a "substantial less in revenue". At best, this is half truth, since the result is subject to manipulation. Under the argument given, if the Division should decide to raise the rentals to an even higher rate, the "substantial less" would be higher. Accumulation of revenue is not the chief function of a state agency. Balanced development is a valid function. To follow the unmodified policy of the Division of Lands in this matter is to be counter productive.

write George
Shields do
an analysis
on HB

AGO 935794

RENT ADJUSTMENTS FOR

STATE LEASED LANDS

1975

ADL No.	Old Rental	New Rental	Per cent Increase (Decrease)
01227	112.50	1,575.00	1,300
51107	110.00	1,100.00	900
02534	608.50	25,500.00	4,090
01302	75.00	248.00	230
25068	100.00	380.00	280
38895	180.00	1,404.00	680
25305	1,425.00	2,886.00	103
52370	6,075.00	13,032.00	115
00273	6,780.00	14,400.00	112
52167	970.00	9,600.00	890
52209	195.00	2,040.00	946
52168	830.00	8,500.00	924
50738	1,400.00	5,280.00	277
44569	175.00	350.00	100
49723	150.00	605.00	303
41417	225.00	670.00	198
50598	50.00	630.00	1,160
00775	1,000.00	24,950.00	2,396
17103	1,000.00	18,800.00	1,780
51238	145.00	1,680.00	1,059
51515	160.00	1,680.00	950
51621	180.00	1,410.00	683
51428	220.00	1,770.00	704
50938	190.00	1,940.00	921
51065	210.00	1,700.00	709
46473	60.00	260.00	333
46474	60.00	260.00	333
52177	150.00	180.00	20
52182	250.00	285.00	14
21477	45.00	265.00	489
52185	300.00	320.00	7
51147	40.00	170.00	325
52422	40.00	170.00	325
52421	40.00	170.00	325
52187	75.00	175.00	133
52186	75.00	175.00	133
52190	40.00	100.00	150
52191	100.00	680.00	580
52714	40.00	165.00	312
52208	80.00	100.00	25

Rent Adjustments for
State Leased Lands, 1975

ADL No.	Old Rental	New Rental	Per Cent Increase (Decrease)
52205	50.00	220.00	340
52194	150.00	100.00	(50)
52192	250.00	235.00	(6)
50172	155.00	755.00	387
50688	75.00	175.00	133
52199	55.00	135.00	145
26653	235.00	470.00	100
26654	235.00	470.00	100
52179	235.00	470.00	100
52180	260.00	545.00	110
52170	325.00	575.00	77
52365	125.00	245.00	96
52430	125.00	245.00	96
52213	315.00	325.00	3
52171	150.00	295.00	97
52172	150.00	295.00	97
52213	315.00	295.00	(7)
52174	160.00	325.00	103
50587	150.00	385.00	157
50588	145.00	325.00	124
52703	40.00	100.00	150
45008	65.00	2,400.00	3,592
40014	220.00	2,430.00	1,005
45586	80.00	150.00	88
45585	460.00	675.00	47
26511	1,000.00	5,525.00	452
46628	140.00	1,680.00	1,100
46620	160.00	1,620.00	912
46383	110.00	600.00	445
49755	125.00	390.00	212
25956	125.00	390.00	212
47414	150.00	834.00	456
49060	250.00	702 00	181
22348	260.00	390.00	50
24099	215.00	420.00	95
36015	180.00	250.00	39
21928	1,260.00	10,920.00	767
01380	1,190.00	3,552.00	198
51395	820.00	3,054.00	272
00889	2,600.00	5,976.00	130
01308	7,170.00	10,014.00	40
49685	145.00	1,260.00	769
49795	175.00	1,500.00	757
25988	240.00	275.00	15
26269	165.00	190.00	15

RENT ADJUSTMENTS FOR

STATE LEASED LANDS

1976

ADL No.	Old Rental	New Rental	Per Cent Increase (Decrease)
71326		3,500.00	
22526	360.00	2,150.00	497
22525	175.00	3,360.00	1,820
22654	95.00	1,192.00	1,155
50603	85.00	840.00	888
22652	155.00	4,350.00	2,706
44351	100.00	438.00	338
44350	80.00	744.00	830
46483	110.00	750.00	582
02380	880.00	6,540.00	643
39877	1,000.00	2,280.00	128
30489	240.00	2,350.00	879
26632	1,835.00	6,900.00	276
32919	1,020.00	2,760.00	171
31328	120.00	840.00	600
54326	175.00	910.00	420
54331	165.00	910.00	452
54365	205.00	950.00	363
54332	225.00	950.00	322
40806	355.00	690.00	94
54345	200.00	550.00	175
54346	175.00	550.00	214
54347	210.00	550.00	162
54349	190.00	575.00	203
54333	260.00	665.00	156
54334	250.00	690.00	176
54335	105.00	605.00	476
54336	120.00	605.00	404
54337	110.00	625.00	468
54338	145.00	690.00	376
54339	210.00	690.00	228
54340	200.00	690.00	245
54341	280.00	690.00	146
54342	270.00	690.00	156
32128	115.00	690.00	500
32065	115.00	665.00	478
54344	160.00	635.00	297
54351	430.00	870.00	102
03045	3,985.00	32,800.00	723
03042	2,925.00	22,360.00	664

ADL No.	Old Rental	New Rental	Per Cent Increase
03050	990.00	7,400.00	647
53595	1,775.00	11,760.00	562
03041	1,340.00	9,360.00	598
03049	700.00	6,160.00	780
51395	820.00	6,160.00	651
03040	820.00	6,160.00	651
03059	820.00	6,160.00	651
03070	950.00	7,000.00	637
47382	680.00	5,000.00	635
03058	1,010.00	6,680.00	561
03067	700.00	5,160.00	637
03044	8,495.00	75,440.00	788
47378	1,720.00	14,400.00	737
47598	3,260.00	27,360.00	739
03051	1,410.00	13,680.00	870
03062	1,635.00	13,680.00	737
03071	1,410.00	13,680.00	870
03069	800.00	6,000.00	650
03066	1,745.00	11,600.00	565
03063	945.00	6,600.00	598
03048	945.00	6,600.00	598
03068	945.00	6,600.00	598
03073	945.00	6,600.00	598
03039	1,425.00	10,280.00	621
03052	2,490.00	18,400.00	639
03102	3,955.00	28,640.00	624
03064	1,305.00	9,120.00	599
03104	930.00	6,520.00	601
49686	1,835.00	13,240.00	622
57237	1,835.00	13,240.00	622
03065	3,670.00	26,480.00	622
03057	3,665.00	27,040.00	638
03053	890.00	6,640.00	646
30746	915.00	6,880.00	652
03043	910.00	6,680.00	634
47983	135.00	1,300.00	863
49430	175.00	1,400.00	700
47809	175.00	1,450.00	728
49172	120.00	1,300.00	983
46499	270.00	1,650.00	511
53444	140.00	1,200.00	757

Rent Adjustments for
State Leased Lands, 1976

ADL No.	Old Rental	New Rental	Per Cent Increase (Decrease)
27894	135.00	155.00	15
27948	200.00	230.00	15
50816	40.00	180.00	350
50669	40.00	120.00	200
47776	42.00	100.00	138
36315	40.00	100.00	150
47777	40.00	100.00	150
47778	40.00	100.00	150
35199	40.00	100.00	150
47775	42.00	100.00	138
41843	40.00	100.00	150
46609	72.00	100.00	39
47151	90.00	100.00	11
00037	700.00	5,250.00	650

MEMORANDUM State of Alaska

TO: The Honorable Guy R. Martin
Commissioner
Department of Natural Resources

DATE: June 4, 1976

FILE NO:

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

SUBJECT: Waiver of reappraisal and adjustment of rent

BY: Rodger W. Pegues
Assistant Attorney General

This is further to the opinion of June 1, 1976, by Assistant Attorney General Reeves on this subject. In that opinion, we advised that you were without authority under then existing law to grant a blanket waiver of all rental increases exceeding 100 percent which was requested by the Alaska Land & Lease Owner's Association. Since that opinion was written, new legislation was adopted which further restricts your authority to grant a waiver. FCCS SCSHB 139.

AS 38.05.105 has been amended to delete the language authorizing a waiver or extension of reappraisal "when development of the land is not otherwise possible due to special conditions" and to provide for an extension or waiver "only if residential development actually occurs, and only if it is necessary for obtaining primary long-term financing." As a result of the amendment, the Director of the Division of Lands may now grant a waiver or lengthen

HB 387

ALASKA LAND AND LEASE OWNERS ASSOCIATION

A number of Alaskans have leased State land from the Alaska Division of Lands. Most leases were written for a period of fifty-five years with renewal rights, subject to appropriate application and approval.

During the past year, ADL has reviewed the rental rates on a number of lots and parcels and, in some cases, has raised them over 1000%, others at a lesser rate but most increases seem excessive. Much of this land is in the Matanuska Susitna Borough.

We recognize that there has been a great deal of speculation on fee simple land in the Borough because of the publicity attendant to the Capitol relocation. These speculative values, however, do not necessarily apply to lease lands. However, we have been informed by ADL personnel that the new rental rates have been arrived at by appraising a limited number of fee simple parcels (not leased parcels), estimating their sales value and taking 6% of that figure as the annual rent.

A.S. 38.05.105 says "rental payment is subject to adjustment at five-year intervals and charges or adjustments shall be based primarily on a reappraised annual rental value" i.e. not sale value.

There is no direct relation between the value of a title and the value of a lease, particularly when most rural land in Alaska is undeveloped. The situation differs with apartment rentals whereby when the supply is short and demand great rental value increases, but even there Governor Hammond has set up rent control boards to limit rent increases to a reasonable amount.

There are many reasons why a State leasehold cannot be equated to a title. Let me cite a few:

1. Bank financing is virtually unobtainable on lease land because of the uncertainties associated with the "five year adjustment" clause.

2. Renewal of lease is not assured at end of a 55 year period.

3. Use of land may be limited at ADL's discretion.

4. No equity accruses in the property.

In regard to point No. 4, most rural fee simple property could be purchased in a ten to twenty year period outright at or close to many of the new State rental fees and, most important, a great deal of rural land is available for fee simple purchase from individual owners, reducing the relative value of State Lease Lands, in view of the long term unpredictability of State Lease payment levels and absence of any accrued equity after long term lease.

AGO 935801

We feel that ADL's method for adjusting lease rentals is not a fair or a correct procedure and, in fact, is in violation of State Statutes. We also feel that the procedures being used, particularly the "five year clause" deny much needed tax revenue to local governments. Putting the problem on a personal basis, many Alaskans will be forced to terminate their State leases, give up hopes for planned development, and sacrifice valuable improvements if the present policies and reappraisal methods are not improved.

We recommend several possible solutions:

1. Lands could be sold outright rather than leased.

2. Lands could be leased with an option to purchase at end of five years.

3. Rental could be:

   a. Fixed for the fifty-five year lease period with lessee charged a percentage of any gain realized.

   b. Increased annually at a fixed rate such as five percent.

   c. Increased at the inflation or recession rate reflected in the Consumer Price Index.

The members of theAlaska Land and Lease Owners Association will appreciate and remember any positive action that can be taken on behalf of all State Land Leaseholders.

We appreciate you already having taken time to hear our views.

Respectfully Submitted:

William M. Mack
Chairman, Board of Directors
Alaska Land and Lease Owners Association

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

MEMORANDUM

September 14, 1976

SUBJECT: Surface Leasing Policy of State Owned Lands

TO: The Honorable Kay Poland

FROM: Elke Kallab
Research Analyst

This memorandum addresses various issues which have been raised in conjunction with recent rent increases on state leased lands and, as you requested, comments on points brought up by leaseholders protesting the readjustment of their rents on a variety of grounds. Only the area of surface leasing of state owned lands has been investigated.

In summary we found that the rent increases appear to be in compliance of current, applicable statutes. However, we did discover numerous irregularities and inconsistencies in the regulations which govern surface leasing of state lands. We believe that the various shortcomings and ambiguities of the regulations have contributed significantly to the leaseholders' perceptions that the increases are illegal or arbitrary. The information and data pertaining to surface leasing regulations have been submitted to the chairman of the Administrative Regulation Review Committee, as is a copy of this memorandum.

* * * * * * * * * * * * * *

I. Rent Increases

Substantial increases of rents in the process of reappraisal did not begin this year. Attached to this report are two lists which show the old and current rental rates on every state lease which came up for reappraisal in 1975 and 1976 as supplied to us by the Division of Lands. As can be seen, some of the steeper increases occurred in 1975.

AGO 935803

Records show that the Division of Lands adopted the policy to use "market rental rates" for appraisals and reappraisals of state lands, when and where a comparable private rental market existed, as early as March 10, 1975. This decision was made because the Division of Lands believed that enough private leases existed by then which were comparable to certain types of state leases to institute market rental rates rather than charging contract rents at the rate of six percent of the fair market value of the property as was and continues to be the case when no market exists. So far, this policy has been limited in application primarily to industrial and commercial leases in the Anchorage area, since a private market for other types of leases does not exist at this time. However, a subdivision is presently being built in Anchorage in which the lots are being leased rather than being sold. Therefore, state leased lands in Anchorage which are classified as residential may soon be (re)appraised on the basis of economic rather than contract rental rates as established by the Division of Lands.

Current private market rates in Anchorage are comparable to those charged leaseholders in the Anchorage Industrial Subdivision according to the Division of Lands. (The Alaska Industrial Subdivision is located on Sec. 16 school land in downtown Anchorage.) For instance, we have been advised by the Division of Lands that Alaska Industrial Park, a private industrial subdivision on the southwest corner of C and 44th Streets charges an annual rental of eight percent of the "appraised fair market value," with a periodic five year rent adjustment provision part of the lease. Calais Company and Carr-Gottstein Properties lease their industrial lands at a rate of seven percent. However, unlike Alaska Industrial Park, they will not subordinate their lands; i.e., take a "back seat" to the improvements on the land which have been financed by a third party.

Leaseholders have charged that the Division of Lands has not used comparable parcels or proper appraisal methods when it reappraised certain leases in the Alaska Industrial Subdivision in Anchorage and a utility lease in the Matanuska Valley. However, all attempts to have these charges substantiated by the leaseholders with supporting data have been unsuccessful to date. We have looked at a randomly selected appraisal done by the Division of Lands to familiarize ourselves with appraising methods employed by the Division of Lands. Although we claim no special expertise in this field, the appraisal appeared to be thorough, extensive and impartial.

The Constitution (Article VIII, Sec.2) and various sections of Title 38 direct that state lands shall be selected, sold or leased to provide the maximum benefits to the people of the state. It is therefore difficult to find fault with the Division, in the absence of some other statutory definition, for attempting to maximize the monetary returns on state leased lands. How they set about doing it, however, is another subject.

The decision to use market rental rates was further refined and delineated when the Board of Education instructed the Division of Lands at its August 28, 1975 meeting in Kodiak that henceforth the Division was to obtain "fair market rental" 1/ on all leased school lands. Since Sec. 16 and 36 lands were conveyed to the state to generate school revenues, it is only reasonable to expect that rents should reflect this when they come up for periodic adjustment, particularly in light of the directive issued by the Board of Education to charge market rental value.

The Division of Lands is quite willing to admit that in the past the Appraising Section in the Division of Lands was viewed as a "poor relation", which accounts for the continuing low rents over the years in violation of the law which provides that "... no land may be sold or leased for less than the approved, appraised market value..." (38.05.310). The Division is now applying the law, thereby correcting past neglect which resulted in low rental rates on state leased lands, benefitting the individual leaseholders, but not necessarily the people of Alaska in general.

A legal opinion (copy attached) from the Attorney General's office to Commissioner Martin prevents the Commissioner from waiving or lowering the increases.

II. Rate of Contract Rents

The statutes provide that the initial rent shall be determined based on the "approved, appraised market value" (38.05.310), and that subsequent readjustments of the rents be based on a "reappraised annual rental value" (38.05.105)

Much controversy has arisen over the term "annual rental value". Protesting leaseholders claim that rental value cannot be pegged to the market value, that it is something less. The sources we have checked for a definition of rental value state that rental value is--

> "(T)he monetary amount reasonably expectable for the right to the agreed use of real estate.... Usually, it is established by competitive conditions." 2/

1/ Memo from W. Bruce Atkinson, ADL, to File, dated November 17, 1975.

2/ Real Estate Appraisal Principles and Terminology, Society of Real Estate Appraisers, p. 164; and Real Estate Appraisal Manual, Jerome Knowles, Jr. and Associates, p. 286.

From the above it appears that rental value is established by market conditions. The problem which has and continues to exist in Alaska, though, is that in most instances the state (Division of Lands) makes its own market. There is no private market to speak of for agricultural, grazing, recreational and other classified lands. Therefore, the state historically has used a percentage rate of the fair market value instead of rental value to determine rents on leased lands. As mentioned earlier, where a private market exists the Division is charging market rental value.

Until 1968 this rate was five percent. There is nothing in writing which explains why the rate was set at five percent, but we have been told that the five percent figure was a minimim amount derived from the Public and Charitable Use statute of the Alaska Land Act which stipulates that the rental shall be not less than five percent of the fair market value on school, university and mental health, or acquired lands (38.05.315(d)). Also, the rate of interest on the unpaid balance of contract sales of state lands was five percent at that time, and the reasoning, according to Division personnel, was to standardize the contract sale and contract rent rates. In 1968, then Commissioner of Natural Resources, Tom Kelly, raised the rate to six percent because he felt five percent was too low. Again, there is nothing in writing which would substantiate this. The Division of Lands now charges six percent of the fair market value when there is no private lease market and the lease is of a non-revenue producing nature. The Division charges up to eight and one-half percent (8 1/2%),or the market rental rate, when a private lease market exists and when the land is a potential revenue producer; i.e., land which is classified and/or zoned commercial, industrial, or residential.

The raising of the lease rental percentage rates, in some instances (such as the Alaska Industrial Subdivision), together with reappraising the leases based on fair market value have been responsible for the steep increases. The Division of Lands is quite cognizant of the potential hardships such a policy creates for certain leaseholders, particularly for those individuals who hold non-income producing leases. 3/

Much of the bad feeling that was generated over the rent increases probably could have been avoided if the Division of Lands had been more approachable and open in what it was doing. By not being advised of significant changes in policy, even when they are justifiable and defensible, and by being confused by or ignorant of appraisal terminology as used by the Division of Lands, it is not surprising that leaseholders feel that the Division has been acting arbitrarily and capriciously.

3/ Memo from W. Bruce Atkinson, ADL, to Michael C. T. Smith, ADL, dated November 4, 1975.

III. Special Provisions on Certain Leases Limiting Reappraisal to One Time

According to the Division of Lands, four leases exist which have a special provision on the back side of the last page which indicates that the lease will be reappraised but once five years after issuance of the initial lease. These leases have been reappraised now for a second time, and the four leaseholders are protesting the reappraisals.

A legal opinion issued by the Attorney General's office, dated October 3, 1975, holds that the Division of Lands exceeded its authority granting the special provisions on several grounds.

A. No statutory authority existed to grant the exemption from five year rent adjustments. Apparently all four leases were issued prior to passage of a 1964 bill which amended 38.05.105 providing for waivers due to special conditions.

B. However, even if they had been issued after this amendment became law, the special provision would still be invalid since 38.05.075 stipulates that a lease has to be on a form approved by the attorney general. Clearly, these leases were not on an approved form.

C. Finally, the special provisions are invalid because the leases were offered at public auction without the special provision being part of the terms of the lease.

As a result of the above legal opinion, parts of regulation 11 AAC 58.120, which allows for the special provision on university and school lands, should be changed immediately.

While checking into the above matter, we found that the Division of Lands is apparently in violation of 38.05.075 - Leasing Procedures. This section states that "(T)he director or his representative shall immediately issue a receipt containing a description of the land or interest leased, the price bid, and the terms of the lease." According to Division of Lands personnel this has never been done. It would appear that either the Division of Lands should provide the bidder the "terms of the lease" at the time it issues the receipt, or the reference to the "lease terms" should be removed from 38.05.075.

IV. Improvement to Leased Properties

The charge has been made by several leaseholders in the Alaska Industrial Subdivision that their land has been reappraised improperly because improvements to the land have been taken into consideration, even though the lease states quite clearly that the land is to be reappraised in a state of improvement similar to that of the land described in the lease at the time the lease was issued.

("... in a state of improvement similar to that of the land described herein at the time this lease was entered into.").

The Division of Lands maintains that while leaseholders cannot be and, for that matter, have never been penalized for the improvements made to their leased lands, improvements which were made at public expense and which as a consequence raised the value of the area or the lands under lease should be reflected in the reappraisal. We are told that this practice is consistent and standard procedure in the reappraising business. While we are not appraisers, the reasoning seems to make sense.

Short of being provided with data by the leaseholders (which we have asked for but not received) which would bear out their charge that improvements they have made to their properties were being included in the reappraisal, we cannot assume that the Division is not reappraising the properties exclusive of improvements owned by the individual leaseholders, or that they are not applying professional standards when appraising lands.

* * * * * * * * * *

Conclusions

Our investigations indicate that substantive and/or long term relief to the leaseholders regarding the periodic rent adjustment of their leaseholdings is probably not possible under the existing statutes. If it is believed that increases of rents should be limited in some way , or that rents be readjusted on a different basis than percentage of fair market value or fair market rental value as is the practice now, it will be necessary to legislate to that effect.

No new legislation will be necessary to require the Department of Natural Resources (Division of Lands) to bring their regulations into compliance with existing, applicable statutes or to "clean them up" so that the ambiguities regarding meaning and the inconsistencies of the language and definitions used in the regulations are eliminated. While no new legislation is necessary for the revision and up-dating of the regulations, it is recommended that the applicable, authorizing statutes be revised as necessary to be consistent and clear throughout. They are not now, in some instances.

EK:jm
Attachments

cc: The Honorable Jalmar Kerttula

DL-37
Revised July, 1960

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LANDS
344 Sixth Avenue
Anchorage, Alaska

Lease No. ADL 03066

LEASE AGREEMENT

THIS INDENTURE made and entered into this 2nd day of May 19 61, by and between the STATE OF ALASKA, through the Director of the Division of Lands, with the consent and approval of the Commissioner of the Department of Natural Resources, acting for and on its behalf under and pursuant to Chapter 169, SLA 1959, as amended, and the regulations promulgated thereunder, as amended or hereafter amended, hereinafter referred to as the LESSOR; and James E. Rigsbee, Jr. of 2005 - 20th Avenue, Anchorage, Alaska. hereinafter referred to as the LESSEE:

WITNESSETH, that whereas the Lessor has classified the lands herein demised as: Commercial - Industrial lands on April 24, 19 61, pursuant to Chapter 169, SLA 1959, as amended; and

WHEREAS, the Lessor has caused the lands herein demised to be appraised and such appraisal was made and approved on or after February 23, 1961; and

WHEREAS, the Lessor has caused a notice of intent to lease the lands herein demised to be published as required by law or caused notices of intent to lease to be posted as required by law; and

WHEREAS, an auction of the within demised property was held at the time and place designated by notice and said sale was approved by the Director of the Division of Lands, Department of Natural Resources, State of Alaska:

NOW THEREFOR, the Lessor has agreed to let and does hereby let and demise to the Lessee, and the Lessee has agreed to take and does hereby take from the Lessor all that lot, piece, or parcel of land more particularly bounded and described, as follows: Lots One (1), and Two (2), Block Ten (10), First Addition to the Alaska Industrial Subdivision, within the Northeast Quarter of Section Sixteen, Township Thirteen North, Range Three West, Seward Meridian, containing 0.61 acres, more or less, according to the official plat thereof, on file and of record with the Recorder of Deeds, Anchorage Recording Precinct, Anchorage, Alaska.

TO HAVE AND TO HOLD the said demised premises for a term of fifty-five (55) years commencing on the 2nd day of May, 19 61 and ending at 12 o'clock midnight on the 1st day of May, 2016, unless sooner terminated as hereinafter provided.

The Lessee shall pay to the Lessor rental as follows: Equal quarterly payments, in advance, on or before the 2nd day of August, November, February and May of every year during said term at the rate of Two Hundred and Fifty-five and NO/100---------- Dollars ($ 255.00-------) per quarter

AGO 935809

such payments to be subject to adjustment at each five year interval from the effective date hereof, if the lease term hereof exceeds five years, such adjustment to be based primarily upon a reappraised annual rental value of land in a state of improvement similar to that of the land described herein at the time this lease was entered into.

It is hereby mutually covenanted and agreed that this indenture is made upon the foregoing, and upon the following agreements, conditions, covenants, and terms, VIZ:

1. The word "Lessor" as and wherever used in the lease, shall be construed to include, and shall include, bind and inure to the benefit of, the State of Alaska, its successor and assigns, at any time during the term of this lease or any renewal thereof; and the word "Lessee" as and wherever used in this lease shall be construed to include and shall include and bind and inure to the benefit of the Lessee, his successors and assigns.

2. It shall be the responsibility of the Lessee to properly locate himself and his improvements within the confines of the property leased herein.

3. The Lessor, Alaska, hereby expressly saves, excepts and reserves out of the grant hereby made unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores, minerals, fissionable materials, and fossils of every name, kind or description, and which may be in or upon said lands above described, or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, fissionable materials, and fossils, and it also hereby expressly saves and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right to enter by itself, its or their agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times, for the purpose of opening, developing, drilling and working mines or wells on these or other lands and taking out and removing therefrom all such oils, gases, coal, ores, minerals, fissionable materials and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said lands or any part thereof for the foregoing purposes and to occupy as much of said lands as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid, generally all rights and power in, to and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved.

Provided, however, no rights shall be exercised by Alaska, its lessees, successors or assigns, until provision has been made by Alaska, its lessees, successors or assigns, to pay to the owner of the land, upon which the rights herein reserved to Alaska, its lessees, successors, or assigns are sought to be exercised, full payment for all damages sustained by said owner, by reason of entering upon said land; provided, that if said owner for any cause whatever refuses or neglects to settle said damages, Alaska, its lessees, successors or assigns or any applicant for a lease or contract from Alaska for the purpose of prospecting for valuable minerals, or option contract or lease for mining coal or lease for extracting petroleum or natural gas, shall have the right, after posting a surety bond with the Director in a company qualified to do business in Alaska or in a form as determined by the Director, after due notice and opportunity to

be heard, to be sufficient in amount and security to secure the said owner full payment for all such damages, to enter upon the land in the exercise of said reserved rights, and shall have the right to institute such legal proceedings in a court of competent jurisdiction wherein the land is situated, as may be necessary to determine the damages which the surface lessee of such lands may suffer.

4. The lands leased herein have been classified as shown on page 1 of this agreement and in accordance with the Classification Regulations, Title 11, Division 1, Chapter 1, Subchapter 1, and any use thereof which shall be in material conflict with said classification shall, if not remedied after due notice thereof has been served on the Lessee, constitute a breach of this lease and the Lessor may thereupon terminate same in accordance with provisions herein contained. The Lessor does not warrant that by such classification the land is ideally suited for the use authorized thereunder and the Lessor gives no guaranty, actual or implied, that the utilization under said classification will be profitable.

5. All coal, oil, gas and other minerals and all deposits of stone or gravel valuable for extraction and utilization and all materials subject to Title 11, Division 1, Chapters Four (4), Five (5), and Six (6), Alaska Administrative Code, as amended or as shall hereafter be amended are excepted from the operation of this lease. Viz: The Lessee shall not sell or remove for use elsewhere any timber, stone, gravel, peatmoss, or any other material valuable for building or commercial purposes; provided, however, that material required in the enjoyment of this lease may be used after a written permit therefor has been obtained from the Lessor.

6. The Lessor expressly reserves the right to grant easements or rights-of-way across the land herein leased if it is determined to be in the best interests of the State to do so; provided, however, that the Lessee shall be entitled to compensation for all improvements or crops which are damaged or destroyed as a direct result of such easement or right-of-way.

7. The Lessee shall not commit waste or injury upon the lands leased herein. Any violation of this agreement shall not only subject the offender to civil liability, but upon conviction thereof he may be fined in any sum not exceeding $1000.00.

8. If the lands leased herein are classified and leased as grazing or agricultural lands the Lessee shall not prevent or deny the lawful pursuit of the hunting of game or the taking of fish; provided, however, the Director, upon request in writing, may allow the lands leased herein, or portions thereof, to be posted to prohibit hunting and fishing when it appears necessary in order to properly protect the Lessee and his property.

9. Should the lands herein leased lie within the jurisdiction of any authorized building or zoning authority they shall be utilized in accordance with the rules and regulations promulgated by said authority.

10. The Lessee shall take all reasonable precaution to prevent, and take all reasonable action to suppress grass, brush and forest fires on the land herein leased.

11. The Lessee shall allow the Lessor, through its duly authorized representative, to enter upon the leased premises, at any reasonable time, for the purpose of an inspection thereof.

12. When the Lessee shall use the lands leased herein to construct any form of hydraulic project or employ any equipment or engage in any activity which will use, divert, obstruct, pollute or change the natural flow or bed of any river, lake or stream or that will utilize any of the waters of the State or materials from any river, lake or stream beds, the Lessee shall, prior to the commencement of any such operations, procure the approval of the Commissioner of the Department of Fish and Game and the original or an image copy thereof shall be filed with the Lessor prior to the commencement of such activity.

13. The Lessee may assign the lands, or portion thereof, herein demised, provided, he first makes application to the Lessor for a permit and the Lessor, in his discretion, may issue such permit if he finds it to be in the best interest of Alaska. Upon an assignment being granted, the assignee thereunder shall become subject to and be governed by the provisions of this lease in the same manner as though he were the original Lessee.

14. This lease may not be modified orally or in any manner other than by an agreement in writing signed by all parties hereto or their respective successors in interest.

15. This lease may be cancelled, in whole or in part, under one or more of the following conditions:

A. While in good standing by the mutual agreement in writing of the respective parties hereto.

B. If issued in error with respect to material facts.

C. If the leased premises are being used for an unlawful purpose.

16. If the Lessee should default in the performance of any of the terms, covenants or stipulations herein contained or of the regulations promulgated pursuant to Chapter 169, SLA 1959, as amended, and said default shall not be remedied within 30 days after written notice of such default has been served upon the Lessee by the Lessor, the Lessee shall be subjected to such legal action as the Lessor shall deem appropriate, including but not limited to, the forfeiture of this lease. No improvements may be removed by the Lessee during any period in which this lease is in default. In the event that this lease shall be terminated because of a breach of any of the terms, covenants, or stipulations contained herein the annual rental payment last made by the Lessee shall be retained by the Lessor as liquidated damages.

17. Any notice or demand which must be given or made by the parties hereto shall be in writing, and shall be complete by sending such notice or demand by United States registered or certified mail to the address shown on the lease or to such other address as the parties shall designate in writing from time to time. A copy of any such notice shall be forwarded by the Lessee to any lienholder who has properly recorded his interest in the lease with the Lessor.

18. In the event that this lease is terminated as herein provided, by summary proceedings or otherwise, or in the event that the demised lands, or any part thereof, should be abandoned by the Lessee during the term of this lease, the Lessor may immediately, or at any time thereafter, enter or re-enter and take possession of said lands, or any part thereof, and without liability for any damage therefor, remove all

persons and property therefrom either by summary proceedings or by a suitable action or proceeding at law; provided, however, that the words "entry" and "re-entry" as used herein, are not restricted to their technical legal meaning. Any entry or re-entry possession, repossession, dispossess, and/or disposession by the Lessor, whether had or taken by summary proceedings, or otherwise, shall not be deemed to absolve, relieve, release or discharge the Lessee, either in whole or in part, from any liability hereunder.

19. Upon the expiration, termination or cancellation of this lease, unless the same has been renewed, the Lessee shall quietly and peaceably leave, surrender and yield up unto the Lessor all of the leased land on the last day of the term of the lease.

20. The receipt of rent by the Lessor, with or without knowledge of any breach of the lease by the Lessee or of any default on the part of the Lessee in observance or performance of any of the conditions or covenants of this lease, shall not be deemed to be a waiver of any provision of this lease. No failure on the part of the Lessor to enforce any covenant or provision herein contained, nor any waiver of any right hereunder by the Lessor, unless in writing, shall discharge or invalidate such terms or covenants or affect the right of the Lessor to enforce the same in the event of any subsequent breach or default. The receipt by the Lessor of rent or any other sum of money or the termination, in any manner, of the term herein demised, or after giving by the Lessor of any notice hereunder to effect such termination, shall not reinstate, continue, or extend the resultant term herein demised, or destroy, or in any manner impair the efficacy of any such notice of termination as may have been given hereunder by the Lessor to the Lessee prior to the receipt of any such sum of money or other consideration, unless expressed in writing and signed by the Lessor.

21. The Lessee, after written request therefor has been filed with the Lessor and prior to the commencement of such work, may receive credit toward current or future rentals, provided the contemplated work, to be accomplished thereon, off the area leased herein, in the discretion of the Lessor, shall result in increased valuation to other State owned lands. The Lessee's authorization to proceed with the work for rental credit, if granted, shall stipulate the type and extent of improvements, standards of construction to be followed and the maximum allowable rental credit therefor; provided further that no credit shall inure to the Lessee until the work has been completed and the Lessee has submitted such evidence thereof as may be required to determine if the work is in the provisions of said authorization.

22. If, upon the expiration of this lease, the Lessee desires a renewal lease on the lands, properties or interests covered herein, he shall within 30 days before the expiration of this lease, make application to the Lessor on Form DLNR-74 entitled "Application for Renewal of Lease," in which he must certify under oath as to the character and value of all the improvements existing upon the land, the purpose for which he desires a renewal and such other information as the Director of the Division of Lands may require. Along with the application the applicant shall deposit a sum equal to 50% of the current annual rental, as provided herein, but in no event to exceed the sum of $50.00. The Lessor may thereupon lease said lands in compliance with the provisions herein enumerated, Chapter 169, SLH 1959, as amended, and the rules and regulations promulgated thereunder, allowing a preference right to the Lessee herein.

23. The Lessee hereunder shall, upon the expiration of this lease or the prior termination thereof by mutual agreement, be allowed a preference right to re-lease the lands leased herein if all other pertinent factors are substantially equivalent. If the renewal lease does not require public auction the preference rightholder shall exercise his right within 30 days before the expiration of this lease by written notice directed

to the Lessor and failure to do so shall result in forfeiture and cancellation of such preference right. In the event that the lease is subject to and is offered at public auction the preference rightholder shall, at the close of bidding, indicate his desire to exercise his preference right and meet the highest bid. In the event the preference right holder does not elect to exercise his right and fails to do so at this time his preference right shall be forfeited and forever lost.

24. Improvements owned by a Lessee on Alaska lands shall within 60 days after the termination of the lease be removed by him; provided, such removal will not cause injury or damage to the lands; and further provided, that the Lessor may extend the time for removing such improvements in cases where hardship is proven. The retiring Lessee or permittee may, with the consent of the Lessor, sell his improvements to the succeeding lessee or permittee.

If any improvements and/or chattels having an appraised value in excess of $10,000.00 as determined by the Lessor are not removed within the time allowed, such improvements and/or chattels shall upon due notice to the Lessee, be sold at public sale under the direction of the Lessor. The proceeds of sale shall inure to the Lessee who placed such improvements and/or chattels on the lands after paying to Alaska all rents due and owing and expenses incurred in making such sale. In case there are no other bidders at any such sales, the Lessor is authorized to bid, in the name of Alaska, on such improvements and/or chattels. The bid money shall be taken from the fund to which said lands belong and the said fund shall receive all monies or other value subsequently derived from the sale or leasing of such improvements and/or chattels. Alaska shall acquire all the rights, both legal and equitable, that any other purchaser could acquire by reason of said purchase.

If any improvements and/or chattels having an appraised value of $10,000.00 or less, as determined by the Lessor, are not removed within the time allowed, such improvements and/or chattels shall revert to and absolute title shall vest in Alaska.

25. If any clause, or provision, herein contained, shall be adjudged to be invalid, it shall not affect the validity of any other clause or provision, of this lease or constitute a cause of action in favor of either party as against the other.

It is agreed that the covenants, terms and agreements herein contained shall be binding upon the successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the State of Alaska, Lessor, acting through the Director of the Division of Lands of the Department of Natural Resources, lawfully authorized thereunto, has caused these presents to be executed at Anchorage, Alaska, in duplicate and the said Lessee has hereunto set his hand, agreeing to keep, observe and perform the rules and regulations promulgated under Chapter 169, SLA 1959, as amended, the terms, conditions and provisions herein contained, on the Lessee's part to be kept, observed and performed; and executed said instrument, in duplicate on the 15th day of May, 19 61.

APPROVED:

Director, Division of Lands

COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES
STATE OF ALASKA

LESSEE(S)

AGO 935814

UNITED STATES OF AMERICA)
State of Alaska) ss.

THIS IS TO CERTIFY that on the 23rd day of June, 1961, before me, the undersigned Notary Public, personally appeared [illegible] known to me and known by me to be the Director of the Division of Lands of the Department of Natural Resources, and acknowledged to me that he executed the foregoing lease for and on behalf of said State, freely and voluntarily and for the use and purposes therein set forth

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Notary Public in and for the State of Alaska
My commission expires March 27 1965

UNITED STATES OF AMERICA)
State of Alaska) ss.

THIS IS TO CERTIFY that on this 23rd day of June, 1961, before me, the undersigned, a Notary Public in and for Alaska duly commissioned and sworn, personally appeared James E. Fisher Jr. to me personally known to be one of the persons described in and who executed the within instrument and the said James E. Fisher Jr. acknowledged to me that he signed and executed the same freely and voluntarily for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Sharon E. Barton
Notary Public in and for the State of Alaska
My commission expires March 27 1965

Approved as to Form:

Ralph E. Moody
Attorney General

By George N. Hayes

Title Assistant Attorney General

AGO 935815

LEASE METHOD COMPARISONS

	LEASE (1)	LEASE (2)	LEASE (3)	LEASE (4)
Rent Per Present Law and State Appraisal	$5,691	$5,232	$1,300	$1,650
Rent Per CSSB 159	$ 930	$ 800	$ 120	$ 270
Lease Commencement	1961	1961	1969	1969
Lease Term	55 yrs.	55 yrs.	55 yrs.	55 yrs.
Location	Anchorage	Anchorage	Susitna Valley	Susitna Valley
Size	14,782 S.F.	18,012 S.F.	40 Ac.	80 Ac.

LEASE NO. 1

Term	(a) Rent By CSSB 159	(b) Rent Per State's Appraisal	(c) State Loss in Revenue (Per Period)
76-2001	$ 930	$5,691	$119,025
2001-2011	1,395	5,691	42,960
2011-2021	2,029	5,691	36,620
2021-2031	3,138	5,691	25,530

Assume:

(1) Land value does not rise beyond present value
(2) Lease rate does not rise

Column:

(a) Annual rent for each year under CSSB 159
(b) Present rent as determined by state's appraiser
(c) State loss in revenue under CSSB 159 (difference between column (a) and column (b) times number of years in the period)

LEASE NO. 3

Term	(a) Rent By CSSB 159	(b) Rent Per State's Appraisal	(c) State Loss in Revenue (Per Period)
76-2001	$120	$1,300	$29,500
2001-2011	180	1,300	11,200
2011-2021	270	1,300	10,300
2021-2031	405	1,300	8,950

Assume:

(1) Land value does not rise beyond present value
(2) Economic lease rate does not rise

Column:

(a) Annual rent for each year under CSSB 159
(b) Present rent as determined by state's appraisal
(c) State loss in revenue under CSSB 159

FINAL REPORT AND RECOMMENDATIONS

April, 1977

THE GOVERNOR'S AD HOC ADVISORY COMMITTEE ON STATE LAND PRACTICES AND PROCEDURES

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I. SUMMARY OF THE COMMITTEE'S FORMATION, MISSION, AND ACCOMPLISHMENTS

On October 8, 1976 the Governor's Ad Hoc Advisory Committee on State Land Practices and Procedures met for the first time. The mission of the committee was outlined by Guy Martin, Commissioner of the Department of Natural Resources. He said that the Governor desired a small, precise, and efficient panel to find new ways to improve state land practices and procedures, not to set policy but to address the legal and technical aspects of disposal and other contractual relationships. Judgments, criticisms, and new recommendations were to be effected. Michael C. T. Smith, Director of the Division of Lands, clarified the mission further by adding that the committee should:

1) consider primarily revenue production, as opposed to social benefits, in its analysis;

2) make no assumptions as to state policy regarding the number, size, and location of land sales or other disposals; and

3) recommend changes that will be applicable to any likely state land policy.

AGO 935820

The committee made a dedicated attempt to accomplish its mission. The tasks of studying existing statutes, regulations, and practices, and examining them in light of current land disposal and contractual relationships was formidable, but many members worked successfully to this end. Uncovering and identifying disposal and contractual problems involved considerable time and effort. Correct identification of a particular problem of this nature is a major step toward solving it. Perhaps the greatest success of the committee was discerning from Division of Lands personnel and state lessees the exact nature of their problems and concisely defining them. This action will have a lasting effect on Division of Lands personnel who are charged with formulating policy and procedures for land disposals and contractual relationships. The committee did make significant recommendations to effect changes in statutes, regulations, and Division procedures and policy. The lease form used by the State was revised to include terms and conditions that would offer benefits to both the State and the lessee. The recommendations of the committee in general give the State more flexibility to respond to client needs. Both client and State will benefit greatly if the committee's recommendations are carried out. The mission of the committee has been accomplished with admirable success in this regard.

Selected areas were covered, specifically those of sales and leasing. The committee states that this report is not meant, by any means, to be all-inclusive.

II. THE INDIVIDUALS ON THE COMMITTEE

The individuals who served on the committee volunteered considerable time and effort. Each member was selected on the basis of having specialized knowledge and expertise. The following list of present members and their qualifications shows considerable diversity.

Mike Colletta - State Senator

Hugh Gellert - President of Bear Fritz, Inc., a land development company with interests in Anchorage and the Kenai Peninsula.

Herb Lang - President of Anchorage Sand and Gravel.

Jamie Love - Director of the Alaska Public Interest Research Group (AkPIRG).

David McCabe - Private Appraisor.

William Mack - Chairman of the Alaska Land and Lease Holders Association.

Carl Marrs - Land Manager for Cook Inlet Region, Inc.

John Norman - Attorney specializing in the area of corporate and natural resources law.

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Lidia Selkregg - Anchorage Assemblywoman; Professor of Regional Planning at the Arctic Environmental Information and Data Center in Anchorage.

Theodore G. Smith - Former State Representative; present Director of the State Division of Land and Water Management.

AGO 935823

III. COMMITTEE WORK PROCESS

The committee worked in a series of sessions which were all open to the public. Meetings were held weekly from October 8, 1976 to March 30, 1977 with the exception of 12/17/76 - 1/5/77, when the committee recessed for the holidays. Two additional evening work sessions were held, and two evening meetings to hear public comments took place on 12/1/76 and 3/3/77. The meetings were loosely structured to accomodate those attending and to provide time for public comment.

The committee addressed the area of sales in its first sessions and proceeded to the area of leases in the later sessions. There was considerable public input from concerned individuals, and organizations, and many persons with specialized knowledge were invited. A great deal of support was provided by many state agencies, particularly by the State Division of Lands and the Department of Law. Considerable time was spent in information gathering. The Division often was requested to provide information on current procedures. Considerable information on Division activities was compiled. The changes recommended were made cautiously and are well supported by the information gathered. The committee's recommendations were made in the form of motions which were voted on by majority vote at the meetings. Recommendations were made freely as each subject area was explored.

AGO 935824

Many meetings, including the two evening public comment sessions, were advertised in two newspapers. Press releases and newspaper articles appeared locally. Mass mailouts provided general information and announced upcoming meetings; lists of meeting dates were available at all sessions. The interested public was encouraged to contact the Division of Lands with any verbal or written questions and comments. Copies of materials used by the committee were available to the public and public comment was specifically taken on the committee's interim recommendations and draft bill to the Governor.

Almost all sessions were tape recorded in their entirety. Written minutes of meetings were time-keyed to the tapes to allow verification. The public is welcome to listen to or make copies of these tapes by contacting the Division of Lands.

AGO 935825

IV. FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

The findings of the committee were numerous but can be grouped into major categories:

1) State lessees are dissatisfied with the state interpretation of lease contract terms especially those relating to appraisal. Many lessees testified before the committee as to their grievances.

2) The Division's regulations covering sales and leases are often outdated and conflicting with statutes in some cases.

3) The State's lease contract form is not in line with commercial contracts and has many ambiguities in it.

4) Some state statutes in Title 38.05 are vague and unclear.

5) Payment methods for state sales contracts do not match those used in the private sector and may contribute to ballooning land values.

AGO 935826

These findings outline the basis for the committee's recommendations which follow.

The recommendations of the committee concern statute, policy, and regulation changes, and can be grouped by topic.

The following three items are of general concern:

1. The committee wishes to note that in the course of public testimony it was apparent that Division of Aviation lessees had significant problems with their current leases. This subject was not within the scope of the committee's deliberations and, therefore, not addressed.

2. To comply with new statutes the committee recommends a major overhaul of Division of Lands regulations. The committee has found many of the regulations now in effect to be outdated and superceded by statutes.

3. The committee recommends that the Legislature apply the provisions found in Title 38 to those in Title 3, Title 19, and Title 35. The rationale would be to make land laws uniform among the Division of Aviation, Department of Highways, and Division of Lands.

AGO 935827

In order to provide predictability in appraisals and reappraisals, for the benefit of the State and the public, the committee recommends the following:

1. At present many lessees are suffering hardship due to rent increases of several hundred percent. To provide for this relief and as a curative for such future increases the statutory provisions found in section nine of the attached bill are recommended. Provision for optional conversion of present leases to ones that will place a ceiling of 100% on rental increases every five years will largely prevent future hardship cases and resolve satisfactorily the present cases. With a rent ceiling, lease rental increases will be more predictable resulting in more financial stability for the lessee. (The Alaska Industrial Subdivision hearing panel recommends insuring predictability by placing some control over the size of the rental increase through utilization of a ceiling on the size of the increase in rental every five years.)

   Sections 8 and 9 of the attached bill will accomplish the above recommendations.

2. The committee recommends that land offered over the counter be reviewed at 90 to 120 day intervals to determine if an increase in value has occurred. This

AGO 935828

review is desired so that parcels are not undervalued by progressive changes in the market.

Section 10 of the attached bill would accomplish this.

3. Since public notice is covered in AS 38.05.345 the change to " ppraisal" for AS 38.05.310 is warranted by its present content. The committee recommends that land may be appraised 120 days in advance of a sale or lease. The change from 90 to 120 days would be desirable in that minimum bid information could be given to the public well in advance of the actual sale or lease auction. In addition 11 AAC 54.140 should be repealed.

Section 10 of the attached bill will accomplish this.

4. In order to provide a workable solution to the problems of confidentiality of appraisal data, the committee recommends that the Director of the Division of Lands refrain from including confidential information in any appraisal prepared for the Division of Lands use. The committee recommends adoption of the following policy statement:

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The director may make confidential those portions of appraisals and supporting data which contain information provided the appraiser in confidence. Such appraisals shall be subject to review by the local chapter of the American Institute of Real Estate Appraisers or the Society of Real Estate Appraisers to determine if the appraisal is acceptable under the professional practices and guidelines of the reviewing organization.

5. The committee believes that the word "primarily" may imply special consideration to some lessees. In order to treat all lessees fairly and equitably the committee recommends that the word "primarily" be stricken. Deleting "primarily" would clarify the basis for reappraisal. (This was also recommended by the Alaska Industrial Subdivision hearing panel.)

Section 8 of the attached bill will accomplish this.

To improve accounting policies, the following are recommended:

1. The committee recommends that all sales contracts over $400.00 per year have the option of paying in quarterly installments instead of annual installments. It is the committee's belief that this would ease the financial

strain on the buyer and yet not add significantly to the State's administrative costs. To provide quarterly payments would require a change in AS 38.05.065 with the present annual payments deleted and the quarterly payment provision adopted in its place.

Section 3 of the attached bill would accomplish this.

2. The committee recommends that a $10.00 fee charge to cover administrative costs be given to those who make sale or lease payments with checks that are returned. It is a standard business practice to provide for such charges and is recommended to protect the State's interests.

3. The committee recommends instituting default charges for late sale or lease payments. A present, there exists no penalty and many payments are late. The form of penalty recommended is notification charges to all delinquent payments and penalty charges to payments delinquent more than 30 days. The notification charge would be $5.00 for the first notice, $20.00 for the second notice and a penalty charge of 6 percent of the payment.

It is suggested that the fee charges be adopted as a regulation under authority of AS 38.05.035 (4)(5) as follows:

11 AAC 54.365. Delinquent Payments.

In the event of a delinquent payment, the following charges will apply:

1. A $10.00 penalty for payment with a check that is returned.

2. A $5.00 penalty for notification of payments over thirty-five days late.

3. A $20.00 penalty for a second notification of payments more than fifty days late.

4. A penalty of 6 percent of the rental or sale payment for payments delinquent by more than thirty days.

(Eff. ___ ___ Register _____)Authority AS 38.05.035.

In order to achieve more flexibility and simplicity in handling land disposal transactions, the following are recommended:

1. The committee recommends that the State charge a market rate of interest in its sales contracts. The interest rate, at present 6%, is below market levels and may have contributed to inflated prices at state land sales. By setting interest rates at market levels, the State would help prevent inflated land prices and at the same time return more income to the State. To provide for a market rate of interest in sales contracts, no change in AS 38.05.065 would be required. The addition of a statement of market rate in this statute would be desirable, however.

Section 3 of the attached bill would accomplish this.

2. The committee recommends that the State adopt a system of level payments in place of declining payments in its sale contracts. The system of level payments is in common use in the business world, and the payment figures are easily set forth in a contract. The disadvantage of the present method is that interest must be recalculated every year and the payments decrease each year. From both the State's and the buyers' viewpoints, the level payment method would be preferred. The State would receive slightly more in interest payments over the contract terms and the buyer would not have to make as high initial payments. To provide

level payments would require a change in AS 38.05.065 with the present system deleted and the level payment system adopted in its place.

Sections 2 and 3 of the attached bill would accomplish this.

3. The committee recommends that in Title 38.05 the term "fair market value" be used in place of "fair appraised market value" and "market value." The meaning is felt to be the same in all cases. The committee would like to see one standard term used to avoid confusion and misunderstanding.

Sections 4, 5, 7, and 13 of the attached bill would accomplish this.

4. The current procedures for informing the public of state lands transactions are covered in AS 38.05.305 and AS 38.05.345. The two procedures do not mesh in a clear manner. The committee recommends that the procedures be clarified in a manner that will be flexible enough to inform the public fully and yet not require multiple advertising for minor negotiated transactions.

Section 11 of the attached bill will accomplish this.

5. The committee recommend that the Director be given the authority to set the payment period from one to twenty years. This type of flexibility would allow the State and buyers greater market possibilities. To provide for this would require that the installment clause in AS 38.05.065 be deleted and replaced by the one to twenty year provision.

Section 3 of the attached bill would accomplish this.

6. The committee recommends that the State be given more flexibility to resolve contract of sale violations. This is necessary to prevent foreclosure as the only remedy for minor contract violations.

Section 3 of the attached bill would accomplish this.

To institute improvements in the leasing system, the following are recommended:

1. To implement the new lease provisions recommended by this committee new lease forms for various types of leases will be required. It is the committee's recommendation that the Division draft new lease forms to comply with the statutes adopted, and that the new forms be reviewed by this committee.

The attachments to the standard lease in Appendix C accomplish this.

2. The committee recommends that all state leases to other public agencies be at the normal fair market value rate of payment.

This reflects a regulation change.

3. The committee recommends that state government agencies get out of residential leasing.

This would reflect a policy change.

4. To provide the lessee insurance against a land boom or unexpected increase the committee recommends that rental increases at the five year reappraisal periods not exceed 100 percent of the prior existing annual rental rate. This action would increase the predictability of the lessee's payments. The stability thus created would add significant borrowing power for the lessee to finance improvements on the leased ground.

Section 8 of the attached bill would accomplish this.

AGO 9358 36

5. The duration of a lease and the economic life of substantial improvements, such as stores or factories, may not coincide. In order to see that state leased land is used in a rational, economically productive manner the committee recommends that lessees of long-term leases be given a renewal option for up to fifteen years. This type of option would grant the lessee more flexibility in maximizing his investment returns, especially during the final years of his lease. It would also increase the lessee's planning possibilities for use of the leased ground. This action would also soften the impact of termination of the lease. Specifically, this would permit a lessee to make substantial repairs to a building when the remaining term of the lease would not otherwise justify it.

Section 6 of the attached bill would accomplish this.

6. The committee agrees that a lease should be converted at its present classification, and the leaseholder should then have the option to change classification subject to Division of Lands approval.

This reflects an implementation recommendation in the event that House Bill 383 passes.

7. The committee recommends that a level term for recreational leases not be provided.

8. The Alaska Industrial Subdivision hearing panel recommends that in accord with the provisions of the lease, lessees should be encouraged to record expenses incurred in site preparation so that the "original condition" can be more adequately ascertained.

The Ad Hoc committee concurs. This recommendation is handled in the attached lease document.

9. The Alaska Industrial Subdivision hearing panel recommends that lease language should be clarified to remove any possible inconsistencies with 11 AAC 58.520 (Adjustment of Rental).

The Ad Hoc committee concurs.

10. The Alaska Industrial Subdivision hearing panel recommends eliminating the floating easement. The State could exercise the right of eminent domain to condemn. The condemnation would probably result in greater compensation for damages to the lessee, especially in view of the Supreme Court decision in State v. Hammer,

550 P.2d 830, thus the lease would be more attractive to the leasing market. Additionally, the language in the current lease is ambiguous as to damages compensable. This ambiguity only encourages litigation.

The Ad Hoc committee concurs. This has been accomplished in the attached lease form.

11. The Alaska Industrial Subdivision hearing panel states that, if its recommendations are adopted, the State would be assured a competitive position in the lease market, would encourage development of the leaseholds consistent with the intent of the leasing regulations, and would be equitable to the lessee. The hearing panel also believes the State should be able to obtain a good return on its land. Accordingly, the rental rate should be changed to reflect the removal of the undesirable aspects of the state lease.

The Ad Hoc committee concurs. Continuing to include rate as an appraisal element will accomplish this objective. This change is found in the attached lease form.

To provide a vehicle for arbitrating protests and appeals involving land transactions, the following is recommended:

1. The Division of Lands has had many protests from private parties over the past few years leading the committee to believe that a board of appeals is highly desirable and needed at this time. At present there exists no arbitration board or board of appeals to handle appeals allowed by Division of Lands regulations. The creation of a board of appeals would effect a responsive mechanism for solving most problem cases arising out of Division of Lands transactions that affect private parties. The board of appeals would be faster and less costly to private parties than legal recourse, which would still be available. The board is structured to maintain adequate expertise while attempting to eliminate bias in favor of the Division of Lands. The appeal board would substitute for the Commissioner in the present appeal process. (The Alaska Industrial Subdivision hearing panel also recommends such an appeal process.)

   Section 9 of the attached bill would accomplish this.

The committee recommends the following to improve trust land management:

AGO 935040

1. The committee believes that state trust lands (school, mental health, and university) are now and have been managed at low intensity. These lands may be returning only a fraction of their potential value that could be realized by a small, full-time management staff. The Division manages these lands at no charge to the various trust funds and receives no reimbursement for its services. Therefore, it has traditionally placed low priority on management of these lands. This committee recommends that the State Legislature authorize each trust board the authority to freely contract with any agency or private firm for the management of its lands for revenue production in accordance with the State's land act.

2. In order to provide a uniform 55 year limit for all long-term leases the committee recommends deletion of the 99 year provision found in 38.05.070(c) for school lands.

Section 6 of the attached bill would accomplish this.

V. APPENDIX A

LIST OF PUBLIC GIVING COMMENTS AT AD HOC MEETINGS

GRAHAM, Joe

AKERS, Merle (Anchorage International Airport Pilots' Association)

FORD, R. G. (Anchorage Camper Center--Alaska Industrial Subdivision)

DAVIS, Ken (Alaska Industrial Subdivision--school land lessee)

RICHARDSON, Phil (Talkeetna lessee)

BAER, Paul (International Airport Road--lessee/attorney)

NORENE, Larry (appraiser/broker)

SIMMONS, Errol (appraiser)

CUTLER, Dale (Chairman, Anchorage International Airport Pilots' Association)

BROWN, Leon (A&W Drive-In, Brown's Electrical--Alaska Industrial Subdivision)

FERRARA, Fred (appraiser, retained by Alaska Industrial Subdivision)

BEAMER, Mr.

HOGAN, L. L.

CHRISTOPHER, Jim (Alaska Industrial Subdivision)

WEEKS, Lloyd E.

LEDBETTER, Charles (recreational lease, Rocky Lake, Matanuska Valley)

GRAY, Brian Mark

MacNUTT, Lowell (Alaska Industrial Subdivision)

DAVIS, Ken (Alaska Industrial Subdivision)

PENNEY, Bob (Penland Subdivision)

AGO 935842

HOGE, Andrew (attorney)

BIELAWSKI, Joe (Alaska Industrial Subdivision)

MALONEY, Dennis

WILHOUR, Joe (Alaska Industrial Subdivision)

TROEH, Paul

VANDERMOLEN, John (HUD/FHA--Anchorage Insuring Office)

MEEKINS, Russ (Alaska Land & Leaseholders Association)

HURLEY, Katherine (State Board of Education)

HEINE, Darwin (School Trust Lands--Fairbanks)

KERNS, Dick (Department of Highways)

GEORGE, Al (University of Alaska--Fairbanks)

DENHAM, Bob (Pastor, 1st Church of the Nazarene)

FLAVIN, Frank (State Ombudsman)

RIGSBEE, Alberta

ROETMAN, Emmett

BAILY, Douglas (Attorney for Alaska Industrial Subdivision)

MORRIS, Lloyd

Introduced: 3/22/77
Referred: Resources

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 383

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

* Section 1. AS 38.05.030 is amended by adding a new subsection to read:

(f) Each trust for which the director exercises land management functions shall be assessed the cost of that management which shall be negotiated annually between the division and the respective trust boards.

* Sec. 2. AS 38.05.055 is amended to read:

Sec. 38.05.055. SALE PROCEDURES. Except as provided in sec. 315(d) of this chapter, the sale shall be made at public auction to the highest qualified bidder as determined by the director. An aggrieved bidder may appeal to the commissioner within five days after the sale for a review of the director's determination. The sale shall be conducted by the director or his representative, and at the time of sale the successful bidder shall deposit an amount <u>determined by the director but not less than five per cent</u> [EQUAL TO ONETENTH] of the purchase price. The director or his representative shall immediately issue a receipt containing a description of the land or property purchased, the price bid, and the terms of sale, which receipt shall be acknowledged in writing by the bidder. A contract of sale on a form approved by the attorney general shall be signed by the purchaser and, after approval of the commissioner, the contract shall also be

signed by the director on behalf of the state.

* Sec. 3. AS 38.05.065 is amended to read:

Sec. 38.05.065. TERMS OF CONTRACT OF SALE. The contract of sale shall require the remainder of the purchase price to be paid over a period of not more than 20 years, to be set for each sale by the director. Installment payments plus interest must be set on the level-payment basis. The interest rate to be charged on installment payments is the prevailing rate on similar land transactions at the time the contract is signed, as determined by the director, but in no case may it be below five per cent per year or above the current usury rate as set by AS 45.45.010(b) and (d) [IN ANNUAL INSTALLMENTS OF NOT LESS THAN 10 PER CENT OF THE PURCHASE PRICE, WITH INTEREST AT THE RATE OF NOT LESS THAN FIVE PER CENT A YEAR]. The director, with the consent of the commissioner, may also impose conditions, limitations and terms which he considers necessary and proper to protect the interest of the state. Violations of any provision of this chapter or the terms of the contract of sale subject the purchaser to appropriate administrative and legal action, including but not limited to specific performance, foreclosure, ejectment, or other legal remedies in accordance with applicable state law [LEGAL ACTION, INCLUDING A FORECLOSURE ACTION IN ACCORDANCE WITH APPLICABLE STATE LAW].

* Sec. 4. AS 38.05.067(b) is amended to read:

(b) The director shall not sell the lands under this section at less than their fair [APPRAISED] market value. The director shall make regulations necessary to ensure that lands sold under this section are for bona fide residential use and not for speculation.

* Sec. 5. AS 38.05.068(a) is amended to read:

(a) Before offering to the public any land which is subject to a valid existing United States Forest Service permit in effect in a

state-selected area at the time the area was patented to the state, or which is subject to a lease issued under sec. 87 of this chapter, the director shall offer the land for sale to the permittee or his successor in title, if he can be found, at not less than its fair [APPRAISED] market value before offering to the general public.

* Sec. 6. AS 38.05.070(c) is amended to read:

(c) A lease may be issued for a period up to 55 years, if it appears to be in the best interest of the state and if the commissioner approves. A lease for a period in excess of 25 years must grant the lessee an option entitling him to extend the term of the lease for up to three consecutive five-year periods in addition to the original term. If the commissioner determines that the land or a part of it which is the subject of a grazing lease is not being used for the purpose issued, the lease may be declared void. [HOWEVER, A NON-RENEWABLE LEASE FOR SCHOOL LANDS MAY BE ISSUED FOR A PERIOD NOT TO EXCEED 99 YEARS.]

* Sec. 7. AS 38.05.087(a) is amended to read:

(a) Before offering to the public any land for lease which is subject to a valid existing United States Forest Service permit in effect in a state-selected area at the time the area was patented to the state, the director shall offer the land for leasing to the permittee at not less than its fair [APPRAISED] market value before offering it to the general public.

* Sec. 8. AS 38.05.105 is amended to read:

Sec. 38.05.105. PERIODIC RENTAL ADJUSTMENTS. (a) Each lease shall stipulate that the annual rental payment is subject to adjustment at five-year intervals and changes or adjustments shall be based [PRIMARILY] on a reappraised annual rental value. Any increase due to reappraisal may not exceed 100 per cent of the annual rental for the

preceding five-year period. However, if the director of the division of lands determines that residential development is the best use for the land, the reappraisal period may be lengthened or the readjustment waived in accordance with regulations adopted by the commissioner. Before a waiver of rental readjustment is issued, the land shall have a current reappraisal. A waiver is valid only if residential development actually occurs, and only if it is necessary for obtaining primary long-term financing. The regulations adopted under this section shall ensure that the state receives a fair return from the land.

(b) The 100 per cent limit on increases in annual rental applies only to leases executed after the effective date of this Act and to leases converted under sec. 106 of this chapter.

* Sec. 9. AS 38.05 is amended by adding new sections to article 3 to read:

Sec. 38.05.106. CONVERSION OF LEASES. (a) Any person holding a valid lease under secs. 70 - 106 of this chapter, or who is an approved assignee of such a lessee under the terms of the lease, may convert his lease to obtain the benefits described in (b) of this section, which were not available to him at the time his lease was originally entered, if he makes all payments due under the lease as computed according to this section and is not in violation of any other lease provision.

(b) Those lease benefits which must be made available to a lessee qualifying under (a) of this section are all of those lease provisions authorized to be included in new leases executed by the state after the effective date of this Act.

(c) The effective annual rental value at conversion shall be based on the most recent reappraisal if reappraisal was within two years after the effective date of this Act. In all other cases, the

annual rental value at conversion shall be based on the next reappraisal after conversion.

(d) The rate which is applied to the fair market value of lease property to compute annual rental value shall be the current market rate except the director may reduce it to not less than six per cent.

(e) Any lease conversion as to trust lands is effective only if approved by the appropriate board of trustees.

(f) Applications for conversion must be made within three years after the effective date of this Act.

Sec. 38.05.108. STATE BOARD OF LAND APPEALS; REGULATIONS. (a) There is created in the department a Board of Land Lease Appeals of five members, one of whom is the commissioner or his designated representative. The other members of the board are to be appointed by the governor from the general public, after consideration of the desirability of legal, natural resource, or real estate training and experience as criteria.

(b) The director shall provide administrative support for the board.

(c) The terms of the public members are three years each, except that the initial terms of one of the members first appointed under this chapter shall be for one year and one member for two years. The public members are entitled to compensation in the amount of $50 a day for each day or portion of a day spent in actual meeting or on authorized official business incident to their duties, and to all transportation and per diem allowances authorized by AS 39.20.180.

(d) Jurisdiction of the board extends to matters arising under secs. 70 - 106 of this chapter related to the leasing of state land other than for the extraction of natural resources from which an appeal may be taken under statute or regulation to the commissioner

from a decision of the director. The board in all those appeals filed after the effective date of this Act has the authority to hear evidence and recommend decisions to the commissioner when the director's decision is appealed to the commissioner. The commissioner,, after consultation with the board, shall adopt regulations governing the procedures of the board.

* Sec. 10. AS 38.05.310 is amended to read:

Sec. 38.05.310. NOTICE AND APPRAISAL. (a) No land may be sold or leased, or a renewal lease issued [WITHOUT PUBLIC NOTICE,] except in the case of an oil or gas or mineral lease, unless it has been appraised within 120 [90] days before the date of [FIXED FOR THE] sale or lease. For over-the-counter sale under (b) of this section, an appraisal [WHEN LAND IS OFFERED AT PUBLIC SALE BUT IS NOT SOLD AND IS AVAILABLE AT PRIVATE SALE, NO REAPPRAISAL] is required unless the director finds [CONSIDERS] that a change in value of the lands has not [MAY HAVE] occurred. A grazing lease may be granted to a lessee of federal grazing lands without prior appraisal, if his federal lease was cancelled to allow the state to select the lands under lease. No land may be sold or leased for less than fair [THE APPROVED, APPRAISED] market value, except as provided in secs. 315 and 320 of this chapter and secs. 75 - 85 of this chapter. No land or interest in land may be sold, leased, or otherwise disposed of without public notice.

(b) When land is offered at public sale but is not sold, it may be available for sale over the counter. The director shall review the list of parcels of land available on a quarterly basis and shall certify that there has been no change in value since the last reappraisal. If an increase in value occurs in any parcel, the director shall withdraw that parcel from sale over the counter.

* Sec. 11. AS 38.05.345(a) is amended to read:

(a) Public notice of an auction sale [, LEASE OR OTHER DISPOSAL] of land or interest in it shall be substantially as follows.

* Sec. 12. AS 38.05.345 is amended by adding a new subsection to read:

(e) Public notice of a sale, lease, or other disposal of land or an interest in it other than by auction, or notice of a classification or other action concerning land, shall conform to the requirements of sec. 305 of this chapter and of this subsection. That notice must comply with the provisions of (b) and (d) of this section, except that the disposal may be made more than five weeks following the last appearance of the published notice.

* Sec. 13. AS 38.05.365 is amended by adding a new paragraph to read:

(24) "market value" or "fair market value" means the price, estimated in terms of money, which the property would bring if exposed for a sale for a reasonable time in the open market, with a seller, willing but not forced to sell, and a buyer, willing but not forced to buy, both being fully informed of all the purposes for which the property is best adapted or could be used.

AGO 935850

V. APPENDIX C

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LANDS

323 East Fourth Avenue

Anchorage, Alaska 99501

ADL NO._____

LEASE AGREEMENT

THIS Lease agreement made and entered into this _____ day of _____, 19___, by and between the State of Alaska, through the Director of the Division of Lands, with the consent and approval of the Commissioner of the Department of Natural Resources, acting for and on its behalf under and pursuant to AS 38.05, as amended, and the regulations promulgated thereunder, as amended or hereafter amended, hereinafter referred to as the LESSOR; and ___ _____ of _____ hereinafter referred to as the LESSEE:

WHEREAS, the Lessor has caused the lands herein demised to be appraised and such appraisal was made and approved on or after _____, 19_____; and

WHEREAS, the Lessor has caused a notice of intent to lease the lands herein demised to be published as required by law or caused notices of intent to lease to be posted as required by law; and

WHEREAS, an auction of the herein demised property was held at the time and place designated by notice and said sale was approved by the Director of the Division of Lands, Department of Natural Resources, State of Alaska:

AGO 935851

NOW THEREFOR, the Lessor has agreed to let and does hereby let and demise to the Lessee, and the Lessee has agreed to take and does hereby take from the Lessor the surface estate of all that lot, piece, or parcel of land more particularly bounded and described, as follows:

_____

_____

_____

_____

_____

Located in the _____ Recording District, State of Alaska.

TO HAVE AND TO HOLD the said demised premises for a term of _____ ( ) years commencing on the _____ day of _____, 19____, and ending at 12 o'clock midnight on the _____day of _____, _____, unless sooner terminated as hereinafter provided.

The Lessee shall pay to the Lessor rental as follows: Equal _____ payments, in advance, on or before the _____ day of _____ of every year during said term at the rate of _____ Dollars ($_____) per _____; such payments to be subject to adjustment as hereinafter required from the effective date hereof, as provided herein.

It is agreed that each of the covenants, terms and agreements herein contained shall be binding upon the parties and upon their respective successors and assigns.

1. Appertenances, and Encumbrances-- Lessor leases and grants to Lessee all easements, parking and loading rights, rights of ingress and egress, fixtures and appurtenances now or hereafter belonging or pertaining to said premises. The des-

cribed premises are leased, subject to patent restrictions, easements, rights-of-way, if any, zoning and building restrictions and statutes and governmental regulations now in effect or hereafter adopted by any governmental authority.

2. Payment of Taxes and Assessments-- Lessee agrees to pay to the public authorities charged with collection thereof, promptly as the same may become due and payable, all taxes, permit, inspection and license fees and other public charges, whether of a like or different nature, except for general and special assessments lawfully levied upon the leasehold estate and any buildings, structures, fixtures, improvements or leasehold interest now or hereafter located thereon, or arising in respect of the occupancy, use or possession of the leased Premises, and which are charged against and are, or may become, a lien during the term of this lease; and Lessee agrees to exhibit to Lessor, on demand receipts evidencing payment of all taxes, fees and other similar public charges so payable by Lessee. Lessee shall also pay all charges of water, sewer, gas, electricity, power or other public utility services rendered on or to the Premises during the term of this lease as such charges become due.

3. Documentation of Improvements-- Lessee must within 90 days of completion of any site improvements, including but not limited to clearing, leveling, excavation, and backfill, and exclusive of any structures, file with the lessor adequate and reasonable documentation of such improvements including any applicable costs and quantities. Such documentation is intended to aid in future determinations of the original condition of the Premises.

4. Notification and Late Payment Charge-- In the event lessee becomes 30 days delinquent in payments due, a late payment charge of 6% of such amount due shall be levied against the lease. Additionally, a charge for notification for payments 30 days late shall be made at the rate of $5.00 for the first notice and $20.00

for the second notice.

5. Permitted Uses-- (a) The Lessee shall use the leased Premises for uses and purposes consistent with those cited in Attachment 1, and in conformance with applicable local zoning ordinances. At any time Lessee may request a change in permitted uses, provided that Lessee's existing or proposed use of the Premises is consistent with existing zoning. If the Lessor concurs with such change of permitted use, then this lease shall terminate, and a new lease, upon a form and containing terms, appraisal and rental rate applicable to the changed classification; shall be executed for the balance of the unexpired lease term, or renewal term if applicable, then remaining.

b. Lessee may request that part of the leased Premises be severed from the Premises for purposes of changing of that part for a use or uses not permitted under the then existing permitted uses of the Premises. If the Lessor concurs, then this lease shall terminate as to the part so severed, and a new lease, upon a form and containing terms, appraisal and rental rate applicable to the changed permitted uses; shall be executed for the balance of the unexpired lease term, or renewal term if applicable, then remaining. The annual rentals applicable to the original leased Premises shall be adjusted to reflect the effect of severance of the part permitted by this paragraph for the balance of the original lease term or the renewal term, if applicable. If severance of a portion of the Premises is permitted, Lessee shall comply with all state and local laws and ordinances regarding the subdivision of real property, and shall bear the expenses and costs attributable to survey, recording and other compliance with said laws and ordinances.

6. Compliance with Laws' Ordinance and Regulations-- Lessee shall comply with all applicable laws, ordinances and regulations of duly constituted public au-

thorities now or hereafter in existence which in any manner affect the leased Premises or the sidewalks, alleys, streets, and ways adjacent thereto, or any buildings, structures, fixtures or improvements or the use thereof. Lessee further agrees that it will not permit any unlawful occupation, business or trade to be conducted on the Premises, or any use to be made thereof contrary to any law, ordinance or regulation applicable thereto.

The lessee, at its own cost and expense, shall keep the leased Premises and all improvements which at any time during the term of this lease may be situated thereon, in good maintenance, condition and repair during he entire term of this lease, and hereby expressly waives any right to make repairs to the Premises at the expense of Lessor which may be allowed by any statute or law in effect at the time of the execution of this lease or any amendment thereof, or by any other statute or law which may be hereafter passed during the term of this lease. The Lessee's rights under this Lease may be terminated by the Director, in whole or in part, if the leased Premises are used for a purpose unlawful under Federal or State law or regulation, or local Government ordinance as applicable.

7. Lessee's Rights of Occupancy and Use-- Lessee, when not in default of performance of any of its obligations hereunder, shall have the following rights, during the term of this Lease; from time to time and in such manner, and to such extent, as Lessee may in its sole judgment deem advisable, except where any of said rights is conditioned upon prior approval of Lessor: (a) The right to demolish, remove or otherwise dispose of any improvements presently or subsequently situated upon the leased Premises; (b) The right to erect, place, or install upon the leased Premises buildings, structures, and improvements as from time to time it shall deem advisable; (c) The right to make such alterations, additions and repairs to the leased Premises as it may desire.

8. Disposition of Improvements Upon Termination— (a) All buildings, structures and permanent improvements, including any signs which are installed, placed or attached in or about the leased Premises by Lessee, shall remain the property of Lessee at the expiration or termination of this lease, or of any renewal term thereof. The lessee shall within 60 days after termination or expiration of the lease remove all improvements located on the leased Premises, provided that such removal will not cause injury or damage to the leased Premises; and further provided that the Lessor may extend the time for removing such improvements in a case where hardship is demonstrated. Following removal Lessee shall leave Premises in a safe and natural condition. The retiring Lessee may, with the consent of the Lessor, sell his improvements to the succeeding lessee.

(b) If any improvements and/or chattels having an appraised value in excess of $10,000.00, as determined by the Lessor, are not removed within the time allowed, such improvements and/or chattels shall, upon due notice to the Lessee, be sold at public sale under the direction of the Lessor. The proceeds of sale shall inure to the Lessee who placed such improvements and/or chattels on the lands after payment to the Lessor of all rents due and owing and expenses incurred in holding such sale. In case there are no other bidders at any such sale, the Lessor is authorized to bid on such improvements and/or chattels. The Lessor shall acquire all rights, both legal and equitable, that any other purchaser could acquire by reason of said sale and purchase.

(c) If any improvements and/or chattels having an appraised value of $10,000.00 or less, as determined by the Lessor, are not removed within the time allowed, such improvements and/or chattels shall revert to, and absolute title shall vest in, the Lessor.

9. Freedom From Liens-- Lessee will not permit any mechanics', laborers', or

materialmens' liens to stand against the leased Premises or improvements for any labor or materials furnished to Lessee, or claimed to have been furnished to Lessee or to Lessee's agents, contractors, or sublessees, in connection with work of any character performed on said Premises or improvements by or at the direction or sufferance of Lessee; provided, however, that Lessee shall have the right to contest the validity or amount of any such lien or claimed lien. In the event of such contest, Lessee shall give to Lessor such reasonable security as may be demanded by Lessor to insure payment thereof and to prevent any purported sale, foreclosure or forfeiture of the premises or improvements by reason of such non-payment. Such security need not exceed one and one-half times the amount of such lien or such claim of lien. Lessee shall record such bond as contemplated by Section 34.35.072, Alaska Statutes upon Lessor's demand. Lessee shall immediately pay any judgment rendered on any proven claim of lien, together with all proper costs and charges, and shall have such lien released or judgment satisfied at Lessee's own expense. The State may file such notices of non-responsibility as it may deem necessary, pursuant to A.S. 34.35.065.

10. Lawful Use of Premises-- The Lessee may use and occupy the leased Premises for any lawful purpose provided such purpose is allowed under Attachment 1 of this Lease.

11. Indemnity to Lessor— Lessee will indemnify and hold Lessor harmless from and against all claims and demands for loss or damage, including property damage, personal injury or wrongful death, arising out of or in connection with the use or occupancy of the Premises by Lessee or any other person under Lessee, and from any accident or fire on the Premises and from any nuisance made or suffered thereon, and from any failure by Lessee to keep the Premises in a safe condition, and Lessee will reimburse Lessor for all its costs and expenses, including reasonable attorneys' fees, incurred in the defense of any such claims; and Lessee will hold all goods,

materials, furniture, fixtures equipment, machinery and other property whatsoever on the Premises at the sole risk of Lessee, and will save Lessor harmless from any claim of loss or damage thereto by any cause whatsoever. If all or part of the improvements placed by Lessee on the demised premises are destroyed by fire, earthquake or other cause, Lessee shall remove the debris and clean up the affected area within 60 days of the occurrence of such destruction, and may surrender to Lessor this lease, together with any interest of Lessee and of any mortgagee in the remaining insurance proceeds and Lessee may thereby be relieved of any further obligation hereunder.

12. Default— If Lessee at any time during the term or renewal term of this lease (and regardless of the pendency of any bankruptcy, reorganization, receivership, insolvency or other proceedings, in law, in equity or before any administrative tribunal, which has or might have the effect of preventing Lessee from complying with the terms of this lease) (a) shall fail to make payment of any installment of rent or of any other sum herein specified to be paid by Lessee, or (b) shall fail to observe or perform any of Lessee's other covenants, agreements or obligations hereunder, and if any such default shall not be cured as to (a) within ten days after Lessor shall have given Lessee written notice of such failure to make payment, or as to (b) within thirty (30) days after Lessor shall have given to Lessee written notice specifying such default or defaults, Lessee shall not have commenced diligently to cure such default; or if Lessee has filed a voluntary petition or has become subject to an involuntary petition under any provision of the Bankruptcy Act, 11 U.S.C. 701 et. seq; or if Lessee finally and without further possibility of appeal or review is adjudicated a bankrupt or insolvent; or if Lessee has a receiver or a Trustee appointed for all or substantially all of its business or assets on the ground of Lessee's insolvency; or if Lessee has itself appointed as debtor-in-possession in a proceeding for a reorganization or an arrangement; or if Lessee shall make an assignment for the benefit of its creditors, then in any such event Lessor shall have the right,

at its election, then or at any time thereafter, and while such default, defaults or events shall continue, to give Lessee written notice of Lessor's intention to terminate this lease and all of Lessee's rights hereunder, on the date specified in such notice, which date shall not be less than thirty (30) days after the date of giving of such notice; and on the date specified in such notice this lease and all rights granted Lessee hereunder shall terminate as fully as if the lease had then expired by its own terms; and Lessee hereby covenants to peaceably and quietly surrender to Lessor said leased Premises and all structures, buildings improvements and equipment located thereon, subject to paragraph 7 (a) above and to execute and deliver to Lessor such instrument or instruments which may be required by Lessor to properly evidence termination of Lessee's rights and interest hereunder.

In the event of termination of this lease as provided in this paragraph 12, Lessor shall have the right to repossess the leased Premises and such structures, buildings, improvements and equipment, thereon and subject to paragraph 5 above either with process of law or through any form of suit or proceeding, as well as the right to sue for and recover all rents and other sums accrued up to the time of such termination, and damages arising out of any breach on the part of Lessee, including damages for rent for the balance of the lease term not then accrued. Lessor shall also have the right, without taking possession of the premises or terminating this lease, to sue for and recover all rents and other sums, including damages, at any time and from time to time which may accrue hereunder as a result of any default of Lessee.

13. Condemnation-- If the whole or any part of the demised premises shall be taken for any public or quasi-public use, under any statute or by right of eminent domain or private purchase in lieu thereof, by any public or quasi-public body vested with the power of eminent domain, then when possession shall be taken thereunder of the leased Premises, or any part thereof, the following provisions

shall control:

a. Taking of All Premises— If all of the Premises are taken by condemnation the term of this lease and all rights of the Lessee hereunder shall immediately terminate, and the rent shall be adjusted as of the time of such termination so that Lessee shall have paid rent only up to the time of such taking. Lessor shall be entitled to the full condemnation proceeds, except that portion thereof attributable to the value of the buildings or improvements placed on the Premises by Lessee.

b. Taking of Substantial Part of Premises-- If the taking by condemnation reduces the ground area of the leased Premises by at least thirty percent (30%), or materially affects the use being made by the Lessee of the demised premises, Lessee shall have the right, by written notice to Lessor made not later than one hundred eighty (180) days after possession shall be taken, to elect to terminate or to not terminate this lease under the provisions set forth herein. If the election to terminate is made the provisions of (a) of this paragraph relating to the taking of the whole Premises shall govern. If the election not to terminate is made the lease shall continue and Lessor shall be entitled to the full condemnation proceeds except the portion thereof attributable to the value of the buildings or structural improvements placed on the Premises by Lessee; and rent at the existing rate and amount shall be adjusted as of the date of the taking of possession, and the rent for the balance of the term, except as modified from time to time under paragraph 1 of attachment 1 hereof, shall be reduced so that the new rent shall be that part of the former rent (before condemnation) which the unimproved value of the untaken Premises (appraised after the taking) bears to the unimproved value of the entire Premises immediately before the taking. Any dispute, controversy or claim arising out of or relating to the fixing of the new rent shall be settled by arbitration as provided herein.

c. Taking of Insubstantial Part of Premises— If the taking is of such an insubstantial portion of the ground area that the use being made by Lessee of the leased premises is not materially affected, the provisions of this paragraph regarding Lessee's election not to terminate shall govern.

14. Quiet Enjoyment— Provided Lessee is not in default hereunder, Lessor covenants that Lessee shall have peaceful and quiet enjoyment of the leased Premises without let or hindrance on the part of Lessor, and Lessor will warrant and defend Lessee in the peaceful and quiet enjoyment of the leased Premises.

15. Notices-- All notices required or permitted under this agreement shall be made by certified or registered mail, postage prepaid, to the parties at the following addresses.

To The Lessor: _____

To The Lessee: _____

16. Rights or Remedies-- Except as may be inconsistent with or contrary to any provision of this lease, no right or remedy herein conferred upon or reserved to Lessor shall be exclusive of any other right or remedy, and each and every right or remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

17. Waiver or Forebearance— The receipt of rent by the Lessor, with or without knowledge of any breach of the lease by the Lessee, or of any default on the part of the Lessee in the observance or performance of any of the conditions or covenants of this lease, shall not be deemed to be a waiver of any provision of this lease. No failure on the part of the Lessor to enforce any covenant or provision herein

contained, nor any waiver of any right hereunder by the Lessor, unless in writing, shall discharge or invalidate such term or covenant; nor shall any forebearance or written waiver affect the right of the Lessor to enforce any term or covenant in the event of any subsequent breach or default. The receipt by Lessor of rent or any other sum of money or the termination, in any manner, of the lease term or the giving by Lessor of any notice hereunder to effect such termination, shall not reinstate, continue, or extend any term herein leased, or destroy, or in any manner impair the validity of any such notice of termination as may have been given hereunder by the Lessor to the Lessee prior to the receipt of any such sum of money or other consideration, unless the contrary effect shall be expressed in writing and signed by the Lessor.

18. Inspection— Lessor shall, at all reasonable times have access to the Premises for the purpose of inspection.

19. Successors in Interest-- This Lease shall be binding upon and inure to the benefit of the respective heirs, successors in interest and assigns of the parties hereto.

20. Assignment or Subletting— Lessee shall not sublet or assign the leased premises or any part thereof, without the prior written consent of Lessor to such subletting or assignment, which consent shall not be unreasonably withheld, subject to use provisions of this lease. However, Lessee, without prior authorization may assign this Lease, or any part thereof, to a duly licensed and authorized lending institution for loan security purposes, provided that this right to assign shall not operate as a subordination of Lessor's rights hereunder, nor a subordination of its fee. Lessor agrees that upon receipt of application for assignment by Lessee, it will consent to or deny a proposed subletting or assignment by Lessee. No assignment or subletting of the Premises or any portion thereof by Lessee shall void Lessee's

obligation to pay the rent herein reserved for the full term of this sublease or any extensions thereof. Anything contrary in the foregoing notwithstanding, Lessee shall have the right to sublease all or any portion of the enclosed space in any building which Lessee may construct upon the leased Premises without prior written approval of Lessor.

21. Soil Conditions and Water Drainage-- Lessor makes no warranty and assumes no liability regarding the soil conditions or water drainage upon the leased premises.

22. Mineral Reservation-- The Lessor hereby expressly saves, excepts and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores, minerals, fissionable materials, and fossils of every name, kind or description, and which may be in or upon said lands above-described, or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, fissionable materials and fossils. All coal, oil, gas and other minerals and all deposits of stone or gravel valuable for extraction or utilization, are excepted from the operation of a surface lease. Specifically, the lessee of the surface rights shall not sell or remove for use elsewhere any timber, stone, gravel, topsoil, or any other material valuable for building or commercial purposes; provided, however, that material required for the development of the leasehold may be used. It also hereby expressly saves and reserves out of the grant hereby made, unto itself, its lessee, successors, and assigns forever, the right to enter by itself, its or their agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times, for the purpose of opening, developing, drilling and working mines or wells on these or other lands and taking out and removing therefrom all such oils, gases, coal, ores, minerals, fissionable materials and fossils; and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by

its or their agents, servants and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said lands or any part thereof for the foregoing purposes and to occupy as much of said lands as may be necessary or convenient for such purposes, hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid, generally all rights and power in, to and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved.

Provided, however, no rights shall be exercised by the Lessor or its mineral lessees, until provision has been made by the Lessor or its mineral lessees to pay to the Lessee of the land, upon which the rights herein reserved to the Lessor or its mineral lessees, are sought to be exercised, full payment for all damages sustained by said Lessee, by reason of entering upon said land; and provided that if said Lessee for any cause whatever refuses or neglects to settle said damages, the Lessor or its mineral lessees, or any applicant for a mineral lease or contract from the Lessor or its lessees for the purpose of prospecting for valuable minerals, or option contract or lease for mining coal or lease for extracting petroleum or natural gas, shall have the right, after posting a surety bond with the Director issued by a corporation qualified to do business in Alaska and licensed to sell insurance in Alaska, or a bond executed by one or more individual sureties approved by the Director, after due notice and opportunity to be heard, to be sufficient in amount and security to secure the said Lessee full payment for all such damages, to enter upon the land in the exercise of said reserved rights, and shall have the right to institute such legal proceedings in a court of competent jurisdiction wherein the land is situated, as may be necessary to determine the damages which the surface lessee of such lands may suffer.

23. Mortgage of Leasehold Interest of Tenant— A leasehold mortgagee, a beneficiary of a deed of trust, or a security assignee shall have and be subrogated to any and all rights of Lessee with respect to the curing of any default hereunder by Lessee. If the holder of any such mortgage, the beneficiary of any such deed of trust, or the security assignee shall give Lessor, before any default shall have occurred in the Lease, a written notice containing the name and post office address of such holder, Lessor shall thereafter give to such holder a copy of each notice of default by Lessee at the same time as any notice of default shall be given by Lessor to Lessee; and Lessor will not thereafter enter into any modification of this Lease without the prior written consent of such mortgagee, beneficiary or security assignee. If by reason of any default of Lessee, either this Lease or any renewal thereof shall be terminated at the election of Lessor prior to the stated expiration thereof, Lessor shall enter into a new Lease with the leasehold mortgagee, the beneficiary of a deed of trust, or the security assignee, for the unexpired portion of the lease term, effective as of the date of such termination, at the rent and on the terms herein contained, subject to the following conditions.

Mortgagees, beneficiary or security assignee shall do the following:

a. make written request to Lessor for a new lease within forty (40) days after the date of such termination; and such written request shall be accompanied by payment to Lessor of all sums then due Lessor under this lease as if termination had not occurred but with such costs as are permitted under this Lease.

b. pay to Lessor, at the time of the execution and delivery of such new Lease, any and all sums due thereunder, in addition to those which would at the time of the execution and delivery thereof be

due under this Lease but for such termination, and in addition thereto, any reasonable expenses, including legal and attorneys' fees to which Lessor shall have been subjected by reason of such default.

c. on or before the execution and delivery of such new Lease, perform all other conditions required to be performed by Lessee, to the extent that Lessee shall have failed to perform such conditions.

24. Arbitration— Any dispute between the parties arising under this lease or through the performance or non-performance of any term of this lease shall be first subject to resolution by arbitration, under the authority and procedures contained in Alaska Statutes 09.43. Appointment of an arbitrator shall be made by agreement between the parties. If no agreement can be reached, each party shall appoint an arbitrator, who shall by agreement between themselves appoint a third arbitrator. If any State Board of Land Appeals is later created which shall have jurisdiction over disputes which may arise under this lease, such Board shall assume jurisdiction and no requirement for arbitration shall thereafter be imposed during the pendency of such jurisdiction.

25. Integration and Modification— This document including attachments which by reference are made a part hereof, contains the entire agreement of the parties hereto. All negotiations, statements, representations, warranties, and assurances, whether oral or written, which are in any way related to the subject matter of this lease, and the performance by either party hereto, are merged and integrated into the terms of this document.

This Lease may not be modified nor amended except by a writing signed by both parties hereto, and any purported amendment or modification is without

effect until reduced to a writing signed by both parties hereto.

AGD 935867

IN WITNESS WHEREOF the State of Alaska, Lessor, acting through the Director of the Division of Lands of the Department of Natural Resources, lawfully authorized thereunto, has caused these presents to be executed at Anchorage, Alaska, in duplicate, and the said Lessee has hereunto set his hand, agreeing to keep, observe and perform the rules and regulations promulgated under AS 38.05, as amended, the terms, conditions and provisions herein contained, on the Lessee's part to be kept, observed and performed.

_____

Director, Division of Lands

APPROVED:

_____

Trustee

_____ _____

COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES

STATE OF ALASKA

_____

UNITED STATES OF AMERICA) LESSEE(S)

ss

State of Alaska)

THIS IS TO CERTIFY that on the _____ day of _____, 19___, before me, the undersigned Notary Public, personally appeared _____ known to me and known by me to be the _____ of the Division of Lands of the Department of Natural Resources, and acknowledged to me that he

executed the foregoing lease for an on behalf of said State, freely and voluntarily and for the use and purposes therein set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

_____

Notary Public in and for the State of Alaska

My commission expires _____

UNITED STATES OF AMERICA)

ss

State of Alaska)

THIS IS TO CERTIFY that on this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for Alaska duly commissioned and sworn, personally appeared _____ to me personally known to be one of the persons described in and who executed the within instrument and the said _____ acknowledged to me that he signed and executed the same freely and voluntarily for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year of this certificate first above written.

AGO 935869

_____

Notary Public in and for the State of Alaska

My commission expires _____

APPROVED AS TO FORM:

_____

ATTORNEY GENERAL

By_____

Deputy Attorney General

AGO 935870

HB

425

An Act relating to erosion control.

4-1-77

COMMITTEE REPORT

FINANCE

HOUSE

April 20 1977 Date

Mr. Speaker:

The Committee on RESOURCES has had HB 425 under consideration. A majority of the members of the Committee

/7 recommends it do pass

/7 recommends it do not pass

/7 recommends it do pass with attached amendment(s)

/7 recommends it be replaced with CS for HB 425 and that CS for HB 425 do pass

/7 (and) recommends it be referred to the _____ committee

/7 reports it back without recommendation

/7 AND attaches a report of its intent

/7 (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends: _____

_____ recommends: _____

_____ recommends: _____

_____
Chairman

H 60

AMENDMENT

OFFERED IN THE HOUSE: BY: House Resources

TO: _____ HOUSE BILL No. 427

SENATE BILL No. _____

PAGE: 3 LINE: 3

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

13 April 1977

Lee McAnerney, Commissioner
Department of COmmunity and Regional Affairs
Pouch B
Juneau, Alaska 99811

Dear Commissioner,

The House Resources Committee will be reviewing HB 425 An Act relating to erosion control and HB 426 An Act making a special appropriation to the Department of Community and Regional Affairs to provide funds for the erosion control grant program; and providing for an effective date on Tuesday April 19, 1977 at 1:15 p.m. in room 118 of the Capitol Building. The Committee will also be reviewing HB 459 An Act establishing the position subsistence economist within the Department of Community and Regional Affairs. HB 459 has not been scheduled yet. We will notify you later in regards to the date, time and location of the meeting.

Pease supply us with position papers or material you have on these bills by the time of the meeting. If you have any information pertinent to these topics, the Committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have suggested amendments, please supply the staff with copies of that prior to the meeting.

If there are fiscal implications and notes are necessary, please prepare them and submit them to the Committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

STATE
of ALASKA

MEMORANDUM

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO: Eric Lee, Director
Community & Rural Development

DATE : April 7, 1977

FROM: Sue Taylor
Field Training Officer

SUBJECT: Erosion

I talked with Jerry Raychel of the Corps of Engineers who informed me that the Corps did not have any statewide report on the risks or occurances of erosion and/or erosion control projects. The Corps, however, can respond to inquiries about communities on an individual basis.

For example, they are involved with three (3) projects at present: Eagle, Kotzebue, and Seward. Kotzebue and Seward are part of a new (federal) experimental program of low-cost shoreline erosion prevention projects. At present, they have some evidence of erosion, but there is no emergency. As low cost erosion prevention projects, the estimated total project cost in each community is $140,000, 25% of which the local community must contribute. (e. g. $30 - 35,000). In Eagle, the Corps is involved with a Section 14 Erosion project for which they have been given a (federal) ceiling of $250,000. However, their estimated project cost was $750,000.00.

Jerry said that more information about erosion projects and costs could be had from Bob Smith, one of their planners, at 752-2020.

My own involvement with Karluk indicates that erosion and erosion control projects are costly. In the early stages of the problems at Karluk, the Corps estimated $12,287 for the repair of one (1) washout in the most favorable weather condition. The Borough's consulting engineer estimated $31,500 for the repair of two washouts under adverse weather conditions. To do the most basic work in Karluk, surely a stopgap measure, the cost of the project is now $47,136.00, $12,320.00 of which is coming through our Department under an RDA Grant.

In a more recent survey of Karluk, the Borough consulting engineer, Dell and Jones, determined that $450,000 - 600,000 would be needed immediately to do the very minimum amount of work needed. Many consider this a very low estimate.

I also expect an application soon from Old Harbor for RDA funds in the amount of $12,000 - 15,000 for an erosion project. This project is "not a major one", and will simply provide gabions and/or creosoted pilings for 1200 to 1300 feet of shoreline. The $12-15,000 figure reflects what will be requested thru an RDA Grant. The total project cost will be about $25,000.

Finally, Nancy Gross has been working on an erosion project in Port Heiden. I believe her latest information from that community is that materials needed, as recommended by the Corps, alone will cost $77,000.00

In all of these figures, I believe there is no cost figured in for engineering studies or surveys. In some cases, the Corps of Engineers could provide this expertise, but in many other cases, communities would also have to have additional funds for hiring engineers. The costs reflect materials, labor, equipment and transportation.

Obviously, erosion control is necessary but costly.

ST:cm

cc: Lare'

HB

4444

Alaska State Legislature

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

11 April 1977

James W. Brooks, Commissioner
Department of Fish and Game
Subport Building
Juneau, Alaska 99801

ATTENTION: Ed Huizer

Dear Commissioner,

The House Resources Committee will be reviewing HB 444, An Act relating to the confidentiality of fishery reports on Thursday, April 14, 1977 at 1:15 p.m. in Room 118 of the Capitol Building.

Please supply us with a position paper or material you have on this bill by the time of the meeting. If you have any information pertinent to this topic, the committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have any suggested amendments, please supply the staff with copies of that prior to the meeting.

If there is a fiscal implication and a note is necessary, please prepare it and submit it to the committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

Alaska State Legislature

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

12 April 1977

Sterling Gallagher, Commissioner
Department of Revenue
Pouch S
Juneau, Alaska 99811

Dear Commissioner,

The House Resources Committee will be reviewing HB 444, An Act relating to the confidentiality of fishery reports on Thursday, April 14, 1977 at 1:15 p.m. in Room 118 of the Capitol Building.

Please supply us with a position paper or material you have on this bill by the time of the meeting. If you have any information pertinent to this topic, the committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have any suggested amendments, please supply the staff with copies of that prior to the meeting.

If there is a fiscal implication and a note is necessary, please prepare it and submit it to the committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

Alaska State Legislature

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

12 April 1977

Richard L. Burton, Commissioner
Department of Public Safety
Pouch N
Juneau, Alaska 99811

Dear Commissioner,

The House Resources Committee will be reviewing HB 444, An Act relating to the confidentiality of fishery reports on Thursday, April 14, 1977 at 1:15 p.m. in Room 118 of the Capitol Building.

Please supply us with a position paper or material you have on this bill by the time of the meeting. If you have any information pertinent to this topic, the committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have any suggested amendments, please supply the staff with copies of that prior to the meeting.

If there is a fiscal implication and a note is necessary, please prepare it and submit it to the committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

Alaska State Legislature

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

12 April 1977

H. Phillip Hubbard, Commissioner
Department of Commerce and Eccnomic Development
Pouch D
Juneau, Alaska 99811

Dear Commissioner,

The House Resources Committee will be reviewing HB 444, An Act relating to the confidentiality of fishery reports on Thursday, April 14, 1977 at 1:15 p.m. in Room 118 of the Capitol Building.

Please supply us with a position paper or material you have on this bill by the time of the meeting. If you have any information pertinent to this topic, the committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have any suggested amendments, please supply the staff with copies of that prior to the meeting.

If there is a fiscal implication and a note is necessary, please prepare it and submit it to the committee -- preferably prior to the meeting.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

Alaska State Legislature

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

12 April 1977

Commercial Fisheries Entry Commission
Pouch KB
Juneau, Alaska 99811

ATTENTION: Roy Rickey

The House Resources Committee will be reviewing HB 444, An Act relating to the confidentiality of fishery reports on Thursday, April 14, 1977 at 1:15 p.m. in Room 118 of the Capitol Building.

Please supply us with a position paper or material you have on this bill by the time of the meeting. If you have any information pertinent to this topic, the committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have suggested amendments, please supply the staff with copies of that prior to the meeting.

If there is a fiscal implication and a note is necessary, please prepare it and submit it to the committee -- preferably prior to the meeting.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

Limited Entry Commission

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

M E M O R A N D U M

19 April 1977

RE: HB 444 Confidentiality of Fishery Reports

TO: House Resources Committee Members

Please note the attached Committee Substitute. Perhaps this will clear up some of the problems that the Committee had with the bill.

Introduced: 4/7/77
Referred: Resources

IN THE HOUSE BY GARDINER

HOUSE BILL NO. 444

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the confidentiality of fishery reports."

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

* Section 1. AS 16.05.815 is repealed and re-enacted to read:

Sec. 16.05.815. CONFIDENTIAL NATURE OF CERTAIN RECORDS. Reports required by regulations of the department concerning the landing of fish, shellfish, or fishery products, and annual statistical reports of buyers and processors required by regulations of the department, insofar as they are in the form of individual records, are confidential. They may be released to the Department of Revenue, the ~~Department of Public Safety~~ DIVISION OF FISH & WILDLIFE PROTECTION, and the Commercial Fisheries Entry Commission to assist them in carrying out their statutory responsibilities. ~~They may also be released to the North Pacific Fisheries Management Council, the University of Alaska, and the Department of Commerce and Economic Development in conjunction with research and statistics projects.~~ However, the commissioner may not release a report if he determines that to do so would abuse the intent of this section, and he may limit or condition any release to insure that proper confidentiality is maintained. Confidential reports held by the department, or received from the department by the agencies and organizations mentioned in this section, may not be communicated or distributed in the form of individual records to any other agency, organization, or individual unless required by a court order.

The Department of Commerce and Economic Development may obtain records for an individual fisherman if the fisherman signs a written release of authorization.

North Pacific Fishery Management Council

CHAIRMAN
Mr. Elmer Rasmuson
P.O. Box 600
Anchorage, Alaska 99501

EXECUTIVE OFFICE
Suite 32, 333 West 4th Avenue
Post Office Mall Building
Phone: 907-274-4563
Mailing Address: P.O. Box 3136DT
Anchorage, Alaska 99510

April 14, 1977

The Honorable Al Osterback
Chairman, House Resources Committee
House of Representatives
Alaska State Legislature
Pouch Y, State Capitol
Juneau, AK 99811

Dear Mr. Osterback:

I asked Steve Pennoyer of the Alaska Department of Fish and Game and Keith Specking to speak for the North Pacific Council during your review of HB 444 on this date.

The requirement for the North Pacific Fishery Management Council to have access to catch reports and industry statistics is necessitated by their development of management plans for the fishery resources off Alaska. The Council is currently engaged in developing plans for the groundfish fisheries of the Gulf of Alaska and the Bering Sea and Aleutian Islands, for the tanner crab fisheries and for the ocean troll salmon fishery. Management plans on the other fisheries off Alaska will be started as soon as these high priority units are well underway, probably late this fall. After the plans are completed and in effect they will be constantly monitored, revised and updated. All of this will require access to the material covered in the confidentiality section of HB 444.

There is no fiscal implication that we can identify and the section as written appears to be satisfactory for the Council's purposes. Your support in furthering this Bill will be greatly appreciated.

Sincerely,

Jim H. Branson

Jim H. Branson
Executive Director

BILL ANALYSIS

ASSIGNMENT DATE_____

UNASSIGNED_____

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Public Safety	Gardiner	HB 444

DEPARTMENT POSITION

Favor Passage of SB 147

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
Col. Fred M. Wahlstad by Capt Don M Roberts	4/14/77	R L Bunker	4-14-77

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☐ POSITION APPROVED ☐ POSITION DISAPPROVED

BY: DATE:

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING)

(2) a. ORGANIZATIONAL SUPPORT FOR BILL	(2) b. ORGANIZATIONAL OPPOSITION TO BILL

(3) PROGRAM EFFECTS OF BILL

Passage of the bill will assist the Department of Public Safety in carrying out its statutory responsibilities.

(4) FISCAL IMPACT: ☐ NONE ☐ FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

(6) COMMENTS:

* Sec. 29. AS 16.05.780(a)(2) is amended to read:

(2) a majority of active local advisory committees in [FOR] that unit or subunit have recommended an opening for that year, after each has taken a vote and a majority of the members of those committees have voted in the affirmative; if no active advisory committee exists within the unit or subunit, the recommendation of a committee in any contiguous unit or subunit will be sufficient.

* Sec. 30. AS 16.05.810 is amended by adding a new subsection to read:

(b) Nothing in this section authorizes possession of fish or game when possession is prohibited by applicable law or regulation.

* Sec. 31. AS 16.05.815 is repealed and re-enacted to read:

Sec. 16.05.815. CONFIDENTIAL NATURE OF CERTAIN RECORDS. Reports required by regulations of the department concerning the landing of fish, shellfish, or fishery products, and annual statistical reports of buyers and processors required by regulations of the department, insofar as they are in the form of individual records, are confidential. They may be released to the Department of Revenue, the Department of Public Srfety, and the Commercial Fisheries Entry Commission to assist them in carrying out their statutory responsibilities. ~~They may also be released to the North Pacific Fisheries Management Council, the University of Alaska, and the Department of Commerce and Economic Development in conjunction with research and statistics projects.~~ However, the commissioner may not release a report if he determines that to do so would abuse the intent of this section, and he may limit or condition any release to insure that proper confidentiality is maintained. Confidential reports held by the department, or received from the department by the agencies and organizations mentioned in this section, may not be communicated or distributed in the form of individual records to any other agency, organization, or individual

The Dept. of Commerce & Economic Development may obtain records for an individual fisherman if the fisherman signs a written release of authorization.

BILL ANALYSIS

ASSIGNMENT DATE:_____

UNASSIGNED_____

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Public Safety	Gardiner	HB 444

DEPARTMENT POSITION

Favor Passage of SB 147

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
Col Fred M Woodstock by Capt Don M Roberts	4/14/77	K L Burton	4-14-77

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☐ POSITION APPROVED ☐ POSITION DISAPPROVED

BY: DATE:

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING)

(2) a. ORGANIZATIONAL SUPPORT FOR BILL		(2) b. ORGANIZATIONAL OPPOSITION TO BILL

(3) PROGRAM EFFECTS OF BILL

Passage of the bill will assist the Department of Public Safety in carrying out its statutory responsibilities.

(4) FISCAL IMPACT: ☐ NONE ☐ FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED

(6) COMMENTS:

08-H2LH

STATE OF ALASKA

J. S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER | POUCH D – JUNEAU 99811

April 13, 1977

Honorable Al Osterback, Chairman
House Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

Thank you for your letter of April 12, requesting our comments on HB 444, relating to the confidentiality of fishery reports.

As this department is continually involved with fisheries research and projects, we would support this legislation which would make vital data more readily available to us.

Yours truly,

H. Phillip Hubbard
Commissioner

15

HB

4352

Rural Alaska
Community Action Program, Inc.

January 12, 1978

The Honorable Don Young
United States House of Representatives
1210 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Young:

We noted with interest your proposal to the Legislature, presented last Monday, that a General Fund appropriation of $5 to $10 million finance a massive lobbying effort against the passage of HR 39. We believe such an effort, at this time, would be unwise.

At a time when the credibility of Alaska is at a low ebb in Congress, primarily due to the generally uninformed rhetoric of various groups and individuals who purportedly represent an "Alaskan position" on d-2 (generally) and HR 39 (specifically), a lobbying effort such as has been proposed would probably be interpreted as a waste of money (from a state which constantly tries to extract more money from the federal coffers). As well, it would constitute an admission that the State has been reduced to blind advocacy in opposition to one proposal without a responsibly-developed alternative. Also, it would be an insult to the many Alaskans who support all, or at least part of, the concepts embodied in the Sub-Committee print (of HR 39) used for mark-up this month. In short, Congressman, were the State to act favorably on the proposal, we believe the effort would be counter-productive to a final resolution of the d-2 issue on terms generally acceptable to most Alaskans.

It is our belief that there is no Alaskan consensus on d-2 (save, perhaps, a majority which takes a knee-jerk stand in opposition to a "federal lock-up" of Alaskan lands). And we would submit that the reason for this is that there has been little responsible public discussion of the issue which might have served to develop consensus among Alaskans.

Organizations such as the Alaska Federation of Natives, regional non-profit corporations in the Bush and RurAL CAP possess the interest and capability to assist in the development of consensus among their respective constituencies. We can do this, despite severly limited resources, because we have recognized the over-riding imperative of achieving federal protection of Native subsistence options in any d-2 legislation which finally emerges.

All of this is not to suggest that it is too late to build Alaskan consensus on the issue (or, at least, parts of it; i.e. resource management). Neither do we suggest that the role of the Legislature in appropriating General Fund monies and providing some leadership on the issue is entirely inappropriate. It is our belief that the Congress would be receptive (indeed, would welcome) evidence that the State is taking steps to put its house in order and to involve its citizens in the

Administration • P.O. Box 3-3908 Anchorage, Alaska 99501 • (907) 279-2441

formation of positive recommendations to be made to the Congress. What follows is a series of recommendations which, if followed, would strengthen the State's position in Congress.

1) Begin, in earnest, a series of State-funded workshops to discuss the most appropriate methods of decentralizing the decision-making authority of the Boards of Fish and Game. These workshops should be held throughout the State, adequate materials should be prepared and disseminated to the participants, a real effort should be made to notify in advance and prepare local people to participate, and costs for the workshops should be borne by the State.

(We have been involved in two meetings called by Commissioner Skoog to discuss this topic and applaud the Administration's initiative; however, the first meeting yielded only a consensus that another one was needed, while the second one quickly degenerated into a debate between those who favored decentralization and those who opposed it. Other meetings are planned, but there isn't any indication that the outcome will be any more positive. As well, in neither of the above instances did the State pay any transportation costs for participants, nor were adequate working papers made available.

2) Hold similar conferences on other issues being addressed by d-2 legislation; i.e. land conveyance to Native Corporations and the State, easement policies, the proposed Land Bank, the environmental protection of all federal (public) lands through various administrative devices, the equated economics of "preservation vs. development," the actual proposals for various designations of d-2 lands, state land selection procedures and goals, etc.

3) Increase or initiate funding to appropriate management entities which rely, at present, almost exclusively on federal funds (i.e. the Divisions of Sport Fish and Game within ADF&G, the Coastal Zone Management program, etc.), in order to demonstrate a good faith effort by the State to manage the lands and resources which are presently its responsibility.

4) Support, through adequate financing, State participation in the "interim management plan" called for by AFN President Byron Mallott last week, thereby adding credibility to the State's frequent assertion that subsistence uses are the number one priority of resource allocation decisions and that the State recognizes (and accepts) its partnership role with the federal government in these matters.

5) Recognize that the proposed public lands designations and management systems are, in fact, national concerns and their ultimate disposition is quite properly a subject of national debate and Congressional determination.

In our opinion, if any or all of the above suggestions were positively acted upon, and forthrightly implemented, the "Alaskan position" in Congress and throughout the United States would be far more palatable.

Again, I express our sincere reservations about the wisdom of the approach you have suggested, and reiterate our proposal that the State initiate a positive effort with its own citizens prior to funding a major lobbying effort in Washington, D.C.

Thank you for your attention to these remarks.

Sincerely,

Phil Smith
Executive Director

cc: Governor Jay S. Hammond
Senator Mike Gravel
Senator Ted Stevens
The Honorable Cecil Andrus, Secretary of Interior
Senator John Rader, President, Alaska State Senate
Senator Kay Poland, Chairperson, Senate Resources
Senator John Sackett, Chairperson, Senate Finance
Senator Chancy Croft, Member, Senate d-2 Steering Council
Representative Hugh Malone, President, State House of Representatives
Representative Al Osterback, Chairperson, House Resources
Representative Steve Cowper, Chairperson, d-2 Steering Council
Congressman John Sieberling, Chairperson, Subcommittee General Oversight and Alaska Lands
Congressman Morris Udall
Congressman Lloyd Meeds
Senator Henry Jackson,
Senator Lee Metcalf
Byron Mallot, President, AFN
Tundra Times

STUART H. BOWDOIN
BOROUGH MANAGER

TELEPHONE
(907) 268-4224

Bristol Bay Borough

BOX 189 • NAKNEK, ALASKA 99633

April 22, 1977

Representative Alvin Osterback
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback;

The Bristol Bay Borough strongly supports the following House Bills.

a. H.B. 450 establishing administrative regional offices for the Department of Health and Social Services.

b. H.B. 451 establishing administrative regional offices for the Department of Community, and Regional Affairs.

c. H.B. 452 establishing administrative regional offices for the Department of Fish & Game.

Locating regional offices in Naknek will provide a central location for these state activities and result in faster and more adequate services to residents of Bristol Bay, Alaska Peninsula and the Iliamna Lake Clark Areas.

Your support of these three Bills will be greatly appreciated.

Sincerely,

Stuart H. Bowdoin
Borough Manager

SHB:smc

HB

459

AGO 122826

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

13 April 1977

Lee McAnerney, Commissioner
Department of COmmunity and Regional Affairs
Pouch B
Juneau, Alaska 99811

Dear Commissioner,

The House Resources Committee will be reviewing HB 425 An Act relating to erosion control and HB 426 An Act making a special appropriation to the Department of Community and Regional Affairs to provide funds for the erosion control grant program; and providing for an effective date on Tuesday April 19, 1977 at 1:15 p.m. in room 118 of the Capitol Building. The Committee will also be reviewing HB 459 An Act establishing the position subsistence economist within the Department of Community and Regional Affairs. HB 459 has not been scheduled yet. We will notify you later in regards to the date, time and location of the meeting.

Pease supply us with position papers or material you have on these bills by the time of the meeting. If you have any information pertinent to these topics, the Committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have suggested amendments, please supply the staff with copies of that prior to the meeting.

If there are fiscal implications and notes are necessary, please prepare them and submit them to the Committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

Alaska State Legislature

House

HOUSE RESOURCES CO'MITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

13 April 1977

Lee McAnerney, Commissioner
Depar'ment of COmmunity and Regional Affairs
Pouch B
Juneau, Alaska 99811

Dear Commissioner,

The House Resources Committee will be reviewing HB 425 An Act relating to erosion control and HB 426 An Act making a special appropriation to the Department of Community and Regional Affairs to provide funds for the erosion control grant program; and providing for an effective date on Tuesday April 19, 1977 at 1:15 p.m. in room 118 of the Capitol Building. The Committee will also be reviewing HB 459 An Act establishing the position subsistence economist within the Department of Community and Regional Affairs. HB 459 has not been scheduled yet. We will notify you later in regards to the date, time and location of the meeting.

Please supply us with position papers or material you have on these bills by the time of the meeting. If you have any information pertinent to these topics, the Committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have suggested amendments, please supply the staff with copies of that prior to the meeting.

If there are fiscal implications and notes are necessary, please prepare them and submit them to the Committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 459

Title Establishing position of subsistence economist in Department of Commerce and

Requested by Economic Development Date 4/12/77

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development

Program Category Affected Development

Budget Request Unit(s) Affected Economic Enterprise

EXPENDITURES (Thousands of Dollars)

		FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES		31.8	33.7	35.7	37.7	
200	TRAVEL		4.5	4.5	4.5	4.5	
300	CONTRACTUAL		15.0	10.0	7.0	5.0	
400	COMMODITIES		1.0	1.0	1.0	1.0	
500	EQUIPMENT		-0-	-0-	-0-	-0-	
600	LAND & STRUCTURES		-0-	-0-	-0-	-0-	
700	GRANTS, CLAIMS, ETC.		-0-	-0-	-0-	-0-	
	TOTAL		52.3	49.2	48.2	47.2	

FUNDING (Thousands of Dollars)

GENERAL FUND		52.3	49.2	48.2	47.2	
FEDERAL FUNDS		-0-	-0-	-0-	-0-	
OTHER (Specify)		-0-	-0-	-0-	-0-	

POSITIONS

FULL TIME		1	1	1	1	
PART TIME		0	0	0	0	
TEMPORARY						

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

This program, conducted by a Research Analyst III or possibly an economist knowledgeable on Alaska and the traditional lifestyle would:

1. Quantify the amount and value of food taken from the land to determine the actual value of "subsistence" by regions.
2. Determine the impact of the various D-2 lands selection proposals on subsistence hunting and fishing, and
3. evaluate the compatibility of present and projected subsistence needs and activities with the State and Federal Government fish & game management structures, policies, and regulations, investigate alternatives, and recommend legislative action.

This position would set up hearing schedules, interview various groups on their views on subsistence, coordinate travel, research existing rules and regulations that deal with subsistence and attempt to determine the impact of D-2 lands on subsistence hunting, fishing and gathering activities.

IV. DATE 4/18/77 PREPARED BY J R Kleaver

AGENCY Division of Economic Enterprise

PHONE 465-2020

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

Program Summary:

Research Analyst or Principal Economist (R-20)		$26,244
Fringe @ 25.5%		5,511
Travel		3,000
Per Diem		1,500
Contractual		15,000
310 - Communications (phone, etc.)	$1,300	
320 - Printing/advertising	2,000	
330 - Office Rent	1,400	
380 - Professional Fees (consultant)	4,300	
RSA to Fish & Game (Required Assistance)	6,000	
Commodities		1,000

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

4 May 1977

Honorable Hugh Malone, Speaker
House of Representatives
Alaska State Legislature

Re: HB 459

Subject: Letter of Intent

Dear Mr. Speaker,

In adopting HB 459, it is the intent of the Resources Committee that the subsistence economist provided for by this legislation shall:

1. Quantify the amount and value of food taken from the land to determine the actual value of "subsistence" by regions.

2. Determine the impact of the various (d)(2) lands selection proposals on subsistence hunting and fishing, and

3. evaluate the compatibility of present and projected subsistence needs and activities with the State and Federal Government fish and game management structures, policies, and regulations, investigate alternatives, and recommend legislative action.

This position shall set up hearing schedules, interview various groups on their views on subsistence, coordinate travel, research existing rules and regulations that deal with subsistence and attempt to determine the impact of (d)(2) lands on subsistence hunting, fishing and gathering activities.

Sincerely,

Alvin Osterback

Rep. Al Osterback, Chairman
House Resources Committee

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 459
Title "An Act establishing the position of subsistence economist within
Requested by House Resource Date 4/11/77

II. FISCAL DETAIL
Agency Affected Department of Community & Regional Affairs
Program Category Affected Development
Budget Request Unit(s) Affected Division of Community & Rural Development

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES	-0-	31.8	33.7	35.7	37.7	39.8
200 TRAVEL		4.0	4.2	4.4	4.6	4.8
300 CONTRACTUAL		2.5	2.7	2.9	3.1	3.5
400 COMMODITIES		1.0	1.1	1.1	1.2	1.2
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		39.3	41.7	44.1	46.6	49.3

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	39.3	41.7	44.1	46.6	49.3
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME	0	1	1	1	1	1
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

A. Assumptions
1. The position will be located in Anchorage
2. That inflation will occur at the rate of 6% through 1982.

B. Program Summary

Principal Economist	26,244	(R 20)
Fringe@ 25.5	5,511	
Contractual		
Office	1,260	
Phone	1,200	
Travel & Perdiem	4,000	
Commodities	1,000	

IV. DATE 4/15/77 PREPARED BY Reed R. Stoops Reed R Stoops
AGENCY Division of Community & Rural Development
PHONE 465-4708

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

33-001 (Rev. 10/76)

08-H2LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER / *POUCH D – JUNEAU 99811*

April 26, 1977

Honorable Al Osterback
Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

Thank you for your letter of April 13 requesting our comments on House Bill 459 which would establish the position of Subsistence Economist within this department.

We support this bill and believe the establishment of this position would increase our ability to respond to Native issues and problems. It would also add expertise to aid in formulating basic State policy decisions.

We would appreciate the opportunity to testify on this bill when it is scheduled for committee action. A Fiscal Note has been submitted indicating a $52.3 expenditure for FY '78. If we can provide additional information, we would be pleased to respond.

Yours truly,

H. Phillip Hubbard
Commissioner

Program Summary:

Research Analyst or Principal Economist (R-20)		$26,244
Fringe @ 25.5%		5,511
Travel		3,000
Per Diem		1,500
Contractual		15,000
310 - Communications (phone, etc.)	$1,300	
320 - Printing/advertising	2,000	
330 - Office Rent	1,400	
380 - Professional Fees (consultant)	4,300	
RSA to Fish & Game (Required Assistance)	6,000	
Commodities		1,000

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 459
Title Establishing position of subsistence economist in Department of Commerce and
Requested by Economic Development Date 4/12/77

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Development
Budget Request Unit(s) Affected Economic Enterprise

EXPENDITURES (Thousands of Dollars)

		FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES		31.8	33.7	35.7	37.7	
200	TRAVEL		4.5	4.5	4.5	4.5	
300	CONTRACTUAL		15.0	10.0	7.0	5.0	
400	COMMODITIES		1.0	1.0	1.0	1.0	
500	EQUIPMENT		-0-	-0-	-0-	-0-	
600	LAND & STRUCTURES		-0-	-0-	-0-	-0-	
700	GRANTS, CLAIMS, ETC.		-0-	-0-	-0-	-0-	
	TOTAL		52.3	49.2	48.2	47.2	

FUNDING (Thousands of Dollars)

GENERAL FUND		52.3	49.2	48.2	47.2	
FEDERAL FUNDS		-0-	-0-	-0-	-0-	
OTHER (Specify)		-0-	-0-	-0-	-0-	

POSITIONS

FULL TIME		1	1	1	1	
PART TIME		0	0	0	0	
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
This program, conducted by a Research Analyst III or possibly an economist knowledgeable on Alaska and the traditional lifestyle would:

1. Quantify the amount and value of food taken from the land to determine the actual value of "subsistence" by regions.
2. Determine the impact of the various D-2 lands selection proposals on subsistence hunting and fishing, and
3. evaluate the compatibility of present and projected subsistence needs and activities with the State and Federal Government fish & game management structures, policies, and regulations, investigate alternatives, and recommend legislative action.

This position would set up hearing schedules, interview various groups on their views on subsistence, coordinate travel, research existing rules and regulations that deal with subsistence and attempt to determine the impact of D-2 lands on subsistence hunting, fishing and gathering activities.

IV. DATE 4/18/77 PREPARED BY J R Niggen
AGENCY Division of Economic Enterprise
PHONE 465-2020

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

33-001 (Rev. 10/76)

Alaska State Legislature

JUNEAU ALASKA

HOUSE RESOURCES COMMITTEE

4 MAY 1977

AGENDA

Call meeting to Order.

Bills Under Consideration:

HB 457 Position of Subsistence Economists Dept. of Fish and Game

HB 458 Position of Subsistence Economists Dept. of Community and Regional Affairs

HB 459 Position of Subsistence Economists Dept. of Commerce and Economic Development

HB 506 Subsistence Hunting

Discussion, Questions.

Ajournment.

HB

4 7 7

CS

out

5/2/77

AGO 122827

4-15-77

COMMITTEE REPORT

HOUSE

_____ Date

Mr. Speaker:

The Committee on RESOURCES has had HB 477 under consideration. A majority of the members of the Committee

/ / recommends it do pass

/ / recommends it do not pass

/ / recommends it do pass with attached amendment(s)

/ / recommends it be replaced with CS for _____ and that CS for _____ do pass

/ / (and) recommends it be referred to the _____ committee

/ / reports it back without recommendation

/ / AND attaches a report of its intent

/ / (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends: _____

_____ recommends: _____

_____ recommends: _____

_____
Chairman

H 60

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

26 April 1977

Bob LeResche, Commissioner
Department of Natural Resources
Pouch M
Juneau, Alaska 99811

ATTENTION: Pat Conheady

Dear Commissioner,

The House Resources Committee will be reviewing HB 477 An Act relating to the sale of state land on Thursday 28 April 1977 at 1:15 p.m. in room 118 of the Capitol Building.

Please supply us with a position paper or material you have on this bill by the time of the meeting. If you have any information pertinent to this topic, the committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have suggested amendments, please supply the staff with copies of that prior to the meeting.

If there is a fiscal implication and a note is necessary, please prepare it and submit it to the committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

05-E1LH

STATE OF ALASKA

JAY S. HAMMOND
GOVERNOR

DEPARTMENT OF EDUCATION

OFFICE OF THE COMMISSIONER | POUCH F-ALASKA OFFICE BUILDING
JUNEAU 99811

April 22, 1977

Honorable Alvin Osterback
Chairman, House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

During the last regularly scheduled meeting of the State Board of Education on March 24 & 25, 1977, the following resolution was passed:

WHEREAS, the State Board of Education was only last year given authority to participate in a meaningful way in the administration of school trust lands, and

WHEREAS, the Board is of the belief that all categories of state trust lands are in need of comprehensive policy review and is moving in that direction in cooperation with the Division of Lands and others, and

WHEREAS, various bills concerning state lands have been introduced in the present legislature,

BE IT RESOLVED, that the State Board of Education requests the legislature to withhold action on these bills until the Second Session of the Legislature in order to provide time for a sufficient analysis and more public discussion.

Sincerely,

Marshall L. Lind
Commissioner

MLL:mv

cc: House Resources Committee Members

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

18 April 1977

Theodore G. Smith, Director
Division of Land & Water Management
323 East 4th
Anchorage, Alaska 99501

Dear Mr. Smith,

The House Resources Committee will be reviewing HB 359 Homestead Grants to Alaskan Citizens on Thursday April 21, 1977 at 1:15 p.m. in room 118 of the Capitol Building. Also HB 477 Sale of State Land will be reviewed by the Committee. HB 477 has not been scheduled. We will inform you of the date, time and location.

Please supply us with position papers or material you have on these bills by the time of the meetings. If you have any information pertinent to these topics, the Committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have any suggested amendments, please supply the staff with copies of that prior to the meetings.

If there are fiscal implications and notes are necessary, please prepare them and submit them to the Committee -- preferably prior to the meetings.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

cc: Pat Conheady

AO:ts

Introduced: 4/15/77
Referred: Resources

BY HAYES, AKERS, BENNETT, CARPENTER, DANKWORTH, ELIASON, FREEMAN, GRUENING, KELLY, LETHIN, MCKINNON, MALONE, MILES, PHILLIPS, RHODE, SCHAEFFER AND SWANSON

IN THE HOUSE

HOUSE BILL NO. 477

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the sale of state land; and providing for an effective date."

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

* Section 1. AS 38.05.035(a)(9)(A) and (B) are amended to read:

(A) the name of the person nominating or applying for the sale, lease, or other disposal of lands by lottery or competitive bidding;

(B) before the announced time of opening, the names of the proposed purchasers or bidders and the amounts of the bids;

* Sec. [2.] 1 AS 38.05.035(b) [and] (4) [are] amended to read:

[(2)] grant preference rights for the lease or purchase of state land without competitive bid or lottery in order to correct the past or future errors or omissions of a state or federal administrative agency when inequitable detriment would otherwise result to a diligent claimant or applicant due to situations over which the claimant or applicant had no control; the exercise of this discretionary power operates only to divest the state of its title to or interests in land and may be exercised only with the express approval of the commissioner;

(4) dispose of lands by lottery [or competitive bid] for less than their appraised value when, in his judgment, past scarcity of land in any particular area has resulted in unrealistic land values;

* Sec. [3.] 2 AS 38.05.055 is amended to read:

Sec. 38.05.055 SALE PROCEDURES. (a) Except as provided in sec. 315(d) of this chapter and at the discretion of the director, the sale

shall be made by lottery or at public auction to the highest qualified bidder as determined by the director. If a lottery is used, the land shall be sold at its fair market value. EXCEPT AS PROVIDED IN AS 38.05.035(b)(2) An aggrieved potential purchaser or bidder may appeal to the commissioner within five days after the sale for a review of the director's determination. The sale shall be conducted by the director or his representative, and at the time of sale the purchaser [SUCCESSFUL BIDDER] shall deposit an amount equal to NOT LESS THAN five per cent [ONE-TENTH] of the purchase price. The director or his representative shall immediately issue a receipt containing a description of the land or property purchased, the price of the land [BID,] and the terms of sale, which receipt shall be acknowledged in writing by the purchaser [BIDDER]. A contract of sale on a form approved by the attorney general shall be signed by the purchaser and, after approval of the commissioner, the contract shall also be signed by the director on behalf of the state.

(b) To qualify for participation in a sale of land by lottery under (a) of this section, a potential purchaser shall

(1) at the time of application have attained the age of 18;

(2) submit proof acceptable to the commissioner that he has been a resident of the state for not less than three years immediately preceding the date his application was submitted;

[(3) be the only member of his household to apply for the purchase of land by lottery.] THIS DELETION IS SUGGESTED DUE TO EXPENSE IN ADL DETERMINING THIS. ALSO PARAGRAPH NOT PERTINENT.

* Sec. 4. AS 38.05.065 is amended to read:

Sec. 38.05.065. TERMS OF CONTRACT OF SALE. The contract of sale shall require the remainder of the purchase price to be paid over a period of not more than 20 years, to be set for each sale by the director. Installment payments plus interest must be set on the level-payment basis. The interest rate to be charged on installment payments

is the prevailing rate on similar land transactions at the time the contract is signed, as determined by the director, but in no case may it be below five per cent per year or above the current usury rate as set by AS 45.45.010(b) and (d) [IN ANNUAL INSTALLMENTS OF NOT LESS THAN 10 PER CENT OF THE PURCHASE PRICE, WITH INTEREST AT THE RATE OF NOT LESS THAN FIVE PER CENT A YEAR]. The director, with the consent of the commissioner, may also impose conditions, limitations and terms which he considers necessary and proper to protect the interest of the state. Violations of any provision of this chapter or the terms of the contract of sale subject the purchaser to appropriate administrative and legal action, including but not limited to specific performance, foreclosure, ejectment, or other legal remedies in accordance with applicable state law [LEGAL ACTION, INCLUDING A FORECLOSURE ACTION IN ACCORDANCE WITH APPLICABLE STATE LAW].

* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-070(c).

ADL (DON HANSON) POSITION IS that the 5% ~~was~~ instead of 10% Terms for down payment, etc should properly be addressed in HB 383 and 159 — I don't agree since they may never reach Governor's desk in that form.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LANDS / 323 E. 4TH AVENUE – ANCHORAGE 99501

April 28, 1977

Representative Al Osterback, Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

I am pleased to be able to support the concept embodied in H.B. 477. The auction process of land sales is in many cases a significant contributor to inflated land prices. I do not advocate free land since in my view this is a benefit to a few at the expense of all the people of the state, but neither do I think the state's best interests are always served by accepting more than the appraised market value of land. The lottery system proposed by H.B. 477 would provide a needed alternative to public auction. We do have a number of amendments to the bill which I believe will preserve the concept while improving the effectiveness of the bill.

1. There is no logical reason to keep confidential the name of anyone proposing a disposal by lottery or a purchaser by lottery, therefore:

   Page 1, Lines 9-14: Delete all material.

2. A preference right is an individual adjudication, a procedure to correct an administrative error in a specific case. There is no opportunity for multiple entitlements nor a lottery to determine the successful applicant, therefore:

   Page 1, Line 15: Delete "(2) and"; Change "are" to "is."

3. The provision for competitive bid erases any opportunity for relief from artificially high prices otherwise provided by A.S. 38.05.035 (b) (4). In the one case where such a reduction was made, the bidding process pushed prices well above the original appraisal, therefore:

   Page 1, Line 24: Delete "or competitive bid."

4. The provision for such reduction should be available where appropriate, therefore:

   Page 2, Line 3: Following "value" add "except as provided in A.S. 38.05.035 (b) (4)."

5. The provision for a 20 year sale period is addressed in other legislation, specifically H.B. 383 and H.C.S.C.S.S.B. 159. In order to avoid confusion with these bills and keep the focus of H.B. 477 specifically on the lottery issue:

~~Page 2, Line 8: Delete proposed new language.~~
Page 2, Lines ~~12-29~~: Delete all material. → 22-23
~~Page 3, Lines 1-14: Delete all material.~~

6. There would be a substantial number of problems with defining "household" and with policing the provision in A.S. 38.05.055 (b) (3). Since the disposal would be at fair market value, there seems no good reason to impose the restriction and incur those problems. I recommend:

Page 2, Lines 22 & 23: Delete all material.

Please contact me if I can be of further assistance.

Yours truly,

Theodore G. Smith, Director
Land and Water Management

HB

506

08-H2LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER / POUCH D – JUNEAU 99811

April 26, 1977

Honorable Al Osterback
Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

Thank you for your letter of April 13 requesting our comments on House Bill 459 which would establish the position of Subsistence Economist within this department.

We support this bill and believe the establishment of this position would increase our ability to respond to Native issues and problems. It would also add expertise to aid in formulating basic State policy decisions.

We would appreciate the opportunity to testify on this bill when it is scheduled for committee action. A Fiscal Note has been submitted indicating a $52.3 expenditure for FY '78. If we can provide additional information, we would be pleased to respond.

Yours truly,

H. Phillip Hubbard
Commissioner

Alaska State Legislature

House

JUNEAU ALASKA May 4, 1977

Memo to: Sally

From: Ruth

George Utermohle, of Legislative Affairs, Research, has looked over HB 506, at our request, to find any possible problem areas in the bill.

Briefly, his comments are:

Most of the bill is the same as previous law. Exceptions are:
page 1, Line 10, after "meeting" through line 13, after "sooner", is new.

page 2, Line 11, after "requested," through line 29, "made", is new.

page 3, Line 4 through line 16 is new.

According to Utermohle, the bill is a good way to handle some of the subsistence law problems.

Suggested changes in the new sections are:
page 2, Line 15, add "and report" after "investigation"

page 2, Line 19 through 21--this may not be possible since the information may not be available except in areas where harvest tickets are necessary. Even then the game involved may not have adequate records.

Page 3, Line 13, "biomass"-----this is a scientific term and would include all plant life, animal life, and any other parts of an ecosystem. The term should probably be replaced with another phrase, such as "biomass of the species under consideration" or something similar.

Suggested changes in existing language, to tie up currently existing problem areas:
Page 1, Line 10. include after "or"---"at a special meeting held after"----

Page 1, Line 16 and 17 (1)
There are currently problems in coordination between the Department of Fish and Game and the Department of Public Safety regarding regulations--the enforcement division doesn't see the regs until after they're adopted, and can't forstall problems until after they're created.

Suggested change is to add after "e idence:"---"or recommendation of Division of Fish and Wildlife Protection"

Page 3, Line 24 and 25, add similar wording as above.

Regarding the term "subsistence hunting" it is stressed that everyone is now a subsistence hunter, except trophy hunters. Where subsistence hunting is contrasted with recreational hunting, there is no definition of recreational hunting--so the phrase using the contrast actually means nothing.

Another problem area could be that departmental staff are not listed among the ones able to call a meeting. Also, the bill doesn't clarify what "area of the public" the 100 or 25 people are from, as mentioned on page 1 Line 19 through 22.

Other than that, Utermohle says it is a "good" bill. Possibly either a sponsor substitute or a committee substitute would be easier than amendments.

Thanks.

Hope this helped,

RA

TO: The Honorable Rep. Osterbach, Chairman, and members of the House Resources Committee

FROM: Peggy Berck, Alaska Legal Services Corporation

RE: H.B. 506

DATED: May 4, 1977

1. Introduction The clients of Alaska Legal Services corporation are strongly in support of H.B. 506. Although I shall be unable to attend the Resources Committee hearing scheduled for May 5, 1977, in order to present oral testimony on this bill, I have drafted the following written comments. My absence should not be construed as a reflection of any disinterest on behalf of my clients with respect to this bill. I shall be in Chicago on that date in order to present testimony before the U.S. House Subcommittee relative to the impact of D-2 legislation now under consideration upon the subsistence activities of rural Alaskans. Should there be additional opportunity for testimony on this bill, I shall be available any time after May 8, 1977.

2. Summary H.B. 506 would essentially accomplish three things. First, the Bill would permit the declaration of a subsistence hunting unit within 120 days of either; the receipt of a petition, or, a majority vote of the active local advisory committees, calling for the establishment of a subsistence area.

Second, the Bill would mandate the Department of Fish and Game to provide the petitioners or the advisory committee with information they can use to determine for themselves whether a subsistence zone is needed. At the hearing, the petitioners or advisory committees would have the opportunity to present this information in the posture most suited to their position and to dispute the informaiton that the Board would most likely base its determination upon.

Third, the Bill sets forth certain standards upon which the Board must make its determination. These standards would preclude the Board from making decisions in an arbitrary or capricious manner and, furthermore, would provide some means to challenge a decision if not based on those designated standards.

3. Why this Legislaton is Needed Current law provides that the Board of Game may delcare a subsistence zone only once

a year at their annual meeting. H.B. 506 would allow the proponents to raise the issue at any time. This is necessary since the issue may become critical at a time other than that set for the annual meeting.

4. The subsections (Section 1 (c)(2) - (4) requiring the Department to investigate and submit a factual report to the proponents provides the proponents with an opportunity to presnet their case upon biological evidence rather than merely upon their personal observations. Thus the amendments require the Board to provide information that currently they do not ordinarily have to provide.

This requirement is needed in order to allow the proponents more input into the determination, by giving them the information necessary to present their case and to question the Board of Game's determination.

This information is to be given to the proponents at least 45 days prior to the determination by the Board of Game as the time for the public hearing.

Additionally, Section 1(c) (1) would require that one department game biologist responsible for that particular unit and two members of theBoard of Game attend the public heairng. This is needed so that responsible and informed persons might be able to answer the questions of the people living in the area to be affected. Furthermore, it is essential that the Board of Game have personal, first hand knowledge of what is happening in a particular area requesting subsistence regulations.

5. The subsections (Section 4, subsections (f) (1) - (4)) setting forth the standards upon which the Board must make its determinations are necessary in order to prevent an improper delegation of the legislative function which licenses the fact finder to create its own standards in each case. Without reasonably clear standards there exists an invitation to arbitrary and capricious determination.

6. The Board of Game is reluctant to use this statute for various reasons; such as, that they do not want to establish any precedents and that they can accomplish the same result without creating subsistence zones. This attitude does not follow the intent of the legislature which is to create areas of hunting which are to be used primarily by the subsistence user. The effect of the H.B. 506 would require the Board to take a serious look at each proposal for a subsistence zone.

cc: Rep. Nels Anderson

HB 506 An Act relating to subsistence hunting.

Nels Anderson, the sponsor testified in favor of the bill

Introduced: 4/26/77
Referred: Resources

IN THE HOUSE BY ANDERSON

HOUSE BILL NO. 506

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to subsistence hunting."

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

* Section 1. AS 16.05.257 is repealed and re-enacted to read:

Sec. 16.05.257. SUBSISTENCE HUNTING REGULATIONS. (a) The Board of Game, at its regularly scheduled annual meeting, or within 120 days ~~from~~ after the vote conducted under (2) of this subsection, or within 120 days ~~from~~ after the ~~date~~ receipt of a petition ~~is~~ submitted under (3) or (4) of this subsection, whichever comes sooner, may adopt regulations providing for subsistence hunting in a game management unit or subunit or a portion of a unit or subunit upon

(1) recommendation of the department, based on biological evidence; OR RECOMMENDATION OF DN. OF FISH & WILDLIFE PROTECTION

(2) the majority vote of the active local advisory committee for that game management unit or subunit;

(3) the written petition of not less than 100 interested residents of that game management unit or subunit; or

(4) the written petition of not less than 25 interested residents of an area which is requested for establishment as a subsistence area within a game management unit or subunit.

(b) The regulations may include but are not limited to the following:

(1) the establishment of subsistence hunting areas;

(2) the regulation of transportation methods and means to protect subsistence hunting within subsistence hunting areas, including

the prohibition or limitation of pack animals and mechanized vehicles and aircraft, other than watercraft or wheeled vehicles operating on a road maintained by public funds;

(3) the establishment of open and closed seasons and areas to protect subsistence hunting;

(4) the limitation of hunting to only one sex of the animal.

(c) At least 45 days before the determination made in (a) and (b) of this section the department shall,

(1) after reasonable notice, hold public hearings, at least one of which must be at or in close proximity to the area for which a subsistence area is requested, with at least one department game biologist responsible for the unit or subunit in which the subsistence area is located and two members of the Board of Game in attendance at these hearings;

(2) make an adequate biological investigation, including but not limited to the carrying capacity of the species under consideration, the concentration of other species, and competition among species which are found in the unit or subunit under consideration;

(3) make an adequate report of the numbers of the species that are being harvested and who is harvesting them, including but not limited to residents, nonresidents, subsistence hunters and recreational hunters;

(4) make the reports submitted under (2) - (3) of this subsection available to the advisory committees voting under (a)(2) of this section or to the persons who petitioned under (a)(3) or (4) of this section.

(d) Comments to the reports submitted under (c)(2) - (3) of this section may be submitted to the Board of Game at least 10 days before a determination to adopt regulations under (a) and (b) of this section is made.

(e) A petition submitted under (a)(3) or (4) of this section shall contain a complete description of the area requested as a subsistence area, a specification of the species within the area considered necessary for subsistence use, and a statement as to why a subsistence area is being requested, including but not limited to the availability of the species for subsistence harvest and the competition between subsistence and nonsubsistence users.

(f) Subject to (g) of this section, the determination by the Board of Game to provide for subsistence hunting shall be based on the following:

(1) the past and present dependence of the area for subsistence use of the species;

(2) the extent of the biomass in the area;

(3) the population trends of the species in the area; and

(4) whether the population is able to support nonsubsistence harvest.

(g) No subsistence area may be created under this section if the Board of Game determines that biological evidence indicates that the creation of such an area is likely to adversely affect a resource in that it would fall below the level of sustained yield determined to be adequate.

(h) The Board of Game at any time may review and change the boundaries of a subsistence area upon

(1) the recommendation of the department, based on biological evidence; recommendations of the Dir of Fish & Wildlife Protection

(2) the written petition of not less than 25 interested residents of that area; or

(3) the majority vote of the active local advisory committees for that area.

(i) The department shall submit a report to the legislature during the first 10 days of each (REGULAR) legislative session beginning after January 1, 1977. The report shall include, but is not limited to, a listing of the specific subsistence areas established or modified during the preceding year and the species subject to subsistence use within those areas.

(j) In this section

(1) "subsistence hunting" means the taking of game animals by a state resident for food or clothing for personal or immediate family use;

(2) "subsistence hunting area" means an area designated by the board as primarily important for subsistence use and in which it is unlikely that subsistence needs will be met if recreational hunting, including hunting for trophy purposes, is permitted or if certain methods and means are continued.

DEFINE RECREATIONAL HUNTING AS OPPOSED TO SUBSISTENCE HUNTING

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

Ellison HB 506

FOURTH JUDICIAL DISTRICT

TANANA VALLEY SPORTSMEN'S ASSOCIATION, INC., and MARK A. WARTES, Plaintiffs, vs. THE STATE OF ALASKA, Defendant.	OPINION

No. 76-1958

The declining population of the Western Arctic caribou herd brought about a meeting of the Alaska Board of Game in Fairbanks commencing September 20, 1976. The testimony documented the decrease of caribou, and game biologist Jim Davis testified, without contradiction, that, "Biologically, and considering the caribou population exclusively, it would be desirable to have zero human utilization." Minutes, Public Hearing, p. 13. Presumably this means that it would be best for the caribou herd if no caribou were killed by people.

Apparently the Game Board showed more concern with what it considered to be the needs of the people of the western Arctic than with the declining caribou population, since the final decision was to allow the taking of 3,000 bulls. Only hunters issued permits are allowed to take caribou. The 3,000 permits are to be distributed on the basis of a quota system with a set number to be distributed by department personnel in each village in the western Arctic.

September 1976 read as follows:

> "(17) the taking of caribou in Units 23, 24, 26A and 26B shall be by permit only and such permits shall be issued by department agents in designated villages. Quotas of permits for each village and persons living outside of villages shall be based on the recommendation of village councils and corporations on the basis of population, need, availability of other food sources and employment, and other facts which may assist in meeting the minimum sustenance needs."

It is clear that the intent of the original emergency regulation was to restrict the issuing of permits to members of native corporations and that the only reason for issuing any permits was the Board's finding that the people of the regions in question need caribou. No facts are set forth to show why the Game Board decided the caribou were needed to maintain minimum sustenance needs.

A permanent regulation became effective on December 29, 1976. The permanent regulation set forth the number of permits to be issued by department personnel from each village. As the State points out in its brief at page 2:

> " . . . the change in wording from the emergency regulation to the permanent regulation had nothing to do with the criteria by which permits were to be issued to individual applicants. A close reading shows that the deleted phrases indicated the method by which the total number of permits were to be allocated to issuing agents in different parts of the affected areas. The deletion was made because the next section of the regulations actually made this allocation, so the deleted phrases were totally unnecessary. The specific allocations were made by the Board using the criteria specified, namely minimum sustenance needs, thus underlining the Board's directive to the Department that need be a criteria for issuance of individual permits." State's Opposition Memorandum, p. 2.

made in permit issuance are between sports hunters and true sustenance or 'need' hunters". State's Opposition Memorandum, p. 3.

The State justifies this differentiation between "sports" hunters and "need" hunters as follows:

> " . . . this distinction is no more invalid than is a graduated income tax or Aid to Dependent Children -- all cases in which public resources are allocated in such a manner as to avoid undue hardship on those truly in need. Thus 'need' is a perfectly proper and legal basis on which to allocate preferences among users of this resource." State's Opposition Memorandum, p. 3, 4.

The crux of the controversy is clear: Does the Game Board have the authority to allocate the resource, i.e., caribou, on the basis of the "needs" of some of the people to the exclusion of the rest at a time when any "human exploitation" of the caribou is unwise from a game management standpoint?

It is clear to the Court that the actions of the Board violate the following provisions of the Constitution of the State of Alaska:

> "The legislature shall provide for the utilization, development and conservation of all natural resources belonging to the State . . . for the maximum benefit of its people." Alaska Constitution, Article VIII, §2.
>
> "Whenever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use." Alaska Constitution, Article VIII, §3.
>
> "Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses." Alaska Constitution, Article VIII, §4.

> "Laws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation." Alaska Constitution, Article VIII, §17.

Based upon the testimony of Jim Davis and the recommendation of the Department staff, no caribou should be killed by people. Allowing the harvesting of 3,000 bulls because of an alleged need is certainly not conserving caribou for the maximum benefit of all the people of Alaska. No convincing argument can be made that the animals are being reserved to the people for common use or that they are being utilized on the sustained yield principle. It also seems clear that the designation of permits for hunting caribou to those claiming to need them is regulating the resource unequally.

There is no question that the Game Board has the authority to limit the taking of fish and game for the purpose of preserving the resource. This does not mean that the Board has the authority to distribute the resource to a certain designated category of persons (i.e., "the needy") while specifically ignoring uncontradicted testimony that no caribou should be killed by people.

The State argues that AS 16.05.257 allows the Game Board to designate who may take certain animals on the basis of need. This statute was adopted in 1975 and amended in 1976. It allows the Board of Game to adopt regulations providing for subsistence hunting in a game management unit. AS 16.05.257(h)(1) defines "subsistence hunting" as the taking of game animals by a state resident for food or clothing for personal or immediate family use. There is no qualification that the "subsistence hunter" "need" the game animal.

AS 16.05.257 cannot be read to allow the Game Board to establish a subsistence hunting game management unit allowing the taking of animals from a depleted herd when the uncontradicted biological evidence militates against further depletion.

Additionally, even if the Game Board had the authority to designate who could hunt or how many permits could issue on the basis of need, proper guidelines and regulations would have to be established to determine need. The Game Board did not publish or adopt any guidelines or regulations telling why 3,000 permits were issued or explaining reasons for the allotment of a certain number of permits to a certain village or town area.

In summary, the Court finds that the Board of Game has violated the applicable Constitutional requirements set forth herein. It cannot justify its actions by relying on AS 16.05.257, and it has failed to adopt or publish standards and guidelines for the allotment of a certain number of permits to a certain area.

Plaintiff's Motion for Summary Judgment is GRANTED. Defendant is restrained from enforcing that emergency regulation pertaining to the taking of caribou as adopted in Spetember of 1976 and amended in December of 1976.

An Order will enter accordingly.

DATED at Fairbanks, Alaska, this 6 day of April, 1977.

James R. Blair

JAMES R. BLAIR
Superior Court Judge

HB

563

AGO 122829

Until we
Coal Northwest
Cut 2/9/98

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
HB 563	2/3 & 2/6/78	Morris Thompson, Ak. Northwest Pipeline Co., Anchorage	2/9
	2/3 & 2/6	Rep. Swanson	2/9
	2/3 & 2/6	Commissioner, Dept. of Natural Resources (Fred Boness, Pat Conhead)	2/9
	2/3 & 2/6	Keith Specking	2/9
	2/3 & 2/6	Geoff Haynes	2/9

HEARING NOTIFICATION TO ADMINISTRATION

BILL NUMBER	LETTER DATE	INFORMED	HEARING DATE
HB 118	phone 1/27	Rep. Eliason, Commercial Fisheries, S.Gross, Rep. Gardiner	1/31
SCR 68	phone 1/27	Sen.Ziegler, D.Nat.Res.(Conheady) AK Loggers Assoc.	1/31
HB 652	phone 1/27	Rep.Cowper, D.Nat.Res(Conheady) Commerce, Carolyn Burg	~~1/2~~ 1/31
✓HB 563	phone 1/27 & 2/1	Rep.Swanson, Pete Jeans, AK Pipeline Surveillance Env.Conservation, Nat. Res. Oil & Gas P. Conheady	2/2
CSHB 573	phone 1/27	P.Jeans	2/2
HB 624	phone 1/27	Rep.Snider, D.Rev.	2/2
HB 625	phone 1/27	Rep.Anderson, Fish&Game, Nat.Res. (P. Conheady)	2/2
HJR 53	phone 1/27	Rep.Gardiner	2/2
~~all B above~~ HB	memo 1/27	Keith Specking	1/31 // 2/2

HEARING NOTIFICATION TO ADMINISTRATION

BILL NUMBER	LETTER DATE	INFORMED	HEARING DATE
HCR 83	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 555	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 569	1-11-78	Commissioner, Fish & Game	1-19-78
HB 572	1-11-78	Commissioner, Fish & Game	1-19-78
HB 573	1-11-78	Pete Jeans (Commerce), John Williams	1-19-78
HB 574	1-11-78	Pete Jeans (Commerce), Ken Vassar	1-19-78
HB 575	1-11-78	John Williams, Jim Baldwin	1-19-78
✓HB563	1-11-78	Pipeline Surveillance Coordinator-Anchorage	Not scheduled
all of above	1-19-78	Geoff Haynes Keith Specking; Commerce (Pete Jeans)	1-19-78
HB 563	1-19-78		NOT SCHEDULED
HB 566	1-19-78	fish + Game (Morrison); Geoff Haynes; Keith Specking; Nat. Res. (Conheady)	NOT SCHEDULED
HB 581	1-19-78	fish + Game (Morrison), Geoff Haynes; K. Specking; Entry Comm. (Johnson); Sponsors	Commerce (Jeans); NOT SCHEDULED
HB 590	1-19-78	F+G. (Morrison); G. Haynes; K. Specking	NOT SCHEDULED
HB 591	1-19-78	Administration (K. Sewell); K. Specking; Sponsors	NOT SCHEDULED
HB624	1-19-78	Revenue (Messenger); K. Specking; Sponsors	" "
HB625	1-19-78	F. + G. (Morrison); Natural Res. (Conheady); G. Haynes; K. Specking; Steering Council; Sponsors	" "
HB638	1-19-78	F+G. (Morrison); Rep. Haugen; Geoff Haynes; K. Specking, Natural Res. (Conheady)	" "
HB650	1-19-78	Commerce (Jeans); Natural Resources (Conheady); Steering Council; Sponsors;	" " Haynes; Specking
HB651	1-19-78	Same as HB650	" "
HB652	1-19-78	Same as HB650	" "

Testimony

of

Morris Thompson

Vice President

Northwest Alaskan Pipeline Company

Before

House Resource Committee

On House Bill 563

February 9, 1978

Mr. Chairman, members of the Committee, I am Morris Thompson, Vice President of the Northwest Alaskan Pipeline Company, and appreciate the opportunity to appear before you today. We have examined House Bill 563, together with the amendments proposed by Speaker Malone.

Northwest Alaskan supports the principle that the communities through which the pipeline passes should have access to the gas subject to the following conditions: (1) The community has acquired rights to a gas supply, (2) The community can be economically served, and (3) The parties involved have received appropriate authority. We feel that it is commendable that the State of Alaska is endeavoring to provide natural gas for the communities and the boroughs through which the pipeline will pass and expect that a likely source for the gas is a portion of the State's Royalty Gas.

We believe that the United States Congress has already adequately provided for such use of natural gas in Alaska. Section 13(b) of the Alaska Natural Gas Transportation Act of 1976 provides as follows:

> "(b) The State of Alaska is authorized to ship its royalty gas on the approved transportation system for use within Alaska and, to the extent its contracts for sale of royalty gas so provide, to withdraw such gas from the interstate market for use within Alaska; the Federal Power Commission (now the Federal Energy Regulatory Commission, or FERC) shall issue all authorizations necessary to effectuate such shipment and withdrawal subject to review by the Commission only of the justness and reasonableness of the rate charged for such transportation."

In accordance with this provision and the Natural Gas Act, as amended, we plan to include connections for delivery of the State's gas in the list of facilities presented to the Federal Energy

Regulatory Commission (FERC) for inclusion in the final Certificate of Public Convenience and Necessity. It is our intention to discuss the location of the connections with the state prior to submitting our application. We will also propose the method for recovering the costs of the transportation service, which method also will have to be approved by the FERC.

In essence, what we are saying is that we are planning to work with the State to provide connections within Alaska. For the foregoing reasons, we believe it is unnecessary to amend the State's Right-Of-Way Leasing Act, as it is now being proposed. We would be pleased to assist the State of Alaska in its planning to optimize the uses of its gas.

This concludes our formal statement. We have some technical comments the Committee may want to consider.

We will be happy to answer any questions you may have. Thank you.

Technical Comments Offered By
Northwest Alaskan Pipeline Company
on H.B. 563

We offer the following comments on the substantive provisions of the proposed Bill and Speaker Malone's proposed amendments:

It is unclear to us, from reading line 14 to line 16 of the Bill, exactly what is being proposed. Is it the intent of this Bill to provide a means of extracting natural gas from the pipeline for distribution by the boroughs through which the pipeline will pass, or is the intent to extract the State's entire royalty share, plus whatever other gas which may be purchased for use or processing in the State, in each borough that presently or may in the future meet the requirements set forth in the Bill to qualify for such extraction facilities? In either case, it seems clear that there is no need to provide facilities capable of extracting an amount at least equal to the State's entire royalty share in each borough which qualifies for such facilities. We believe this definitely needs clarification.

We believe that the word "process" in line 16 should be changed to "deliver".

1

A motion to adopt CSor HB563 as amended by ~~Amd~~ Speaker Malow ~~Amd~~ Miller

~~Amd Yates~~

2 No objet So ordered

Motion to move out SJ HB 563 with Indiv. Rec

Introduced: 1/30/78
Referred: Resources and Finance

IN THE HOUSE BY COWPER

HOUSE BILL NO. 704

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making an appropriation to the Department of Natural Resources, division of land and water management; and providing for an effective date."

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

* Section 1. The sum of $1,200,000 is appropriated from the general fund to the Department of Natural Resources, division of land and water management, for the purpose of reducing the backlog of land and water applications.

* Sec. 2. The unexpended and unobligated portion of this appropriation lapses into the general fund June 30, 1979.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Original sponsors: Swanson, Bennett, Bradley, et al

IN THE HOUSE BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 563

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the location of connections and interchange facilities in certain pipelines; and providing for an effective date."

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

* Section 1. AS 38.35.120(a)(6) is repealed and re-enacted to read:

(6) notwithstanding any other provision, it shall

(A) as to any gas pipeline subject to the provisions of this section the construction of which commences after the effective date of this Act, provide one connection with appropriate valves and appurtenances and necessary metering devices and accessories required to ~~extract~~ deliver an amount at least equal to any state royalty share of the natural gas stream, [at the expense of the company,] within ~~any~~ a time rate or general law borough in which the pipeline is located; the connection shall be located within the borough at a place designated by the commissioner of the Department of Environmental Conservation after consultation with officials of the borough government; and

(B) provide connections and interchange facilities at state expense at such other places the state considers necessary;

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

Proposed amendments

for CS HB 563

by MALONE

LISTED IN ORDER OF IMPORTANCE.

AM #1 { LINE 17 - delete "general law"
LINES 18, 19, 20
delete:
LINE 18 - delete everything after "LOCATED"
LINE 19 - delete entire line 20 delete semicolon and all language before semicolon
— Would allow Kenai Boro to take advantage of act

AM 2 { LINE 17 - delete "general law"
allows all other boroughs (North Slope & Anchorage, Mat-Su, for example) to also benefit by act

(CONTINUED ON reverse)

Am #3 — Line 16 - delete the words "process at least one-eighth" and insert in its place:

"extract an amount at least equal to any state royalty share"

— takes care of problem with word process
— also allows the state to take out more than 1/8 if the royalty share is greater for some future field.

Am #4 — Line 21 & 22 - delete on Line 21 "borough" insert the word "state"

On Line 22 - delete the words "Dept of Envir. Cons." insert "borough"

argument — since we are talking about royalty gas, which belongs to all the people in the state, maybe the state ought to decide where the tax goes — borough assemblys would have a difficult problem taking all state interests into account.

HB
366

HEARING NOTIFICATION TO ADMINISTRATION

BILL NUMBER	LETTER DATE	INFORMED	HEARING DATE
HCR 83	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 555	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 569	1-11-78	Commissioner, Fish & Game	1-19-78
HB 572	1-11-78	Commissioner, Fish & Game	1-19-78
HB 573	1-11-78	Pete Jeans (Commerce), John Williams	1-19-78
HB 574	1-11-78	Pete Jeans (Commerce), Ken Vassar	1-19-78
HB 575	1-11-78	John Williams, Jim Baldwin	1-19-78
HB563	1-11-78	Pipeline Surveillance Coordinator-Anchorage	Not scheduled
all of above	1-19-78	Geoff Haynes Keith Specking Commerce (Pete Jeans)	1-19-78
HB 563	1-19-78		NOT SCHEDULED
✓ HB 566	1-19-78	fish + Game (Morrison); Geoff Haynes; Keith Specking; Nat. Res. (Conhead y)	NOT SCHEDULED
HB 581	1-19-78	fish + Game (Morrison), Geoff Haynes; K. Specking; Entty Comm. (Johnson); Sponsors	Commerce (Jeans); NOT SCHEDULED
HB 590	1-19-78	f+G. (Morrison); G. Haynes; K. Specking	NOT SCHEDULED
HB 591	1-19-78	Administration (K. Sewell); K. Specking; Sponsors	NOT SCHEDULED
HB624	1-19-78	Revenue (Messenger); K. Specking; Sponsors	" "
HB 625	1-19-78	f. + G. (Morrison); Natural Res. (Conhead y); G. Haynes; K. Specking; Steering Council; Sponsors	" "
HB 638	1-19-78	F+G. (Morrison); Rep. Haugen; Geoff Haynes; K. Specking, Natural Res. (Conhead y)	" "
HB650	1-19-78	Commerce (Jeans); Natural Resources (Conhead y); Steering Council; Sponsors;	" " Haynes; Specking
HB 651	1-19-78	Same as HB650	" "
HB 652	1-19-78	Same as HB650	" "

ALASKA
STATE LEGISLATURE

MEMORANDUM

February 2, 1978

TO: Diane Nelson, A.A. for Representative Alvin Osterback

FROM: Adelheid Herrmann, A.A. for Representative Nels A. Anderson, Jr.

SUBJECT: Back up material for HB 625 and HB 566

Diane - Enclosed is back up material for the two house bills. I will be getting more information to you as I collect it.

P.O. Box 91
Dillingham, Alaska 99576

January 9, 1978

Hi Ron:

Me again. This letter is my written testimony on my proposals that I'm personally sending in. Would appreciate it if you would have it read at your Board of Game meeing in March.

In the last seven (7) years I've flown over 3,000 hours, of which, 95% was in unit 17. A good 2,000 of it while hunting and trapping. I've flown the whole unit not just part of it, every year. I've noticed this past two (2) years a real noticable drop in the moose population. The only place I kept records was the Tikchik River in 1975-76-77. In February 1975 I counted some 249 moose in the Tikchik River. In February of 1976, 178 and in January 1977 only 38. Nick Steen done one in 1977 also and I believe his count was around 35. I don't know if he done any the other two years. I've also noticed the Sunshine Vally herd has dropped, how much I cannot say. I did not keep track. The Muklung-Iowithla herd as I call them, are holding out better as the area where they seem to orginiate is heavily timered, not to many big lakes or streams, making fall hunting hard.

Thus the hunting pressure comes in the winter when the "excess" animals come over the hill down the Iowithla in an attempt to reach the main river.

The past two years these moose were hit hard -- I don't believe 10% made it through, including cows and calves.

This year I counted 35 moose on top in November. I spotted 7 kills before the season opened in the same area. I've seen as many as 70 this same time of year in this same area. I believe these moose are the main source for replenishing the lower river.

In conclusion I believe we can take our 21 days winter season, split the time in half and put it on front of our fall season which we can open 10 days earlier and not do any harm and at the same time cut our hunting time by 1/3, reduce the cow take and hopefully get a increase in moose population again.

Thank you for your time and considerations.

Sincerely,

Leon C. Braswell

Leon C. Braswell

...sion of Game
...DIR.
CHIEF BIO.
JAN 19
ADM. ASST.
LIBRARY
FILE
TYPIST

RECEIVED
JAN 19 1978
BOARDS OF FISH AND GAME

Proposal #1

Sec. 5 AAC 81.320 BIG GAME HUNTING, Moose, Unit 17. Change in dates. Delet present dates and add August 20 - September 10. Page 84

JUSTIFICATION: To encourage the taking of bulls only. No one here likes to eat tough rutting bulls. Bigger bulls are being passed up because of the present season being in the rut. Meat hunters would rather shoot smaller bulls and tender cows than taking a chance on smelly, tough bulls. In a ~~late~~ Early season, on the other hand, a big bull would be preferred in late August before he starts to run which makes him tough, and before he mates which makes him tougher and rather smelly.

Proposal #2

Sec. 5 AAC 81.320 BIG GAME HUNTING, Moose, Unit 17. Delete the December season only. Page 84

JUSTIFICATION: We need to protect our cows, being as their the choice meat in winter and poaching of cows is easy during winter days when there isn't much light and nite travel is no problem. Almost impossible to enforce.

Proposal #3 REQUIRE SPECIAL CONSIDERATION SECTION NOT OPEN.

Sec. 5 AAC 84.270 FUR ANIMAL TRAPPING, Beaver

Keep the same season February 1-28/29. Keep same bag limit, 15 per person. Open ALL of Unit 17.

JUSTIFICATION: The beaver made their comeback. Proven by villager's and all interested local people traveling the rivers. Also proven by biological studies done this fall on beaver by State Officials.

Proposal #4

Sec. 5 AAC 81-070 BIG GAME, Prohibit the use of Track Vehicles. Pg. 23 & 24

JUSTIFICATION: Moose tend to yard up in wintering areas making it easier to take. Moose close to villages are readily taken this time of the year in these yarding areas. Moose population is down considerably in Unit 17. Man's mode of travel in winter is so modern now that he can go over

frozen rivers, deep snow, bare tundra, frozen marshes, up hills and over mountains, around large nigger heads, through small brush, through litely timered area's without to much effortand time with one piece of machinery which keeps it max. energy for long periods of time. The poor moose has only what God gave him 4 hoofs with legs to match. He sinks out of sight in soft snow, slips on the ice and tires after a short while of trying to escape at his top speed, slows down and becomes an easy take. Cows and small bulls are again the choice take as big bulls remain tough and skinny through the winter months.

REGULATION PROPOSAL FORM
Alaska Department of Fish and Game

Proposal Concerns:
GAME DIVISION XXX
SPORT FISH DIVISION
COMMERCIAL FISH DIVISION

Submitted by:
Nushagak Advisory Committee

Regulation book page No. 18 in trapping regs.
35 in hunting regs.

Representing:
Leon C Braswell

5-AAC (Alaska Administrative Code) No.:
5 AAC 84.115 (c) 5AAC 81.185 (c) Not spec.

S. W. Alaska
G.M.U. 17 & 9

Objective: Add new regulation
Delete regulation
Amend existing regulation XXX

Phone #.: 842-5227

Area(s) affected: Game Management Units 17 and 9 in S.W. Alaska

Suggested wording (append if lengthy) Those portions of Section C on page 18 in the trapping regulations relating to the attachment of leg bones to wolf hides should be deleted in Game Management Units 17 and 9 for both trapping and hunting.

Justification: This biological information is not currently being used in these units and deletion of this requirement provide a convenience to the trapper and hunter.

REGULATION PROPOSAL FORM
Alaska Department of Fish and Game

Proposal Concerns:
GAME DIVISION XXX
SPORT FISH DIVISION
COMMERCIAL FISH DIVISION

Submitted by:
Nushagak Advisory Committee

Regulation book page No. 68 and 70

Lew C Beardsell
Representing:
S.W. Alaska
G.M.U. 17 and 9

5-AAC (Alaska Administrative Code) No.:
5 AAC 81.320 (5)

Objective: Add new regulation
Delete regulation
Amend existing regulation XXX

Phone #.: 842-5227

Area(s) affected: G.M.U. 9A, 9B and 17.

Suggested wording (append if lengthy)

Caribou G.M.U. 9A, 9B and 17 August 10 - March 31

Bag limit (3) three caribou

Justification: This area is within the range of the Mulchatna caribou herd and all hunting is on the same population. Uniform season and bag limits would be both biologically and enforcement beneficial. The existing discrepancy in season and bag limits present a problem for hunters as it is difficult to

REGULATION PROPOSAL FORM
Alaska Department of Fish and Game

Proposal Concerns:
GAME DIVISION XXX
SPORT FISH DIVISION
COMMERCIAL FISH DIVISION

Submitted by:
Nushagak Advisory Committee
Leon C. Braswell
Representing:
S.W. Alaska G.M.U. 17 and 9

Regulation book page No. 84

5-AAC (Alaska Administrative Code) No.:
5 AAC 31.320 (9)

Objective: Add new regulation
Delete regulation
Amend existing regulation XXX

Phone #.: 842-5227

Area(s) affected: G.M.U. 17 Moose hunting season

Suggested wording (append if lengthy)

G.M.U. 17 Sept. 1-10 Bag limit no change.,
Dec. 10-31

Justification: The committee is recommending uniform season dates for Unit 17 and 9(A), 9(B) and 9(C). This will distribute hunting pressure more uniformly between the two units and eliminate enforcement problems. The earlier season date in September is strongly desired by local residents to eliminate hunting during

REGULATION PROPOSAL FORM
Alaska Department of Fish and Game

Proposal Concerns:
GAME DIVISION XXX
SPORT FISH DIVISION
COMMERCIAL FISH DIVISION

Submitted by:
Nushagak Advisory Committee

Regulation book page No. 81

Lewis C. Beardsley
Representing:
S.W. Alaska
G.M.U. 17 and 9

5-AAC (Alaska Administrative Code) No.:
5 AAC 81.320 (9)

Phone #.: 842-5227

Objective: Add new regulation
Delete regulation
Amend existing regulation XXX

Area(s) affected: G.M.U. 9(A), 9(B) and 9(C) Moose hunting season.

Suggested wording (append if lengthy) G.M.U. 9(A), 9(B) and 9(C).

Sept. 1-10 No change in bag limits..

Dec. 10-31

Justification: The committee is recommending uniform season dates for Unit 17 and 9(A), 9(B) & 9(C). This will distribute hunting pressure more uniformly between the two units and eliminate enforcement problems. The earlier season date in September is strongly desired by local residents to eliminate hunting during the rut.

REGULATION PROPOSAL FORM
Alaska Department of Fish and Game

Proposal Concerns:
GAME DIVISION XXX
SPORT FISH DIVISION
COMMERCIAL FISH DIVISION

Submitted by:
Nushagak Advisory Committee
Tom C. Brownell
Representing:
S.W. Alaska G.M.U. 17 and 9

Regulation book page No. 81

5-AAC (Alaska Administrative Code) No.:
5 AAC 81.320(9)

Objective: Add new regulation
Delete regulation
Amend existing regulation XXX

Phone #.: 842-5227

Area(s) affected: G.M.U. 9(E) Moose hunting season.

Suggested wording (append if lengthy) G.M.U. 9(E) Sept. 1-20. No change in bag limit.

Justification: Eliminate hunting during the rutt when bulls are quite vulnerable to sport hunting. The guides don't need this advantage that isn't considered desirable by local residents who wish to take moose for meat. This will help prevent an escessive harvest.

REGULATION PROPOSAL FORM
Alaska Department of Fish and Game

Proposal Concerns:
GAME DIVISION XXX
SPORT FISH DIVISION
COMMERCIAL FISH DIVISION

Submitted by:
Nushagak Advisory Committee.

Regulation book page No. 16

Leon C. Braswell
Representing:
S.W. Alaska G.M.U. 17 and 9 and 19

5-AAC (Alaska Administrative Code) No.:
5 AAC 81.050

Objective: Add new regulation
Delete regulation
Amend existing regulation XXX

Phone #.: 842-5227

Area(s) affected: G.M.U. 9, 17 and 19

Suggested wording (append if lengthy) Aerial wolf permits shall be issued for Game Management Units 9, 17 and 19 with a limit of ten wolves per permit. Permits shall be renewable and season dates shall be November 1 to April 30.

Justification: Wolf population are increasing in this area. Increases in wolf population have been known to be detrimental to other big game population.

HB

569

HEARING NOTIFICATION TO ADMINISTRATION

BILL NUMBER	LETTER DATE	INFORMED	HEARING DATE
HCR 83	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 555	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 569	1-11-78	Commissioner, Fish & Game	1-19-78
HB 572	1-11-78	Commissioner, Fish & Game	1-19-78
HB 573	1-11-78	Pete Jeans (Commerce), John Williams	1-19-78
HB 574	1-11-78	Pete Jeans (Commerce), Ken Vassar	1-19-78
HB 575	1-11-78	John Williams, Jim Baldwin	1-19-78

STATE OF ALASKA
JAY S. HAMMOND, GOVERNOR
DEPARTMENT OF FISH AND GAME
OFFICE OF THE COMMISSIONER
SUBPORT BUILDING - JUNEAU 99801

January 26, 1978

THE ALASKA DEPARTMENT OF FISH AND GAME COMMENTS ON
(HB 569) "Transplant of caribou to Various Locations in the Shumagin and Aleutian Islands."
Sponsor: Osterback, Hayes and Snider

Background on Relevant Department Activities:

The Department supports the concept of developing some unoccupied habitats through the introduction of appropriate wildlife. Such introductions should proceed with care to avoid undue adverse impact upon resident species of plant and animal life. If the proposed introductions meet this criteria, plus the balance of the items mentioned below, we generally support such introductions.

Evaluating the effect of introductions is complex; for example, introductions may have an adverse effect upon indigenous animals or plants. Once established, the transplanted species may not be available for harvest because of difficult terrain, logistics or the lack of available access. The land owners and the State should enter into cooperative agreements to insure appropriate management of the introduced animals. Management costs, traditionally provided for by sport hunters, should be evaluated to insure equity to the various users. These are a few of the items which should be considered prior to making an introduction.

The Department will be transplanting caribou from the Alaska Peninsula to Nagai Island in the Shumagins in early spring 1978 in compliance with a Statute enacted in 1977. We should learn a considerable amount about logistics and the cost of transplant operations in the lower Alaska Peninsula on this operation. This island chosen does have some reasonably good habitat and several beaches are suitable for aircraft landing, which will facilitate the transplant.

Specific Comments:

Islands under consideration in House Bill 569 are discussed individually as follows:

Big and Little Koniuji Islands - The community of Sand Point is approximately 40 miles to the northwest of these islands. The islands are under consideration for inclusion in the U.S. Federal refuge system as a part of the (d)(2) issue. Topography is steep and favorable habitat may not be present in sufficient volume to support a caribou population of any size. The islands themselves are relatively small.

Ukolnoi Island - Sand Point is approximately 50 miles east of this island. The land ownership is not indicated to change as a result of the Native Claims Settlement Act. The topography is relatively steep and at this time we are not certain that it will support a caribou population

over a long period of time.

Korovin Island - Sand Point is approximately 20 miles to the west. Land ownership status is not indicated as changing as a result of the Native Claims Settlement Act. Some of the island does not appear suitable for caribou habitat, and again, the island may be too small to support a long-term population of caribou.

Tigalda Island - The Village of Akutan is approximately 20 miles to the west; Cape Sarichef Coast Guard Station approximately 20 miles to the north and Cold Bay is 70 miles to the northeast. No indicated land ownership change as a result of the Native Claims Settlement Act. The island is rather small and we are not in a position to evaluate its ability to carry caribou for a long period of time.

Deer Island - This island is located immediately south of Cold Bay. It had an established caribou population prior to the turn of the century with reported migrational movements to the mainland. By 1900 the caribou were no longer present. Obviously the island will support caribou, but there may have been problems because of its size, or other factors that are unknown.

Akutan Island - This island is located west of Unimak Pass; the island has one community of approximately 90 people. The island will probably support a small, carefully managed population of caribou, but the herd should be closely managed to prevent overpopulation and subsequent decline. Transportation to the island is restricted to salt water landings by amphibious aircraft or boat.

Unga - The island is located immediately west of Sand Point and has about 430 people. The island probably can support a population of caribou. Unga was largely selected under A.N.C.S.A.

The foregoing are preliminary comments and not based upon personal experience on these islands. The Department has had considerable experience with island populations of reindeer and caribou with mixed results. It seems probable that many of the proposed locations will support small, carefully managed herds, but some additional evaluation of each site would be beneficial.

Fiscal Impact:

We estimate that transplants to all islands stipulated in HB 569 would require funding at approximately $352,000. With no experience at present in transplanting to these locations, fiscal estimates are, at best, rough estimates. We expect to be able to refine these after conducting the Nagai transplants this spring.

Program Impact:

We feel we could conduct this program with relatively little disruption to ongoing programs, using personnel from King Salmon and Anchorage.

Overall Position:

The Department concurs transplants may be beneficial to some of these islands, but we need a great deal more information on each island before we can make definite recommendations. Of the islands listed, Akutan and Unga appear, at this time, to be the best suited for caribou transplant.

STATE of ALASKA

MEMORANDUM

Received by Division of Game
DIRECTOR
DEP. DIR.
CHIEF RES.

DATE: January 25, 1977 JAN 26

TO: Robert A. Rausch
Director
Division of Game
Juneau

TELEPHONE NO.:

FILE NO.:

ADM. ASS'T.
LIBRARY
FILE
OTHER

FROM: Ronald J. Somerville
Regional Supervisor
Division of Game
Anchorage

SUBJECT: Caribou Transplants - Aleutian Islands

As directed, this is an update on the feasibility of transplanting caribou to specific islands in the Aleutians, SCSHCR 93.

In a previous memo the islands that had the best possibility of supporting a caribou population were specified. They were: Unalaska, Nagai, and Akutan. This memo will attempt to spell out the procedures that will be followed to capture and move caribou to those specified islands and the cost involved.

Because of the remoteness of Umnak and the high cost of operating that far from supply points, it is suggested that caribou be captured from the Port Heiden area and not Umnak. The number of caribou in the Port Heiden area is at least 10,000 compared to an unknown herd size on Umnak but probably much less than 1,000.

A Jet Ranger 206B helicopter will be used to dart caribou using M-99 and Rompun as the immobilizer. The caribou will be moved to holding facilities at Port Heiden as they are captured until a Goose load is acquired, approximately six animals. Six animals in a day is a realistic number and obtainable weather permitting. Because of the long days, animals could be moved to the islands the same day captured.

From information gathered from past transplants, a three female to one male ratio is desirable and capturing pregnant cows provided a bonus of two animals for one if the transplant can be done in May before calving.

At least three biologists will be needed to capture and handle the animals to be transplanted. No personnel or facilities will be needed at the transplant sites. The animals will simply be released on the islands.

Thirty-five to forty animals should be released at each location the first year. The cost of the operation is estimated to be in the neighborhood of $92,420.

The cost to make only one transplant would be approximately one-third or about $38,000. It would be easier to make only one transplant in order to evaluate the techniques and watch the progress of the herd for the first year before doing the other two transplants. Because of the proximity of Nagai Island to Port Heiden, it would be easiest to make the first transplant there.

Salaries are not included in the cost

02-001A

Sometime between now and the actual transplant a reconnaissance should be made of the island or islands to check on the range and release site.

Because of the time frame and the uncertainties of the first transplant it may not be possible to do all three transplants and the spring photo surveys on the Mulchatna and Peninsula caribou herds. Frankly, considering all manpower and money problems we would much prefer May of 1978.

Estimated cost of Aleutian Island caribou transplant

Helicopter

Ferry Time	12 hours	$325/hr.	=	$ 3,900
Day Operation	5 hours	$325/hr.	=	$ 1,625
6 caribou/day for a total of 40 caribou/site 7 days			=	$ 11,375
3 release sites - 21 days flying				$ 34,125
Fuel 27 gal./hr.- 5 hr./day. = 135 gal./day x 21=2835 gal.x $1				$ 2,835
Pilot Room & Board $55/day, 21 days			=	$ 1,155
Total Helicopter			=	$ 42,015

Goose - $240/hr. wet

Ferry Time - variable, depends on location	$ 1,000
Nagi - 300 mi. round trip - 3 hr./trip, 7 trips	$ 5,040
Akutan - 720 mi. round trip - 7 hr./trip, 7 trips	$ 11,760
Unalaska - 800 mi. round trip - 8 hr./trip, 7 trips	$ 13,440
Pilot Room & Board	
Total Goose	$ 31,240

180 Cessna Reconnaissance of Islands	$ 5,000
3 Biologists	
21 days room & board @ $55/day = $1155/biologist	$ 3,465
Transportation	$ 700
Salary	6,000
Drugs and Equipment	$ 10,000
	~~6,000~~
TOTAL	~~$ 92,420~~
	98,420

STATE
of ALASKA

MEMORANDUM

TO:
James W. Brooks
Commissioner

DATE : February 7, 1977

FROM: Robert A. Rausch
Director
Division of GAme

SUBJECT: Car ibou Transplants
Aleutian Islands

This is an update on the feasibility of transplanting caribou onto specific islands in the Aleutians as requested in SCSHCR 93.

There are a number of islands that might support caribou, but in the opinion of the field staff those with the best characteristics are Unalaska, Nagai and Akutan. This summary plan provides an overview of the procedures to be followed in the capture and movement of caribou to the specified islands, and the cost involved.

Because of the remoteness of Umnak and the high cost of operating that far from supply points, it is recommended that caribou be captured from the Port Heiden area instead of Umnak. The number of caribou in the Port Heiden area is at least 10,000 compared to herds of unknown size on Umnak.

A jet ranger 206B helicopter will be used to dart caribou using M99 and Rompun as the immobilizer. The caribou will be moved to holding facilities at Port Heiden as they are captured until a load is acquired, approximately six animals if we use a Grumman Goose. Capture of six animals per day, and their movement, weather permitting, is realistic considering the long days and the accessibility of the animals. If at all possible the animals will be moved the same day captured.

Information gathered from past transplants suggests a three female to one male ratio is desirable, and capturing pregnant cows provides a bonus of two for one when the transplants can be accomplished in May or earlier.

At least three biologists will be needed to capture and handle the animals for transplant. No personnel or facilities will be needed at the transplant sites. The animals will simply be released on the islands.

Thirty-five to forty animals should be released at each location the first year. The cost of the operation is estimated to be in the neighborhood of $98,000. The cost to make only one transplant would be approximately one-third or about $38,000. It would be much easier to make only one transplant the first year in order to evaluate the techniques and watch the progress of the herd for a year before doing the additional work. Because of the proximity of Nagai Island to Port Heiden, it would be easiest to make the first transplant there.

Sometime between now and the actual transplant a reconnaissence should be made of the island, or islands, to fully evaluate the range and release site. Because of the time-frame and the uncertainties of the first transplant and the necessity of negotiating management agreements with appropriate native corporations once funds are available, it may not be possible to do all three transplants and the spring photo surveys of the Mulchatna and Alaska Peninsula caribou herds with our existing manpower. Frankly, considering all factors, including money and manpower I would prefer to carry out this activity in late winter and early spring 1978. However, our activities will be directed by the wishes of the legislature.

In an earlier memo I had mentioned that this Division worked closely with the National Marine Fisheries, in developing a plan to move reindeer from St. Paul Island to St. George Island next summer. We have coordinated this effort with Walt Kirkness. In a telephone conversation Thursday, February 3, 1977, he mentioned the possibility that they might use an alternate source of stock. Nevertheless, we will cooperate with this agency by providing species experts and individuals skilled in handling animals.

Estimated Cost of Aleutian Island Caribou Transplant

Helicopter

Ferry Time	12 hours	$325/hr.	=	$ 3,900
Day Operation	5 hours	$325/hr.	=	$ 1,625
6 caribou/day for a total of 40 caribou/site 7 days			=	$11,375
3 release sites - 21 days flying				$34,125
Fuel 27 gal./hr.-5 hr./day = 135 gal/day x 21 = 2835 gal x $1				$ 2,835
Pilot Room & Board	21 days	$55/day	=	1,155
Total Helicopter			=	$42,015

Goose - $240/hr. wet

Ferry Time - variable, depends on location	$ 1,000
Nagi - 300 mi. round trip - 3 hr./trip, 7 trips	$ 5,040
Akutan - 720 mi. round trip - 7 hr./trip, 7 trips	$11,760
Unalaska - 800 mi. round trip - 8 hr./trip, 7 trips	$13,440
Pilot Room & Board	
Total Goose	$31,240

180 Cessna Reconnaissance of Islands	$ 5,000
3 Biologists	
21 days room & Board @ $55/day = $1,155/biologist	$ 3,465
Transportation	$ 700
Salary	$ 6,000
Drugs and Equipme	$10,000
TOTAL	$98,420

of ALASKA

MEMORANDUM

TO:

John Vania
Game Division
Anchorage

Through: Jim Faro, King Salmon

FROM:

Nick Steen
Game Division
King Salmon

DATE: September 7, 1977

FILE NO:

TELEPHONE NO:

SUBJECT: Caribou transplant to Nagai Island

House Bill No. 289, sponsored by A. Osterback of Sand Point, directs the Department of Fish and Game to transplant 40 caribou from Cold Bay to Nagai Island. In anticipation of this transplant, an aerial survey of the island, using a Widgeon aircraft, was flown on August 23, 1977. Participating in the survey were James Faro, Area Game Biologist, Nick Steen, Assistant Area Game Biologist, John Nickels, Fisheries Technician from Sand Point, and Orin Siebert, Pilot.

Nagai Island lies approximately 19 miles east of Sand Point and is about 31 miles long by 11 miles wide at the widest point. Its ragged coastline forms deep cut fiords. Maximum elevation on the island is 1,842 feet, with numerous elevations exceeding 1,500 feet. The north and south quarters consist of rolling hills covered with what appears to be a lichen. These two areas comprise the majority of habitat appearing suitable for caribou. The central portion is mountainous, with the lower approximately 900 feet covered with alder, willow, and dense beach grass that is not believed suitable habitat for caribou. The upper reaches of the mountains, above 900 feet, change into the same type of habitat found on the extremities of the island. This provides a limited amount of additional caribou range, although it is not contiguous to the extremities. Sufficient range is believed to exist at these higher elevations to permit caribou to freely migrate the length of the island.

The beach fringe of Nagai Island consists mainly of rocky inter-tidal areas bordering steep cliffs. There were, however, several areas that appeared suitable for landing wheel equipped aircraft. Most of these were not in areas considered to have good caribou habitat and were therefore ruled out as release sites. Three locations which seemed to have potential as release sites were investigated from the ground.

The first location was inside a gravel spit on the south side of Eagle Harbor. The gravel had sufficient sand to form a hard base. The spit is affected by tides and landing should be considered only on falling or low tides. The nearest available habitat is high on an adjacent mountain. To reach it, the caribou would have to travel through approximately one mile of dense alder and grass. As a release site, it should be considered poor.

The second location was a sandy beach located on the southwest side of Northeast Bight. It is also below high tide and usable only during part of the day. The nearest suitable habitat is approximately one mile north through dense beach grass and short willows. The site is believed to hold a good potential for a successful release of caribou.

The final area investigated is an isthmus in the southern portion of the island known as "Saddlers Mistake". The west side of the isthmus consists of a wide, flat, white sand beach. The majority lies above the mean high tide mark, and would be usable at all but very high tides. It has no obstruction for several miles on either end providing outstanding approaches for landing aircraft. The nearest available caribou range is approximately one mile southwest through dense beach grass. The lack of tidal restrictions and the easy access to suitable habitat make this the best location for potential caribou release.

The August 23 aerial survey of Nagai was brief and intended only to provide a general over-view of the island. The areas believed suitable for caribou were not checked on the ground and were considered suitable only because they compared favorably to known caribou range. Any herd resulting from the released caribou should be restricted in numbers until much more information is available on the quantity and quality of the range. The herd should be restricted in size to 500 caribou. This herd size is arbitrary and assumes the animals will utilize all available habitat on the island. If they restrict their movements to the habitat in the vicinity of the release site, the size should be reduced to 300 caribou. The limited extent of the caribou range observed on the August 23 survey makes it doubtful if the island could indefinitely sustain a population exceeding the recommended levels. The management goal for the island should be for a long term population, not a boom and bust herd such as occurred on St. Matthews Island.

cc: John Nickels, Sand Point

DEPARTMENT OF FISH AND GAME

ROUTE SLIP

TO:
DIV: Game LOC: Juneau
ATTN: Bob Rausch

Fars and Stein took a look at Nagai Is. for release sites. Looks pretty good. We can probably use wheel aircraft which will save us time and money.

FROM: Jarvis
DATE: 9-15-77 LOC: Anch.

Received by Division of Game
DIRECTOR
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FILE
OTHER:

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

January 13, 1978

MEMORANDUM

SUBJECT: Transmittal of Supporting Material for H. B. 569

TO: The Honorable Alvin Osterback

FROM: George Utermohle
Research Analyst

The sum of $352,000 is necessary to fund transplants of caribou to eight islands in the Aleutian and Shumagin Islands during Fiscal Year 1979.

The Department of Fish and Game estimates that it will cost about $700 per animal to transplant caribou to the Shumagin Islands and about $1,500 per animal to transplant caribou to the Aleutian Islands. It is assumed that a minimum of forty animals must be transplanted to insure that a viable population is established.

The estimated cost of the transplants is determined as follows:

Shumagin Islands

Transplants of 40 caribou at $700 per caribou to Unga Island, Korovin Island, Big Koniuji Island, and Little Koniuji Island $112,000

Aleutian Islands

Transplants of 40 caribou at $1500 per caribou to Ukolnoi Island, Deer Island, Akutan Island, and Tigalda Island will cost.....$240,000

ESTIMATED TOTAL COST $352,000

Supporting material supplied by the Department of Fish and Game is attached.

Attachments

GU:ftc

STATE
of ALASKA

MEMORANDUM

TO: George Utermohle
Research Analyst
Legislative Affairs Agency

DATE: December 27, 1977

FILE NO:

TELEPHONE NO:

FROM: R.A. Rausch
Director
Division of Game
Department of Fish and Game

SUBJECT: Transplants of Caribou to Various Locations in the Shumigan and Aleutian Islands

Developing a cost estimate for moving reindeer or caribou to various locations in the Shumigan and Aleutian Islands has proven to be frustrating. This occurs because of the many variables introduced by the uncertainties of weather, the cost of logistic support and the availability of animals for transplanting. Nevertheless, I have made several estimates of cost that you may use, but I caution that these estimates are not based upon recent experience in moving animals in this area, nor have we had time to obtain firm costs on air charter for any of these operations. The information for the transplant to Nagai is considered reasonably firm and we'll be attempting that move in early 1978. The estimates for moving animals to the Shumigans should remain as we have projected the cost for that island--approximately $700.00 per animal. Similar cost projections for the Aleutians are less firm, but if we use caribou from the Alaskan Peninsula, I believe a cost of $1,500.00 per animal moved is not unreasonable.

There are a host of items that must be solved prior to inauguration of any such move. These items include land ownership patterns on the proposed release sites, the capability of the areas selected to support reindeer or caribou, the relationships of an introduced species to indigenous flora and fauna, provision for harvest in the event of success, provision for access to effect harvest (since the use of public funds are contemplated) and the availability of reindeer for transplant purposes as opposed to caribou from the Alaskan Peninsula (there are reindeer on Umnak and Unalaska, but their availability for use in such an endeavor as has been proposed in unknown at this time). There may be other problems that I have not addressed. To acquaint you with some of the considerations that we entertained when considering the Nagai transplant, I have attached Departmental memoranda dealing with that subject. If I can be of further assistance, please feel free to call upon me.

Attachments

February 18, 1977

The Honorable Alvin Osterback, Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

My staff has prepared the requested cost estimate for transporting 40 caribou from the Alaska Peninsula to Nagai Island, using Cold Bay as the base of operations. The estimate follows:

Caribou Transplant

40 Caribou to Nagai - from Cold Bay

Helicopter @ $325 X 5 hrs per day = $1,625/day X 7 days helicopter time =	$11,375
Goose 3 hr. round trip X 7 trips @$720 = (perhaps less if we can catch caribou in Stepovak Bay)	5,040
Room and board chopper pilot, $55 X 10 days =	550
Fuel at Cold Bay, 945 gal. at .48/gal. =	453
Per diem 3 biologists for 10 days =	1,650
Transportation of staff =	700
Drugs & equipment =	5,000
	$24,768
If helicopters are not available locally, ferry time from Anch. to Cold Bay and return =	3,900
	$28.660

This estimate does not include personnel costs which the division will absorb.

Sincerely,

Robert A. Rausch
Director
Division of Game

STATE
of ALASKA

MEMORANDUM

DATE: February 15, 1977

TO: Ronald J. Somerville
Regional Supervisor
Division of Game
Anchorage

TELEPHONE NO.:

FILE NO.:

FROM: John S. Vania
Management Coordinator
Division of Game
Anchorage

SUBJECT: Nagi Island Caribou
Transplant Cost Estimate

The following is a cost estimate for transplanting caribou to Nagi Island from Cold Bay. The cost of ferry time for the helicopter from Anchorage to Cold Bay and return is separated out.

Helicopter cost per day 5 hours @ $325/hr. $1625	
6 caribou/day for total of 40 caribou 7 days @ $1625/day	$ 11,375
Goose time to Nagi $240/hr. 3 hr. round trip $720	
6 caribou per trip 7 trips @ $720	5,040
Room and board for helicopter pilot 10 days @ $55/day	550
Fuel for helicopter at Cold Bay 945 gal. @ .48 gal.	453
Per diem 3 biologists 10 day @ $55/day	1,650
Transportation	700
Drugs and equipment	5,000
Total	$ 24,768
Ferry time helicopter Anchorage to Cold Bay & Return	3,900
Total with ferry time	$ 28,660

We have checked with most of the helicopter companies in Anchorage and at least two now have contract work on the Alaska Peninsula for this coming spring. None are sure at this time of any contract work for the spring and summer of 1978.

We would make a strong effort to use any suitable helicopter company that is working in the area to avoid ferrying costs; however, we are very skeptical that one will be found. It has been our experience that most helicopter pilots are not qualified to fly a darting operation. Unless they have exceptional flying ability, more time is wasted attempting to dart the animals than is spent ferrying a good pilot and helicopter to the area. This type of low-level flying is also very hazardous and the staff will not fly with just any pilot who happens to be working on the Peninsula.

Jet fuel is available at Cold Bay for 48 cents a gallon if we can purchase it wholesale. No costs are projected for ferrying fuel into the field if it becomes necessary to do so.

The costs you see are bare bones. Everything would have to fall exactly in place to accomplish the transplant at or less than the figures provided.

cc: J. Faro

MEMORANDUM State of Alaska

TO:

John Vania
Game Division
Anchorage

DATE : January 22, 1977

FROM:

Jim Faro
Game Division
King Salmon

SUBJECT: Thoughts concerning caribou transplants from Alaska Peninsula to offshore islands

The following are somewhat disorganized thoughts concerning the proposed transplants of caribou during the summer of 1977 to offshore islands in the vicinity of the Alaska Peninsula. Unfortunately, there is not time to more thoroughly prepare this memo, but these should be helpful in synthesizing the program at this stage of its development.

1. Sources of Caribou:

A. Unimak Island: The island has a healthy caribou herd that is virtually unharvested. Little data are available concerning their patterns of movement and location of concentrations during summer months. In general I would expect them to be on the western portion of the island on the slopes of Pogromni Volcano. Logistics would have to be based out of Cold Bay and only one large landing strip (Cape Sarichef) exists on the island. Large lakes and lagoons exist that could facilitate transportation for amphibious aircraft. The island is part of the U.S.F.W.S. Refuge system and restrictive regulations exist concerning the use of aircraft for transportation of hunters. Problems could exist insuring that transplant activities do not conflict with wilderness management programs of the Refuge. Either of the two main segments of the Alaska Peninsula caribou herd on the mainland could probably supply adequate caribou for the transplant at reduced operational cost.

B. Black Hills-Caribou River: An estimated 3 to 5 thousand caribou occupy the westernmost tip of the Alaska Peninsula. Calving has been documented in these areas the past two years with about 2,500 animals counted from census photographs. Movement patterns after calving are poorly documented and logistics would be best based from Cold Bay. Large strips exist at David River, Cathedral River and Canoe Bay which could facilitate handling of caribou after they have been captured.

C. Ilnik: This is the primary calving ground of the northern portion of the Alaska Peninsula caribou herd. It is the best documented segment of the herd. Approximately 5 to 6 thousand caribou have concentrated in the area for calving in recent years. Following calving, the animals move northward to the upper Meshik River area before they begin to scatter in late June. Logistics could be based from Port Heiden. No large air strips exist in the immediate area to facilitate transportation of captured animals,

but amphibious landings could be made at Wildman Lake, Black Lake or in the inter-tidal area at Ilnik.

D. Cinder River: In the past several years a secondary calving ground has developed near the mouth of the Cinder River. This would be the closest group of animals to Port Heiden if that runway were selected as a logistic center for the transplant (approximately 30-40 miles). The number of caribou to select from would be smaller than from other possible transplant sources (approximately 2-3 thousand). Large pumice patches exist on the upper drainage of Cinder River that could be utilized as a collection point for captured animals prior to actual transplant. In addition, the Department of Public Safety cabin at Pumice Creek could be used as a logistic center.

2. Potential Transplant Areas:

Problems in land ownership have been discussed elsewhere. In addition to private ownership and trespass problems, these should include discussions of the impact on lands within the U.S.F.W.S. Refuge system and perhaps the need to file an environmental impact statement before altering the natural ecology of any Aleutian Island. These comments are made without practical field time on the proposed transplant islands.

A. Deer Island: Located immediately south of Cold Bay, this island had an established caribou population prior to the turn of the century with reported migrational movements to the mainland. By 1900 the caribou were no longer present. This indicated that the island is probably too small to support a permanent population without intensive management to restrict caribou numbers at a level compatible with available habitat. No human settlement occurs on the island, and hunters would have to travel to the island by boat, which means the herd would probably not see a high level of use. The Alaska Peninsula caribou population between False Pass and Nelson Lagoon are nearly as accessible to residents of King Cove as would be a Deer Island population. Residents of Cold Bay presently have both the mainland population and the Unimak Island population available for their use. No developments exist on the island to facilitate receipt of transplant. Saltwater landings or boat transportation of captured caribou would be necessary. For these reasons I would give any transplant to this island a low priority.

B. Akutan Island: Located west of Unimak Pass, this island has one community of approximately 90 people. If a transplant occurs, there would be a resident population available to utilize the caribou once they became established, as well as use by commercial fishermen. Presently the closest population of caribou to residents of the island is on Unimak Island, about 30 miles away. There is no reported history of caribou ever being present on Akutan. Because of the island's small size, the herd would have to be closely managed to prevent over-population and subsequent decline. Transportation to the island is restricted to saltwater landings by amphibious aircraft or by boat.

C. Unalaska Island: The largest island of the proposed transplant sites and located west of Akutan. The island has a human settlement at Dutch Harbor-Unalaska of approximately 250 persons. A transplanted caribou herd could be used by local residents and the commercial fishing fleet. Again no history of caribou existing on the island. A reindeer herd on adjacent Umnak Island is available to hunters with transportation (either boat or aircraft) to that island. Caribou are available on Unimak Island, approximately 80 miles to the east. A large landing strip exists at Dutch Harbor that could facilitate the transplant, otherwise access would have to be by float plane or boat. This island appears to be the most viable of the proposed transplant sites.

D. Nagai Island: Located immediately southeast of Sand Point, a transplant could provide a herd for residents of that community (approximately 430 persons) and commercial fishermen. No history of caribou existing on the island. Access to the island will have to be saltwater landings by amphibious aircraft or boat. One local Naknek resident with experience in the area states areas for entry onto the island are quite limited. The island's small size will require that herd be regulated to prevent over-population. Because of its close access to Sand Point, hunting might be capable of maintaining the population at a level compatible with available habitat, but this is an opinion that can be proven only if a herd becomes established.

E. Metrofania Island: Located between Chignik and Perryville, this island has no history of caribou. Presumably, use of a transplanted herd would be by residents of these communities (approximately 275 persons total, and each about 30 air miles away) and commercial fishermen. Chignik residents have access to the main body of the Alaska Peninsula caribou herd, but residents of Perryville need to travel a much greater distance to take animals for meat. No developments exist on the island that could facilitate the transplant effort. Because of the island's small size, it is doubtful that suitable habitat exists to maintain a viable transplant without intensive management. Logistics are such that hunters would probably not exercise adequate control of the population.

F. St. George Island: One of the Pribilof Islands located well out in the Bering Sea. It has a human population of approximately 160 persons who could make use of a caribou herd. The island once had a reindeer herd transplanted that grew in numbers then crashed. For this reason, it would be inadvisable to transplant caribou without sufficient knowledge to insure a re-occurrence of this pattern did not occur. In addition, it is the most remote of the proposed transplant sites and would have the most expensive logistics. In spite of developments on the island this could facilitate the transplant.

3. Logistic Centers for Transplant:

A. Port Heiden: Located in the central portion of the Alaska Peninsula. This area would be the closest to Anchorage from which many of the materials, supplies and equipment items would have to

be transported. Its primary asset is the close association with the largest numbers of caribou from which to select transplant animals. The movements of the group of caribou calving at Ilnik are the best documented and the secondary calving area exists at Cinder River which could provide animals. Transplant personnel could be housed at the Reeves station if prior arrangements were made. Fuel for helicopters and amphibious aircraft could be delivered to the runway by Reeves Aleutian Airlines.

Disadvantages are:

(1) The lack of fuel for helicopters and perhaps fixed wing aircraft would necessitate additional transport cost.

(2) The area is furthest from most of the proposed transplant sites.

(3) No air charter service exists at Port Heiden that could facilitate or support transplants.

(4) Housing may not be available as the terminal is often fully booked by oil companies.

(5) Few additional landing sites are available for amphibious aircraft except Black Lake, Wildman Lake, or saltwater landings. Particularly if Transplant occurs in July after caribou have moved into the Meshik River area.

B. Cold Bay: Located near the southwestern tip of the Alaska Peninsula. At this time I am inclined to prefer this location over Port Heiden, even though the Department has less adequate data concerning the availability of caribou.

Advantages are:

(1) An abundant supply of jet fuel and av-gas is available at the Cold Bay Airport, so it would not be necessary to transport fuel to the area.

(2) Housing facilities are available at both the Reeves station and the Flying Tigers terminal.

(3) A large, all-weather airport could be an asset for the operation during periods of inclement weather.

(4) Large strips exist at David River, Cathedral River, and Canoe Bay which could serve as a staging station for collection of captured animals. These strips are in the immediate area of the calving grounds.

(5) Both Winship Air Service and Peninsula Airways should have Gruman Gooses stationed in the area. These air services could be an asset to the transplant program, although aircraft might not be available on call.

(6) Closer to transplant sites of Unalaska and Akutan than Port Heiden. About equal distance to Nagai Island or St. Paul, but a significantly greater distance to Metrofania Island.

(7) The availability of a Department office in the area or the U.S.F.W.S. Refuge office to facilitate logistics.

Disadvantages are:

(1) Additional distances from Anchorage would increase cost of transportation of materials, helicopter, and personnel. Savings in fuel cost would probably compensate for that.

(2) Less data available on location and movements of caribou from which to obtain transplant animals. Smaller numbers of caribou to select from.

(3) Area frequently has inclement weather, however, for two of the proposed transplant sites, the same weather factor would be a factor even if working from Port Heiden.

Additional Justification for Selection of Cold Bay area for Logistic Center:

Data for all big game species in the south tip of the Alaska Peninsula is extremely limited. Associated with the capture work, it might be possible to conduct ground composition counts on caribou following calving. Tentatively, we hope to do some photo censusing work this spring.

Also, the area immediately north of the calving grounds has an embryonic moose population of undetermined size. Additional funds could be expended to gather data on its status. Present observations are on a "target of opportunity" basis only.

All personnel associated with the program could be required to fill out observation forms on all big game species except bears. For bears only the locations of dens should be noted. In addition, the skulls of beach dead otter could be collected for Karl Schneider. Skulls from this area closely resemble those of the California or southern sea otter sub-species and are of taxoromic importance. These activities could be accomplished without additional cost to the program.

4. Timing of Transplant:

Calving occurs earliest on the northern portion of the Alaska Peninsula. In general calving occurs about June 1 at Cinder River and Ilnik and about June 15 on Unimak Islands. The Black Hills-Caribou River calving segment falls between these dates. This timing of calving is a factor to be considered in programming the transplant once the logistic center and source of animals has been determined.

May: If animals can be captured prior to calving, then it might be possible to augment the transplant with natural reproduction the first year. This should be attempted only if there is a reasonable certainty that drugs or handling would not result in a high mortality among the cows or their fetus.

Without a spring bear season, both Nick and I would be available to assist the transplant and it would not be necessary to pull as many

personnel from Anchorage or other areas. Weather is normally fair to good during this period, but sub-freezing temperatures and snow storms can occur.

June: At this time it would probably be inadvisable to capture pregnant cows. This would restrict capture efforts to bulls and yearlings. With yearlings, more animals could probably be carried aboard the transplant aircraft. Caribou would still be bunched in large post calving concentrations.

Major activities that the King Salmon office would be associated with would be moose calving surveys, monitoring the moose collaring research done in April, preparing for the McNeil River field season, and perhaps getting the Walrus Island program started. Additional personnel would have to be pulled from other areas, as it is doubtful that both Nick and I could be available for the full program.

Weather is normally excellent with warmer temperatures. Bad storms are not common, but fog could ~~hamper~~ hamper work.

July: Again, capture would be limited to bulls and yearlings as it would probably not be possible to capture both the cow and her calf. In addition, I seem to recall reading there is an initial high mortality in calves immediately following capture (Adak transplant). Caribou would be starting to scatter and it might require additional helicopter time to capture animals. In addition, capture activities could cause abandonment of new born calves.

The King Salmon office should not have major field activities pending. McNeil River (and Round Island?) should be established and on "auto-pilot". Monitoring of collared moose should be completed or require only minimal time. Both Nick and I could probably be associated with the full program.

Weather normally remains good, but it can deteriorate with abundant southeastern rain storms in the later portion of the month, so work would best be done early.

5. Methods of Logistics for Transplant Animals:

A. State Gooses: I have been informed that State aircraft cannot transport "freight" that could be carried by private sector. Transplanting caribou could fall into that definition. Also, during June and July these aircraft may be committed to the commercial fish enforcement program and unavailable. The availability of these planes should be determined well in advance or other arrangements made.

B. Peninsula Airways: Penn Air has recently purchased two Gooses from Reeves Aleutian Airways. One of these planes will be stationed in King Salmon and the other at Cold Bay. The King Salmon Goose should be available in May, but in June and July, it will be committed to hauling passengers for Kulik Lodge and Brooks Camp. The Goose stationed at Cold Bay will be committed to mail runs on three days a week and unavailable on those days. Widgeons could also be available, but with a greatly reduced payload.

C. Winship Air Service: This air charter service has stationed a Goose at Cold Bay in the past. I have no knowledge of its availability this summer, but it has worked for the RCA station on the Aleutians and for the commercial fishing fleet at Dutch Harbor.

6. Personnel:

Chuck Irvine - experienced with capture work on caribou and field conditions on the Alaska Peninsula.

Lee Miller - extensive experience on Alaska Peninsula under field conditions.

Al Franzmann - extensive experience with capture work on moose (caribou?). Should have some experience on Alaska Peninsula following moose work this spring.

Jerry Sexton - very thorough in preparation of equipment and materials, competent under field conditions. Has worked on Alaska Peninsula.

Jim Davis - has his work given him expertise in handling caribou with drugs?

Larry Jennings- has experience with transplant of large game animals (bison and musk ox). His expertise could facilitate handling of animals.

Egbert, Hardy, Modafferi, or Palmer - could fill manpower needs and work could broaden their background knowledge of both work technique and different areas of the State.

For lack of time, I'll leave it at this. My sincerest condolences to whoever has to put it all together - stop looking at me like that!.

HB
522

HEARING NOTIFICATION TO ADMINISTRATION

BILL NUMBER	LETTER DATE	INFORMED	HEARING DATE
HCR 83	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 555	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 569	1-11-78	Commissioner, Fish & Game	1-19-78
HB 572	1-11-78	Commissioner, Fish & Game	1-19-78
HB 573	1-11-78	Pete Jeans (Commerce), John Williams	1-19-78
HB 574	1-11-78	Pete Jeans (Commerce), Ken Vassar	1-19-78
HB 575	1-11-78	John Williams, Jim Baldwin	1-19-78

3/14/78

CS

Introduced: 1/9/78
Referred: Resources and Finance

IN THE HOUSE ~~adopted~~ BY OSTERBACK AND SNIDER

HOUSE BILL NO. 572

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Fish and Game for travel and per diem for the Board of Fisheries to meet with advisory committees; and providing for an effective date."

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

* Section 1. The sum of ~~$200,000~~ $105,000 is appropriated from the general fund to the Department of Fish and Game for the purpose of providing funds for travel and per diem to the Commissioner and ~~three members of the~~ Board of Game for joint meetings with local advisory committees ~~at Kodiak, Sand Point, Unalaska, Naknek, and other~~ in the public and rural communities of the state.

* Sec. 2. The unexpended and unobligated portion of this appropriation lapses into the general fund on June 30, 1979.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

amend) Board of Game

Board

#

Nunam Kitlutsisti
Box 267
Bethel, Ak 99559
April 4, 1978

HB 572 Comm 4/6/78

Commissioner Ron Skoog
Department of Fish and Game
Subport Building
Juneau, Alaska 99811

hello Ron,

Thank you very much for your prompt response to my March 14 letter on advisory board travel. We were quite surprised that the travel of the chairman was approved for the spring round of Fish and Game boards hearings. As a matter of fact, two of the Chairmen did not receive their State TR's in time, so we had to buy their ticket. Please ask your staff to send us a complimentary copy in the future to facilitate travel.

First, we feel that the Fiscal 79' budget request for Advisory Board travel within the Boards of Fish and Game is inadaquate. Your staff is well aware that a majority of the 27 rural boards that require travel have not met or used the funds this year. We all hope that the revitalization of the entire regulatory process through Hammond Administration and d-2 for fish and game will soon have these boards functioning like the three boards in the Delta. If this occurs, the travel funds allocated will be inadaquate to handle the basic costs of 4 meetings a year. The travel cost of our three boards. representing 45 villages, ¼ of all the subsistence villages in the State, will equal $8-10,000 for their four regulatory meetings, not including travel to the master board meetings. You know that AVCP through Nunam Kitlutsisti is handling the the additional costs in order to make the system work. Our Board is committed to this effort, but its funding has a time limit. We would suggest that the Department approach the Governor will a supplemental request of $90,000 for basic travel.

Second, we would like to be alerted of when the Legislature would discuss this issue so that an AVCP representative could inform the logislators of the complete costs from a rural perspective of this worthwhile system.

In peace,
harold sparck, director

cc: Senators Hohman, Sackett, Ferguson
Representatives Anderson, Osterback, Guy, Akers, Nakak, Schaeffer
Keith Specking, Office of the Governor
George Allan, RuralCap

HB 572

Subject: Proposals to improve public input to the existing fish and game regulatory process.

Sorry for the delay in getting this information on the results of the recent workshop to you earlier, but we had some problems in assembling some of the information. The enclosed material represents a summary of the many excellent thoughts which were expressed and will be given every consideration in determining how best to improve the public participation process. As identified at the workshop, basically there are three options which were examined by the three working groups: 1) The "Regional Council" concept; 2) The present system modified; and 3) The Regional Regulatory Authority concept.

In addition to the three proposals and working group comments, we have included a copy of the proposed criteria for issuance of subsistence permits which was discussed at the Anchorage meeting. Included also in the material are the comments relative to the Administration proposal raised at the Governor's meeting on December 13 in Juneau. You may recall there was a request made at the meeting in Anchorage for opinions on constitutional and legal constraints that may be applicable to the proposals under consideration. Due to previous travel commitments, Assistant Attorney General Jeff Haynes, our Advisor in the Department of Law, has not been able to comply with this request; however, these will be available by the time of the Fairbanks meeting.

These proposals will be examined more thoroughly at future public meetings. The next meeting will be at Fairbanks on February 9-10, at Bethel on February 27 through March 2, and at Petersburg, tentatively on February 16.

Thank you for your participation in the workshop. In the Department's view, the workshop was constructive and worthwhile and your views were much appreciated. We are looking forward to additional comments in the forthcoming public meetings.

Sincerely,

Ronald O. Skoog
Commissioner

REGISTER

Name	Address	Organization	Phone No.
Farmer	Box 29, Galena, AK 99741	Koyukon Dev. Corp.	656-1238
Kissinger	Anchorage	Fish & Game	344-0541
ter Charley	Glennallen	C.R.N.A.	
Riffe	813 D St., Anchorage	U.S.F.W.S.	265-4864
Bergstrand	733 W. 4th Ave, Anchorage	F/SLUPC	
k Jensen	Box 2220, Juneau, AK	Guide Board	789-7853
nan C. Emberg	Dillingham	Bristol Bay Fishery	842-5592
mas N. Scarborough	Box 80868, College, AK		479-3412
e Bondurant	St Rt Box 846, Chugiak, AK		688-2692 & 863-4291
DeLeonardis	555 Cordova, Anch.	BLM	277-1561
k Eaton	Box 1423, Kodiak	Koniag, Inc.	486-4147
old Stephan	St. Rt. A, Box 182, Palmer, AK		745-3974
k Bishop	1300 College Rd, Fairbanks	ADF&G	
ald Long	Box 496	Arctic Slope Regional	852-3000
g Hickok	707 A St	AEIDC	279-4523
n Malone	Bethel	AVCP Fish Dev. Corp.	272-8104
ter Newman	Fairbanks	Tanana Chiefs	452-8251
k Conner	21-352B Orange, Elmendorf	Ak Bowhunters Assoc.	753-5363
nis Wilt	Box 1957, Anchorage	Action Agency	265-5324
ith Mortensen	Box 1957, Anchorage	Anch. F&G Advisory Com.	265-5324
bert Belous	540 W. 5th, Anchorage	Nat'l Park Serv.	276-8166
nie Leask	550 W. 8th Ave., Anch.	AFN	274-3611
ve Cline	2 Marine Way, Rm.#11, JNO	Nat'l. Audubon Soc.	586-1167
ck Gregory	Egegik, AK	Bristol Bay Native Assoc.	
Samuelsen	Box 18, Dillingham	BBNC	842-5625
hn Shively	Box 4-U, Anchorage	NANA	276 6030
arold C. Ostrosky	2808 W. 30th, Anch.	Self	274-2414
.C. Hawly	Box 78-D, SRA	CMAL	344-6114

Name	Address	Organization	Phone #
m McDowell	3685 Arctic Blvd., Anchorage	Izaac Walton League	279-1923
g Jaeger	C-3 Bldg., Fish Terminal, Seattle, Wa 98119		(206)285-3383
ck Gunlogson	Box 4-1062	APHA	344-5674
ncy Harvey	515 D. St., Anch.	Alaska Native Found.	274-5638
ve Case	2101 Forest Park Dr., Anch.	Self	279-0090
n Wetzel	Box 80224, College	IWA	479-4383
nald O. Skoog	Juneau	ADF&G	465-4100
ck Szabo	Kodiak	Bd. of Fisheries	486-3853
ll Arvey	Anch.	ADF&G	344-0541
n Fanning	Box 80929, College	Interior AK Trap. Assoc.	479-4383
ris R. Branham	Box 6184, Anch.	Safari Club APHA	277-9403
li Fredrickson	P.O. Box 4-1932, Anch.	APHA	279-7837
y McNutt	Box 10, Sterling	APHA	279-7837
llas Cross	4706 Harding Dr.,Anch.		276-6030
b Paulus	Box 196 Eagle River	ADF&G	344-0341
len E. Wilson	P.O. Box 732, Eagle River	Izaac Walton Sport Game Press Asso.	333-7401
lie Mohr	Box 10-113, Anch.	ADF&G	344-5191
ul Gaskin	P.O. Box 1315, Anch.	Nunam Kitlutsisti	543-2956
as Ricci	3010 Lois Dr.,Anch.	Izaac Walton Sport Game press Assoc.	279-1269
y Massey	Star Rte. Box 209, Eagle River	ADF&G	694-9101
ke Holloway	Rainbow Valley, Indian, AK	Sierra Club	None
d Forsi	107 W. 6th,Suite #25, Anch.	Anch. Adv. Comm. Chair.	274-9517
ari Gross	Box 1352, Juneau	UFA	586-2820
rl L. Rosier	Subport Bldg. Juneau	ADF&G	465-4210
Jeff David	Box 174, Haines	Sealaska Corp.	766-2364
Whitehead	Juneau	Governor's Office	

REGISTER (cont'd)

ne	Address	Organization	Phone #
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ry Jablonski	Subport Bldg. Juneau	ADF&G	465-4100
be Andrews	Subport Bldg., Juneau	"	465-4180
lores Moulton	" " "	"	465-4113
enora Dunazan	Comm Fish, Anch.	"	
hn Burns	Fairbanks	"	452-1531
lt Parker	733 W. 4th, ANch.	F/S LUPC	279-9565
orge Allen	Box 3-3908, Anch.	RURALCAP	279-2441
arrell Farmen	Anch.	Game Bd.	344-3202
enn Collius	1233-11th Ave., Anch.	Kvichak Club	279-7988
hn Moore	3840 Robin St., Anch.	Bristol Bay Native Corp.	278-3602
ck Lauber	120 W. 1st St., Juneau	Assoc. Pacific Fisheries	586-6366
nny Harris	3945 Balchew Dr., Anch.	Sierra Club	
erry Gilliland	Box 120, Anch.	Dept. of Interior	

Meeting with Governor Hammond concerning Regional Councils Proposal- 12/13/77

December 13, 1977 - Governor's Conference Room (Continuing later that day in the auditorium of the Alaska Department of Fish and Game).

The following people were in attendance: Messrs, Anderson, Cross, Ohlsen, Allen, Smith, Eaton, Jones, Jensen, McHutt, Fanning, Holloway, Bergstrand, Whitehead, Palmer, Specking, Boddy, Jensen, Frost, Newman Kaill, Haynes, Huizer, Lane, Paddock, Dinnerline, Belous, Skoog, Demientieff, Newmann, See; Ms. Lease, Lobaugh, Moulton, Jablonski, and others.

Introduction by Governor Hammond

GENERAL COMMENTS WITH REFERENCE TO DRAFT PROPOSAL OF 11/18/77

Statewide Boards should be comprised of Regional Council Chairmen.

10-year residency is unrealistic.

Regional Council membership is not clear to individuals.

Many problems are foreseen trying to get area people together to solve problems.

Burden of proof must rest with the Master Boards.

We should convince the public how serious threat is from Federal level. Keep in mind what Congress is doing.

Only a particular issue brings people to advisory committee meetings. This proposal will not do it.

Proposal avoids issue of subsistence. We should come up with a definition of subsistence. Broad guidelines on subsistence should be set to apply to all Alaskans.

We should take into consideration other boundaries rather than Game Management Units.

Consider more thoroughly the makeup of regional and local groups. They will be vulnerable to Federal Advisory Procedures Act. The members must actively participate--if not, the statute applies.

Chairman and Vice Chairman of Advisory Committees should sit on regional Council. May be desirable to go one step further and have someone from local community sit on the Master Boards.

Provide forum for groups that are concerned with Title 7 to come together within context of State proposed plan.

Contact D2 Associated agencies - get input on establishment of new statewide schemes.

Straw vote taken on going with our proposal:

Board System as it stands now: 4

Regional Council Proposal with changes: 19

Proposal as it now stands: 2

QUESTIONS

Should the power now given to the advisory committees re emergency closures be given to Regional Councils?

Will there be any accompanying changes within the Department?

To what extent is this approach an effort to really decentralize authority and to really get grass roots input and to what extent is it to derail action Congress takes?

Are 52 committees representative of all people?

How much is the State willing to spend? Legislature has been reluctant to give what is needed as far as funding. Could this money be used better on management and research within the Department?

What is the definition of subsistence user?

How well does the proposed Department of Fish and Game reorganization mes' with the proposal?

Should we have different boundaries for regions?

How membership of Boards, Advisory Committees and Regional Councils is established?

Selection of members when term expires?

Should we give more authority to Regional Councils?

SUGGESTED AGENDA
ITEMS FOR FORTHCOMING WORKSHOP

1. Level of Authority
   a. Centralized i.e. Governor, Commissioner, Boards.
   b. Regional or local.
2. Expansion of Present System
   a. Expansion of advisory system.
   b. How to get broad representation.
3. Composition of Statewide Boards
   a. How chosen
   b. Adequate distribution throughout State.
   c. Change in statutes.
4. Composition of Regional Councils
   a. How chosen.
   b. Adequate distribution throughout State.
   c. Residency requirements.
   d. Representation from advisory committees.
5. Regional Boundaries
   a. Game management units
   b. Resource distribution
   c. Election districts
   d. Population Centers (1 man/1 vote concept)
   e. Choosing areas which force people to review other people's problems and consider resource conflicts
6. Implementation
   a. Legislative authority (change in statute) or by existing authority (regulatory)
   b. Funding
   c. Staffing

Working Group Comments

Proposal: 3
Regional APA Authority

This working group felt that since this would be a totally new system they were at a disadvantage due to time constraints. They were primarily concerned with local use of the resources. Consensus was not reached on some points.

Pros

1. Decentralized authority would maximize participation.

2. The need for regions to better recognize regional differences.

3. Regional authority provides adequate representation to better satisfy local resource needs.

4. Regions are better able to implement the State's policies on priority of resource use.

5. Regional authority would promote the development of wildlife management plans for each region.

6. Regional rulemaking groups have a better opportunity to get close to their constituents.

Cons

1. There are potential problems in completely delegating responsibility to the region.

2. Additional cost in splitting up staff of the Department.

3. Need for overriding view of responsibility for wildlife conservation and management within the state.

4. Possible need for changes in the Administrative Procedures Act.

Conclusion

The group suggested statutory establishment of a two-tier system of authority.

They suggested that the number of regions be based on a study and public hearing process.

The group felt that rather than subsistence management plans being developed, the aim should be for regional wildlife management plans.

Board members should be selected from Regions.

Every region should have its own staff which would be separate from the centralized State staff.

PROPOSAL: 3

Advisory Committees and Regional Councils with A.P.A. Authority

A. Elements

1. Retain present Advisory Committees.

   a. Committees advisory to one Regional Board only.

   b. Committees advisory on all species: Big and small game, finfish, shellfish, furbearers, etc.

      (1) Option: The Regional Board to specify which Advisory Committee(s) have authority for which species groups.

   c. Appropriate Regional Board administers Advisory Committee system in its Region: appointments, organization and rules, correspondence with Board, notification of deadlines, etc.

      (1) Regional Board to determine where a specfic number of Advisory Committees will be located.

      (2) Option: Office of the Commissioner take over (retain) the coordination/administration function regarding Advisory Committees.

2. Create Regional Boards with specifically assigned geographical areas of jurisdiction.

   a. Membership.

      (1) Appointed by the Governor, staggered terms.

      (2) Five (5) to seven (7) members.

      (3) To represent all major user groups.

      (4) Not members of Advisory Committees.

   b. Authority:

      (1) In compliance with APA, has rule-making authority.

         (a) on all sections of the regulation

         (b) Option: on season and bag limits only, with general provisions, methods and means, etc., promulgated by the Commissioner, acting on recommendations from the Boards.

3. Proposals for regulatory change submitted by public, Advisory Committees and staff to Regional Boards, who compile, publish, hold hearings and promulgate.

continued ...

4. Regulations adopted by Regional Boards sent to Commissioner, who reviews for uniformity.

   a. Commissioner may veto regulatory changes in the broad public interest.

      (1) Would require changes in Titles 44 and 16.

   b. Appeals Board to review and approve all proposed Commissioner vetoes.

      (1) Action of the Appeals must be exempted from APA with regard to 30 day notice.

   c. Regulations revert to existing form in case of veto.

   d. Commissioner retains authority for promulgation of emergency regulations.

5. Each Regional Board provided legal counsel by Department of Law.

6. Each Regional Board provided with administrative assistance, e.g., a permanent secretary, with office and support.

7. Appeals Board appointed by Governor, with one member from each of the five (5) Regional Boards.

PROPOSED ELIGIBILITY CRITERIA - SUBSISTENCE PERMITS

Although subsistence fishing permits for salmon have been distributed for many years, no general set of eligibility standards have been established. This is desirable if the Board determines that subsistence fishing should be permitted on the basis of need or hardship or other criteria.

A number of options were developed which could be imposed as regulations within the General Provisions framework of the regulations. Then on an area by area, regional, subarea, district or other geographical unit basis the various criteria deemed applicable within each area could be imposed.

The proposed eligibility criteria include:

1. Age

    a) 60 years - same as free sport fishing and hunting license (but without 30-year longevity)

2. Residency

    a) Twelve (12) months - same as sport fishing and hunting licensing

3. Physical Disability

    a) Add a proxy to permit if necessary

    b) Need affidavit of disability or proof of injury

4. Past participation in subsistence fishery

    a) Number of years can vary by area

5. Demonstrable abnormal difficulty in obtaining protein food supply

6. Income

    a) Scaled by region or area

    b) Minimum set at welfare eligibility standard

    c) Sliding scale based on family or household size

7. Longevity within the area

    a) Fifteen (15) years - suggested

8. Severe Hardship

    a) Natural disaster temporarily and unavoidably affecting the applicant's ability to provide essential food supplies

continued....

9. Availability of food resource that could be kept for personal use from a commercial taking

10. Availability of alternate subsistence permits or resources

11. Willingness of applicant to combine with another family unit to share one household limit

12. Opportunity to take an equivalent amount by recreational use

13. Past history of fish and game violations

14. Lottery

15. Allocation based on aboriginal title

ANCHORAGE WORKSHOP
December 28-29, 1977

Working Group Comments

Proposal: 2
Retention of Present
Board System

The working group examined the question of retaining the present regulatory system of advisory committees and two Boards - Fisheries and Game, who have the final authority to promulgate regulatory proposals. It was the consensus of this study group that the present system should be retained but should be improved in a number of ways to expand the effectiveness of the local advisory committees and provide for a different way to select the members of the local advisory committees and of the Boards of Fisheries and Game.

Pros

1. Provides for consistent statewide management policies,

2. Minimizes regional resource ownership concept.

3. Provides opportunity for consideration of resource needs of game and fish by specialized boards.

4. Provides for continuation of present Board system as regulatory and management entity for interface with North Pacific Fisheries Management Council.

5. Cost of administration is moderate.

Cons

1. At present, local committees are self-perpetuating within the membership restricting new members and/or user group representation.

2. Does not allow equal participation by all user groups.

3. Does not allow for accurate representation of user groups in a particular area.

4. Political method of selection is undesirable.

5. Boards do not reflect a geographically representative cross-section of significant user groups.

Conclusion

A strong recommendation was made to provide financial support to local advisory committees and to provide an annual salary for Board of Fisheries and Game members.

The group felt that members should be elected by popular election at a meeting of the local advisory committee called for that purpose with nominations from the public and a nominating committee. To accomplish selection of Board members, the State should establish a mechanism for popular elections within each of not more than 7 regions; the total number of members on each board.

Proposal: 2
Present System - Boards of Fisheries and Game

I. Elements

A. Fifty two advisory committees statewide representing varied resource user groups within all geographic areas

B. Statewide Boards of Fisheries and Game

1. Fisheries Board

a. Seven members appointed by Governor

b. Required by statute to hold 5 meetings or hearings per year in designated areas of the state

(1) Upper Yukon-Kuskokwim-Arctic

(2) Western Alaska (including Kodiak)

(3) Southcentral

(4) Prince William Sound (including Yakutat)

(5) Southeast

c. Statewide rule making authority for all resident species of fish

2. Game Board

a. Seven members appointed by Governor

b. Required by statute to hold 1 meeting per year and others as necessary

c. Statewide rule making authority for all resident game species

C. Proposals emanate from advisory committees, public, agencies, Board members and department staff

D. Both Boards required to adopt regulations in conformance with A.P.A.

alaska department of fish & game

Subport Bldg., Juneau, Alaska 99801 Phone: 465-4113

Jay S. Hammond
Governor

Ronald O. Skoog
Commissioner

NEWS

IMMEDIATE RELEASE JANUARY 9, 1978

STATE EXAMINES FISH AND GAME OPTIONS

JUNEAU---Alaska's fish and game regulatory system may be in for some major changes. The State is studying a number of proposals which could substantially alter the present system.

In a workshop session in Anchorage Dec. 28-29, the Department of Fish and Game presented a proposal which would add five regional councils to the present system of local advisory committees and the Boards of Fisheries and Game. Representatives of a broad cross-section of user groups were invited to the workshop to critique the propos

During the workshop members of the public developed the State's proposal further, and began work on two more. One of the latter would consist simply of modifications to the present system, while the other would place all regulation-making authority in local hands.

The State plans to hold another public participation meeting in Fairbanks Feb. 9-10, starting at 10:00 a.m. at the Fairbanks Traveler's Inn, during which all three proposals will be examined in greater detail. That will be followed by a third session scheduled for Feb. 27 - March 2 in Bethel. The joint Boards of Fisheries and Game will be present in Bethel to meet with interested members of the public.

####

ANCHORAGE WORKSHOP
December 28-29, 1977

Working Group Comments

Proposal: 1
Advisory Committees/
Regional Council/
Master Boards

Discussion on the proposal centered around:

1. Regional Boundaries
2. Number of regions
3. Authorities of Regional councils
4. Authority mechanisms for establishing Regional councils
5. Protection of subsistence user under HR-39. Identification of subsistence
6. Concerns over specific individual sections of the proposal as drafted
7. Qualifications for serving on councils

Concensus was not reached within the group on most points. While the committee could not reach concensus there was general support for the regional concept with modifications.

Pros

1. Most committee members supported a minimal number of regions.
2. General agreement that Councils should not have regulatory authority.
3. Committee members supported establishment of Regional Councils by existing authority rather than legislation.

Cons

1. Proposed regional boundaries were generally unacceptable.
2. Committee identified need for definition of subsistence.
3. Guiding industry does not seem protected or considered.
4. Ten (10) year residency requirement is excessive.

Conclusion

In general, the goals of the Regional Council concept seem desirable; public input and dialogue is certainly to be sought.

JAY S. HAMMOND

STATE OF ALASKA

JUNEAU

November 18, 1977
DRAFT PROPOSAL

A REVISED SYSTEM FOR

1) THE ADOPTION OF FISH AND GAME REGULATIONS BY THE ALASKA BOARDS OF FISHERIES AND GAME, AND
2) THE DEVELOPMENT OF SUBSISTENCE AND MANAGEMENT PLANS

BY MEANS OF INCREASED LOCAL AND REGIONAL PUBLIC PARTICIPATION

BACKGROUND

In recent years, the inadequacy of public participation in the present system of fish and game regulatory procedures has become increasingly apparent. Although the system in use by the Boards of Fisheries and Game since statehood has provided more public participation than exists in most states, the size of Alaska, widely dispersed communities, changing land use and ownership patterns, and the increasing complexity and competition of consumptive and nonconsumptive uses makes it necessary to modernize substantially the system. With these factors in mind, the Governor and the Department of Fish and Game have developed the attached proposal.

IMPLEMENTATION OF PROPOSAL

The proposal is now being reviewed with Congressional and Legislative leaders, Boards of Fisheries and Game members, appropriate user-group representatives and individuals. The proposal will be modified in accord with the recommendations developed during this review phase. The modified draft proposal will be presented to the Boards of Fisheries and Game for their consideration and final action in accordance with public notice and hearing provisions of the Administrative Procedure Act. The timetable calls for the implementation of the plan by July 1, 1978, so that the new system will be operational for the Board meetings in the Fall of 1978.

POLICY CONSIDERATIONS OF PROPOSAL

A. THERE IS AN OVERRIDING NEED TO HAVE GREATER LOCAL AND REGIONAL PARTICIPATION IN THE DEVELOPMENT OF FISH AND GAME REGULATIONS.

The proposal addresses this need by retaining the existing local advisory committee system and establishing a new system of "Regional Councils."

Five Regional Councils are proposed representing logical geographic and resource areas of the State. Each Regional Council will have seven members, consisting of the chairmen of Local Committees within the region. Provisions are made for those situations where either more or less than seven Local Committees exist in a region. All regulatory proposals affecting the regions and all proposals of a Statewide nature will be processed by the Boards and sent to the appropriate Local Committees and Regional Councils for their review. Regional Councils will consider Local Committee recommendations together with public and agency comments in the development of the recommendations they submit to the Boards. These recommendations and all other regulatory proposals will be considered by the Boards prior to final action and adoption of regulations. It is the stated intent that the Boards will follow the recommendations of the Regional Councils except for specific reasons listed in the proposal. The proposal also requires reconsideration by the Boards if a majority of the five Regional Council members in attendance at a Board meeting oppose any decision of the Boards.

B. THERE IS A NEED TO SUPPORT LOCAL, REGIONAL AND STATEWIDE BOARD MEETING ATTENDANCE BY MEANS OF A FINANCIAL COMMITMENT ON THE PART OF THE STATE TO REIMBURSE TRAVEL EXPENSES FOR LOCAL COMMITTEE AND REGIONAL COUNCIL MEMBERS.

In recognition of this need, the proposal specifies that travel expenses for the following activities will be reimbursed by the State: (1) participation of Local Committee members at Local Committee meetings; (2) participation of Local Committee chairmen (and vice chairmen in some cases) at Regional Council meetings; and (3) participation of Regional Council chairmen at meetings of the Boards of Fisheries and Game.

C. THERE IS A NEED FOR LOCAL AND REGIONAL LEADERSHIP IN THE PREPARATION OF PROPOSED SUBSISTENCE MANAGEMENT PLANS FOR CONSIDERATION AND IMPLEMENTATION BY THE BOARDS OF FISHERIES AND GAME.

In recognition of this need, the proposal specifies that Local Committees will cooperate with Regional Councils in the preparation of a proposed Subsistence Management Plan, together with implementing regulations, for the region. The elements of the plan and the framework for the adoption of the Subsistence Management Plans and implementing regulations by the Boards are described in the proposal. Subsistence use will continue to be the top priority use of our fish and wildlife resources.

D. THERE IS A NEED FOR INCREASED STATE AGENCY STAFF SUPPORT FOR LOCAL COMMITTEE AND REGIONAL COUNCIL ACTIVITIES.

In recognition of this need, the Administration supports the appropriation of funding for five regional staff coordinators in the Department of Fish and Game. The coordinators will work closely with Local Committees and Regional Councils regarding; (1) the preparation and review of regulatory proposals and the transmittal of recommendations to the Boards; (2) the preparation of subsistence plan proposals for the Boards; and (3) the review of fish and game management plans in conjunction with appropriate Department of Fish and Game biologists. The Departments of Fish and Game and Public Safety will provide technical and scientific

expertise as requested. The Department of Law will provide legal assistance to Local Committees and Regional Councils regarding the regulatory process. In addition, the increased staff support now being provided to the Boards of Fisheries and Game will enable them to work more closely with and provide better support to the Local Committees and Regional Councils.

ALASKA ADMINISTRATIVE CODE

TITLE 5.

FISH AND GAME

PART 7.

FISH AND GAME COMMITTEES AND COUNCILS
BOARDS OF FISHERIES AND GAME

CHAPTER 96.

LOCAL FISH AND GAME COMMITTEES AND
REGIONAL FISH AND GAME COUNCILS

ARTICLE 1.

LOCAL FISH AND GAME COMMITTEES

5 AAC 96.001. ESTABLISHMENT OF LOCAL FISH AND GAME COMMITTEE SYSTEM. Under authority of AS 16.05.260, there is established a system of local fish and game committees (hereafter local committees) to provide a forum for the collection and expression of opinions and recommendations on matters relating to fish and game resources.

5 AAC 96.002. CREATION OF LOCAL COMMITTEES. Three or more interested persons in the State may petition the Boards of Fisheries and Game for creation of a local committee. A local committee must be approved by the boards before commencing its operations. The boards will designate the locus of the committee.

5 AAC 96.003. COMPOSITION OF COMMITTEES. Each local committee shall be comprised of a membership which, to the extent possible, is representative of the full range of user groups of the general area. The number of committee members shall be not less than five nor more than fifteen, with the exact number to be determined in accordance with procedures set forth in sec. 006 of this chapter.

5 AAC 96.004. QUALIFICATIONS FOR MEMBERS. To qualify for membership on a local committee, a candidate must be a resident of the state and the area served by the committee, informed and experienced with regard to the fish and game resources of the area, and be of a reputation within the community consistent with the responsibility of committee membership.

5 AAC 96.005. FUNCTIONS OF LOCAL COMMITTEES. Local committees shall be responsible for:

(1) developing regulatory proposals for submission to the boards;

(2) advising the appropriate regional fish and game council on needed measures for the conservation and utilization of fish and game resources;

(3) evaluating regulatory proposals submitted to it and making recommendations to the appropriate regional council;

(4) providing a forum for the expression of opinions and recommendations by persons interested in any phase of fish and game conservation and utilization;

(5) cooperating with the appropriate regional council in the development of subsistence management plans; and

(6) cooperating and consulting with interested persons and organizations (including government agencies) in order to accomplish the foregoing.

5 AAC 96.006. UNIFORM RULES OF OPERATION. All actions undertaken in conjunction with the formation or operation of a local committee shall comply with the uniform rules of operation, which are as follows:

(1) Organization. The committee shall be organized under authority of AS 16.05.260 and shall be administered by the Boards of Fisheries and Game.

(2) Responsibilities. The committee shall be responsible for performing the functions described in sec. 005 of this chapter in accordance with the provisions of Chapters 96 and 97 of this title.

(3) Title. The committee shall have a title.

(4) Membership. The committee is composed of not less than five nor more than fifteen persons who have been appointed by or confirmed by the boards. The boards shall approve the first five members of the committee. Thereafter, nominations for additional members may be submitted by committee members or by local citizens. The committee shall vote on all nominations at regular public meetings. A majority of the members of the committee is necessary to elect a new member. Newly elected members have full voting and office holding rights until confirming action is taken by the boards. Any proposed member refused confirmation by the boards loses membership status when his nomination is refused. The committee may commence its operations as soon as the first five members are appointed by the boards.

(5) Terms of Members. Terms shall be set by the boards so that not more than one third of the committee members terms expire in one calendar year. Terms shall commence on January 1 and expire on December 31 of the year designated, or until a successor has been duly elected at the next meeting scheduled.

(6) Vacancies. Vacancies shall be filled through nomination and election by the committee as set forth in (4) above. However, if a vacancy causes the number of committee members to fall below five, the boards shall fill the vacancy, or dissolve the committee. Terms for members filling vacancies shall be set in accordance with (5) above. A vacancy in the committee shall be declared by the chairman on the happening of any of the following events:

(A) the death of, the resignation, of or the refusal to accept election by, any member;

(B) the recurring absence of a member from regularly advertised meetings without reasonable justification, as determined by a majority vote of the committee; or

(C) removal of a member by the boards for cause.

(7) Nominations. A nomination for committee membership may be submitted to the committee by a member or by a local citizen at any regular meeting or in writing to the chairman. The committee shall vote on all nominations at the next regular meeting.

(8) Officers. The officers of the committee shall consist of a chairman, a vice-chairman, and a secretary.

(9) Terms of Officers. The term of office for officers is two years commencing January 1 and ending December 31 of the following year, or until the next meeting that new officers can be elected, or ending at the end of the term of the member, when such term is for less than two years.

(10) Chairman. The chairman shall be elected by a majority vote of the committee and shall be the presiding officer; the chairman may call meetings of the committee.

(11) Vice Chairman. The vice chairman shall be elected by a majority vote of the committee and shall assist the chairman and assume his duties when the chairman is absent.

(12) Secretary. The secretary shall be elected by a majority vote of the committee and may, but need not, be a member of the committee. The secretary shall carry out the usual duties associated with this office. If the secretary is not a committee member, he shall have no vote in committee business.

(13) Resignation of Officers. If an officer withdraws before his term expires a special election shall be held to fill the office for the unexpired term.

(14) Meetings. The committee shall meet at such times as are necessary to participate in the process described in 5 AAC 97.061, and at such other times as considered desirable to formulate regulatory proposals and consider other appropriate matters including subsistence management policies.

(15) Public Meetings. Public meetings at which any interested persons may submit statements to the committee may be held from time to time on any matter relating to the purposes for which the committee is formed.

(16) Public Proceedings. Meetings and hearings of the committee shall be open to the public and advertised in the locality where the committee is organized.

(17) Quorum. A majority of the members serving on the committee constitutes a quorum for the transaction of business. Every act or decision done or made by a majority of the members present at a meeting of the committee duly held, at which a quorum is present, is the act of the committee.

(18) Rules of Meetings. The meetings of the committee shall be conducted according to the latest edition of Robert's Rules of Order.

5 AAC 96.007. REPORT OF ACTIVITIES. The chairman of each local committee shall annually, no later than December 31, furnish the boards with a current list of the names and addresses of those members of the committee and the expiration date of term for each member of the committee. Written reports of committee activities for the calendar year shall be made to the Boards during the ensuing January. This provision shall be satisfied if minutes of each meeting and all changes in membership status are submitted to the boards on a regular basis after each meeting throughout the year.

5 AAC 96.008. INTERACTION WITH REGIONAL FISH AND GAME COUNCIL. Local committees shall, to the fullest extent possible, coordinate their activities with those of the applicable regional council so that their respective functions and actions are complimentary. In selecting a chairman, local committees shall insure that the individual elected meets the qualifications of sec. 054 of this chapter.

5 AAC 96.009. ATTENDANCE AT MEETINGS. If funding is approved in conformance with 5 AAC 97.033 (b), the chairman (or his designee) of each local committee not selected under sec. 053 (c) of this chapter shall attend meetings of the applicable regional council. Each local committee shall cooperate with other local committees on matters of mutual interest and concern, and may hold joint meetings to effectuate this purpose.

ARTICLE 2.

REGIONAL FISH AND GAME COUNCILS

5 AAC 96.050. ESTABLISHMENT OF REGIONAL FISH AND GAME COUNCIL SYSTEM. Under authority of AS 16.05.260, there is established a system of regional fish and game councils (hereafter regional councils) to provide a regional forum for the collection and expression of opinions and recommendations on matters relating to fish and game resources.

5 AAC 96.051. CREATION OF REGIONAL COUNCILS. (a) There are created five regional councils, each of which shall operate in and be responsible for the following areas:

(1) Region I - Game Management Units 1 - 5 and that portion of Unit 6A from Cape Suckling to the boundary of Unit 6 with Unit 5;

(2) Region II - Game Management Units 6 (exclusive of the area described above as part of Region I), 7,9A, 13,14,15, and 16;

(3) Region III - Game Management Units 8,9B,9C,9E,17, and 19;

(4) Region IV - Game Management Units 12,18,19,20,21,24, and 25;

(5) Region V - Game Management Units 22,23, and 26.

(b) Each of the above regions include any adjacent marine waters subject to the jurisdiction of the state.

5 AAC 96.053. COMPOSITION. (a) Each regional council shall be composed of seven members.

(b) In regions containing seven local committees, the membership of the regional council shall be comprised of the chairmen of the local committees in the region.

(c) In regions containing more than seven local committees, the members of the regional council shall be selected by lottery from among the chairmen of the local committees of the region, except that the lottery shall be conducted so that the members of the regional council are distributed to represent all game management units or subunits of the region.

(d) In regions containing fewer than seven local committees, the members in addition to the local chairmen shall be selected by lottery from a list of local committee vice chairmen.

(e) All lotteries snall be conducted in accordance with procedures promulgated by the Boards of Fisheries and Game.

5 AAC 96.054. QUALIFICATIONS FOR MEMBERSHIP To qualify for membership on a regional council, a candidate must meet the following qualifications:

(1) resident of the region for at least ten years;

(2) informed and experienced with regard to fish and game resources of the region; and

(3) free of fish and game violations (including disciplinary action) for the previous five years.

5 AAC 96.055. NONVOTING MEMBERS. In addition to the seven voting members on each regional council, a regional council at its discretion may appoint up to a total of three nonvoting members from among the federal and state natural resource management and enforcement agencies active in the region.

5 AAC 96.056. FUNCTIONS OF REGIONAL COUNCILS. (a) Each regional council shall be responsible for:

(1) reviewing, developing, and making recommendations to the Boards of Fisheries and Game on proposals for regulations, policies, management plans, and other matters relating to the conservation and utilization of fish and game resources in accordance with the procedure set forth in 5 AAC 97.061 (see page 11);

(2) providing a forum for the expression of opinions and recommendations by persons interested in any phase of fish and game conservation and utilization;

(3) maximizing local and regional participation in the fish and game decision-making process; and

(4) cooperating and consulting with local committees and with other interested persons and organizations (including government agencies) in order to accomplish the foregoing.

(b) In addition, each regional council shall prepare a proposed "Subsistence Management Plan" for the region. The plan shall contain the following elements:

(1) identification of current and anticipated subsistence uses;

(2) evaluation and definition of subsistence needs;

(3) identification of users, zones, and other elements and concepts which must be recognized in any plan;

(4) proposed subsistence management strategy for the region; and

(5) proposals for policies, standards, guidelines, and regulations necessary to implement the subsistence management plan.

(c) The Subsistence Management Plan described in (b) shall be prepared in consultation with the local committees, affected users, interested individuals and organizations, and state and federal fish and wildlife management agencies. The plans shall be submitted so as to be considered and approved by the boards at a meeting designated by the boards, and shall be updated annually by the regional council.

5 AAC 96.057. INTERACTION WITH LOCAL COMMITTEES. (a) Regional councils shall provide direction to and assist local committees in obtaining the opinions and recommendations of interested persons on fish and game matters in a manner which maximizes local participation in the fish and game decision-making process. Where differences of opinion exist between local committees, the regional council shall attempt to explore areas of compromise before taking its own position on the matter.

(b) Regional councils may make recommendations to the boards on the creation, consolidation, distribution, or other matters pertaining to the operation of the local committee system.

5 AAC 96.058. UNIFORM RULES OF OPERATION. All actions undertaken by a regional council shall comply with the uniform rules of operation contained in sec. 006, of this chapter, except that the rules set forth in the remainder of this section shall supplant the corresponding rule in sec. 006.

(2) Responsibilities. The council shall be responsible for performing the functions described in sec. 056 of this chapter in accordance with the provisions of chapters 96 and 97 of this title.

(4) Membership. Membership is governed by sec 053 of this chapter.

(6) Vacancies. Vacancies are declared by the chairman as described in local committee rule (6), sec. 006 of this chapter. Vacancies are filled in the same manner as the original appointment.

(7) Nominations. Nominations are made in accordance with sec.053 of this chapter.

5 AAC 96.059. REPORT OF ACTIVITIES. The requirements of sec. 006 of this chapter apply to regional councils.

5 AAC 96.060. ATTENDANCE AT MEETINGS. The chairman (or his designee) of each regional council shall attend meetings of the Boards of Fisheries and Game. Each regional council shall cooperate with other regional councils on matters of mutual interest and concern, and may hold joint meetings to effectuate this purpose.

Chapter 97.

OPERATING PROCEDURES OF THE BOARDS OF FISHERIES AND GAME

Article 1.

ADMINISTRATION OF LOCAL FISH AND GAME COMMITTEES

5 AAC 97.001. OPERATION OF LOCAL FISH AND GAME COMMITTEE SYSTEM. The boards will endeavor to provide the necessary assistance to local committees and to maintain the local committee system in a manner which will obtain maximum public input on local fish and game resources in the decision making process and which will permit the boards to be fully aware of local opinions and conditions in conjunction with their proceedings.

5 AAC 97.002. DISTRIBUTION OF LOCAL COMMITTEES. The boards will, to the extent possible, provide for a local committee system and a distribution of local committees which allows a reasonable opportunity for all citizens to take advantage of the system.

5 AAC 97.003. REVIEW OF PETITIONS FOR LOCAL COMMITTEES. The boards will review petitions for the creation of local committees at the meeting following receipt of the petition. Factors which will be evaluated by the boards include, but are not limited to,

(1) existing committees in the area;

(2) representation of user groups in the area on existing committees;

(3) the likelihood of active participation on the proposed committee by residents of the area;

(4) the likelihood of a sufficient number of qualified persons being interested in serving on the proposed committee;

(5) logistical problems in providing assistance to the proposed committee;

(6) the probability that the committee will enhance participation in the decision-making process by persons dependent on fish and game resources; and

(7) recommendations of the appropriate regional council.

5 AAC 97.004. REVIEW OF NOMINATIONS FOR MEMBERSHIP ON LOCAL COMMITTEES. (a) The boards will review nominations for membership on local committees at the meeting following receipt of such nominations. Factors which will be evaluated by the Boards include, but are not limited to:

(1) whether the candidate meets the qualifications of 5 AAC 96.004;

(2) whether confirmation of the candidate will enhance the purposes of the local committee as described in 5 AAC 96.001 and 5 AAC 96.005; and

(3) whether confirmation of the candidate would result in broader or more balanced representation of user groups in the area.

(b) The commissioner of public safety will provide the boards with information concerning violations of the fish and game laws (including pending charges) and disciplinary proceedings involving any candidate for committee membership prior to consideration of the candidacy the the boards. The determination of the boards on any candidacy is final.

5 AAC 97.005. REGULAR AND SPECIAL MEETINGS. The boards will provide direction to local committees so that their meetings may be timed in a manner which will maximize their participation in fish and game deliberations. In addition, the boards may request any local committee to meet and to formulate recommendations on a subject or issue identified by the boards.

5 AAC 97.006. DISSOLUTION OF LOCAL COMMITTEES. A local committee may be dissolved by the boards if the committee becomes inactive, or if membership falls below the minimum number required, or for failure to act in accordance with the provisions of chapters 96 and 97 of this title.

Article 2.

ADMINISTRATION OF REGIONAL FISH AND GAME COUNCILS

5 AAC 97.030. OPERATION OF REGIONAL FISH AND GAME COUNCIL SYSTEM. The boards will endeavor to provide the necessary assistance to regional councils and to maintain the regional council system in a manner which will enable the councils to realize their purposes and functions as described in 5 AAC 96.050 and 056. Special emphasis will be placed on the preparation of proposed Subsistence Management Plans for each region.

5 AAC 97.031. STAFF ASSISTANCE. Provided that adequate funding exists and that such action is in compliance with applicable law, the boards will assign the necessary staff to each regional council so that their interaction with local committees and with the boards is maximized. Staff persons assigned to regional councils will be under the supervision of the executive director to the boards.

5 AAC 97.032. REGULAR AND SPECIAL MEETINGS. The boards will provide direction to regional councils so that their meetings may be timed in a manner which will maximize their participation in fish and game deliberations. In addition, the boards may request any regional council to meet and to formulate recommendations on a subject or issue identified by the boards. The boards may remand any recommendation received from a regional council for further action, or may require that a regional council act in concert with another regional council on matters of mutual concern.

5 AAC 97.033. ATTENDANCE AT MEETINGS. (a) Provided that adequate funding exists and that such action is in compliance with applicable law, the boards will reimburse regional council members for travel and expenses incurred in attending regional council meetings required or requested by the boards, and will reimburse each regional council chairman or his designee for travel and expenses incurred in attending meetings of the Boards of Fisheries and Game where approved by the boards.

(b) Provided that adequate funding exists and that such action is in compliance with applicable law, the boards will provide funds to regional councils to be used by the council to reimburse local committee members for travel and expenses incurred in attending local committee meetings and to reimburse each local committee chairman or his designee for travel and expenses incurred in attending regional council meetings. Distribution of funds shall be at the discretion of the regional council except to the extent limitations are imposed by the boards.

(c) At least one member of the Board of Fisheries or the Board of Game shall attend each meeting of a regional council to the extent practicable.

5 AAC 97.034. DIRECTION FROM THE BOARDS. The boards may give direction to the regional councils on the nature and format of their actions to enhance the usefulness of the work of the regional councils in conjunction with the deliberations of the boards.

Article 3.

ADOPTION OF FISH AND GAME REGULATIONS

5 AAC 97.060. MEETINGS. The Board of Fisheries will hold at least two regular meetings annually. The Board of Game will hold at least one regular meeting annually. The joint boards will hold at least one meeting annually to consider matters of mutual concern including matters relating to the local committee and regional council system.

5 AAC 97.081. PROCEDURE FOR DEVELOPING, CONSIDERING, AND IMPLEMENTING FISH AND GAME REGULATIONS. (a) For the purpose of developing, considering, and implementing fish and game regulations, the boards will observe the procedure set forth in this section. The dates constituting deadlines for each phase will be set by the boards for each meeting and will be announced to the local committees and regional councils and to the public.

(b) The procedure governing the regulatory process is as follows:

(1) Phase 1. The boards will solicit proposed regulations. The boards may limit, after receiving concurrence from the regional councils, those sections or portions of the existing regulations which will be open for change in conjunction with each meeting to facilitate their deliberations. The boards may provide forms to be used in preparing proposals. Notices soliciting proposals will be distributed statewide. In order to be considered the proposals must be received by the boards before the designated deadline.

(2) Phase 2. After the deadline for receiving proposals, those proposals received (including all proposals from the Alaska Department of Fish and Game staff and other government agencies) will be compiled by the board staff and distributed to the public through departmental offices. Proposals also will be sent to local committees for review, except that local committees will review only those proposals affecting their region together with proposals regarding general provisions. However proposals affecting more than one region will be reviewed by the local committees of all regions affected.

(3) Phase 3. Local committees will review at a public meeting all proposals received, and shall forward their recommendations to their appropriate regional council.

(4) Phase 4. Regional councils shall review at a public meeting all of the proposals sent to the local committees for that region in the context of recommendations made by the local committees and the public. The regional councils may accept written and oral testimony as they desire. After consideration, regional councils shall forward their recommendations to the boards together with all of the proposals.

(A) regional councils shall, to the extent possible within time limitations, consult with user groups, local committees, and other interested organizations and individuals.

(B) regional councils can request technical and scientific support data and/or prepared testimony from the department's staff as desired.

(C) regional councils shall explore areas of compromise where there are conflicting points of view and shall attempt to reach a consensus before making a recommendation to the boards.

(D) in forwarding their recommendations to the boards, regional councils shall provide a justification or explanation for their action.

(E) regional councils, in addition to recommending for or against particular proposals, may recommend a package of proposals for implementation, a management plan, policy for implementation, administration, or enforcement of any proposal.

(5) Phase 5. The boards will legally notice all the proposals, or the subject matter to be considered, after the recommendations have been received from the regional councils. In accordance with procedures required by the Administrative Procedure Act (AS 44.62), the boards will hold a public hearing and will consider and vote on each proposal, or develop alternatives on the subject matter legally noticed, after reviewing the recommendations of regional councils and local committees. While the final determination on all proposals is the province of the boards, it is the general intent of the boards that the recommendation of a regional council will be followed unless one of the following circumstances is present:

(A) the regional council recommendation is not supported by the evidence;

(B) there are conflicting recommendations from regional councils on the same matter;

(C) there is a need for statewide uniformity on a particular matter, which would not be achieved if the regional council recommendation was followed;

(D) the action recommended by the regional council would be inconsistent with the Constitution or the laws of the State of Alaska or the United States;

(E) the action recommended by the regional council, if followed by the boards, would be contrary to the public interest, conservation of the resources, or would be inconsistent with the duties and obligations of the boards as trustees for the fish and wildlife resources of Alaska.

(F) A majority vote of the five chairmen (or their designees) of the regional councils in attendance at a board meeting that opposes any decision of the boards will serve to have that decision reconsidered by the boards in conference with the regional council representatives. The second decision by the boards after reconsideration will be final.

(6) Phase 6. After completion of procedures required by the Administrative Procedure Act, the boards will notify the regional councils and local committees of the actions taken and the reasons therefore.

5 AAC 97.062. SUPPLEMENTAL REGULATIONS AND ACTIONS. The boards may adopt other regulations take other action necessary to implement, administer, or enforce the regulations adopted in conjunction with the procedure set forth in sec. 061 of this chapter.

5 AAC 97.063. SPECIAL MEETINGS. In conjunction with any special meeting, the boards will follow the procedure set forth in sec. 061 of this chapter to the extent time permits. However, the boards may use a modified or different procedure if it would be more suitable for any particular special meeting.

5 AAC 97.064. MODIFICATION. The boards may modify or make exceptions to the procedure set forth in sec. 061 of this chapter in conjunction with any regular meeting if to do so would enhance public, committee, or council participation in the deliberations of the boards.

5 AAC 97.065. STAFF ASSISTANCE. The boards, through their executive director and the staff assigned to the executive director, will provide assistance to regional councils and local committees and to the public in conjunction with the procedures and proceedings of the boards.

Article 4.

GENERAL PROVISIONS

5 AAC 97.081. REMOVAL FOR CAUSE. The boards may remove any member of a local committee or a regional council for cause. As used in this section, "cause" includes:

(1) repeated unjustifiable absence from meetings;

(2) malfeasance or misfeasance in office;

(3) conviction of a crime or administrative disciplinary action for behavior inconsistent with the responsibility of committee or council membership;

(4) disregard for or disobeyance of the provisions of chapters 96 and 97 of this title governing the committee and council system and the intent behind such provisions; or

(5) failure, at any time, to meet the qualifications for committee or council membership.

5 AAC 97.082. CONSTRUCTION OF TERMS. As used in chapters 96 and 97 of this title, the term "boards" means:

(1) the Boards of Fisheries and Game, acting jointly, on matters relating to the administration of the local committee and regional council system and on procedures for board meetings; or

(2) the Boards of Fisheries and Game, acting individually, on substantive matters relating to fish or game.

5 AAC 97.083. SUPPLEMENTAL ACTION. The boards may take any action necessary and proper for the administration, enforcement, or implementation of chapters 96 and 97 of this title regardless of whether it is expressly mentioned herein.

Article 5.

EMERGENCY CLOSURES BY LOCAL COMMITTEES

[Incorporate existing regulations on emergency closures by advisory committees and change "advisory committees" to "local committees". Jurisdictional changes may be in order to correspond to the newly created regions.]

[REPEAL EXISTING REGULATIONS ON ADVISORY COMMITTEES]

AMENDMENT

OFFERED IN THE HOUSE: BY: Snider

To: _____ HOUSE BILL No. 572

SENATE BILL No. _____

PAGE: 1 LINE: ~~14~~ 13 & 14 & 15

To read:

And per diem to the Commissioner and members of the Board of Fisheries for joint meetings with local advisory Committees in rural Communities of the State

Motion passed

HB

573

HEARING NOTIFICATION TO ADMINISTRATION

BILL NUMBER	LETTER DATE	INFORMED	HEARING DATE
HB 118	phone 1/27	Rep. Eliason, Commercial Fisheries, S.Gross, Rep. Gardiner	1/31
SCR 68	phone 1/27	Sen.Ziegler, D.Nat.Res.(Conheady) AK Loggers Assoc.	1/31
HB 652	phone 1/27	Rep.Cowper, D.Nat.Res(Conheady) Commerce, Carolyn Burg	~~2/2~~ 1/31
HB 563	phone 1/27	Rep.Swanson, Pete Jeans, AK Pipelines Surveillance. Env.Conservation, Nat.Res. Oil&Gas P.Conheady	2/2
CSHB 573	phone 1/27 +2/1	P.Jeans	2/2
HB 624	phone 1/27	Rep.Snider, D.Rev.	2/2
HB 625	phone 1/27	Rep.Anderson, Fish&Game, Nat.Res.(P.Conheady)	2/2
HJR 53	phone 1/27	Rep.Gardiner	2/2
all D above	memo 1/27	Keith Specking	1/31 // 2/2

HEARING NOTIFICATION TO ADMINISTRATION

BILL NUMBER	LETTER DATE	INFORMED	HEARING DATE
HCR 83	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 555	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 569	1-11-78	Commissioner, Fish & Game	1-19-78
HB 572	1-11-78	Commissioner, Fish & Game	1-19-78
~~HB~~ 573	1-11-78	Pete Jeans (Commerce), John Williams	1-19-78
HB 574	1-11-78	Pete Jeans (Commerce), Ken Vassar	1-19-78
HB 575	1-11-78	John Williams, Jim Baldwin	1-19-78

08-H2LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER / POUCH D – JUNEAU 99811

January 25, 1978

The Honorable Alvin Osterback
Chairman
House Resources Committee
Alaska State Legislature
Juneau, Alaska 99811

Put in files

Dear Mr. Chairman:

Thank you for your letter of January 19 requesting our position on several bills which will be considered by your committee.

At this time, we will confine our comments to HB 581 (commercial fishing loans), as the other bills mentioned do not fall within our jurisdiction as presently written.

House Bill 581 will enable this department to make loans on limited entry permits and accept the permit as collateral. At the present time, we are receiving loan applications for permits. However, most fishermen do not have the collateral required to secure the loan. The proposed legislation will simplify this process. As evidenced by the fiscal note accompanying this bill at the time of introduction, we expect any fiscal impact to be minimal.

Yours truly,

H. Phillip Hubbard
Commissioner

cc: Pete Jeans, Director
Division of Business Loans

01 A6LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

COMMERCIAL FISHERIES ENTRY COMMISSION

POUCH KB – JUNEAU 99801

January 26, 1978

The Honorable Alvin Osterback
Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

Re: Committee Substitute for HB 573

Sections 4 through 7 of CS for HB 573 were originally drafted with the concurrence of the Department of Commerce and the Commercial Fisheries Entry Commission as HB 581. As the substantive portions of 581 have been incorporated verbatim in CS for HB 573 sections 4 through 7, the Commission concurs with the Department of Commerce as to those specified sections of CS for HB 573 and endorses passage of these sections.

Sincerely,

John N Garner
Commissioner

THIS [X] BILL [ ] RESOLUTION

has been prepared by the staff of the Legislative Affairs Agency in response to the request and at the direction of the sponsoring member or committee. The staff has attempted to place the document in proper legal and clerical form, subject to any special limitations or instructions of the requestor.

Any staff questions or comments as to legality, constitutionality, and form have been included in the memorandum addressed to the requestor and kept in the work file. If we may be of further assistance in this matter, please contact the Director of Legal Services or the Director of Research Services, as appropriate.

Delivered to requestor 1-30-78

LA-L 40

Original sponsors: Osterback and Snider

IN THE HOUSE BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 573

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act amending the Commercial Fishing Loan Act; and providing for an effective date."

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

* Section 1. AS 16.10.310(a)(1) is amended by adding a new subparagraph to read:

(C) corporations, partnerships, or joint ventures 51 per cent of which are owned by individual commercial fishermen who have been state residents for a continuous period of five years, and have had ~~a commercial fishing license~~ for three years for the purchase, construction, repair or upgrading of fishing vessels or gear;

* Sec. 2. AS 16.10.320 is amended to read:

Sec. 16.10.320. LIMITATIONS ON LOANS. A commercial fishing loan may not exceed $500,000 [$150,000]. A loan may not run longer than 15 years or bear interest exceeding seven per cent, and it shall be secured by a first lien and appropriate security agreements, except that a lien in favor of the state is not required for loans guaranteed fully by the federal government under the Federal Ship Financing Act of 1972 (46 U.S.C. secs. 1271-1279b; 86 Stat. 909), as amended. In the case of a security agreement given to secure a loan made under secs. 300 - 370 of this chapter and covering a vessel documented under the laws of the United States and so long as the Ship Mortgage Act of 1920 (46 U.S.C. secs. 911-934; 41 Stat. 1000), as amended, and the Shipping Act of 1916 (46 U.S.C. secs 801-842; 39 Stat. 728), as amended, remain ambiguous with respect to whether or not a state or state agency qualifies as a

citizen of the United States for purposes of those Acts, the first lien requirement of this section may be satisfied by the recordation and endorsement of a first preferred ship mortgage under the Ship Mortgage Act of 1920, and by perfection of a security interest under the Uniform Commercial Code - Secured Transactions (AS 45.05.690 - 45.05.794), if the approval of the Secretary of Commerce is obtained under 46 U.S.C. sec. 839 for the transfer to the department of the interest in a vessel documented under the laws of the United States. In the case of a security agreement given to secure a loan made under secs. 300 - 370 of this chapter and covering a vessel documented under the laws of the United States, the first lien requirement of this section may also be satisfied by use of a trust deed and bond issue under it, if the trustee is a citizen of the United States and obtains a first preferred ship mortgage on the vessel under the Ship Mortgage Act of 1920, and the approval of the Secretary of Commerce is obtained under 46 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds to the department if the trustee is not a trustee approved by the Secretary of Commerce under 46 U.S.C. secs. 808, 835 and 961. Loans may not exceed 75 per cent of the appraised value of the collateral used to secure the loan.

* Sec. 3. AS 16.10.320 is amended by adding a new subsection to read:

(b) No more than one commercial fishing loan may be made to any person for the purchase, construction, repair or upgrading of a fishing vessel or its gear. A loan to an associate of the borrower is considered to be a loan to the borrower. For the purposes of this section, "associate of the borrower" means

(1) a corporation or other organization of which the borrower is an officer, director or partner, or is, directly or indirectly, the beneficial owner of 10 per cent or more of any class of equity securities;

(2) a person who is, directly or indirectly, the beneficial owner of 10 per cent or more of any class of equity securities of the borrower;

(3) a trust or other estate in which the borrower has a substantial beneficial interest or as to which the borrower serves as trustee or in a similar fiduciary capacity;

(4) a relative or spouse of the borrower or a relative of the spouse, who has the same home as the borrower;

(5) a person directly or indirectly controlling, controlled by, or under common control with, the borrower.

* Sec. 4. AS 16.10 is amended by adding new sections to read:

Sec. 16.10.333. LOANS FOR PURCHASE OF ALASKA LIMITED ENTRY PERMITS. (a) Loans under secs. 300 - 370 of this chapter may be made to an individual commercial fisherman for the purchase of a limited entry permit upon certification by the commission that the fisherman is a person who qualifies as a transferee for the permit under ch. 43 of this title and the regulations adopted by the commission.

(b) Upon approval by the commissioner, the permit to be purchased may be pledged as security for a loan under (a) of this section, if

(1) the certificate for the pledged permit lists the commissioner as the legal owner of the permit;

(2) the certificate for the pledged permit lists the debtor as the equitable owner of the permit;

(3) all annual permit cards issued under the pledged permit list the name of the debtor;

(4) all obligations and responsibilities of a permit owner are assumed by the debtor;

(5) co-signers or other sureties for performance under the note are not vested with any rights in the pledged permit and their

obligation is limited to satisfaction of the note and payment of costs directly incurred by the department in administering the loan.

(c) The commissioner is not liable for any act or omission resulting from permit ownership nor will that act or omission affect his title to the permit or his rights under it.

(d) Upon satisfaction of the note by the debtor, the commissioner shall certify to the commission that the note has been satisfied.

(e) Upon certification as provided in (d) of this section, the commission shall amend the permit certificate to list the debtor as the legal owner.

Sec. 16.10.335. DEFAULT AND FORECLOSURE. (a) If the debtor defaults upon a note for which a limited entry permit has been pledged as security under sec. 333 of this chapter, the commissioner shall provide the debtor, by registered or certified mail sent to his last known address on file with the commissioner, with a notice of default which includes

(1) a description of the security given for the note including the number assigned to the pledged permit by the commission;

(2) the date upon which the default occurred;

(3) the amount of arrearages as of the date of the notice, the total amount remaining on the note less unearned interest, and the amount of daily interest;

(4) a statement that the debtor may, within 15 days of the postmark date of the notice, request a hearing at which he may submit evidence showing he has not defaulted;

(5) a statement that the note may be reinstated if brought current within 60 days from the postmark date of the notice;

(6) a statement that the note may be paid in full less unearned interest within 90 days from the postmark date of the notice;

(7) the place where reinstatement or payment in full may be made; and

(8) a notice in at least 10-point bold type stating: "IMPORTANT: YOUR FAILURE TO REINSTATE OR PAY THIS NOTE IN FULL BY THE DATE SPECIFIED WILL RESULT IN A FORFEITURE OF ALL RIGHTS TO THE PERMIT AND THE POSSIBILITY OF LEGAL ACTION BEING INSTITUTED AGAINST YOU."

(b) Upon the debtor's failure to reinstate or satisfy the note within the time specified in (a) of this section, his equitable interest is terminated by operation of law without further notice. Any entry permit cards issued to him under the permit shall be cancelled immediately upon receipt by the commission of a certificate of termination containing a copy of the notice required by (a) of this section issued by the commissioner.

Sec. 16.10.337. DEFICIENCIES AND TRANSFER OF ENTRY PERMITS AFTER FORECLOSURE. (a) Upon a foreclosure on an entry permit as provided in sec. 335 of this chapter, the commissioner shall offer the commission a right of first refusal if the permit is subject to a buy-back program under AS 16.43.290 - 16.43.330 at a price equal to the amount outstanding on the note plus any costs the department directly incurred in administering the loan.

(b) If the commission does not exercise its right of first refusal within 30 days after it receives the offer, or if the permit is not subject to a buy-back program under AS 16.43.290 - 16.43.330, the department shall promptly notify the debtor of this fact. The debtor has 30 days after receiving this notice to nominate a person qualified to assume the note. The person nominated must qualify under the requirements of sec. 333(a) of this chapter. If qualified, he may assume all rights and liabilities of the original debtor.

(c) If the debtor is unable to nominate a qualified person to

assume the note under (b) of this section, the permit must be made available to a qualified person, chosen as provided in this section, who must assume the note subject to all rights and liabilities of the original debtor. The commission shall provide the commissioner with a list of persons chosen by lottery who qualify as transferees of entry permits under ch. 43 of this title and regulations adopted by the commission and who have met the residency and commercial fishing participation requirements of sec. 310(a) of this chapter. The commissioner then shall determine, in order of presentation, any remaining qualifications. The commissioner shall allow the first applicant meeting all qualifications to assume the note.

(d) Nothing in this section affects the right of the commissioner to institute legal action for a deficiency resulting from a default on a note given under sec. 333 of this chapter. In addition to any deficiency, the debtor is liable for the costs of administering the note and for costs and attorney fees.

Sec. 16.10.339. REGULATIONS. The commission, with the approval of the department, shall adopt regulations to implement secs. 333 - 337 of this chapter.

* Sec. 5. AS 16.10.360 is amended by adding new paragraphs to read:

(3) "commission" means the Commercial Fisheries Entry Commission;

(4) "debtor" means an individual commercial fisherman who either initially contracts for a loan under secs. 333 - 337 of this chapter or assumes a loan as provided in those sections.

* Sec. 6. AS 16.43.150(g) is amended to read:

(g) Except as provided in AS 16.10.333 - 16.10.337, an [AN] entry permit may not be:

(1) pledged, mortgaged, leased, or encumbered in any way;

(2) transferred with any retained right of repossession or foreclosure; or

(3) attached, distrained, or sold on execution of judgment or under any other process or order of any court.

* Sec. 7. AS 16.43.170(a) is amended to read:

(a) Except as provided in AS 16.10.333 - 16.10.337, entry [ENTRY] permits and interim-use permits are transferable only through the commission as provided in this section and sec. 180 of this chapter and under regulations adopted by the commission.

* Sec. 8. This Act takes effect July 1, 1978.

Bill/Resolution No. CS HB373

Title An Act relating to commercial fishing loans

Requested by _____ Date 1-23-78

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development

Program Category Affected Development

Budget Request Unit(s) Affected Division of Business Loans

EXPENDITURES (Thousands of Dollars)

		FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES			39.2	41.1	43.2	45.4
200	TRAVEL			Ø	Ø	Ø	Ø
300	CONTRACTUAL			10.0	10.5	11.0	11.6
400	COMMODITIES			1.0	1.0	1.1	1.1
500	EQUIPMENT			4.0	Ø	Ø	Ø
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL			54.2	52.6	55.3	58.1

FUNDING (Thousands of Dollars)

GENERAL FUND			54.2	52.6	55.3	58.1
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME			2	2	2	2
PART TIME						
TEMPORARY						

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

The addition of two Loan Closers, one in Juneau and one in Anchorage, would free the Loan Examiners from handling these chores and would allow them more time to work on applications.

IV. DATE 1-23-78 PREPARED BY Pete Jeans, Director

AGENCY Business Loans

PHONE 2510

Original: Legislative Finance

cc: Budget and Management

PERSONAL SERVICES

Loan Closer I	Range 10	14,124	
Loan Closer II	Range 12	15,068	
		30,192	
FICA		1,823	
Health		1,972	
Benefits		5,208	
Total		39,193	39,193
Travel			0
Contractual - Revising Regulations and applications including printing			10,000
Commodities			1,000
Equipment			4,000
TOTAL			54.2

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 573
Title An Act amending the Commercial Fishing Loan Act
Requested by _____ Date 1-17-78

II. FISCAL DETAIL
Agency Affected Commerce & Economic Development
Program Category Affected Development
Budget Request Unit(s) Affected Division of Business Loans

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES		NONE				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

No fiscal impact.

IV. DATE 1-17-78 PREPARED BY [signature]
AGENCY Business Loans
PHONE 465-2570

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

33-001 (Rev. 10/76)

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

January 18, 1978

SUBJECT: Commercial Fishing Loan Bills
(Work Order No. 4657)

TO: DiAnn Nelson
House Resources Committee

FROM: Kenneth E. Vassar
Legislative Counsel KEV

You have requested a brief summary of the bills currently in the House Resources Committee which relate to the commercial fishing loan act. Those bills are HB 573, HB 574 and HB 581.

House Bill 573 would amend the commercial fishing loan act in two ways. First, it would allow the Department of Fish and Game to make loans to corporations, partnerships, or joint ventures. Under current law, the department may only make loans to individual fishermen. Second, it would allow loans made for the repair, restoration, or upgrading of existing vessels and gear or for the purchase of gear and the construction and purchase of fishing vessels to be secured by a second mortgage. Presently, the law requires a first mortgage as security for any commercial fishing loan.

House Bill 574 makes the following four changes in the present act:

(1) it raises the maximum allowable loan from $150,000 to $300,000;

(2) it increases the maximum term of a loan from 15 years to 20 years;

(3) it lowers the interest charged from 7 percent to 5 percent;

(4) it allows loans to be made for up to 90 percent of the appraised value of the collateral used to secure the loan; loans currently are limited to 75 percent.

House Bill 581 adds sections to the loan act which would allow the department to make loans to individual commerical fishermen for the purchase of limited entry permits.

In summary, while each bill is related to the commercial fishing loan act, each addresses separate and independent issues. If I can provide any further assistance, please let me know.

KEV:jpd

HB
581

HEARING NOTIFICATION TO ADMINISTRATION

BILL NUMBER	LETTER DATE	INFORMED	HEARING DATE
HCR 83	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 555	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 569	1-11-78	Commissioner, Fish & Game	1-19-78
HB 572	1-11-78	Commissioner, Fish & Game	1-19-78
HB 573	1-11-78	Pete Jeans (Commerce), John Williams	1-19-78
HB 574	1-11-78	Pete Jeans (Commerce), Ken Vassar	1-19-78
HB 575	1-11-78	John Williams, Jim Baldwin	1-19-78
HB563	1-11-78	Pipeline Surveillance Coordinator-Anchorage	Not scheduled
all of above	1-19-78	Geoff Haynes, Keith Specking; Commerce (Pete Jeans)	1-19-78
HB 563	1-19-78		NOT SCHEDULED
HB 566	1-19-78	Fish + Game (Morrison); Geoff Haynes; Keith Specking; Nat. Res. (Conheady)	NOT SCHEDULED
✓ HB 581	1-19-78	Fish + Game (Morrison), Geoff Haynes; K. Specking; Cmty Comm. (Johnson); Sponsors	Commerce (Jeans); NOT SCHEDULED
HB 590	1-19-78	F+G. (Morrison); G. Haynes; K. Specking	NOT SCHEDULED
HB 591	1-19-78	Administration (K. Sewell); K. Specking; Sponsors	NOT SCHEDULED
HB624	1-19-78	Revenue (Messenger); K. Specking; Sponsors	" "
HB625	1-19-78	F. + G. (Morrison); Natural Res. (Conheady); G. Haynes; K. Specking; Steering Council; Sponsors	" "
HB638	1-19-78	F+G. (Morrison); Rep. Haugen; Geoff Haynes; K. Specking, Natural Res. (Conheady)	" "
HB650	1-19-78	Commerce (Jeans); Natural Resources (Conheady); Steering Council; Sponsors;	" " Haynes; Specking
HB651	1-19-78	Same as HB650	" "
HB652	1-19-78	Same as HB650	" "

08-H2LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER / POUCH D - JUNEAU 99811

January 25, 1978

The Honorable Alvin Osterback
Chairman
House Resources Committee
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Chairman:

Thank you for your letter of January 19 requesting our position on several bills which will be considered by your committee.

At this time, we will confine our comments to HB 581 (commercial fishing loans), as the other bills mentioned do not fall within our jurisdiction as presently written.

House Bill 581 will enable this department to make loans on limited entry permits and accept the permit as collateral. At the present time, we are receiving loan applications for permits. However, most fishermen do not have the collateral required to secure the loan. The proposed legislation will simplify this process. As evidenced by the fiscal note accompanying this bill at the time of introduction, we expect any fiscal impact to be minimal.

Yours truly,

H. Phillip Hubbard
Commissioner

cc: Pete Jeans, Director
Division of Business Loans

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

26 January 1978

MINUTES

The meeting was called to order at 1:30 p.m. in Room 118 of the Capitol Building by Rep. Alvin Osterback, Chairman.

Members Present	Absent
Rep. Osterback, Chairman	Rep. Eliason
Rep. Snider, Vice Chairman	
Rep. Malone	
Rep. Miller	
Rep. Smith	
Rep. Akers	
Rep. Bennett	
Rep. Urion	

CSHB 573 Amending Commercial Fishing Loan Act.

Testimony: Pete Jeans, Director, Division of Business Loans, testified that in the first section the requirements on residency for loan applicants should be increased to 75% or 100%. He pointed out an ambiguity concerning the language on residency which should be clarified. On the fourth section of the bill he testified that the division favored the change. He also indicated that the increased expenditures set out in the fiscal note resulted from general increase in loan activity and did not derive directly from this particular proposed change in the loan program.

Billy Berrier, Director, Division of Legal Services, testified that there may be constitutional problems with requiring that loan applicants be Alaskan residents but that under the Higland case these requirements should be able to withstand challenge. Increasing the requirement from 51% to 100% should make no difference on the constitutionality question.

David George, attorney from Limited Entry Commission, pointed out that the Committee Substitute refers only to fishing licenses and that under current law there are only limited entry permits, interim-use permits and crew member licenses.

The committee asked that a second Committee Substitute be prepared to specify that 100% of the loan participants be Alaskan residents, to clarify the ambiguous language, and to correct the language on commercial fishing licenses. No other

action was taken on CSHB 573.

HB 569 Appropriation to transplant caribou to Aleutian and Shumagin Islands

Testimony: George Utermohle, Research Analyst, Division of Research Services, explained the substance of the bill.

Bob Hinman, Deputy Director, Division of Game, stated that the department supports the concept of this bill. Careful watch should be kept to insure adequate control on the size of the herd. Akutan and Unga Islands are the two islands best suited to a transplant of caribou.

Discussion followed on the past experiences of the Division of Game in other wild game transplants. Questions were raised about future access to some of the islands which are owned by the federal government or by Native Corporations.

MOTIONS

Rep. Urion moved that HB 569 be amended to (1) change the amount of the appropriation from $352,000 to $116,000 and to (2) limit the transplants to Akutan, DeerIsland and Unga Island.

A vote was taken:
In favor: Bennett, Malone, Miller, Snider, Urion
Opposed: Akers, Osterback
Absent: Eliason, Smith
The motion carries.

Rep. Urion moved that his amendment be considered a committee substitute to HB 569. The vote was identical to the vote on the previous amendment.

Rep. Miller moved that CSHB 569 be passed out of committee.

A vote was taken:
In favor: Akers, Bennett, Malone, Miller, Osterback, Snider
Absent: Eliason, Smith
The motion carries.

The meeting adjourned at 2:45 p.m.

by: Teresa B. Cramer, A.A.
House Resources

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 18, 1978

SUBJECT: Commercial Fishing Loan Bills
(Work Order No. 4657)

TO: Diann Nelson
House Resources Committee

FROM: Kenneth E. Vassar
Legislative Counsel KEV

You have requested a brief summary of the bills currently in the House Resources Committee which relate to the commercial fishing loan act. Those bills are HB 573, HB 574 and HB 581.

House Bill 573 would amend the commercial fishing loan act in two ways. First, it would allow the Department of Fish and Game to make loans to corporations, partnerships, or joint ventures. Under current law, the department may only make loans to individual fishermen. Second, it would allow loans made for the repair, restoration, or upgrading of existing vessels and gear or for the purchase of gear and the construction and purchase of fishing vessels to be secured by a second mortgage. Presently, the law requires a first mortgage as security for any commercial fishing loan.

House Bill 574 makes the following four changes in the present act:

(1) it raises the maximum allowable loan from $150,000 to $300,000;

(2) it increases the maximum term of a loan from 15 years to 20 years;

(3) it lowers the interest charged from 7 percent to 5 percent;

(4) it allows loans to be made for up to 90 percent of the appraised value of the collateral used to secure the loan; loans currently are limited to 75 percent.

House Bill 581 adds sections to the loan act which would allow the department to make loans to individual commerical fishermen for the purchase of limited entry permits.

In summary, while each bill is related to the commercial fishing loan act, each addresses separate and independent issues. If I can provide any further assistance, please let me know.

KEV:jpd

January 10, 1978

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill authorizing the Department of Commerce and Economic Development to accept a limited entry permit as collateral for a commercial fishing loan used to purchase that permit. Under existing law, a limited entry permit may not be mortgaged or otherwise encumbered, transferred with any retention of rights thereunder, or executed on for satisfaction of any debt.

Experience has shown that otherwise qualified commercial fishermen are unable to obtain commercial fishing loans to join the commercial fishing fleet through purchase of both a boat and limited entry permit. To use a commercial fishing loan to purchase a limited entry permit, an otherwise qualified commercial fisherman must supply as collateral for the loan either an unencumbered boat or other unencumbered property. This bill will permit the limited entry permit purchased with the loan proceeds to serve as collateral for that loan. However, as under existing law, it could not be used for any other purpose.

Sincerely,

S/JSH

Jay S. Hammond
Governor

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE NO. 1

I. REQUEST
Bill/Resolution No. Law Log 6 HOUSE BILL NO. 581
Title See attached "Subject of Proposed Bill"
Requested by Commercial Fisheries Entry Commission Date 12-9-77

II. FISCAL DETAIL Governor's Office, Dept. of Commerce,
Agency Affected Alaska Commercial Fisheries Entry Commission
Program Category Affected NRMEC
Budget Request Unit(s) Affected Alaska Commercial Fisheries Entry Commission

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		1.1	2.3	3.0	3.2	3.4
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	1.1	2.3	3.0	3.2	3.4

FUNDING (Thousands of Dollars)

GENERAL FUND	0	1.1	2.3	3.0	3.2	3.4
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The projected costs cover additional expenses that the Commercial Fisheries Entry Commission will incur providing legislation is enacted. These costs include data processing, RSA agreements with the Department of Revenue, postage and advertising. Because only one-half of the year remains in FY 78, its figures reflect only half the amount of money requested. The data processing costs will be for semi-annual and annual updates and to provide programming support to generate printouts (e.g., qualified buyers, market surveys on price printouts and verification of costs of permits sold through income tax records). Postage is for computer printout listings provided to various outside user groups. Advertising will also be necessary in conjunction with any necessary regulatory proposals. RSA agreements will be necessary as much of the data base necessary to determine the fair market value of permits will be contained in income tax returns which, due to confidentiality, are accessible only by Department of Revenue personnel.

IV. DATE 12-8-77 PREPARED BY Derrill L. Johnson
AGENCY Commercial Fisheries Entry Commission
PHONE 586-3456

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

33 001 (Rev. 10/76)

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE No. 2.

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 581
Title "An Act relating to Commercial Fishing Loans
Requested by Office of the Governor Date 12-12-77

II. FISCAL DETAIL
Agency Affected Division of Business Loans, Dept. of Commerce & Econ. Devel.
Program Category Affected Development
Budget Request Unit(s) Affected Business Loans

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES		NONE				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)		NONE				

POSITIONS

FULL TIME						
PART TIME		NONE				
TEMPORARY						

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

Volume should not increase in an amount sufficient to justify additional cost.

IV. DATE: 12-12-77 PREPARED BY: [signature]
AGENCY Division of Business Loans
PHONE 465-2510

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

33 001 (Rev. 10/76)

HB

590

COMMITTEE REPORT

HOUSE

1-10-78

FURTHER: _____

Date: 3/9/1978

Mr. Speaker:

The Committee on RESOURCES has had HB 590

"An Act relating to sport fishing, hunting and trapping license requirements."

under consideration and (a majority of the committee) (the committee reports it back as follows)

(X) recommends it do pass ( ) recommends it do not pass

( ) recommends it do pass with attached amendment(s)

(X) recommends it be replaced with CS for _____

and _____ ( ) new title (X) same title

(X) AND attaches a Letter of Intent ( ) New Fiscal Note

( ) reports it back without recommendation

( ) and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

_____

_____

_____

_____

_____

_____

_____

_____

_____

OTHER RECOMMENDATIONS:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Chairman

H 60 (rev. 6/77)

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
HB 590	3/3/78	Keith Specking	3/9/78
	"	Dept. of Fish & Game	"
	3/4	Territorial Sportsmen	"
	"	Geoff Haynes	"

HEARING NOTIFICATION TO ADMINISTRATION

BILL NUMBER	LETTER DATE	INFORMED	HEARING DATE
HCR 83	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 555	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 569	1-11-78	Commissioner, Fish & Game	1-19-78
HB 572	1-11-78	Commissioner, Fish & Game	1-19-78
HB 573	1-11-78	Pete Jeans (Commerce), John Williams	1-19-78
HB 574	1-11-78	Pete Jeans (Commerce), Ken Vassar	1-19-78
HB 575	1-11-78	John Williams, Jim Baldwin	1-19-78
HB563	1-11-78	Pipeline Surveillance Coordinator-Anchorage	Not scheduled
all of above	1-19-78	Geoff Haynes Keith Specking Commerce (Pete Jeans)	1-19-78
HB 563	1-19-78		NOT SCHEDULED
HB 556	1-19-78	Fish + Game (Morrison); Geoff Haynes; Keith Specking; Nat. Res. (Conhead)	NOT SCHEDULED
HB 581	1-19-78	Fish + Game (Morrison), Geoff Haynes; K. Specking; Entity Comm. (Johnson); Sponsors	Commerce (Jeans); NOT SCHEDULED
HB 590	1-19-78	F+G. (Morrison); G. Haynes; K. Specking	NOT SCHEDULED
HB 591	1-19-78	Administration (K. Sewell); K. Specking; Sponsors	NOT SCHEDULED
HB624	1-19-78	Revenue (Messenger); K. Specking; Sponsors	" "
HB625	1-19-78	F. + G. (Morrison); Natural Res. (Conhead); G. Haynes; K. Specking; Steering Council; Sponsors	" "
HB638	1-19-78	F+G. (Morrison); Rep. Haugen; Geoff Haynes; K. Specking, Natural Res. (Conhead)	" "
HB650	1-19-78	Commerce (Jeans); Natural Resources (Conhead); Steering Council; Sponsors;	" " Haynes; Sperking
HB651	1-19-78	Same as HB650	" "
HB652	1-19-78	Same as HB650	" "

LETTER OF INTENT

8 March 1976

The Honorable Hugh Malone
Speaker of the House

Dear Speaker Malone:

With regard to the adoption of CSHB 590, the House Resources Committee intends that the forms available for applications required under AS 16.05.400(b) and other sections of Title 16 be on the premises of all licensed vendors, as well as all of the offices of the Department of Fish and Game throughout the State, in order to avoid any har ship on any person wishing to comply with the statutes therein but are unable to obtain such forms.

Alvin Osterback

Alvin Osterback, Chairman
House Resources Committee

HB190

January 10, 1978

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill which provides that those individuals who are exempt from sport fishing, hunting and trapping license requirements, because they are 60 years of age or more and have been a resident of this state for 30 consecutive years or more, must carry a card, to be issued by the Department of Fish and Game, indicating their exempt status while they are engaged in sport fishing, hunting and trapping activities. The Alaska Department of Fish and Game has estimated that it will issue approximately 1,200 of these licenses annually.

While the cards are currently available, their possession in the field is not mandatory. The bill would aid in enforcement of the license requirement, by identifying those who are truly exempt.

Sincerely,

S/JSH

Jay S. Hammond
Governor

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 590
Title An act relating to sport fishing, hunting, and trapping license requirements
Requested by Governor Date

II. FISCAL DETAIL
Agency Affected Fish and Game
Program Category Affected NRMEC
Budget Request Unit(s) Affected Sport Fish

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL			0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND			0	0	0	0
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The passage of this bill will allow the issuance of a permanent identification card to residents over 60 years of age with more than 30 years of consecutive residency. In order to simplify administrative handling, all cards will be issued by the headquarters office of the Division of Sport Fish. Cost of the cards is minimal and can be absorbed within the existing budgets.

IV. DATE 12/12/77 PREPARED BY Jeff Morrison
AGENCY Fish and Game
PHONE 465-4120

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

33-001 (Rev. 10/76)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

SUBPORT BUILDING – JUNEAU 99801

January 27, 1978

The Honorable Alvin Osterback
Chairman, House Resources Committee
Alaska State Legislature
Pouch V, State Capitol
Juneau, Alaska 99811

Dear M.. Osterback:

H.B. 590 can be considered as an oversight bill to Ch. 180 SLA 1972. The original bill exempted those persons 60 years of age or more with 30 years or more of consecutive residency in the State from the provisions requiring a sport fishing, hunting and trapping license.

Several problem areas became immediately apparent. These include:

1) A qualified person could be checked for a license and not having one or adequate proof of qualification, could be required to provide such proof to a Fish and Wildlife Enforcement Officer or Department of Fish and Game employee. This situation could occur several times in any given year to an individual.

2) A license number is normally required in various areas of the Department regulations. For example, when legally taken fish or game is given to another person; when furs legally taken are sold or exported; or when applying for special hunts.

It was determined by the Department that an unnecessary burden would be placed on this segment of our residents if the original legislation was implemented without modification. The Department, on its own initiative and expense, decided to provide those qualified residents with an unofficial identification card if they would complete an appropriate affidavit attesting to their meeting the qualifications as prescribed in Ch. 180 SLA 1972 (16.05.400(b)).

Since inception of this I.D. program, the Sport Fish Division has issued approximately 1,200 cards per year. There are no legal requirements for such I.D. cards or penalties for falsification of application. H.B. 590 would formalize this procedure presently in existence.

Sincerely,

Ronald O. Skoog
for Commissioner

04-D3LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER | POUCH S – JUNEAU 99811

copies 11

February 10, 1978

The Honorable Alvin Osterback
Chairman
House Resources Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska

Dear Mr. Osterback:

For the information of the House Resources Committee, I am enclosing nine copies of statements prepared by the Fish and Game Licensing Section of the Department of Revenue concerning sport fishing and hunting license fees and commercial fishing gear and license fees as follows:

1. Sport fish and game receipts for the calendar year 1977 by type and number of licenses and tags.

2. Commercial fish license receipts for the calendar year 1977 by type and number of licenses and gear.

3. Gross commercial fishing gear and license receipts for the calendar years 1968 through 1977 by type of gear and license.

Very truly yours,

R. D. Stevenson

R. D. Stevenson
Special Assistant

Enclosures

Calendar Year 1977
SPORT FISH AND GAME RECEIPTS

CODE	TYPE OF LICENSE	NUMBER	GROSS	NET	NET/SPORT	NET/GAME	NET/GENERAL
201	R. Sport Fishing	76892	763,250.00	725,012.91	725,012.91	----------	----------
202	R. Hunting	21470	250,110.00	237,620.26	----------	237.620.26	----------
203A	R. Hunt/Trap	2063	30,300.00	28,744.61	----------	22,812.71	5,931.90
204	R. Spt. Fish/Hunt	30403	665,406.00	632,304.48	287,276.22	345,028.26	----------
205	R. Fish/Hunt/Trap	9153	227,555.00	215,983.22	86,275.49	103,648.35	26,059.38
206	NR Sport Fishing	23564	349,080.00	329,249.17	329,249.17	----------	----------
207	NR Sport Fishing	12766	380,480.00	360,440.86	360,440.86	----------	----------
208	NR Hunting	3656	206,680.00	195,721.74	----------	195,721.74	----------
209	NR Fish/Hunt	803	70,670.00	66,792.99	22,455.18	44,337.81	----------
210	NR Hunt/Trap	52	10,400.00	9,926.22	----------	2,839.09	7,087.13
211	NR 1-Day Spt. Fish	11174	55,870.00	53,178.53	53,178.53	----------	----------
212	NR Military Spt. Fish	6527	65,270.00	61,998.90	61,998.90	----------	----------
213	NR Military Small Hunt	841	10,092.00	9,573.09	----------	9,573.09	----------
214	NR Military Spt./Hunt	987	21,714.00	20,641.97	9,382.72	11,259.25	----------
217 3B	R. Trap	1589	4,767.00	4,542.14	----------	----------	4,542.14
218	Duplicate License	2748	5,496.00	5,223.01	----------	----------	5,223.01
120	Fish/Fur/Game Farm	2	100.00	95.65	----------	----------	95.65
121	R. Fur Dealer	107	5,320.00	5,296.35	----------	----------	5,296.35
122	NR Fur Dealer	4	800.00	790.39	----------	----------	790.39
123	R. Taxidermy	45	3,375.00	3,299.64	----------	----------	3,299.64
124	NR Taxidermy	1	200.00	191.01	----------	----------	191.01
200	Permit Fees	218	1,090.00	1,026.64	----------	1,026.64	----------
201 B	R. Blind Spt. Fish	2	.50	.49	.49	----------	----------
205 A	R. 25c Hunt/Fish/Trap	5463	1,365.75	1,293.07	430.92	603.49	258.66
SUBTOTAL		210530	3,129,391.25	2,968,947.34	1,935,701.39	974,470.69	58,775.26
215	R. Tag	2937	89,575.00	85,444.75	----------	85,444.75	----------
216	NR Big Game Tags	5775	999,945.00	946,768.14	----------	946,768.14	----------
TOTAL		219242	4,218,911.25	4,001,160.23	1,935,701.39	2,006,683.58	58,775.26

RESIDENT B/G # 2903 GROSS 72,575.00
RESIDENT MUSKOX 34 17,000.00
2937 89,575.00

GROSS	4,218,911.25	
COST	217,751.02	
NET	4,001,160.23	5.16%

MUSKOX	28	28,000.00
B/G	876	214,900.00
BLACK BEAR	877	86,550.00
DEER	425	13,445.00
MOOSE	1438	277,900.00
SHEEP	649	161,350.00
GOAT	320	37,850.00
CARIBOU	875	164,350.00
WOLF	202	10,100.00
WOLVERINE	63	2,700.00
WALRUS	4	1,000.00
ELK	18	1,800.00
TOTAL	5775	999,945.00

COMMERCIAL FISH LICENSE RECEIPTS

Final Calendar Year
January 1, 1977 thru December 31, 1977

Prepared January 30, 1977

RECEIPT CODE NO.	TYPE OF LICENSE RECEIPT	NUMBER SOLD	GROSS	COST	NET
126	Vessel	13,189	$179,142.00	$6,564.09	$172,577.91
127	Troll Line	3,524	61,756.00	2,187.84	59,568.16
128	Long Line	2,409	64,303.00	2,203.35	62,099.65
129	Drift Gill Net	4,638	106,455.00	4,114.46	102,340.54
130	Set Gill Net	3,230	40,960.00	1,522.66	39,437.34
131	Beach Seine	52	845.00	27.62	817.38
132	Purse & Hand Purse Seine	1,339	128,410.00	3,931.40	124,478.60
133	Beam Trawl	45	2,450.00	60.60	2,389.40
134	Otter Trawl	153	12,250.00	217.19	12,032.81
135	Shellfish Pots	1,225	39,690.00	971.39	38,718.61
136)	Clam Digger's	158	368.00	30.58	337.42
137) 40%	Res. Comm. Fisherman	20,603	82,412.00	7,750.00	74,662.00
138)	Non-Res. Comm. Fisherman	7,965	95,556.00	8,638.69	86,917.31
139	Scallop Dredge	2	100.00	3.40	96.60
140	Comm. Fish Ext. Fee	---	7,965.00	---	7,965.00
SUBTOTAL	To General Fund	58,532	822,662.00	38,223.27	784,438.73
843)	Clam Digger's	---	552.00	---	552.00
844) 60%	Res. Comm. Fisherman	---	123,618.00	---	123,618.00
845)	Non-Res. Comm. Fisherman	---	143,334.00	---	143,334.00
SUBTOTAL	To Fishermen's Fund	---	267,504.00	---	267,504.00
TOTAL		$58,532	$1,090,166.00	$38,223.27	$1,051,942.73

GROSS SALES	$1,090,166.00	
COST OF SALES	- 38,223.27	3.50%
NET RECEIPTS	$1,051,942.73	

STATE OF ALASKA, DEPT. OF REVENUE
FISH AND GAME LICENSES
240 S. FRANKLIN, JUNEAU, AK 99801

GROSS COMFISH RECEIPTS 1968 THROUGH 1977

RECEIPT CODE	TYPE OF LICENSE	1968 RESTRICTED SALMON NET	1969 MORATORIUM POSSIBLE RESTRICTED SALMON NET	1970 ANTICIPATED RESTRICTION NET GEAR	1971 GEAR ELIGIBILITY REQUIREMENT REMOVED	1972 REGISTRATION IN AREA	1973 BRISTOL BAY SLIDING GEAR SCALE	1974 LEC INTERIM-USE PERMIT REQUIRED	1975 PERMITS REQUIRED	1976 PERMITS REQUIRED	1977 PERMITS REQUIRED
		$	$	$	$	$	$	$	$	$	$
126	Vessel	143,955.00	146,898.00	161,863.00	156,490.00	156,624.00	164,194.00	152,486.00	158,704.00	163,180.00	179,142.00
127	Troll Line	36,605.00	42 740.00	48,450.00	42,965.00	43,185.00	56,910.00	59,780.00	49,920.00	47,835.00	61,756.00
128	Long Line	9,620.00	18,530.00	29,740.00	29,260.00	33,075.00	52,005.00	40,540.00	37,290.00	54,330.00	64,303.00
129	Drift Gill Net	93,820.00	107,100.00	125,800.00	116,490.00	117,100.00	142,075.00	100,655.00	106,210.00	104,275.00	106,455.00
130	Set Gill Net	30,995.00	33,950.00	37,355.00	34,460.00	35,600.00	38,720.00	36,145.00	35,900.00	37,910.00	40,960.00
131	Beach Seine	600.00	975.00	1,075.00	1,210.00	1,175.00	1,385.00	1,120.00	400.00	455.00	845.00
132	Purse Seine	135,080.00	118,790.00	131,150.00	126,160.00	119,290.00	128,590.00	131,700.00	121,180.00	123,795.00	128,410.00
133	Beam Trawl	675.00	650.00	750.00	1,100.00	1,600.00	2,900.00	4,750.00	3,150.00	2,250.00	2,450.00
134	Otter Trawl	1,700.00	1,650.00	2,550.00	4,550.00	5,850.00	7,900.00	14,050.00	14,100.00	12,800.00	12,250.00
135	shellfish Pots	14,970.00	17,430.00	18,225.00	14,415.00	17,685.00	29,025.00	35,445.00	28,875.00	31,410.00	39,690.00
136-40%	Clam Digger's	336.00	290.00	382.00	670.00	928.00	904.00	652.00	452.00	296.00	368.00
137-40%	Res. Commercial	59,488.00	50,436.00	57,480.00	56,704.00	57,476.00	66,500.00	62,796.00	64,252.00	70,988.00	82,412.00
138-40%	Nonres. Commercial	77,844.00	75,816.00	92,616.00	76,656.00	81,132.00	76,752.00	67,212.00	69,552.00	85,632.00	95,556.00
139	Scallop Dredge	.00	2,500.00	900.00	350.00	350.00	250.00	450.00	300.00	250.00	100.00
140	Comfish Ext. Fees	.00	.00	1,665.00	2,925.00	2,970.00	6,750.00	7,920.00	945.00	12,195.00	7,965.00
SUBTOTAL		605,688.00	617,755.00	710,001.00	664,405.00	674,040.00	774,860.00	715,701.00	691,230.00	747,601.00	2,662.00
843-60%	Clam Digger's	504.00	435.00	573.00	1,005.00	1,392.00	1,356.00	978.00	678.00	444.00	552.00
844-60%	Res. Commercial	89,232.00	75,654.00	86,220.00	85,056.00	86,214.00	99,750.00	94,194.00	96,378.00	106,482.00	23,618.00
845-60%	Nonres. Commercial	116,766.00	113,724.00	138,924.00	114,984.00	121,698.00	115,128.00	100,818.00	104,328.00	128,448.00	143,334.00
SUBTOTAL		206,502.00	189,813.00	225,717.00	201,045.00	209,304.00	216,234.00	195,990.00	201,384.00	235,374.00	267,504.00
TOTAL		812,190.00	807,568.00	935,718.00	865,450.00	883,344.00	991,094.00	911,691.00	892,614.00	982,975.00	1,090,166.00
	NUMBER OF LICENSES SOLD EACH YEAR										
126	Vessel	9,926	9,972	10,877	10,710	10,791	11,777	11,338	11,630	11,813	13,189
127	Troll Line	2,103	2,303	2,567	2,353	2,413	3,190	3,238	2,810	2,683	3,524
128	Long Line	342	700	1,109	1,074	1,221	1,918	1,503	1,393	1,988	2,409
129	Drift Gill Net	4,050	4,374	4,710	4,779	4,611	6,425	4,248	4,511	4,457	4,638
130	Set Gill Net	2,708	3,011	3,053	3,062	3,112	3,504	3,137	3,139	3,178	3,230
131	Beach Seine	38	64	77	86	81	91	76	30	35	52
132	Purse Seine	1,291	1,207	1,311	1,323	1,147	1,341	1,372	1,265	1,289	1,339
133	Beam Trawl	18	13	13	16	32	54	79	57	45	45
134	Otter Trawl	26	30	41	67	87	106	167	172	158	153
135	Shellfish Pots	524	593	617	576	605	959	1,170	936	989	1,225
136	Clam Digger's	148	135	149	237	336	356	262	168	126	158
137	Res. Commercial	14,872	12,609	14,370	14,176	14,369	16,625	15,699	16,064	17,747	20,603
138	Nonres. Commercial	6,487	6,318	7,718	6,388	6,761	6,396	5,601	5,796	7,136	7,965
139	Scallop Dredge	0	18	8	7	5	5	7	6	3	2
TOTAL		42,533	41,347	46,620	44,854	45,571	52,747	47,897	47,977	51,647	58,532

HB

638

HEARING NOTIFICATION TO ADMINISTRATION

BILL NUMBER	LETTER DATE	INFORMED	HEARING DATE
HCR 83	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 555	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 569	1-11-78	Commissioner, Fish & Game	1-19-78
HB 572	1-11-78	Commissioner, Fish & Game	1-19-78
HB 573	1-11-78	Pete Jeans (Commerce), John Williams	1-19-78
HB 574	1-11-78	Pete Jeans (Commerce), Ken Vassar	1-19-78
HB 575	1-11-78	John Williams, Jim Baldwin	1-19-78
HB563	1-11-78	Pipeline Surveillance Coordinator-Anchorage	Not scheduled
all of above	1-19-78	Geoff Haynes Keith Specking; Commerce (Pete Jeans)	1-19-78
HB 563	1-19-78		NOT SCHEDULED
HB 566	1-19-78	fish + Game (Morrison); Geoff Haynes; Keith Specking; Nat. Res. (Conheady)	NOT SCHEDULED
HB 581	1-19-78	fish + Game (Morrison), Geoff Haynes; K. Specking; Entry Comm. (Johnson); Sponsors	Commerce (Jeans); NOT SCHEDULED
HB 590	1-19-78	f+G. (Morrison); G. Haynes; K. Specking	NOT SCHEDULED
HB 591	1-19-78	Administration (K. Sewell); K. Specking; Sponsors	NOT SCHEDULED
HB624	1-19-78	Revenue (Messenger); K. Specking; Sponsors	" "
HB 625	1-19-78	f. + G. (Morrison); Natural Res. (Conheady); G. Haynes; K. Specking; Steering Council; Sponsors	" "
✓ HB 638	1-19-78	F+G. (Morrison); Rep. Haugen; Geoff Haynes; K. Specking, Natural Res. (Conheady)	" "
HB650	1-19-78	Commerce (Jeans); Natural Resources Conheady); Steering Council; Sponsors;	" " Haynes; Specking
HB 651	1-19-78	Same as HB650	" "
HB 652	1-19-78	Same as HB650	" "

KODIAK AREA NATIVE ASSOCIATION

BOX 172
KODIAK, ALASKA 99615
PHONE: (907) 486-5725

February 10, 1978

The Honorable Alvin Osterback
House of Representatives
Pouch V
Juneau
Alaska 99801

Dear Representative:

We of the Kodiak Area Native Association are concerned about the threat to private salmon enhancement efforts posed by House Bill 638 introduced by Representative Ernie Haugen. Salmon fishing has always been the mainstay of the Kodiak Island economy, and the private non-profit hatchery program permits Kodiak fishermen and others who benefit from the salmon resource to help rebuild the salmon stocks to their former heights.

We appreciate your past support of the salmon resource and of the private non-profit hatchery program, and we request that you do whatever necessary to defeat H.B. 638.

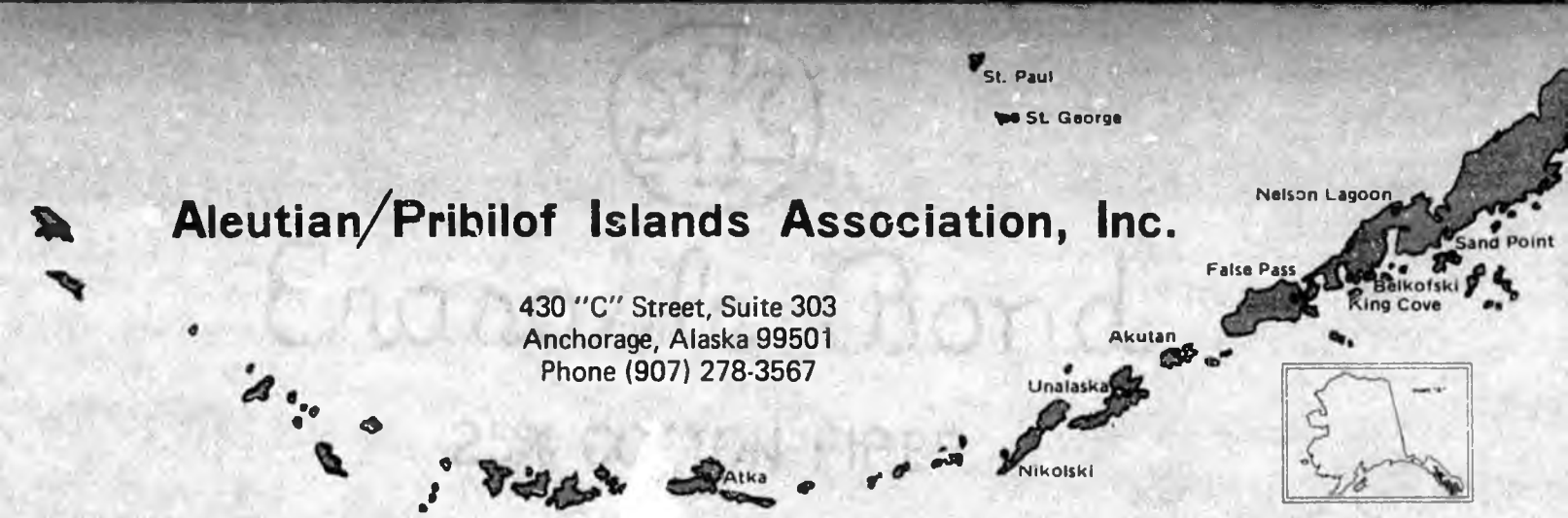
Again, we thank you for your continued support of the salmon resource.

Sincerely.

KODIAK AREA NATIVE ASSOCIATION

Frank R. Peterson
President

BO:ac



Aleutian/Pribilof Islands Association, Inc.

430 "C" Street, Suite 303
Anchorage, Alaska 99501
Phone (907) 278-3567

January 30, 1978

File

Representative Alvin Osterback
Chairman, House Resources Committee
Pouch V
Juneau, AK 99811

Dear Al:

Thank you for your letter of January 20, 1978, regarding the proposed legislation, H.B. 638.

After reviewing H.B. 638, I am somewhat surprised. I have always believed that the State was in the business, along with its' citizenry, to protect, promote, and enhance the growth of our greatest resources. That is the salmon resources. Now it appears as though this is not so. HB 638 would,in effect,kill off the valuable salmon stocks we are all working to enhance.

As you know, we on the Aleutians are making every attempt, through our Association, to develop and enhance the salmon stocks in some of our Island communities. We have been working on enhancement programs for the last several years. We are realizing success and only wish to see it continue.

Therefore, our Association is totally against HB 638. We do not believe that it will serve the best interests of the State or its' people. Please do all that is possible to insure the defeat of HB 638.

I look forward to hearing from you soon on this matter.

Sincerely yours,

Pat Pletnikoff

Patrick Pletnikoff
Executive Director

rc

HB 638

CITY OF KING COVE

P. O. Box 37 · King Cove, Alaska 99612 · (907) 497-2340

RESOLUTION NO. 78-02

A RESOLUTION OF THE CITY COUNCIL OPPOSING ALASKA STATE LEGISLATURE HOUSE BILL 638 WHICH PROPOSES TO PROHIBIT NON-PROFIT SALMON HATCHERIES UPON ADOPTION.

WHEREAS, the City Council has reviewed Alaska State House Bill 638 and has considered the effect of said House Bill and finds that the proposed bill would prohibit non-profit salmon hatcheries such as is located in Sand Point after adoption of said House Bill; and

WHEREAS, the City Council does not view such prohibition to be in the interest of residents of the Aleutian region.

NOW THEREFORE BE IT RESOLVED THAT, the City Council oppose adoption of Alaska State House Bill 638.

PASSED AND ADOPTED BY A UNANIMOUS VOTE THIS 31st DAY OF January, 1978.

Don L. McCallum
Mayor, City of King Cove

ATTEST:

Lotti I Anshkin
City Clerk

HB 638

February 2, 1978

Alvin Osterback, Chairman
House Resources Committee
Pouch V - State Capitol
Juneau, AK 99811

Dear Mr. Chairman:

House Bill 638, a bill, providing for a termination date for receipt of applications for permits under the private non-profit hatchery program has come to my attention. I am opposed to this bill for many reasons.

As we all know the status of our Alaskan salmon resources are at a low ebb and a means of rehabilitating those runs without large scale closures is needed. Our Alaskan fishermen and those associated with those fisheries cannot afford that. It seems obvious that a hatchery program is needed. A hatchery program that has local involvement from the planning, financing, building, operating, and other obvious areas is the best way to proceed.

912 East 15th Avenue, Anchorage, Alaska 99501, Phone (907) 274-4558

Chugach Natives, Inc.

The private non-profit hatchery is a means to rehabilitate our fisheries with a method to get private and other capital not available to a state program while providing more local input, some local controls, stimulates the economy on a local level. If my own experience is an indicator it provides a total commitment and involvement by the user groups.

I would hope that the State of Alaska would try to further assist such a program that would benefit all "Alaskans" by what means they have at their disposal.

Sincerely,

G. R. Andersen Jr.
President, Chugach Natives, Inc.

G R Andersen Jr.
Vice-President, Prince William Sound Aquaculture

CK

cc: Prince William Sound
Aquaculture

Tim Joyce, Aquaculturist
Sand Point JOM Program
P.O. Box 132
Sand Point, Alaska 99661

House Resources Committee
Alaska State Legislature
House of Representatives
Pouch V
Juneau, Alaska 99811

File in all files

January 25, 1978

Attn: Alvin Osterback

Dear Sirs:

House Bill 638 was recently brought to my attention. I must urge you to the utmost to defeat this bill! It should be plain to see the benefits of the non-profit hatchery just by the results of Sheldon-Jackson College this last fall. It would be a grave mistake to put a deadline date on an infant program which has such a great potential.

The small hatchery operating here in Sand Point which I supervise provides tremendous opportunities for high school students to receive "hands on"training in the field of salmon culture. Several other communities have inquired about setting up a small educational facility as our own and the non-profit hatchery is a very good means to do it.

We have not had any returns as yet to our hatchery, but expect over 300 pink salmon to return this fall from the 33,000 released last spring. These fish were all spawned and cared for by the students in the aquaculture program. Our returns on silver salmon will not arrive until 1980.

Humboldt Creek, where our hatchery is located, is a small stream that has very depleated runs of both silver salmon and pink salmon. In the fall of 1976, only 60 pink salmon returned to spawn; as you can see, a return of over 300 fish in 1978 will increase the run five fold. This amount of fish is not of commercial importance, but they do supply many local residents and their children with a good sport fishery. This fishery would not exist without the present hatchery program. I ask you to cautiously consider the effects of HB 638 before you take action. The rejection of this bill will benefit Alaska and Alaskans far into the future.

Sincerely,

Timothy L. Joyce

Timothy L. Joyce
Aquaculturist

amp

KONIAG, INC. HARBOR VIEW COMPLEX P.O. Box 746 (907) 486-4147 KODIAK, ALASKA 99615

January 25, 1978

file w/ all folders but 1 copy in my file

Honorable Representative Alvin Osterback, Chairman
House Resources Committee
Pouch V State Capitol
Juneau, Alaska 99801

Dear Mr. Osterback:

We are shocked and dismayed at the intent of HB 638 and whoever introduced it should be ashamed. Kodiak now has begun an aggressive positive move to establish a non-profit salmon hatchery program in this region where such a program is needed. If the program is not available to Kodiak then all funding for all such programs should be ended immediately. We are incensed at this blatant attempt by the haves to deprive and discriminate against the have-nots. HB 638 is wholly unworthy of any consideration.

Respectfully,

KONIAG, INC.

Karl Armstrong

Karl Armstrong
Executive Vice President

KA/va

Calista Corporation
516 Denali Street, Anchorage, Alaska 99501 (907) 279 - 5516
P. O. Box 574, Bethel, Alaska 99559 (907) 543 - 2191

January 27, 1978

Alaska State Legislature
House of Representatives
Committee on Resources
Pouch V
Juneau, Alaska 99811

Attn: Rep. Alvin Osterback

We are surprised that legislation has proposed (HB 638) which would effectively kill the private nonprofit salmon hatchery program and strongly oppose this move. These hatchery programs are just getting started not only on the Kuskokwim and Yukon Rivers but in the Cook Inlet, Sand Point, Kodiak, PWS and Southeast areas and need the strongest possible support from the Legislature and State and Federal agencies. The success of the Port San Juan and Sheldon Jackson programs has been notable and we can see no justification whatever for discouraging these programs.

We unconditionally and emphatically oppose HB 638.

Sincerely,

Oscar Kawagley, President

OK/dj
REF/78-029

HB
652

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

1/18/78

Date: 1/31/78

Mr. Speaker:

The Committee on RESOURCES has had HB 652
"An Act making a special appropriation to the Department of Natural Resources for disbursement to the Steering Council on Alaska Lands; eff. date."

under consideration and (a majority of the committee) (the committee reports it back as follows)

( ) recommends it do pass ( ) recommends it do not pass

( ) recommends it do pass with attached amendment(s)

( ) recommends it be replaced with CS for _____

and _____ ( ) new title ( ) same title

( ) AND attaches a Letter of Intent ( ) New Fiscal Note

(X) reports it back without recommendation

( ) and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS.

OTHER RECOMMENDATIONS:

_____ Chairman

H 60 (rev. 6/77)

HEARING NOTIFICATION TO ADMINISTRATION

BILL NUMBER	LETTER DATE	INFORMED	HEARING DATE
HB 118	phone 1/27	Rep. Eliason, Commercial Fisheries, S.Gross, Rep. Gardiner	1/31
SCR 68	phone 1/27	Sen.Ziegler, D.Nat.Res.(Conheady) AK Loggers Assoc.	1/31
~~✓~~ HB 652	phone 1/27 +2/1	Rep.Cowper, D.Nat.Res(Conheady) Commerce, Carolyn Burg	~~2/2~~ 1/31
HB 563	phone 1/27	Rep.Swanson, Pete Jeans, AK Pipelines Surveillance Env.Conservation, Nat. Res. Oil & Gas (P. Conheady)	2/2 comm
CSHB 573	phone 1/27	P.Jeans	2/2
HB 624	phone 1/27	Rep.Snider, D.Rev.	2/2
HB 625	phone 1/27	Rep.Anderson, Fish&Game, Nat.Res.(P. Conheady)	2/2
HJR 53	phone 1/27	Rep.Gardiner	2/2
all B above	memo 1/27	Keith Specking	1/31 // 2/2

HEARING NOTIFICATION TO ADMINISTRATION

BILL NUMBER	LETTER DATE	INFORMED	HEARING DATE
HCR 83	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 555	1-11-78	Dept. of Revenue (J. Messenger) John Williams, Ken Vassar	1-19-78
HB 569	1-11-78	Commissioner, Fish & Game	1-19-78
HB 572	1-11-78	Commissioner, Fish & Game	1-19-78
HB 573	1-11-78	Pete Jeans (Commerce), John Williams	1-19-78
HB 574	1-11-78	Pete Jeans (Commerce), Ken Vassar	1-19-78
HB 575	1-11-78	John Williams, Jim Baldwin	1-19-78
HB563	1-11-78	Pipeline Surveillance Coordinator-Anchorage	Not scheduled
all of above	1-19-78	Geoff Haynes Keith Specking; Commerce (Pete Jeans)	1-19-78
HB 563	1-19-78		NOT SCHEDULED
HB 566	1-19-78	fish + Game (Morrison); Geoff Haynes; Keith Specking; Nat. Res. (Conhead)	NOT SCHEDULED
HB 581	1-19-78	fish + Game (Morrison), Geoff Haynes; K. Specking; Entry Comm. (Johnson); Sponsors	Commerce (Jeans); NOT SCHEDULED
HB 590	1-19-78	F+G. (Morrison); G. Haynes; K. Specking	NOT SCHEDULED
HB 591	1-19-78	Administration (K. Sewell); K. Specking; Sponsors	NOT SCHEDULED
HB624	1-19-78	Revenue (Messenger); K. Specking; Sponsors	" "
HB625	1-19-78	F. + G. (Morrison); Natural Res. (Conhead); G. Haynes; K. Specking; Steering Council; Sponsors	" "
HB638	1-19-78	F+G. (Morrison); Rep. Haugen; Geoff Haynes; K. Specking, Natural Res. (Conhead)	" "
HB650	1-19-78	Commerce (Jeans); Natural Resources Conhead); Steering Council; Sponsors;	" " Haynes; Specking
HB 651	1-19-78	Same as HB650	" "
HB 652	1-19-78	Same as HB650	" "

LA11 2371 15.43 JA01 0033 15.43 02/01/78

Room 118

TO: CINDY, JUNEAU
FROM: CAROL, ANCH.

PLEASE DISREGARD LAST MESSAGE - I HIT THE ENTER BUTTON BY MISTAKE.

MESSAGE FOR BECKY CRAMER, HOUSE RESOURCES COMMITTEE
FROM: BECKY TISCHER, D-2 STEERING COUNCIL

1978 PROJECTED MAXIMUM ACTIVITY BUDGET

STAFF AND OPERATIONS	$85,722.
PLANNING & COUNSELING	12,000.
TRAVEL/SPEAKERS BUREAU	102,500.
COMMUNICATIONS INTERNAL	40,000.
LEGAL REPRESENTATION	150,000.
MATERIALS REPRODUCTION	11,500.
PRINTING	13,000.
GRAPHICS DESIGN	4,000.
RADIO PRODUCTION	6,000.
TV FILM PRODUCTION/TIME PUR. BROADCAST	140,000.
SPACE PURCHASE	50,000.
DIRECT MAIL	10,000.
SURVEY RESEARCH	25,000.
SPECIAL CONSULTANTS	12,000.
EVALUATIONS & REPORTS	12,500.
MISC. EXPENSES	12,000.
SPECIAL PROJECTS	
USA NEWS MEDIA CAMPAIGN	70,000.
USA NEWS FEED OPERATION	75,000
TOTAL	831,222.

HB
683

COMMITTEE REPORT

HOUSE

HB 1725/78

FURTHER: FINANCE

Date: April 5 1978

Mr. Speaker:

The Committee on RESOURCES has had HB 663 "An act making a special appropriation to the Dept. of Fish and Game, Fish and Wildlife books; eff. date."

under consideration and (a majority of the committee) (the committee reports it back as follows)

( ) recommends it do pass ( ) recommends it do not pass

( ) recommends it do pass with attached amendment(s)

( ) recommends it be replaced with CS for HB 663

and CS/HB 663 ( ) new title ( ) same title

( ) AND attaches a Letter of Intent ( ) New Fiscal Note

( ) reports it back without recommendation

( ) and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

Unit of Entire Comm. pass

OTHER RECOMMENDATIONS:

_____

Chairman

H 60 (rev. 6/77)

TO: Jay S. Hammond, Governor
State of Alaska

DATE: December 5, 1977 RP 78-163

FILE NO:

TELEPHONE NO:

TRANSMITTED TO LB&A

DEC 13 1977

PASSED 1-12-78

FROM: Ronald B. Lind, Director
Division of Budget & Management
Office of the Governor

SUBJECT: Department of Fish & Game
Request to Receive and Expend
$200,000 in Federal and Private
Funds

SET UP CONTRACTS FUNDS RESTRICTED

The Department of Fish & Game requests authority to receive and expend $200,000 in federal and private funds. These funds will be used to compile and print three comprehensive volumes on Alaska's fish and wildlife. Two of the books, the Alaskan Fisheries Atlas, Volumes I and II, will provide information on the distribution and general habitat requirements for anadromous and fresh water finfish, herring, and shellfish. The third book, Alaska's Wildlife and Habitat, Volume II, will be a companion volume to an existing book, Alaska's Wildlife and Habitat, Volume I, published by the Department. Alaska's Wildlife and Habitat, Volume I, described information on the distribution and general habitat requirements of big game, marine mammals, water fowl and sea birds. Alaska's Wildlife and Habitat, Volume II will describe information on fur bearers, small game, upland game birds, and selected raptors.

These books will provide valuable information on fish and wildlife to State and Federal agencies. These agencies will be aided in the planning, research, and the management of Alaska's fish and game resources. This information will also be of interest to research and educational institutions. Additionally, the general public has expressed considerable interest for information on their State's fish and wildlife. The first book, Alaska's Wildlife and Habitat, Volume I, was mainly sold to orgar.izations, businesses, libraries, and individuals. Over 2,000 copies of this book have been sold.

Total funding for this project will consist of $200,000 requested in this revised program and $217,900 in program receipts which will be requested as a FY 78 supplemental budget request. The Department currently has verbal committments for almost $100,000 in federal funds. Also, the Department expects to solicit $100,000 from private industry. The $217,900 supplemental will be based on Program Receipts generated by sales of the volumes.

The Department expects to sell 2,000 sets of the fishery volumes and 1,500 copies of the game volume. The selling price of volume will be determined by the degree of financial participation from federal and private sources. If the full $200,000 in federal and private funds is realized, the volumes will sell at $40.00 each and the project will require a supplemental budget of $217,900 in program receipts.

213985

Speedinet @ Moore Business Forms, Inc.

Actual implementation of the project will not commence until sufficient funds from federal and private sources are committed. Once these funds are committed, the Department will commence preparation of the fish and wildlife volumes so that, assuming the FY 78 supplemental appropriation passes, printing of the documents may be started as soon as possible.

Since this project will continue past June 30, 1978 it is requested that the balance of these funds be carried forward to FY 79 on July 1, 1978. Additionally, these funds will be restricted pending receipt of signed contracts.

Ronald B. Lind, Director
Division of Budget & Management
Office of the Governor

Approved this 12 day of Dec., 1977.

Jay S. Hammond, Governor
State of Alaska

Legislative Budget & Audit Committee
Date: _____

02-C011,15 v. 107761

STATE
of ALASKA

MEMORANDUM

TO: Ronald Skoog, Commissioner
Department of Fish and Game

DATE: September 27, 1977

FILE NO:

TELEPHONE NO:

FROM: Jay S. Hammond, Governor
State of Alaska

SUBJECT: Federal Assistance in the Production and Publication of Three Books on Alaska Fish and Wildlife

Recently I have learned about the difficulties your Department has encountered in funding the compilation and printing of three books on Alaska's Fish and Wildlife. I hate to add to your problems, but I find it necessary to deny your revised program request to receive and expend book sale revenues (program receipts) to finance the production of these books. Your request to interpret book sale revenues as trust funds does not meet the criteria set forth in the Attorney General's definition of trust or custodial funds (see memo from Ron Lind, Director, Division of Budget & Management, to All Commissioners, dated 9/20/77).

I understand the value of this proposed project and believe that it will provide innumerable benefits to non-resident as well as resident Alaskans. I am pleased to see that various federal agencies recognize the importance of this project and are interested in contributing approximately $179,000 to defray the total production costs of these books. As long as federal funds are available, I would favorably welcome your request for FY 78 supplemental funds ($262,500 program receipts) to finance the State's share of this project. As you know, the Legislature is the final authority for appropriating monies for state expenditures. However, I assure you that I will do my utmost to secure passage of a supplemental appropriation for this project.

Federal-State
Land Use Planning Commission
For Alaska

May 3, 1977

Honorable Jay S. Hammond
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Hammond:

Tha Alaska Department of Fish and Game has presented a proposal to publish an Alaskan Fisheries Atlas (two volumes) and Volume II of Alaska's Wildlife and Habitat. These volumes, along with Volume I of Alaska's Wildlife and Habitat which was published in 1973, will provide the type of comprehensive fish and wildlife resource information that is needed by all agencies concerned with our natural resources.

The Joint Federal-State Land Use Planning Commission has assisted in this project and we will continue to support the proposal. We consider these publications to be both a timely and necessary component of the statewide resource inventory that is needed for land-use planning and management. It is our hope that your administration and the Alaska Legislature will assist the Alaska Department of Fish and Game in the publication of this valuable data.

Sincerely,

Walter B. Parker

Walter B. Parker
State Co-Chairman

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

ASKA

MEMORANDUM

OCT 28 Rec'd

TO: Jeff Morrison, Director
Administration, Juneau

DATE: October 26, 1977

FROM: Ed Klinkhart
Special Projects, Anchorage

SUBJECT: Printing proposal

Attached is our proposal for publishing the fish and wildlife books. Our original proposals were in a blue cover. If any of these are around, throw them away. Everything you will need for the supplimental should be in here. If not, call me.

Here is the cost per volume based on varying amounts of grant money:

Total Grant (thousands)	Game/volume	Fish/set of two
0	$76	$152
25	71	142
50	67	134
75	62	124
100	58	116
125	53	106
150	49	98
175	44	88
200	40	80

HB

712

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

M E M O R A N D U M

April 14, 1978

SUBJECT: CSHB 712: GO Bonds for parks and recreations facilities

TO: House Resources Committee

ATTN: Diann Nelson, Administrative Assistant

FROM: John B. Chenoweth, Legislative Counsel

The additional facilities have been incorporated into the Committee Substitute and the total recomputed as follows:

Total of all projects:	$3,835,300
Amount allowed for costs related to preparation and sale of bond (.0035%) rounded up to nearest hundred dollars:	13,500
	$3,848,800

An amount is allowed for costs of bond sales for all state general obligation bonds, and an increase made in the total accordingly.

JBC:hjd

STATE OF ALASKA — BUDGET UNIT SUMMARY — 05141 — 3/29/

CATEGORY: NATURAL RESOURCE MANAGEMENT — PROGRAM: PARKS CAPITAL PROJECTS
AGENCY: DEPARTMENT OF NATURAL RESOURCES

COMPONENT DESCRIPTION	FY78 ATH	FY78 RP	FY78 SUP	MAINT	REQUEST	GOVERNOR	HOUSE	SENATE	F.C.C.	BILL
CHENA RIVER REC AREA				550.8	550.8	550.8				
DEVELOP CHILKAT PARK				1205.0	1205.0					
SKAGWAY CAMPGROUND				1111.1	1111.1					
SILVER KING WAYSIDE				849.2	849.2	849.2				
IZAAK WALTON WAYSIDE				295.7	295.7	295.7				
KING MOUNTAIN WAYSIDE				75.0	75.0	75.0				
PARKS RESTROOMS-ALTERATIONS				104.0	104.0	52.0				
BIKE TRAILS & FOOTPATHS						200.0				
BIKE TRAILS & FOOTPATHS						200.0				
BIKA'S LANDING ROADHOUSE				466.0	466.0	25.0				
TOTEM BIGHT				320.6	320.6	320.6				
HIGHWAY ROADSIDES				666.8	666.8	736.8				
MIRROR LAKE WAYSIDE				245.7	245.7	245.7				
QUARTZ LAKE DEVELOPMENT				411.8	411.8					
PLANNING/ENGINEERING STUDIES				161.0	161.0					
MOON LAKE WAYSIDE				143.1	143.1					
HOMESTEAD FARM PARK				360.0	360.0					
WHISKEY GULCH ACQ/DEVELOPMENT				629.1	629.1					
WILLOW CREEK WAYSIDE				504.9	504.9					
** TOTAL				10053.8	10053.8	5162.4				
** CHANGE VERSUS FY78 ATH				100.0%	100.0%	100.0%				
OBJECT DESCRIPTION										
MISC.				8099.8	8099.8	3550.8				
FUNDING SOURCE										
FED. RECEIPT				1498.9	1498.9	1341.5				
GENERAL FUND				4646.9	4646.9	597.7				
** GENERAL FUND CHANGE VS. FY78 ATH				100.0%	100.0%	100.0%				

POSITIONS

Anchor River Wayside	Kenai	100.0
Moose Creek Wayside	Mat-Su	360.0
Matanuska Glacier Wayside	Mat-Su	117.0
Deadman Lake Wayside	Interior	230.0
Johnson Lake Wayside	Kenai	450.0
Kasilof RIver Wayside	Kenai	50.0

Willow Creek Wayside 504.9

KENAI PENINSULA BOROUGH
BOX 850 • SOLDOTNA, ALASKA 99669
PHONE 262-4441

March 21, 1978

DON GILMAN
MAYOR

MAR 23 1978

The Honorable Hugh Malone
Speaker of the House of Representatives
State Capital
Pouch V
Juneau, Alaska 99811

Dear Mr. Malone:

The Division of Parks has asked the Kenai Peninsula Borough to give up Borough selected land and Borough patented land for the development of wayside parks. Our Planning Commission has recommended this use of land, but has questioned the availability of adequate manpower and funds by the Division of Parks to maintain these parks properly.

The funding and manpower of the Division of Parks for maintenance in the Kenai district is inadequate. The problem results from the large numbers of people from the Anchorage area who use these parks on weekends. The funding in the governor's budget for park maintenance in the Kenai district needs to be tripled. Another matter is House Bill 712. The Whiskey Gulch wayside, at a minimum, should be added with an amount of $400,000.

Without proper facilities and maintenance the residents of our state cannot enjoy outside recreation activities. I ask your support of these requests.

Sincerely,

Donald E. Gilman

DONALD E. GILMAN
Borough Mayor

DEG:PW:rh

KENAI PENINSULA BOROUGH
BOX 850 • SOLDOTNA, ALASKA 99669
PHONE 262-4441

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Borough Mayor

DEG:PW:rh

Bicycle Manufacturers Association of America Inc.
1101 Fifteenth Street, N.W. Washington, D.C. 20005 (202) 452-1166

February 22, 1978

The Honorable Alvin Osterback
Chairman
House Resources Committee
House of Representatives
Juneau, Alaska 99801

Re: Alaska House Bill 712

Dear Mr. Osterback:

It has come to our attention that the House Rules Committee sponsored the above bill which was referred to your committee. As you know, this bill provides for the issuance of general obligation bonds, which the sum of $200,000 may be expended for the construction of bicycle trails.

BMA strongly supports this legislation. We urge you and the other members of your committee to act affirmatively on this legislation and otherwise lend your assistance to insure its prompt passage.

One of the primary objectives of this Association is to encourage the construction of more bicycle facilities. You no doubt appreciate the many benefits of cycling. It is healthy exercise and is a fine recreational outlet. For many, it is an alternate means of transportation which consumes no energy and does not pollute the atmosphere. These are but a few of the reasons why cycling should be encouraged. One way to do so is by providing better bicycle facilities. The House Rules Committee bill is certainly a step in this direction.

Would you be kind enough to note our interest in this bill and alert us of any committee hearings at which we could testify in its favor. Thank you, and we deeply appreciate the work your committee is doing in the interests of cycling in Alaska.

Cordially,

Philip J. Burke
Director of Information

PJB:cgd

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Cordially,

Philip J. Burke
Director of Information

PJB:cgd

HB

720

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
HB 720	2/15/78	Dept. of Natural Resources	2/23/78
	"	Fed/St. Land Use Planning Comm'n.	"
	"	Steering Council	"
	"	Rep. Bradley	"
	"	Rep. Cowper	"
	"	Rep. Freeman	"
	"	Rep. Phillips	"
	"	Keith Specking	"
	"	Geoff Haynes	"

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

11TH FLOOR, STATE OFFICE BLDG.
POUCH M – JUNEAU 99811

February 28, 1978

The Honorable Alvin Osterback
Chairman, Resources Committee
Alaska House of Representatives
Juneau, Alaska 99801

Dear Mr. Osterback:

In response to the request from your Administrative Assistant, the Department of Natural Resources proposes the following changes to HB 720:

Amendment 1: On page 1, line 11, delete "7,000,000 acres of state", and delete Section 3 and insert in ~~lieu~~ thereof:

*Section 3 AS 38.08.010(a) is amended to read:

(a) The director shall classify, survey, and plat for homesite entry (25,000 ACRES OF) state land which is otherwise vacant, unappropriated and unreserved and is suitable for erection of residential dwellings to use as a permanent abode.

Rationale: The present language subsumes the homesite program as the major vehicle for disposal of habitable lands in the State. As was pointed out in the testimony of the Federal-State Joint Land Use Planning Commission a range of varying needs for lands exists within the State and there is a finite amount of fair to good land suitable for habitation. Mandating disbursal of most of the habitable land within one program precludes a rational, well-rounded disposal program leaving little acreage suitable for disbursal through other mechanisms such as open-to-entry, agriculture, remote cabins, land sales, etc.

Amendment 2: On page 1, delete Section 2.

Rationale: As was discussed at the previous hearing on this measure, the legal restraints placed upon disposal of interests in state lands makes the time frame set out in this section impossible to meet. If the question raised by this section was merely one of cost, we would have set forth the expenditures necessary to accomplish this mandate. However, in order to comply with this directive, a major overhaul of the methods of disposing of interest in state lands would be required.

Amendment 3: One page 1, line 24, delete "In each annual offering" and insert in lieu thereof "annually".

Rationale: Employment of the phrase "In each annual offering" allows for construing legislative intent to a limit of one offering per year, which we do not believe to be the intent of the Legislature.

Amendment 4: On page 3, delete section 10.

Rationale: State law already provides for section line easements, and for easements to provide access to navigable and public waters. The fact that this is a subdivision type of disposal means that preliminary planning will have to be undertaken to insure roads and utility easements in accordance with platting requirements. The additional language does not do anything in that regard.

Amendment 5: No specific language has been developed but we believe that an amendment should be prepared which changes the nature of the entry permit to a contract with provision for an assignable interest. This would facilitate financing of improvements on the homesites prior to obtaining title to the parcel.

Your consideration of these amendments is greatly appreciated.

Sincerely,

Robert E. LeResche
Commissioner

TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 720
Title An Act relating to Homesites
Requested by Pat Conheady Date 2-6-78

II. FISCAL DETAIL
Agency Affected Department of Natural Resources
Program Category Affected Natural Resource Management
Budget Request Unit(s) Affected District Operations, Cadastral Engineering, Classification, Land & Water Management, Management and Administration

EXPENDITURES (Thousands of Dollars)

		FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100	PERSONAL SERVICES		702.4	744.0	789.0	836.0	886.0
200	TRAVEL		47.0	48.0	49.0	50.0	50.0
300	CONTRACTUAL		4,537.9	3,373.0	3,375.0	3,380.0	3,400.0
400	COMMODITIES		4.3	4.8	4.8	4.9	5.0
500	EQUIPMENT		36.6				
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		5,328.2	4,169.8	4,217.8	4,270.9	4,341.0

FUNDING (Thousands of Dollars)

GENERAL FUND		5,328.2	4,169.8	4,217.8	4,270.9	4,341.0
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		27	27	27	27	27
PART TIME						
TEMPORARY						

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

* That sections 2 and 3 are requiring that a total of 35,000 acres be classified, surveyed and platted by June 30, 1979 and will therefore be the required amount for FY 79.

34,000 acres into five acre sites equal 6,800 sites times $600.00 per site. Average cost = $4,080.00. Cadastral rectangular survey of the 34,000 acres at $11.72 per acre equals $398,400. Total survey cost for FY 79 equals $4,478,400.

Survey contract funds needed for each remaining year are:
25,000 acres into 5 acre sites equals 5,000 sites tiems $600.00 per site equals $3,000,000. Cadastral rectangular survey of the 25,000 acres at $11.72 per acre equals $293,000. Total survey cost per year $3,293,000.

*Due to the problem of negotiating for survey contracts, even with immediate passage of the bill it is impossible to implement Section 2 during FY 78 and therefore has been combined with FY 79.

IV. DATE 2/17/78 PREPARED BY Geo K. Hollist
AGENCY Natural Resources
PHONE 279-5577

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

33-001 (Rev. 12/77)

B. Program Summary

Personal Service		$702,355
Southeast District:		
1 - Land Management Officer II	$28,313	
1 - Land Management Officer I	24,725	
TOTAL - 2	$53,038	
Southcentral District:		
1 - Land Management Officer II	$28,313	
1 - Land Management Officer I	24,725	
TOTAL - 2	$53,038	
Northcentral District:		
1 - Land Management Officer II	$30,030	
TOTAL - 1	$30,030	
Cadastral Engineering:		
4 - Cadastral Surveyer II	$144,847	
2 - Cadastral Surveyer I	67,226	
2 - Cartographer II	53,933	
2 - Land Management Technician I	46,525	
2 - Clerk III	31,300	
TOTAL - 12	$343,831	
Classification:		
1 - Senior Planner	$34,799	
1 - Cartographer II	25,274	
TOTAL - 2	$60,073	
Land and Water Management:		
2 - Land Management Officer II	$56,626	
1 - Land Management Officer I	24,725	
1 - Clerk Typist III	16,315	
2 - Documents Processing Clerk I	31,000	
TOTAL - 6	$128,666	
Management and Administration:		
1 - Accounting Clerk II	$17,364	
1 - Clerk III	16,315	
TOTAL - 2	$33,679	
Travel:		$ 47,000
Southeast District	$5,000	
Southcentral District	3,000	
Northcentral District	4,000	
Cadastral Engineering	30,000	
Classification	3,000	
Land and Water Management	2,000	
TOTAL	$47,000	

Contractual		$4,537,900
Southeast District	$10,000	
Southcentral District	8,000	
Northcentral District	5,000	
Cadastral Engineering	4,508,400	
Classification	3,000	
Land and Water	3,500	
TOTAL	$4,537,900	
Comodities		$4,300
Southeast District	$500	
Southcentral District	500	
Northcentral District	300	
Cadastral Engineering	1,200	
Classification	200	
Land and Water Management	1,200	
Management and Administration	400	
TOTAL	$4,300	
Equipment:		$36,600
Southeast District	$1,000	
Southcentral District	1,000	
Northcentral District	500	
Cadastral Engineering	25,000	
Classification	1,500	
Land and Water Management	5,600	
Management and Administration	2,000	
TOTAL	$36,600	

16 February 1978

The House Resources Committee was called to order at approximately 2:25 p.m. by Chairman Alvin Osterback in Room 118 of the Capitol Building in Juneau, Alaska. All members were present

HB 211 Creating the Alaska Land Commission

TRANSCRIPT

MR. GRAVEL:

I really appreciate the opportunity to come forward. I received the invitation from the Speaker and President of the Senate to give my annual talk as other members of the delegation to the legislature. I'll be doing that. I think we have communicated back in March, about the 28th in the morning, if that would be the morning most desirable. From my point of view that is when we are having our Easter recess and I'll be in State for that whole period. What I wanted to do at this particular meeting in which you graciously afforded me the opportunity to do is to float, literally float, the draft of legislation on d-2 which I have promised to our collective constituencies that I would do at the beginning of the year, and I have it here and I met previously with the Steering Council and gave them copies of it since it is germane to their area of inquiry. And, also as I understand it, it is also germane to your area as a committee as the subject you are going through, so I would (indisc) submit for deliberation a copy of this Bill. Would appreciate your input and would hope to introduce this in the Senate sometime right around the 15th of March. The Bill does not have the magic numbers of acreage for the very simple reason, we could have easily done it, but since all of our attention is focused on acreage I thought it would detract from the substance of legal language in question to just worry about acreage and I thought it would be more advantageous to concentrate of substance, it would be easy to put some figures together that would hopefully cast us in a compromise mood with other pieces of legislation in that regard.

Before launching into this in some detail, because there is one element from my personal point of view in paramount. I would like to speak about two pieces of legislation. I think one is the reason you are having these hearings. Two pieces of legislation that involve land in Alaska and would have some unusual impact. One piece of legislation is HB 720 which apparently

is a substitute piece of legislation for HB 211. The Beirne bill is -- which is the Beirne bill?

UNIDENTIFIED VOICE: 720

MR. GRAVEL

720 - let me speak on that one first. If I were to suggest a piece of legislation that would destroy Alaska's position in Washington on d-2 I would think that this would be the piece of legislation. I want to make sure I've got the legislation properly. HB 720 as I understand it is a substitute. That is a new piece of legislation. If the initiative were to pass I think you would see the Congress react and this would foreclose the need of my -- initiatives. My testimony to you today is very (indisc). I would hope that this legislation would come into being and it would foreclose the need for (indisc). The reason is that, and I will use two cliches, we have federal laws right now that keeps us from doing what that initiative would do. As a result of those land scandals we have had in Florida and Arizona. If we were to parcel out chunks of land to the people wholesale, as I understand it, during the initial 15 year period there would be no responsibility at all for providing utilities or any planning process whatsoever, that essentially we would be selling unsubdivided land and this would be viewed by the Congress of (indisc) responsibility and would give real credence to the environmentalist community's charge, some elements of the environmentalist community, that Alaskan's are irresponsible and therefore we need a very strong d-2 bill because we don't know how to handle our own situation. Yet I can appreciate that the referendum, the initiative, would have a great deal of popular support. In fact one of the fears I would have and it's the reason why I'm talking about it now publicly -- I only found out about the initiative, I confess, not all that long ago and I couldn't believe it when somebody described to me what this initiative was going to do. And so realizing that it has a great deal of popularity and realizing that I may be treading on some individuals' toes -- I would respectfully apologize for treading on anybody's toes -- but the utilization of land and development of land is something that I feel a certain professional confidence in. I made my living in it. I've seen how people have butchered land from the state and how unconscionable this impact can be on the balance of society because once you've butchered it up, you spend the rest of your life paying to correct the deficiencies you've created structurally. And so what we'd be doing with this kind of initiative (indisc). And like I say, if you try to do this in the private sector, you'd be put in jail for trying to do it. And so trying to do it collectively as a society, you've got to realize what kind of an impact this would have in the United States and on the Congress. Therefore, the approach that's been taken with HB 70 in my mind is a very mature approach to try and sort of save the day because we've got so far down the road in the other approach. I can only commend to

your attention the capacity to effect legislation. (indisc) in general terms.

The next item I'd like to speak to is HB 211 which is a piece of legislation that was introduced last year, (indisc) Mike Miller, Mr. Speckling. I don't know if they have other co-sponsors. I was very impressed with it. Here again I find by noticing a lot of things that you're doing, that you're just doing a lot of good work and this essentially is the tactic that I'm here to recommend that the state employ in order to regain the initiative that we lost on the entire d-2 issue. We've got a chance now as the legislation comes into the Senate to take up the initiative. If we don't coalesce to some degree -- and I'll speak to how we can coalesce and still maintain our individual positions. But if we don't coalesce, we're just going to get run over as we have in the House. But one of the recourses that we will have at our disposal would be Senator Stevens and I would just wage a filibuster. I think we have the seniority and the capability and experience to wage a very effective one and I think we (indisc) legislation. I have never been one to be proud of negative acts because you're really not contributing anything, you're just stopping something from happening. But I think the task at hand is to bring something about not just stop something -- to bring something about that's worthwhile. So we have the opportunity to do this. In the legislation that I have here, there presupposes state legislation to accompany this. That's essentially what you have in HB 211, is state legislation. So if that could be flushed out and developed and passed in a reasonable period of time, that could be our position in the Congress. It wouldn't be Mike Gravel's position or Don Young's position or Steven's position, it would be the Alaska Legislature has so spoken. There's no question it's not going to be cast in concrete but it'll be a darn sight more powerful than anything else I can think about (indisc) that anybody else would have. And so if you can meet a time frame of early mid-March before the hearings reconvene, we could have a new product to present to the Congress -- the parties behind it, the State Legislature, the Governor would probably endorse it. I certainly endorse it and I think the balance of the delegation would endorse it. Let me now speak as to what would be the key elements of my endorsement and I've tried in the past to discuss the subject to varying degrees with success, with varying degrees of comprehension. Where I am right now I can say very simply, last year this document would not have been politically possible to introduce or to float under any elective official's name. We talked privately last year as to the efficacy of having cooperative management over the entire sub-continent of Alaska. And mind you, I'm specifically using the word sub-continent and not the state, the entire sub-continent. That would have been viewed quite oddly and very suspiciously, but we've all gone through a maturing process since last year and taking the position that they just can't do it to us is not a position, it's merely a reaction. That's all we've been

doing. They can't do it to us. That's why we have no initiative. That's why we have no collective posture. But what has happened is that we now see that every one of the state-wide leaders are talking the same rhetoric. They're talking the rhetoric of collective management. And so we're not far at all. When people in politics and society can begin to use the same words, then the only transition is to go from interpretative approaches to these words. So I would just like to share with you an analysis of what does collective cooperative management mean? And what would it mean from a tactical point of view as we would try to affect a compromise in the Congress. Let's take the first part of it. What does cooperative management mean? We could say in Alaska, in this area where they have federal lands, and part of those federal lands will be in four systems, one area, one level. Next we are going to have lands not in the four systems which would be under the BLM, which would be general lands under the Organic Act. That could quote be a fifth system, if you want to use that (indisc.) Then you've got state lands. That could be a sixth system. Then you've got Native lands, that could be a seventh system. And then somebody decides, well, there's a chunk of land here that maybe we ought to study or (indisc.) a little different, so let's make that a seventh (sic) system and we'll call that -- that's land that we think we're going to work and study together. And then you could have municipal lands, that's the eighth system and whatever lands that are held in patent today, you could develop and call it a system. You've just got a whole plethora of activity and definition on lands. And, in only one area where you have federal/state cooperation do you call that cooperative management. For my mind, if it's worthwhile to have cooperative management on one acre of ground -- if there's any merit to that concept at all, since there's really only two governmental entities on to themselves (indisc.) the federal government and the state government, then if it's worthy of having some cooperative management, then why just put it as part of it? Why pick up capriciously or arbitrarily ten million acres and say we're going to study that as cooperative management. If there's some merit to cooperative management, let's just do the whole thing in cooperative management. And then when you begin to think of it in that respect and the rhetoric is there for that, every one of the elected high officials quote, so to speak, are talking that rhetoric. We may have differences in the definition of cooperative management, but at least we're there.

Now let's look at what that would do. On the four systems lands, there's no way that you're going to have cooperative management. You usurp the powers of the Congress, literally. But (indisc.) you could very well do that. In a society of representative government, power is many times knowledge. Not always, but many times. And so if we set up a system, like the Land Use Planning Commission which is a vehicle for cooperative management, that Land Use Planning Commission has the ability to acquire knowledge

through research efforts, then that knowledge places them in a superior position than the individual members of Congress, or for that matter even yourselves, as individual legislators. And the reason why they have more knowledge is because they'd be more expert in the one particular area. The legislature and the Congress have a whole (indisc.) of issues that effect all facets of human life that we have to deal with continuously. So that simple fact that the Land Use Planning Commission in Alaska would be the major repository of land information and its use and adjudication would give it an edge that when it made a pronouncement or a study on something, that study would have great credibility in the Congress and I mean considerable credibility. Just as the present Land Use Planning Commission today, which is merely a voluntary organization, so to speak, when they'd come in and testify before the Interior Committee, it carried every bit as much weight as an individual member of the Congress. So you begin to see where the shift would take place. Ask youself why the House of Representatives under the leadership of Mr. Udahl and Seiberling don't want a Land Use Planning Commission that has any muscle. In fact the one that I introduced in 1971 had police powers and came out of the Senate that way. It was diluted in the conference on the House side. The reason why it was diluted was because they did not want to see a diminution in the power at the federal level. Well if those fellows back there think that there's a diminution of power at the federal level, where do you think that power goes. It's going to come back at this level, maybe in federal hands, but really what's happening just in that process alone and in the process that takes place on federal lands that are handled by the Bureau of Land Management, you've shifted the center of gravity from the federal government in Washington to the federal government in Alaska, meaning that there's a great principle of government that's closest to the people (indisc.). So if we now have the Land Use Planning Commission that will adjudicate all federal lands save the four systems, but will have an effect on the four systems because of their superior knowledge, we've made quite a gain. Now that's on the federal side. On the state side, if we take all the state lands that are presently there except lands that are in municipalities and boroughs and that they would come under (indisc.) of the Land Use Planning Commission and then offer entry into this to the Native community so that the Natives would voluntarily bring their lands in -- that could be very simply -- you could initiate a study of possible taxation would take place -- the Native community, properly so, has great fear over the possibility of future property taxes. They could be land poor. Their land could be under development and that they would have no ability to have a cash flow to handle that form of taxation. So they rightfully, from their point of view, would like to see them absolved of this. That could be the ingredient that would bring them in on a voluntary basis. I think not to do it more than on a voluntary basis might cause some real acrimony since they would feel that they received

their lands as part of a legacy, the land claims, and then if we pulled a win by fiat, I think they'd feel that they had been violated. And rightly so in the one sense. The balance of the land that's in boroughs is already subject to a planning process. We have that in state law and so there need not be a duplication. There need but be a liaison relationship established so that a community that develops a plan, or borough or municipality, it would have a five year projection of what that plan would be, they'd submit that plan to the Land Use Planning Commission, and the Land Use Planning Commission would give it it's seal, would sign off on it. But the function would be done by the municipality. This would solve the obvious problem of where individual governments come together, the frictions and the discoordinated activity is handled intelligently. So in this way, you look at the continent and I've just enumerated a process where all lands in Alaska is now under the aegis either directly, the Land Use Planning Commission or (indisc.) through the knowledge process of the four systems. Where that becomes a valuable tactic is that when we now talk to and negotiate in the Senate with the environmental community, national community and say we don't think that we need to put in a hundred million acres or ninety million acres into the four systems because we have a device that will continually adjudicate the use of land on an intelligent basis as a product of study. And so they're cast in a mode of saying well no we don't want to do something before we study it. Let's put it there before we study it. I don't think that's a very credible position for anybody to have. In fact when you look historically at why the environmental community has its extreme posture in some areas, it's because they could not get a resolution of the problem as they saw it in a legitimate fashion. And so what happens -- it's a simple process -- if you don't permit evolution, you have revolution. And so since we don't have a (indisc.) process in the United States of America, those people who are deeply concerned about the misuse of land and the atrocities that took place in the past and you need to travel this great country to see these atrocities then they are so fed up and their cup runith over with such reaction, that all they can think of is that we just don't trust anybody. We don't trust anybody so let's just lock it up. And in some cases you can look around and there's valid reasons for that posture. And I would say that if we passed that referendum, that on the national point of view there would be a valid reason to lock up major portions of Alaska. So they're at where they're at because there wasn't a process that permitted the intelligent organized adjudication of land. So what I'm proposing here is that we lay down a device that will have definitive powers which will be able to adjudicate the land on the sub-continent. Of course you get this attitude -- the brokers say well I'm not too keen on that commission because obviously they're going to put a bunch of environmentalists on that commission and they're going to stop growth. Then you talk to some environmentalist and they say

well boy I'm not to keen on that commission because they are going to put a bunch of chamber of commerce types on there and they'll rip up the country. Essentially what both parties are saying is that they have no confidence in our system of representative government because, you know, what's the point of having a legislature, you might get some dingalings elected to it and many times we do. We've had them in the Congress and we've had them here occasionally. So that doesn't mean that we don't develop a system of representative government because sometimes it fails to work. We don't have any options. Either anarchy or we develop a pattern of evolving things in an orderly fashion and this, of course, is what I think would be a most compelling argument in the Congress. Looking at individuals, Scoop Jackson has passed a land using planning bill twice in the Senate. It's failed both times in the House. I think (indisc.) I think many other members would view this from the environmental community, Senators in that area, would view this as an unusual opportunity to establish a prototype. I think that we could -- in the future I would recommend that we have a sunset feature in this. We don't know if this is going to work. We'll say this law is going into effect for ten years. At the end of ten years the Congress has to renew its charter of the law, of the situation, and so would the state legislature. So if it succeeds, it will build its constituency of success and it will be easy to renew and if it's not working very well, it will have an alternate constituency and it will be very easy to stop its renewal. And I think that that really could ward off a lot of serious criticism and would permit us to negotiate down the quantity of acres to something reasonable and something obvious because there are obvious easy decisions to be made in placing land in the four systems. But it's the quantities that we find disturbing and the fact that we don't have the vehicle to make changes. But if we've learned anything from the Statehood Act and from the Native Claims Act is that we've had a steady stream of people to Washington trying to resolve all of those problems that have been placed with the Congress. Well if that doesn't tell us something that we should have a body that should be deliberating on these problems daily. The other thing that I would recommend is that we take the Clean Air Act, the Solid Waste Act, the Coastal Zone Management Act and the Clean Water Act and place this under the aegis of the Land Use Planning Commission. Let me give you an example. Right now supposing we took the interior of Alaska -- somebody wanted to build an asbestos mine and a cement factory, let's say two of the real bad polluting elements, and it was a group of Natives that had a mountain and they made a joint venture with some Japanese interests and New York interests and they're going to come in and they're going to build a cement plant, maybe we'll build a dam and other devices, that we'll need some cement and the economic success would warrant it here in Alaska. How does that take place? Well presently what you do is you deal at the borough level, then you turn around -- if it's in the borough, if not you just go to the state level and you're bicycled

around to the various interests be it land, be it for water, be it for access. The access is very much undetermined. You don't know what the access is going to be. But under the plan I'm suggesting, you'd develop your plan and you'd go to the Land Use Planning Commission. The Land Use Planning Commission would do exactly what the legislature's done which I think has shown great maturity. You've got to hire some consultants to evaluate this for me, I'm not in the cement business, I don't know anything about cement. Come in and tell me what that means. Come in and tell me what the access requirements are going to be and how (indisc.) with this possible development up there. Analyze for me if (indisc.) what the air pollution will be. Do all those things as one coordinated body. And then when you know all the facts, these nine individuals will say yes or no. That's it. And when they state their approval, that's it. You don't have to go over there, or getting dragged here or having a catch-22 there. You're getting it all done at once. That to me is efficient from an economic point of view and from a knowledged decision judgmental point of view, it's just excellent. Because the people will be expert in this area. That's all they will do. They'll be handsomely paid and they will have research capabilities. And then a decision will be made. Yes or no (indisc.). Another question -- people want land. There's no reason why people cannot have land and I certainly in my opposition to the referendum, I hope that it won't ever be construed that Mike Gravel's against people having land in this state. I believe in private property. I think it's an excellent base to our free enterprise system. But there's got to be something reasonable to it, because when you give somebody a piece of property, it's got to be a legitimate piece of property. And legitimate means you've got to have access to it, he's got to have water, he's got to have air that he can breathe on his property. He's got to be sure that he's not invaded or polluted by his neighbors in that regard. So there's got to be an orderly process. There's no reason why if a person wants to go out and live in a wilderness, that he can't go to the Land Use Planning Commission and say hey, I want five acres. I want to go out and chop trees and haul water to a cabin in a bucket. And there's no reason why the Land Use Planning Commission can't look at this and say, hey, here's your five acres, go at it -- and bring an orderly process to that type of existence. There's no reason why that can't be done. So we can handle every facet of this. The only thing that I'm (indisc.) begging for is that by God we're intelligent human beings, let's do it in an orderly fashion and set up a vehicle to do it in an orderly fashion and essentially that's the case. I could go through and perhaps we could stop at this point for some question and answers and then in this draft proposal, this deals specifically with the Land Use Planning Commission which is really the guts of this proposal. This proposal is essentially the collective conventional wisdom of where we're at in the whole d-2 situation. Subsistence is no longer a gut, backbreaking issue. The fact that we're going to legislate state land, title land, Native land titles is something that's pretty well accepted, a whole host of things. What's new probably in here is an authorization for five hundred million dollars for a

transportation system to Mt. McKinley. That would be a new element in there. That's a simple thought that if it works this way, we're going to have the greatest park in the United States and probably the greatest park in the world, we'd darn well better make it accessible to the American people. It's tough to get there right now. I get there, I get there in a helicopter, but that's not the way it should be available to the American people. So I've got an authorization in there if Congress wants to make a great park, they've got to pay to let the American people see it.

The other key element (indisc. -- cough) this draft here of the language. On the second page of this draft I've detailed what I would recommend as suggestions and I really want to underline suggestions. It's all a product of how much thought you want to effect on an issue and so when you people start your deliberations and marking up the legislation, you're going to think of things that we haven't thought of and to that end, when you get to that point, where you decide to go that, I would have Pat Prusho (ph) on my staff spend some time in Juneau so we can monitor what's going on so that we understand your thinking processes so that we stay on the same wave length. These are just, these are suggestions of what I think the state legislation should encompass and I can't help but be struck by the parallel with HB 211 and so HB 211 in my mind is a vehicle that you should ---. You already have introduced. It's under hearing now. When your hearings are complete, you can begin markup on it. I would hope you'll just consider these suggestions to be incorporated into HB 211 and if you have HB 211 out as a product by mid-March -- and if CMAL -- and I have every reason to beleive that CMAL might be willing to endorse such a proposal. I can't speak for the other members of the delegation but I think that they would all be happy with a coalesce that might take place as a result of your actions. So let me just close with that point and you can proceed with questions and answers.

CHAIRMAN OSTERBACK:

Representative Malone.

MR. MALONE:

Thank you Mr. Chairman. Senator, first I'd like to thank you for making yourself available to the committee in this type of setting. As far as I know this is the first time a committee of the legislature during this legislature at least on the (indisc.) question has had an opportunity to meet in a hearing setting with a member of our congressional delegation. As legislator to legislator, I appreciate that. To begin with, some of the legislation that you

discussed at the beginning of your presentation, specifically HB 359 and the initiative which is now certified to the ballot in Alaska (indisc.) initiative, while I personally think that there's some problems with that legislation (indisc.) approaches that were set out in HB (indisc.) last year and HB 720, to be candid about it I would have to say with regards to this position of state lands, I'm usually relatively suspicious of recommendations coming from the federal arena. (Indisc.). On the two different approaches the homestead initiative versus the home site program, I think of the two that the more modern one is probably the better at least at this time. Coming down to HB 211 -- I don't think it's really any accident that that legislation parallels the possible compromise position that might be reached in the Senate. It did go out of consultation between members of the legislature and I think the congressional delegation and state administration last year and also through consultation with members of the Federal/State Land Use Planning Commission but my basic question on that approach, the management program approach as opposed to the classification and lockup of large amounts of federal land in Alaska is how realistic is the approach? How likely is the Congress, at least the Senate, to adopt on a consensus basis, or adopt that approach as a compromise position because that's the information we need to know in the legislature in order make a realistic determination as to what strategy we should pursue on the whole d-2 question. I gather from some of your remarks, that I think a compromise is possible. That Senator Jackson, yourself and others would be able to adopt an approach like this and perhaps sell it to the Senate and that work by the legislature on this question and putting an effort and interest in the concept would be valuable in reaching a compromise position on d-2 lands in the U. S. Congress. Is that correct then? Do you think that there's a real chance of a compromise being developed perhaps along these lines in the Congress?

MR. GRAVEL:

(Indisc.) I think the international environmental community has felt (indisc.) over their success and support both in the White House and the House of Representatives. In order for them to be placed into a compromise mode they have to fear that they will lose something. I've tried to convey as much as possible from my particular office that without this land use planning process, without a mechanism that I would be prepared to filibuster the bill. And the very simple reason is that I just feel that we'll never have an opportunity again to effect a planning process. It's such a complicated issue in the national arena. People are so afraid of it. And we're now pressured into a situation that we're prepared to now accept a planning process. And it's because we're about to be run over and so if that is what saves the day, I think it will turn around and be constructed to not only save the day but making

a significant contribution to human advancement in the process of how we deal with ourselves in society. We have to develop a planning process. I think that when they're faced with a situation that they're not going to get entirely what they want, and realize some of the things that we have (indisc.) compromise may prevail on their side. I have not been criticized in this approach and like I say I've covered it now for over a year or more privately, sometimes publicly, depending on the forum and I've never been criticized by anybody in the community for the idea. The only negative criticism has been well, that kind of people won't be appointed to the commission. To me that's not a valid criticism. That's the only criticism that's been heard. So I think it will be appreciated. And some environmentalists will realize that if this succeeds in Alaska, this is the (indisc.) of the nation. And if it doesn't succeed in Alaska, we'll go back to square 1. So both sides are going to have to give a little bit. Where the acreage will finally wind up, anybody can guess. That's really (indisc.) conference where you're shouting each other down and that process is not going to be all that logical. But the question is (indisc. -- pounding) to the conference. And so if we can do our work in the Senate in the conference, it's every man for himself. I think we'll clear ourselves very well on that. It's tough to argue against this. We're talking about -- it's tough to argue an orderly approach to things, regardless of how you feel, very tough to argue against that. That's the essence of what I'm proposing. The rest is already accepted by and large. So it's land use planning, how much it covers and the size -- how many acres. That's what we're down to in the whole process. How many acres, land use planning process and one sort of can balance out the others because if you have a process, you don't need so much acreage and you don't have to be afraid of locking up or putting away so much acreage into a system. You've got a process to deal with it. So in brief, to answer your question, I think we have a good chance to develop the elements of a compromise. Not to speak of the coalesce thing that will take place within the Alaska community which is lacking now for -- and probably for a very fundamental reason -- not so much I've got a personality and they have their personality -- we are all representatives of some degree of element in our contituency and I think the lack of coalesce is because we weren't at a mature level to coalesce. And I don't mean just the four of us in state-wide office, I mean just the whole (indisc. -- cough). This year has been a very sobering year. And I think we're getting there fast. The question is, we'd better get there real fast if we want to take the positive approach. If we don't get there fast enough then we can take the destructive negative approach.

CHAIRMAN OSTERBACK:

Thank you Senator. Are there any more questions from the committee.

MR. MILLER:

Yes, Senator Gravel, you were talking about the four systems -- (indisc.) but do I understand that what you're proposing still does

have a generous (indisc) of national park, wild scenic rivers, residues of the national forest and that sort of thing? More then 25 million acres.

MR. GRAVEL.

Considerably. The base would be twice that much, as I would say the negotiations would begin somewhere between 50 and 80. So we will tighten up between 50 and 80 and enlarge and be guided by your reaction in that area. I obviously would, with my staff, sit down with Pat and others and yourself when you get back there and go over maps. It truly is somewhat ...You know there is and I know there is, The summer season is nothing. You know areas and I certainly know areas that I would have no difficulty at all in making decisions as to what system we go to.

MR. CHAIRMAN.

Are there any other questions?

I would like to ask a question. Since we have native land claim settlement going on in our communities to determine land to build a home on, how long do you think it would be before title to your land, where they could build?

MR. GRAVEL.

The title problem in this proposal we are talking about here again I think we are (indisc.) at this point when we settle d-2 we are going to settle the land transfer question right then and there. We are tired of being dragged and delayed and working with an uncooperative bureaucracy, so it's (indisc) for this process here.

MR. MALONE.

Could I bring up one ...

MR. GRAVEL.

I have had, not from you, Hugh, but a couple of members of the legislature called me for my views on a trip back in Washington and characterized by some that they all want to get together and go back to Washington. I think that would be a terrible mistake for everybody to get on a plane and go back to Washington for several reasons. One: You would gobble up all the offices of Senator Stevens, myself and Don Young, and we would be doing nothing but handling your presence which would not permit us to be working effectively. Two: It would be viewed very much

by the Congress and by the national media as conspicuous consumption, and three, that many people visiting Washington the members of Congress would be a little oppressed. What I would suggest would be to appropriate monies for every member of the Alaska legislature to come to Washington and that they be staggered out, come in pairs, two and threes, not too much more than that and they would start right after your session has been terminated and I think it would be very beneficial as to what could be accomplished and I think you could do effective lobbying and come in and talk about areas of your expertise and interest to various members of the committee, the staff and Congress. Too, I think when you come back there you are going to get a feeling of what's going on in Washington, perceptions and I think that base of knowledge (indisc) regardless of the d-2 issue and as you pursue your political careers it will help you very much. There is one detriment to that and that is obviously some of you will come back and covet the offices of those of us that are already there. That is a gamble that we will have to take and if we treat you nice in the future we might not have to be harassed so extensively, in forms of a challenge I might say. I have never seen harassment in any other form. You have always been gracious. So in responding to those phone calls privately I have outlined this and I don't think I went into this much detail because I hadn't given that much thought to it but I would hope that you would look at it in those terms and that it would be a good investment for the public officials to come back, but to come back in very small numbers and to come back stretched out over a period of time and you will be surprised because this issue is not going to be solved either beneficially or negatively prior to the probably the first of October of next year. We have all summer.

CHAIRMAN OSTERBACK.

Representative Malone.

MR. MALONE.

Thank you, Mr. Chairman. First of all (indisc - cough) follow up statement on your last questions, in this question of transfer of title and the disposition of the different land settlements, it occurs to me that in addition to the resolution and legal entanglements there may be, and I haven't (indisc.) there may be a problem with the ability of bureaucracy to deal with the sheer volume that they are facing. Recently I think we have come to the conclusion in the State of Alaska that a similar situation exists with respect to the dispostion of some of the state lands they are owning and quite often the answer is money so I would think that in addition to the legal resolution that if the Congress is serious about expediting settlements that they would respond to your urgency to appropriate money to make the process take place within a reasonable period of time. A certain question with regard to trips by members of the legislature to go to Washington on the d-2 crisis, an additional suggestion was made by Senator Stevens during his visit with the legislature

that it might be his thought to appropriate funds for allowing members of the Congress to visit the State and meet with people and perhaps view some of the areas that are proposed for the classification. What is your reaction to that?

MR. GRAVEL.

Last year I felt very strongly about that and suggested that in our deliberations when the four of us were meeting. I felt strongly then because we had the whole month of August of last year and I had about ten members of the Senate that had agreed to come up here and that was just the beginning and it expanded that we had thirty or forty members of the Senate. We were unsucessful in getting federal money at the time and the subject did not have the (indisc.) of state legislature coming up with the money to do this. Now you have only got two opportunities. You have the 4th of July recess and you've got the Labor Day recess. There is no August recess because it's election year and they are going to try and get out early to campaign. The time frame is so short and it is a very difficult time to bring people up in that regard. The other is, you know it becomes a little sobering, it's not an easy task to do that and it cost a lot, a lot of money. I'm told (indisc. cough) that it was over a million dollars (indisc. cough) to bring us up here so you are talking about a considerable commitment of money and a million dollars would only be for four, five or six members to come up here and handle it properly. Whenever members come up, I am sure Senator Stevens devotes a lot of time, and I know that two years ago when I had five members of the Senate coming to Alaska, it took literally over forty days of the time of my Administrative Assistant and then a lot of time within staff and during the trip I spent all my time with each member making sure that each detail functioned during that whole ten day period, so these are all the things you would have to provide for and if they came here and didn't have a good trip you would have spent your money and done as much damage as you could have possibly have done. The other thing is that we have had -- Udal and Seiberling spent a lot of time in Alaska and didn't do us that much good on the particular views that we hold, but it cuts several different ways and I think that as we get closer to the frame here I would hope that we would not panic and you know throw things every different way and I remember that old cliche that when the going gets tough - the tough get going. That is where we are at. That is where we are going to take the measure of ourselves. We aren't going to run around like a little white mouse holding our hands (indisc) so just throwing money isn't going to be the answer. It could be very damaging. Alaska does have the perception in the eyes of the American people of being very wealthy. We confirm that perception every time we do something out of the ordinary. Sending the Alaska Legislature to Washington is (indisc.). I don't know if it ever has been done in American history. Inviting the entire United States Senate and the House of Representatives on us to Alaska and prepare to

pay their way is a little out of the ordinary. You know there would be a greater exodus then they had at the Battle of Bull Run if the time were right, so we have to be careful. I think there is some merit in it but I think it should be done (indisc.)

CHAIRMAN OSTERBACK.

Thank You. Mr. Parker.

MR. PARKER.

$31,500 is not a great deal of money. We spent over $800,000 on the Steering Committee to go back and convince certain people in Congress that we would like to have a little bit more of input on the d-2 lands, so if we are talking about $31,500 (indisc) I don't know for each member.

That's for each member.

MR. PARKER.

That's the total. (Indisc. simultaneous speech). We get per diem. We get per diem while we are here. $31,500. You could spend the rest of the year saying it didn't cost very much money but it looks like a hell of a lot. (indisc.)

I think this is the time Alaska should make full determinations and something like this might catch your imagination.

MR. GRAVEL.

You know the old days of rah-rah type of activities, you know like statehood, that's not what we are asking for. We are asking for the Congress to be generous in its adjudication of federal land - not state land - federal land. This land belongs to everybody so the guy, remember Seiberling's statement, remember the cliche that was used by an Alaska, boy this is a big federal land grab and the environmentalists are grabbing all this land in Alaska and Seiberling came along and said yah there is a land grab going on. The people of Alaska are trying to grab our land. Our means federal government. We live here, we get confused with the language as to whether its federal or state, but remind you the state it is 430,000 and with the federal it is 220 million. A big difference. If you were to send back the whole Alaska legislature all at once -- you know the only place I think we differ is that I think it is very important for you to go back. I would only differ in the way you go back. I would like to see you go back quietly without fanfare and do things in a nice

(indisc) fashion rather than swamp us back there and that is literally -- literally swamp us, and we wouldn't be able to handle it, the appointments -- you might plan the trip and then all of a sudden we might have four or five key votes in the Senate on the Panama Canal Treaty in the House and you might have four or five key votes on some (indisc) legislation and you would all be sitting there with your bare faces hanging out. You can't plan, things change very quickly. So the worst that could happen if you string it out you might have a couple bad visits by two, three or four people, not by the whole (indisc.) I don't think -- there is a page out of the book of the Wealthy Philadelphian, it was during the depression, and it was one of the few places in the world that they did this, was that when the depression is (indisc) you don't drive Cadillacs. (indisc. cough). Just keep a low profile. And that is why Texas has had such difficulty it is because they have been too spectacularized, and what we in Alaska have to do is give a low profile and just go get the goods. That's what the natives have done, they handle the federal bureaucracy very well. Just come in slowly, two or three at a time, the only time we ever had the whole native (indisc) was on Alaska Day. But up until that it was a steady stream and we still have a steady stream. There is probably no crowd of people on this earth that better handled the federal government than these Alaska Indians and I think we should take a page out of their book and keep a fairly low profile, and they got in trouble when they had high profile, you know when you heard statements well we are going to do this and we are going to vote, and that always hurt their cause. When they kept a low profile and did their homework they did well. I didn't mean to (indisc.)

No, No, it's getting back to a initiative, you know, it might be far out, but nevertheless it's a serious initiative and 22,000 people (indisc.). People are frustrated with the fact that they are surrounded by land can't (indisc.) $20,000 for a lot to build on undeveloped land and we have nothing but land so I can understand (indisc).

MR. GRAVEL.

The worst thing we could do is pass a law telling people we are doing something for them when you are not. When you talk in terms of giving somebody land you have got to give them access, you have got to give them air, you have got to give them water, you have got to give them all those things, otherwise if it just a little piece of paper that they own land and they can't experience that ownership you thought they were frustrated before they'll go beserk, because you cheated them.

MR. PARKER.

I'm not speaking in favor of it, I am just speaking the way it is.

MR. GRAVEL.

Oh, no, I agree with you. That is exactly the way it is.

MR. PARKER.

Of course we have a problem here is that we have endorsed more or less a compromise, it might not be much, (indisc.) but what would happen if it was approved by the voters of Alaska how would that affect d-2 specifically. Would they lock everything else up?

MR. GRAVEL.

Like I said I don't (indisc.) the last month. I am supposed to be generally informed. I know that the Congress is not knowlegeable about this referendum and I'll bet you that when it does become known, and this public meeting here is going to carry it to the Congress. I mean, the environmentalists would absolutely be fools from their practical point of view if they didn't jamb this down our throat one little piece of paper at a time, and I would have no response. If I were testifying (indisc. cough) and somebody said well, Senator, you say that you people can handle the management process up there, the referendum has 22,000 Alaskans that want to carve up the land the way they used to do it in the land frauds of Arizona and Florida, do you really think that you can make the people in Alaska mature enough to handle the problem. Don't you think we should lock up a major part of Alaska. How do you think I would be able to answer that? How would you answer it?

MR. PARKER.

That's after the fact. (indisc). Wouldn't it be just as bad to give them, say through this piece of legislation, 20 million acres as a sort of a compromise, wouldn't that be (indisc).

MR. GRAVEL.

The process here would be to give them the land and the other process is to give them a piece of paper, which has evidence of land. The paper could be fraudulant. See, that's the difference between, you know I could buy land in Florida and go down there and plot it and see that it's got a road to it, see that there is electricity to it, see that there is a municipality, proper plan, and that it is zoned properly, or I could have sent in my $100 down payment, my $5.00 a month for the next twenty years and then I go down there later when I am ready to retire and I find out that it is under water. It's a valid piece of land, you know, but it floods four or five times a week. I have been cheated. There is no road to it. I have been cheated. That's why we pass federal laws so we can't - we can't sell these mail order properties, so

what we did, we designed a referendum capitalizing on the frustration and the lack of knowledge of the people, and we are going to give them a bunch of pieces of paper that's going to be useless, absolutely useless. (Indisc.) supposing I send in and say I want a piece of land right here. It is not in any native entitlement. I want that piece of land, I want 200 acres. So somebody sends, the Department of Natural Resources or whoever sends me a deed. I've got my deed. I wait around and then I finally take a plane up there and maybe hire somebody to drive me out to my property and it's nothing but a sheer cliff. You know, it's about a 45 degree angle (indisc.) What do I do, I've got my deed in my hand, I've spent a lot of money to get it. I would be so hopping mad at whoever was elected to office, whoever thought of this concocted scheme I would shoot them on sight.

MR. PARKER.

Let me finish this, I guess my question is, what do we do about it now? (indisc. simultaneous speech and laughter).

I think Hugh said it, I am here to legislate (indisc.) I don't pay (indisc.) answers. I think we have one heck of a problem.

MR. GRAVEL.

I thought of one, are all of these things valid that people just thought out (indisc. simultaneous speech - laughter). I am starting to do things in my life that I haven't thought out. It is a real tragedy, it really is. The fact that 20 some odd thousand signatures you know the only thing I can say is that that is not a majority of Alaska.

MR. CHAIRMAN.

Mr. Malone.

MR. MALONE.

Thank you, Mr. Chairman. On that subject, of course, I think that the referendum to a large extent does capitalize on people's frustrations and I think those frustrations are unlikely to be relieved if the referendum should be adopted. There will be problems of access, there will be problems of services, there will be problems of getting clear titles and there are only really two courses of action that the legislature can take at this time. One is to adopt an alternative program that would preclude the ballot measures, I don't know if there is a responsible program that would really preclude the ballot measures under the laws of the Constitution, of the State of Alaska and make an attempt

in that direction. The other thing is responsible measures at least to point out the shortcomings of the proposed initiative. I think the ideas behind it are probably valid at least at the root but I think it something that is not going to work once adopted and I expect it to be adopted because on the ballot at least it would be today. It might be time to change the (indisc.) between now and the election,not right now, I admit, but I think there are going to be some problems in even gaining the piece of paper that Senator Gravel is talking about there will be worse problems when it comes to access and should people manage to settle on the land they will need some kind of access and get their title. They are not going to get any form of governmental services whatsoever or most likely an economic basis to generate anything for a long, long time. In addition to the problems that might create in terms of perceptions in the Congress of the United States, I think the problems are of internal program that should be raised on the question on the ballot and I don't see any other course or anything other than those two courses of action (indisc.) I don't think that the question should be ignored. I don't think that is responsibility either even if the ballot measure should fail it is going to come back again.

MR. GRAVEL.

I was hoping to sit this year out, but if that's the situation that the legislature does not have the power to correct, change the setbacks we have, I am sure I will be out there campaigning against this and the only way that would be possible if a lot of others like you would join me and be out there campaigning (indisc.) I'll volunteer to lead the charge and reap whatever I reap figures in.

MR. PARKER.

Senator, getting back to HR39. I mentioned earlier that if all else fails you and Senator Stevens would engage in a filibuster wouldn't that also preclude any hope at all for next years (indisc.) of state land transference and land (indisc.).

MR. GRAVEL.

The question is that everything is delayed. We are held in suspension, it might even trigger a freeze by the executives in retaliation, but that could be in my mind a better situation then having a permanent bad situation forced upon us. So, you know, it's not much but again it's better (indisc.). I think the environmentalist and the leadership in the House certainly recognize that this is serious business. I've seen many times where you march up the hill and all of a sudden you pull the power and you don't have the ability to get back up the hill again and they are marching up the hill, they are doing quite well, you know maybe it is the time to compromise. It's only a fool in a moral contest that doesn't compromise.

MR. CHAIRMAN.

(Indisc.) any other questions? (Indisc.)

No thank you, Mr. Chairman, I am going to be testifying on this other committee.

CHAIRMAN OSTERBACK:

Any other questions. Representative

Just one point, Mike, you were talking about low profile. This is in view of the Capital move and even worse financing the gap of the pipeline.

MR. GRAVEL.

On the gas pipeline you have just been given a presentation. I'll have some real specific requirements in that area. I need some time myself to study that. I'll be going to New York I think on the second to speak to a group on Wall Street, a group of Bankers, which is what I did several times during the Alyeska deal (indisc.) to talk to them about Alaska's future and so I will have a little better feel on that situation. (indisc. simultaneous speech, laughter). It used to be back in Washington and travelling around the country, it used to be I would be asked about wolves, in fact I can recall once in my hotel on my pillow there was a little note stating save the wolves. Probably the (indisc.) historically has been about wolves. Our mail has not run heavily nationally but wherever I go it used to be how cold is it in Alaska, now it is oh, you are moving your Capital, huh? How is that going? For some reason it has captured the imagination of the American people. I think I stated earlier that I felt it had some (indisc.) because anybody who could afford to move the Capital has got to have a little wealth, and, now I must confess, I don't feel all those decrements (ph) taking place in the quarry but they could be there subconsciously and you just don't know. Of course you can't psychoanalyze every body that you meet, but you do know that every so often when you propose a piece of legislation where you are going for an appropriation all of a sudden everybody in the room votes against you, you smellyour breath to see if you have bad breath, you can't understand why out of no where everybody is against you. When that phenomena occurs and its occurred to me several times, I know it's occurred to Senator Stevens, I know it has occurred to Don Young. You ask yourself, is there something wrong with me or is there something going on that I can't perceive in the subconscience of the bodies I am dealing with. I went to a hearing once on a housing issue unbelievably meritorious and my colleagues in the Senate they were having to hear it (indisc) and they started making statements, well you Alaskans got it all, (indisc.) this (indisc.) is a very very serious thing. It is almost impossible to handle, so you know we can talk about the Capital move contributing to that, I don't know. I suspect that that is about the extent of it. So far it is just an oddity.

(indisc. simultaneous speech - laughter)

It occurred to me when you said it might not be too smart for us to be out of the ordinary does the figure 4.4 billion dollars (indisc.). Is that a little out of the ordinary? Is that the figure you are talking about?

MR. GRAVEL.

Let me respond by saying this. When the Congress focuses on whatever the cost is and they focus on the fact that maybe it is a conspicuous consumption you can bet your bottom dollar that somebody is going to say if you want to do it you do it on your money. You are not going to use my money. I think that will eventually happen. Roberto Compos (ph), I don't know if you know the name, is the Brazilian Ambassador to the Court of St. James. He is the architect of the economics of Brazil, (indisc.) Brazil. Brazil is one of the five super powers of the world. It is unbelievable what is going on and Roberto is one of the great renaissance of our society in his area, he is every bit as important of a person as Henry Kissinger. He resigned from his position over the Brazilian question, and when I saw him in London when I was coming out of the North Sea,boy he just assaulted me on (indisc)so if anyone wants to get a speaker up here that wants to take that side invite him and three good speakers on the other side. I didn't mean to dodge your question. (indisc. simultaneous speech - laughter).

(indisc.) you had a question?

CHAIRMAN OSTERBACK.

Just one before we let you go. (indisc.) I have been there twice and they have a different system than we have. If they have a big buzzer in a committee room. (indisc.) a couple times we went in to see a couple Senators, and the buzzer rang and they said we have to go, there is an issue on the floor and we have to go to vote, and then they leave, so if the buzzer rings you are left standing by yourself. And their committee rooms are real small. Sometimes two chairs and I don't know what 60 people would do. They don't have room to stand. Like you said get the money and travel two or three at a time.

MR. GRAVEL.

I think this may be the beginning of doing it every two or three years. Maybe during your two year tenure that one trip should be authorized for each member so they could get acquainted with their interrelationship with federal government.

Not only d-2 and looking into the future, but do you anticipate anything more important in Washington, D.C. then d-2 in Alaska?

MR. GRAVEL.

Not at this time.

Down the road?

MR. GRAVEL.

Yes. In economic terms, yes, but nothing of permanent nature. D-2 is on the order of native claims, on the order of statehood, on the order of purchase of Alaska. Once we are by that we are by the issue, the rest will warrant attention and will obviously be important as was the pipeline. But nothing of a permanent nature, d-2 is the biggest thing we have got going. No question about that. But I am persuaded that you do your jobs much better here when you interface more directly with your Congress rather than through our office. Thank you very much. It has been a pleasure being here.

CHAIRMAN OSTERBACK. Thank you very much, Senator.

MR. COWPER:

It is going to be a great help to the Congressional Delegation and instead of going into all the reasons why we should have this and why it is such a good thing, I think that has been pretty well covered, I would like to bring up one thing and I have a specific suggestion for an amendment on the Bill. The AFN has suggested that we place in any such legislation as this an authorization for the commission or whatever it is called, to enter into cooperative agreements with private land owners and the incentive for submitting our private to the jurisdiction of the commission would be that there would be no real estate taxes on any lands put in under the jurisdiction of the commission for a period of not less than five years. This is endorsed by AFN and I think it is a good idea and I think we should have a joint management agency or joint management system as to what land is being managed, particularly contiguous land (indisc.) I would like to suggest the following amendments and then I will yield to Mr. Parker. On Page 3, line 12, omit all the language after the word "land owner". Because we would like to, I think it might be well not to restrict those agreements just to contiguous land. Then add the following section in the appropriate place. SEction 41.45.085 seems like a good place to add it. If a private land owner, including any entity established under the Alaska Native Claims Settlement Act, enters into an agreement by which the commission manages undeveloped land, cross out undeveloped, I think, by which the commission manages land owned or selected under an Act of Congress by such private land owners, for a minimum of five years such land shall be exempt from any property tax on the land for the time it is managed by the commission. If the land is withdrawn from the commission's management before the minimum five year period then all property taxes on such land which would otherwise have been payable shall be due at the time the land is withdrawn. Now as you know we don't have a tax on unorganized borough right now but we might at some future time and I believe that this concept has been endorsed not only by the AFN but also at least by certain members of the congressional delegation. I think it is a good idea and it provides (indisc.) that consistent management plan spread not only the public land but the private land. Mr. Chairman that's all I have and I have this Amendment which I'll be glad to pass to the staff. Unfortunately it is not typed and it is sorta scratched out.

CHAIRMAN OSTERBACK.

Representative Malone.

MR. MALONE.

I just have one quick question, Mr. Chairman. Steve, you have been working on this stuff and all, what's your ideas in respect to the reality of adopting common management approach as an alternative, I won't say compromise, because it is not a compromise.

MR. COWPER.

Well, I think that the possibility is very real. I think what we have to do is take care of the fear that people have and I am speaking very frankly of the environmental community that the State will have effective control over the management of all federal lands in Alaska, or a substantial portion of it, without any (indisc.) I think if we come in and we establish a management system by which a joint commission manages not only federal but also state and native lands or private land, and we also provide a (indisc) by the land owners so that if the land owner doesn't like the decision being made it goes back to the drawing board and I think it should be acceptable, as Senator Gravel said, the main problem is not in the concept really but everybody says this isn't acceptable because they'll appoint somebody who is unacceptable to run it. They are afraid the system won't work just because they are not sure who is going to be administering the system. That's the problem everywhere. No system works if it isn't administered by good people. But I think there is a real chance of doing it. There is not any chance of doing it in the House. But I think it is a concept that has been advanced so many times at that level that when it comes back to them from the Senate they do not even look at it twice. That's my interpretation of what I have seen of it.

CHAIRMAN OSTERBACK.

Are there any other questions? (indisc.)

Why did you leave out the undeveloped (indisc.)

MR. COWPER.

Ah, Rick (ph) this is just to be consistent with AFN's position. I don't think that a real estate tax as such is all that way of getting into that sort of thing anyway. But, it it is consistent with AFN's position. I rather suspect that land which is developed in the sense of having a village on it or something like that isn't going to be turned over to the land (indisc) commission to manage. It is not precluded for instance personal property tax is the (indisc.) on pipeline property or production property on the slope. It would not preclude that and also it wouldn't preclude the severance taxes. I would think that the way you would get income being generated into land that is under the commission's jurisdiction would be through income taxes.

CHAIRMAN OSTERBACK.

Any other questions?

MR. COWPER.

Thank you, Mr. Chairman. I will have this proposed amendment

typed out and sent down to Committee (indisc.)

CHAIRMAN OSTERBACK.

Thank you. Mr.

Thank you, Mr. Chairman and Committee members. I would like to note that Commissioner Holdsworth(ph) is here also and he tells me he testified before you yesterday. This is the second time I have testified on House Bill 211. I testified last year. I didn't have much to offer except my personal opinions because the commission had not taken a (indisc.) position on the future land use planning commission. They finalized their position at a meeting in September of 1977 and that is contained in a Position paper which I will submit for the record for your concurrence as part of this testimony. I have some brief record testimony also which I would like to submit for the record and just highlight that, if that's alright. The need for a continuing commission as well said by Senator Gravel and Representative Cowper, I think that the main point that needs to be made what does a continuing commission offer for the state that the existing federal - state relationship does not offer. I think for me the important thing it offers is a thermo entry for the state through the commission into the federal planning process in the early stage. It also offers a form for mitigating and coordinating effects of single agency management. Whatever comes out of the d-2 legislation we are going to see a substantially stronger position for all federal land management and resource management agencies in Alaska. I think it's to the advantage of the people of Alaska that they have some form in which they don't have to be (indisc.) in which all the agencies are brought together and force to bounce from one position to another. It would be (indisc.) under its new organic act the thing that has extremely strong powers and if Alaskans are going to have any real say in future management of federal lands in the state I think that some form of commission structure is vitally important and therefore I strongly support the concepts expressed in HB 211. The points that Representative Cowper made on the native lands I strongly support also because as both the commission's inventory reveals and the state inventory, the native selected lands are prime lands for wildlife habitat and resource development (indisc.). They are also key strategic lands of transportation and are in effect the strategic lands of the state because of their relationship to the coast line and the rivers, primarily. So it is imperative that they be encouraged to cooperate to the maximum extent in the future system.(indisc.) has not taken a real position on state lands in this and the reason for that is that in dealing with the d-2 situation it did restrict itself to dealing with the federal lands and in dealing with the state land, of course was recently made a good many recommendations

to this committee and I think if you want a position from the commission on whether it feels all state lands should come under a future commission or a portion of the state lands we could certainly attempt to give you that but we have not had one as yet. In any case, to get to the specifics of HB 211 as our recommendations relate to it, the commission has recommended to continue the membership of 10 members with 2 co-chairmans rather than 7 members recommended in HB 211 and also recommends the continuation of the presidential appointment on the federal side and the governor's designation on the state side to continue to provide strong leadership with such a commission. The difference between the assembly chairman and the co-chairman is an important one. As a single chairman I think would be extremely powerful individual. He would probably be appointed by the President with the concurrence of the Governor and Legislature and the advice and consent of the U.S. Senate, and if he was able to get through all those steps then there is no doubt about it he would have a predominant role in the state. Whereas, if you have the two co-chairman, they tend between them to adjust a good many federal state conflicts before they get to the full commission or to the congress or to the legislature, so it depends between a single chairman and co-chairman how strong you would want the future commission to be in its relationship to both governments. The commission agrees with HB 211 in that the commission members do not be institutional or ex-officio. We found that having state commissioners sit on the commission is not in the best interest of the state commission or the commission because he has to represent the administrations point of view in his particular area and very strongly rather then reasonably independent point of view. And we also recommend the appointants not be representatives of special interests because the sub-committee that worked on this felt that special interest representation tended to institutionalize conflict rather than to contribute to problems solution. What the commission is supposed to do is to resolve problems before they become problems that require either legislative action or extreme action by the President or the Governor. They also felt that the commissioner should continue to be part time except for the co-chairman. The general feeling was that full time commissioners would tend to institutionalize its own perspective while part time commissioners were subject to other pressures and open to other viewpoints from the various sectors in which they operate when they are not being commission members. Also part time was felt to be more open to public input then full time. And, the present commission also felt that the commission should serve at the pleasure of the appointed official rather than (indisc.) this position differs from HB 211. The primary reason for this was that it was felt that the commission should relate strongly to whatever political views of either federal administration and state administration was. Of course, if you are appointed for a term then the commission once again has much more independence in itself so once again it depends on how strong you want that commission to be.

Regarding the duties of the commission our recommendations differ only in degress to those contained in HB 211. The major difference Commissioner Holdsworth(ph) went into with you yesterday. We see the commission's role on (indisc.) plans as classified. Whereas management would be continued by the land agencies for any of the federal and state side. That is an important distinction. You don't want to create another bureaucracy in this position to give the management powers well then you have to give him the man power to manage. The idea is to keep the commission very small in policy making and research groups, and certainly no larger then the federal commission. If it does expand why then it would inevitably tend to become another government agency and (indisc.) One of the things that we have felt to be a real power in the present commission in which future commissions should continue, the commission should be (indisc. cough) the Governor and the Legislature and to the President and the Congress, and being an advisory role only you certainly have (indisc.) committee programs (indisc.) if you have program responsibility. We think that needs to be continued and the only exception would be the classification of common management plans. Also in some spelled out roles in cooperative planning insuring both governments that Fish and Game managements would lean towards acceptable manner, the transportation planning would lean toward acceptable manner, research coordination and day assistance coordination are the four areas where we felt we really need a lot of mileage if you can coordinate them strongly and keep the agencies on either side from dealing in the territorial (indisc.) too heavily. The other area strongly stressed is the system of joint classification. As we have seen the future thus far the difference between the commission classifying common management land and the joint classification would be the commission would bring the two governments together to establish joint classification standards and (indisc. cough) the state and then BLM on one side or the other federal agency and the Division of Lands would use those classification standards and work them between the two of them with some commission over sight would arrive at joint classification for those particular areas. So in those areas rather then doing it yourself well the commission would encourage the cooperation existing to the maximum extent possible.In time we would approach what we would call total (indisc) HR 39. We would do it with cooperation between the two governments rather than proposed by HR 39 by standard refuge of park boundaries. (Indisc. cough) Because no matter how much those refuge or park boundaries they are going to protect those refuge and park boundaries you are not going to protect the entire critical areas that are entire watersheds. Eventually you have to get to this strong cooperating system anyway. One thing that is missing from HB 211 is the veto power on the state and federal side. We think it is important that you protect the sovereignty of both governments by incorporating that veto power. One thing that this present commission has that no other federal-state entity we studied has is the veto power of the state and that is very important to retain. It certainly made the present commission operate totally different from any other state organization that I have been associated with, and we did some research on some other organizations

and I will offer that for the record, Commission Memo dated March 15th, 1977, which has a rather comprehensive research on other federal-state entities. When we made our position we examined HB 211 of course, from last year, and we Secretary Andres (ph) amendments to HR39 (indisc. cough) operating management and we also had Senator Steven's Bill on cooperating management and so we considered all of those in reaching our decision. We then had the Seiberling which was contained in committee print 3 of HR39 before us but as I understand it that's changed little from committee print 2, so the comments which we enclosed in our letter to Congressman Seiberling on January 17th of this year would still be germane as to how we feel about that particular language and also that's for the record with this testimony. I am getting a big mound of paper here dealing with cooperative management and hopefully it will shed a little more light in particular areas. One other important area that we feel very strongly about is the executive coordination committees being established by both the state and federal government to review the commission's work. This is especially important at the federal level because you can coordinate all you want to in Alaska and get all the agencies meeting in unison and take it back to Washington you will have to go in and deal with each department separately. It wasn't always that way, the old Federal Appeal Committee for Development Planning Alaska we did have an executive review agency which was chaired by the Secretary of Commerce but which also reported to the White House but we were able to get good use out of that executive review committee during the earthquake relief and during the early stages of the land claim settlement. I think we just erred in not re-establishing that to relate to the present commission. We should have made sure Congress put it in the legislation report and it's not as critical at the state level to have that kind of executive review since the commission works on a continuing basis review level committees where the commission is concerned to review the commissioner's work on a state level also.

We do feel also that you need a more direct relationship between the commission and the land and resource management agencies on both sides. The way we do that is simply forming them together into a technical advisory committee to the commission which would have to come together composed of the land and resource managers on both state and federal sides that would have to come together and either relate to commission for the propositions that were put before them or they could develop propositions which they wish to put before the commission. Right now we don't have that kind of institutionalized dialogue between management agencies and the commissions and we try to institute it constantly but it's not spelled out in the legislation so the agencies can either come together or not if they feel whether they can get away with it or not, and usually they are pretty good about coming together on the issues we've developed but having it in the language would give the commission much stronger coordinating powers and that briefly are the major concepts that we would like to see incorporated in HB 211. We would certainly be willing to either

draft suggested amendments or work with you in any way we can.

CHAIRMAN OSTERBACK.

Representative Malone.

Mr. Malone.

Thank you, Chairman. Well, I would like to start out by asking my basic question on this thing. In your understanding and knowlege of activities that take place in the Congress and also the attitudes that may exist in the different federal bureaucracies, how realistic is this approach if it could work if it were adopted?

MR.

Of course it has been a while since I came on the commission and I can't -- don't know what the relationship was with the previous federal chairman or the previous state chairman of the federal agency, but the commission was able to make some steps forward when the federal administration changed and the d-2 perceptions in the interior and the conveyance of native lands in several other areas. I was the only chairman at that time in the interim between Mr. Sokof (ph) leaving and Mrs. Warnecke (ph) appointment but even though I wasn't the federal chairman, even though I was a state chairman why the door was open and we were able to get initiatives launched last spring that probably would have been delayed until late summer or fall, the spring of '77 I am talking about now, which if it had to have gone through the conventional route through the agencies and the difference, of course, that I was saying that I was going in and saying to the secretary was on native conveyances you've got a problem. The natives are not getting their land fast enough, BLM isn't working fast enough and obviously BLM isn't going to go say that to him, or the Assistant Secretary for Lands and Waters. On the d-2 issue HR 39 had just come out and of course that was Secretary Andres (ph) (indisc) and was able to immediately put before him critical areas on Fish and Game Management and Wilderness and the other points of disagreement with HR 39 so he could start relating to those. It's unfortunate that in the House of Representatives the sub-committee who handled that took its original draft from the Alaska Coalition and represented only that perspective and since the commission didn't agree with the original HR 39 they really hand's used it to the extent that they could. In April they practically threw us out of the hearing and by July they said well, this is good stuff and they started to use it but on the Senate side we have always had an excellent relationship directly and you know, we don't go through administration, we go directly to Congress.

CHAIRMAN OSTERBACK.

Representative Malone.

Mr. MALONE.

Yes I have a number of questions, but I have a follow-up question on that one. Considering that the commission is basically is a (indisc.) of Congress in the first place how come the House at least in the early stages decided to by-pass. (Indisc.)

MR.

The sequence of events is simply that the committee chairman and the sub-committee chairman knew that the commission's position wasn't the position they wanted so they (indisc. blank tape)

MR. MALONE.

How is it they work again at present, how is it they work?

On the Washington level there is no institutionalized coordination on Alaska matters. Right now they've got a group which was set up to coordinate gas lines for the gas pipe line. There is no d-2 coordinating group that brings all departments together to coordinate d-2 matters so the way d-2 is coordinated in the federal government is that in the last days of August and the last week of August and the first week of September the Interior sent out its information for comments and comments came back and they all put it together at a meeting and it was kind of a rushed process. If there had been a continuing executive review committee of the commission's actions why all these things that the commission had developed over the last five years would have been considered by these departments in Washington on a continuing basis, as it was every department just reacted to the Department of Interiors initiative. The only reason things went (indisc.) was that we took it upon ourselves in the spring of '76 to coordinate d-2 with all of the federal agencies concerned, transportation, energy, defense, and so forth, but it would be a lot easier to have them all in the same room rather than to have to go to each one individually but that's what we were up against.

MR. MALONE.

One final question. What would be possible in addition to us getting an advanced copies of proposed amendments of HB 211. Would it be possible for the commission to provide somebody to sit in on a mark up session of the bill?

CHAIRMAN OSTERBACK.

Yes, we could do that.

MR. MALONE.

Thank you.

CHAIRMAN OSTERBACK.

What we discussed, we had a meeting with Senator Mike Gravel and(indisc.) and he will send one of his staff members to work up a mark up session and we have a holiday coming up now. But the thing is you said you wanted to get something in from the legislators what we are all going to back and bring it in and he will take it up before the Senate or down there, correct me if I am wrong, and with the legislators behind he thinks it will carry a lot of weight instead of someone coming in with a different amendment all the time, come up with a package saying this is what the state is backing. Diann?

MS. NELSON.

One thing that we discussed is that we would assign Mr. George (indisc.) and Bill Berrier(ph) and Jack (indisc.) and would work with one member of the Steering Council staff and your office, Walt, and possibly come up with a committee substitute within a week or so. Something that we could bring before this committee as a mark-up copy and bring it back.

CHAIRMAN OSTERBACK.

Representative Malone.

MR. MALONE.

Mr. Chairman, I wonder if that schedule isn't a little optomistic. I don't object to the speed except (indisc. noisy tape)

MS. NELSON.

Can we schedule a meeting for next week in the evening?

(WHEREUPON due to bad noise on the tape I was only able to pick up selected portions of the discussions)

CHAIRMAN OSTERBACK.

What I was going to suggest is that we get everything together for a mark up (Indisc.)

C E R T I F I C A T E

STATE OF ALASKA)
: SS.
FIRST JUDICIAL DISTRICT)

I do hereby certify that I am a Notary Public in and for the State of Alaska and that the foregoing transcript numbered 1 through 31 was transcribed be me or someone under my direction from a tape recorded by a person or persons unknown to me. I further certify that it is as complete and accurate a transcript as was possible based on the quality of the tape and the information furnished to me.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor financially or in any other manner interested in the outcome of the proceeding.

Notary Public, State of Alaska
My Commission Expires: 6-4-78

HB

763

SPOKANE BANK FOR COOPERATIVES

FARM CREDIT BANKS BUILDING
W. 705 FIRST AVENUE
SPOKANE, WASHINGTON 99204
TELEPHONE: (509) 456-7340

February 1, 1978

5 163

The Honorable Alvin Osterback
House of Representatives
Pouch V
Juneau, Alaska 99801

Re: "Financing Alaska Commercial-Fisheries Businesses:
Problems and Alternative Solutions"
by Franklin L. Orth, Alaska Sea Grant Program/
School of Management, University of Alaska
for Legislative Affairs Agency, State of Alaska

Dear Mr. Osterback:

We have received Mr. Orth's report on financing Alaska commercial fisheries businesses and believe that he did a commendable job of analyzing the available alternatives.

Mr. Orth's suggestion of a Cooperative Fisheries Development Bank, owned and controlled by its Alaskan patrons, appears to us to have considerable merit. The concept of a cooperative financing organization established on a basis that would make it eligible to obtain funds from the Bank for Cooperatives seems to us to be a viable one and would have our Bank's support.

Sincerely,

A. E. Van Winkle

A. E. Van Winkle
Senior Vice President

cc: Franklin L. Orth

HB 763

EARL R. COMBS, INC.
CONSULTANTS IN ECONOMICS AND PLANNING

2737 - 77th Ave. S.E. • Mercer Island, WA 98040 • (206) 232-3991 • TWX 32-9472 MIS MRID

March 27, 1978

Rep. Al Osterback, Chairman
House Resources Committee
Pouch V State Capitol
JUNEAU, AK 99811

Dear Al:

As reported to your office by phone on March 27, I would recommend that the Resources Committee consider the following changes to HB763:

1) Section 1 - FINDINGS

The concept of the target group for assistance throughout Section 1 (fishermen and farmers) could be expanded to include processing firms and other businesses whose primary function is to service farmers and fishermen, by referring to "agriculture and fishing businesses" instead of "farmers and fishermen". This would appear to make the FINDINGS more consistent with Sec. 41.45.210 POWERS OF THE BANK as written (and as proposed for change in the remainder of this letter).

Sec. 41.45.210 POWERS OF THE BANK

Para (1) line 25, remove; replace with , and to seafood and agriculture processors, marketers and firms providing technical services to the agriculture and fishing industries for projects which will establish a facility within Alaska or which will establish or expand a market for the harvests of resident commercial fishermen or farmers.

Para (7) and (8) could be clarified by merging them and defining target projects as defined under para (1). This could be done by adding of the type approved under para (1) of this section at the end of line 7. Paragraphs (7) and (8) would then be replaced by a single paragraph:

(7) invest in projects conducted by shareholders of the bank of the type approved under para (1) of this section by purchase of the capital stock of corporations involved in such projects, except that no investment in capital stock may exceed 49 percent of the capital stock of a corporation;

I am hopeful that these comments will be of assistance. If any clarification is needed, please contact me.

Sincerely,

Frank

Franklin L. Orth
Senior Economist

FLO:TOE

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PMS HONORABLE ALVIN OSTERBACK, REPORT DELIVERY

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MEMBER HOUSE OF REPRESENTATIVES

ALASKAN STATE LEGISLATURE COPY MESSAGE , FONE ASAP

JUNEAU AK 99801

REFERENCE HOUSE BILL 763 DUE FOR MARKUP SESSION OF RESOURCES COMMITTEE, PLEASE CONSIDER THE FOLLOWING THE FEDERAL INTERMEDIATE CREDIT BANK OF SPOKANE UNDER THE FARM CREDIT ACT OF 1971 IS CHARGED WITH THE SUPERVISION OF PROVIDING SHORT AND INTERMEDIATE TERM CREDIT FOR AGRICULTURE, INCLUDING FARMERS, RANCHERS AND HARVESTERS AND PRODUCERS OF AQUATIC PRODUCTS FOR THE STATE OF ALASKA BY PRODUCTION CREDIT ASSOCIATION AND OTHER FINANCING INSTITUTIONS. COMMENCING IN THE LATE 60S THE NORTHWEST LIVE STOCK PRODUCTION CREDIT ASSOCIATION HAS EXTENDED AGRICULTURAL CREDIT TO QUALIFIED FARMERS AND RANCHERS IN ALASKA. IN 1973, NORTHWEST LIVE STOCK PRODUCTION CREDIT ASSOCIATION ALSO BEGAN FINANCING FISHERMAN FISHING IN ALASKAN WATERS. TO DATE, EXPERIENCE HAS BEEN SATISFACTORY.

THE FEDERAL INTERMEDIATE CREDIT BANK OF SPOKANE WOULD NOT REGISTER OBJECTION TO THE CREATION OF A COMMERCIAL FISHING AND AGRICULTURAL COOPERATIVE DEVELOPMENT BANK AS PROPOSED IN HOUSE BILL 763. IN FACT, THE FICB OF SPOKANE LOOKS FORWARD TO WORKING CLOSELY WITH THE BANK WHEN AUTHORIZED IN ITS CREATION. THIS IS PARTICULARLY IMPORTANT BECAUSE THE PROPOSED BANK SHOULD BE STRUCTURED SO AS TO QUALIFY FOR DISCOUNTING LOANS WITH THE FEDERAL INTERMEDIATE CREDIT BANK OF SPOKANE.

FOR FURTHER INFORMATION, CONTACT THE FEDERAL INTERMEDIATE CREDIT BANK OF SPOKANE WEST 705 FIRST AVE SPOKANE WASHINGTON 99204, TELEPHONE (509) 456-7380. SINCERELY,

WILLIAM F BARRATT PRESIDENT FEDERAL INTERMEDIATE CREDIT BANK OF SPOKANE

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

March 27, 1978

MEMORANDUM

SUBJECT: HB 763: W.O. #15/R

TO: The Honorable Alvin Osterback

FROM: John Williams
Research Analyst

You have asked that we prepare an analysis of HB 763, an Act relating to commercial fishing and agriculture. Following is a general description of the bill. We will first discuss the bill from a general perspective and then specifically address the issues of the purpose of the development bank, the structure, financial aspects, and the eligibility requirements.

OVERVIEW

HB 763 repeals the commercial fishing loan act (AS 16.10.300-370) and creates the Commercial Fishing and Agriculture Cooperative Development Bank (it does not repeal the Alaska Agricultural Loan Act--AS 3.10). The bank is subject to the provisions of the cooperative corporation laws (AS 10.15.005-600) except as otherwise specifically provided for in the bill.

The bank is to be initially capitalized via purchase by the State of non-voting preferred stock in the corporation. The initial seed money is to be repaid to the State within 20 years from the profits of the bank and from the purchase of stock by fishermen and farmers. If the State's initial investment is not returned within 20 years, the commissioner of Commerce and Economic Development may dissolve the corporation.

The bank may borrow money, lend money, guarantee loans, joint venture in loans with institutions of both the public and private sectors, hold equity interest in enterprises of its members (not to exceed 49%), and may issue bonds.

PURPOSE

Section 2 of HB 763 describes five purposes of the Act (economic assistance for Alaskan commercial fishermen and farmers, to encourage utilization of agrarian and fishery resources, encourage technological devel-

opment in those two renewable resource industries, and to promote a more rapid development of the agricultural industry). The bill will also have the effect of encouraging members of those industries to form cooperatives and perform decision making through peer group processes. The intended impact, however, is to insure the availability of financial resources for expansion of the fishing and agricultural industries in the State.

STRUCTURE

The bank is clearly modeled after components of the federal farm credit system, which were initially financed by the federal government and subsequently fully owned and financed by the members. The federal seed money was repaid, at which time federal involvement in the system was terminated (other than as a regulatory overseer).

The Commercial Fishing and Agriculture Cooperative Development Bank is established as an instrumentality of but separate from the Department of Commerce and Economic Development (Sec. 3). It is governed by a Board of Directors (three in number), with the initial directors appointed by the Governor. Subsequent directors are elected by the shareholders and serve three year terms. The directors are charged with filing the articles of incorporation and with adopting bylaws. They shall also establish the value for and issue stock in the bank, as well as set out a schedule of guidelines for loans made by the bank. A director of the bank is prohibited from voting on matters for which he or she has a conflict of interest (Sec. 41.45.190).

FINANCIAL ASPECTS

Capitalization

The bank is initially capitalized by the sale of preferred stock to the State (60-80% of issuance) and to members. Membership stock is issued in the amounts and with the value determined by the Board of Directors.

Sections 41.45.120-180 provides for bonding powers. The bank may issue bonds at its discretion, except that the maturity of any issue may not exceed 30 years, and the bank may not pledge the full faith and credit of the State. All property and bond issuances of the bank are tax exempt and legal investments for fiduciaries.

Sec. 41.45.210(15) allows the bank to borrow money and issue secured or unsecured evidence of indebtedness.

Lending

As mentioned earlier, the bank is fashioned after the farm credit system. To be eligible to borrow from the bank, a lendee must be a participant in the bank. The farm credit system specifies that a member must own at least 10% of the value in stock of an outstanding loan. A minimum participation is not specified in HB 763.

The bill leaves broad discretion to the Board of Directors in determining loan policy. Sec. 41.45.210 specifies that the bank may make variable rate or fixed rate loans, provide for extensions of loan terms (for poor fishing or farming seasons), make loans jointly with other public or private institutions, guarantee or endorse obligations of other corporations, and accept subordinate leins as security.

Sec. 41.45.210(18) allows the bank to provide "technical services" to shareholders to enhance their ability to obtain financial assistance from the bank.

Investments

The bank is given broad powers to invest its resources. Sec. 41.45.210(7) provides for the bank to "invest in projects conducted by shareholders of the bank by purchase of the capital stock of corporations involved in such projects, except that no investment in capital stock may exceed 49 per cent of the capital stock of a corporation". Subparagraph (8) of the same section provides for the bank to invest in projects relating to the development of farms, storage and processing of farm produce, etc. except that no investment may exceed 49% of the capital stock. There is no similar provision specifically allowing the bank to invest in "vertically integrated" fishing operations.

ELIGIBILITY

Sec. 41.45.210(1) describes the eligibility requirements. Applicants must be members of the bank to be eligible to receive loans. Eligible recipients are defined as "commercial fishermen and farmers or...corporations, partnerships, or joint ventures 51 per cent of which are owned by commercial fishermen or farmers who are state residents...."

Eligible activities do not appear to be limited to strictly fishing or farming. Subparagraphs (7) and (8) of Sec. 41.45.210 allow the bank to invest in activities conducted by shareholders of the bank. Subparagraph (7) is not specific as to what kinds of projects the bank may invest in, other than the projects must be projects "conducted by the shareholders". Subparagraph (8) specifies that bank investments may be made in the development and operation of vertically integrated activities relating to farming.

The bill is not specific as to what loan applications are eligible for consideration by the bank, except that loans are made only to members and members must be either commercial fishermen or farmers. Loan applications submitted by members for projects outside the purview of either fishing or agriculture are presumably eligible, unless otherwise provided for by the Board of Directors in the articles of incorporation or bylaws.

JW:dh

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM April 18, 1978

SUBJECT: Draft CS for HB 573 (Finance); W.O. #24/R

TO: The Honorable Terry Gardiner

FROM: John Williams
Research Analyst

You have asked that we prepare a sectional analysis of the draft Finance Committee Substitute for HB 573. The following is a general description of the bill and a more detailed sectional analysis.

There are four major revisions and one minor revision of the commercial fishing loan program contained in the Committee Substitute. Section 1 provides for a minor revision--clarifying the present eligibility requirements for applicants. Section 2 expands the eligibility requirements for applicants. Section 3 raises the loan size to $500,000 and provides for the state to assume a subordinate lien in some instances. Section 4 adds language that would allow applicants to receive a loan to purchase a limited entry permit.

SECTION 1

The section adds language to clarify the legislative intent with regard to eligible fishermen who may apply for commercial fishing loans. The language added specifies that eligible applicants must have been residents for five continuous years prior to making application for a loan, and must have been commercial fishermen for any three of those five years (and actively participated in a fishery).

SECTION 2

The present commercial fishing loan program is available only to individual commercial fishermen. Section 2 expands the eligibility

standards to include business ventures owned 100 percent by individual commercial fishermen. The allowable business arrangements are joint ventures, partnerships, and corporations.

Commercial fishing has become a major business activity for a large number of Alaskan fishermen, many of whom can no longer avoid taking advantage of the various business arrangements which allow them to limit liability, leverage capital, share risk, and take advantage of several other benefits offered by incorporation or other business arrangements. Present language would not allow a fisherman to receive a loan in the name of his fishing business or to apply with other fishermen for a loan to be utilized by a consortium. The provisions provided in section 2 should allow for a greater number of Alaskan fishermen to utilize the loan program.

SECTION 3

Paragraph (a) of section 3 (AS 16.10.320) provides for the limit on commercial fishing loans to be raised from $150,000 (existing law) to $500,000. The language also reorganizes the section so that loan terms are clearly presented. The paragraph contains no other changes in present law.

Paragraph (b) is contained in existing law.

Paragraph (c) is new language which sets out conditions whereby the state may accept a subordinate lien as loan security for the purchase of a new or existing vessel. The conditions are that (1) the borrower must have prior written agreement from a private lending institution to

accept a first lien on the vessel; (2) the size of the state loan may not exceed 35 percent of the vessel appraised value or $1 million, whichever is less; (3) the term of the loan shall not exceed 15 years; and (4) the interest on the loan shall be between 7 and 8 percent at the discretion of the Department of Commerce and Economic Development.

Paragraph (d) prohibits more than one commercial fishing loan being made to an individual or associate of the individual, except as provided in paragraph (e).

Paragraph (e) allows for two or more eligible commercial fishermen to jointly obtain a loan, the size of which cannot exceed $500,000 times the number of participating fishermen applying for the loan. The terms of the loan are identical to provisions in section 3, paragraph (a) of the bill.

SECTION 4

This section adds new language to AS 16.10 which allows the commercial fishing loan program to make loans to fishermen for the purpose of buying limited entry permits. Terms for loans shall be the same as provided in section 3, paragraph (a)[1]. Paragraph (b) defines the procedure that would be utilized for entry permit loans; specifically that the commissioner of Commerce and Economic Development shall be the legal owner of the permit; the fishermen shall be listed as equity owner and debtor; and the debtor shall be issued the annual permit cards and shall bear full responsibility as permit owner. Paragraph (c) stipulates that

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[1]The term provisions are not specified in the draft CS. At page 5, line 6 of the work draft, delete "secs. 300-370" and insert "sec. 320(a)".

the commissioner is not liable for any act (or lack thereof) with respect to the permit. Once the debtor has satisfied his debt, the commissioner shall so notify the Commercial Fisheries Entry Commission (paragraph (d)) and shall amend the permit to list the debtor as legal owner (paragraph (e)).

Sec. 16.10.335 of section 4 specifies the actions to be taken by the commissioner if a debtor falls in arrears on an entry permit loan. The debtor shall be notified and given 60 days from the postmark of the notice to correct the situation. If he does not respond within the time allowed, any interest he may have in the permit may be terminated.

Sec. 16.10.337 specifies the means of disposing of permits which by default are the property of the state. The Commercial Fisheries Entry Commission is given first option to buy the permit (if the permit is for a fishery which has a buy-back program) for the amount outstanding on the loan (plus handling charges). If the commission does not exercise its option within 30 days, the person listed as debtor may name a qualified fisherman to whom he wishes to assign his former rights. If the nominated individual meets all necessary requirements to hold a limited entry permit, he may assume all rights and responsibilities of the original debtor. If the original debtor does not nominate a successor, the commissioner shall select at random, from a list provided by the Commercial Fisheries Entry Commission, a fisherman who may assume the loan.

Sec. 16.10.339 provides for the Entry Commission to adopt regulations to implement this portion of the bill.

Sec. 16.10.342 creates a foreclosure expense account from the "excess" interest earned on loans made with second mortgages (section 3,

paragraph (c)). Money may be expended from the account when necessary to protect the state's interest in collateral on loans granted under this chapter or to defray expenses incurred during foreclosure proceedings after a default.

Sections 5 and 6 of the bill provide for technical amendments (definitions and amendments to chapter 43). Section 8 is the effective date clause. The bill would take effect on July 1, 1978.

Please let us know if we may be of further assistance.

JW:jm

Juneau, Alaska
March 28, 1978

Hon. Hugh Malone, Speaker of the House of Representatives
Alaska State Legislature
Juneau, Alaska

Dear Mr. Malone,

Attached is a memorandum and comments listing additional support for the findings in CS HB763. I would list these ~~as~~ additional findings in three categories as stated.

In response to your closing comments last night regarding the lack of findings in the legislation as it is written in the books, I would only say that this is unfortunate indeed. The findings should form the most important part of any legislation, for it is only through the statement of the findings that one can adequately determine the fulfillment of the intent of any legislation.

In scientific terminology the findings correspond to the identification of a problem. The final creature created by legislation, in this case the bank, can only be tested for purpose by comparing it with the original problem stated.

I would suggest that if the laws existing on the books have not been written to include findings in the past that the legislature do something to correct this practise.

I enjoyed testifying before the House Resources Committee last evening as much as you did creating the bill. Thank you for the opportunity.

Sincerely,

Jack

Jack O. Hakkila

Enc. Comments requested on findings

cc. Chairman Osterbach
Mr. Gorder

To: Speaker of the House, Hugh Malone

From: Jack O. Hakkila

Date: March 28, 1978

Re: Comments on findings in CS HB763

My comments last night regarding the findings as presented in the committee substitute HB763 were as follows:

The first step in writing be it in business, government or science involves the proper identification of a problem. I concur with the committee in the statement of the problem regarding fisheries and the need for the creation of a credit source for the industry immediately.

I also identified a similar problem facing agricultural development.

The third element that should be brought together concerning these two areas is the inadequacy of banking in the rural communities.

While I do not have any data regarding these other two areas I will draw together some supporting evidence from the top of my head which may serve as additional findings or support for findings already identified.

Attached are my comments.

1. Fisheries:

The fisheries industry will support an additional one hundred thirty processing plants which will serve an additional eight hundred vessels.

For every person employed on water, seven persons are employed on shore. Five people employed per boat identified above would result in four thousand people employed on the water adding another twenty-eight thousand persons employed on shore.

The total immediate investment required for the processing plants and vessels above is approximately two billion dollars.

2. Agriculture:

The total of agricultural land which can be farmed in the state is approximately twenty million acres. An additional one hundred million acres of rangeland exists.

Current land in agriculture is 17,500 acres.

Within the decade ninety to ninety-nine percent of the agricultural lands in private ownership within the state will be in the hands of Alaska natives as a result of the ANCSA. This will not only give Alaska natives the opportunity to farm some five and one half million acres but will also be a mandate to do so since by 1991 these lands will be a part of the taxable lands within their respective areas. Individual native corporations which have begun agricultural planning such as Ruby and Galena contain twenty to thirty thousand acres of good farmland apiece.

3. Banking:

Banking within the state is totally inadequate within the state to finance the agricultural and fisheries development stated above.

Lending sources available include the following:

Total state lending of commercial banks is approximately one billion dollars. Total assets of commercial banks are approximately 2.6 billion dollars.

The state fund for commercial loans, fisheries and tourism has made approximately fifty million dollars in loans to date in all segments. Experience has been excellent. Only five thousand dollars in loans has been uncollectable.

Lending requirements for all banking will far exceed any ability to create financing in the coming years. The oil and gas industry will alone generate the requirement for additional financing to include petrochemical development far outstretching the requirements needed by fisheries and agriculture. Some examples of possibilities include:

The construction of a destructive dehydrogenation facility to upgrade the production of crude oil. This facility which would be located near Fairbanks could produce thirty to forty percent more crude oil by upgrading the distillates.

No one has come forth with a proposal for financing a required one billion dollar plus gas purification facility which will be necessary before natural gas is placed in the gasline being built by Northwest Alaska Energy.

Depending upon world marketing, the Northwest gas line will support the addition of a one billion dollar petrochemical plant per year in Alaska for each of the first ten years of operation of the pipeline.

It should be clear, then that the requirements for financing for the above types of ventures and the supportive ventures necessary for them will outstretch even the potential creation of capital through the creation of the permanent fund added onto existing lending capacities of Alaska lending institutions.

Juneau, Alaska
May 16, 1978

Ms. Diann Nelson
House Resources Committee
for Rep. Osterback

Re: CSHB 763

Diann:

I have the following comments to offer after briefly glancing over the revised version of HB 763 which you gave me yesterday:

§§1 & 2 (1) In stating the need for the bill, the problems and possibilities inherent in beginning large-scale agricultural production and marketing are not adequately defined.

§3 p.10 (2) In Section 41.45.210, Powers of the Board, items 7 and 8 are redundant. The establishment of a bank with State monies whereby the bank is allowed 49% ownership in projects raises a serious question regarding the nature of the bank. Is this to be a State institution or ultimately a private bank? Obviously through 49% control of a large number of corporations the State bank would not be encouraging private enterprise but rather controlling it. It would be my observation that the bank should not be competing with the enterprise it seeks to establish but only acting as a facilitator in the lending community.

(3) The overall intent of the bill and the structuring of a private institution which will ultimately stand on its own is an excellent concept. There is a very strong need for this bank in Alaska immediately. I would suggest that in further defining the need for the bank a summary of current banking in the rural areas of Alaska as well as the availability of sound bank financing in Alaska as a whole be included.

(4) In summary, the ultimate strength of this bank will not come through State participation but through the ability of a local people in rural areas which is harnessed into the structure of the bank from inception. I do not see any provision for local participation defined in the bill.

Jack Hakkila

Attachment: Resume

RESUME

Jack O. Hakkila

Born: Willimantic, Connecticut. June 26, 1940

Raised on poultry farm in Canterbury, Connecticut. Father retired in 1959 turning farming operation over to me at that time. Raised poultry there and on other farms in Eastern Connecticut until 1969 when moved to Fairbanks, Alaska

Education:

1961: Bachelor of Science, University of Connecticut, Storrs, Connecticut in Poultry Science. The University of Connecticut is the land grant institution in the State of Connecticut with the main campus at Storrs.

1969 Master of Science University of Connecticut, Storrs, Connecticut Agricultural Economics.

Professional Experience:

1959-69: Poultry operations in Eastern Connecticut. Served on Boards of Directors, United Cooperative Farmers, Inc. and Willimantic Egg Auction, Inc. United Cooperative Farmers, Inc. is a feed manufacturer and marketing cooperative with headquarters in Fitchburg, Massachusetts serving the New England area. The Willimantic Egg Auction, Inc. was an egg marketing cooperative in Southern New England.

1969-70: Assistant Professor, Economics, University of Alaska, Fairbanks, Alaska. The University of Alaska is the land grant institution for the State of Alaska with the main campus located at Fairbanks. The Department of Economics is part of the School of Business, Economics, and Government with a vital role in providing direction for the State of Alaska during a dynamic period of change with the advent of Prudhoe Bay oil discoveries and development.

1970-74: Field Underwriter, New York Life Insurance Co., Fairbanks, Alaska. New York Life Insurance Co. is one of the three largest mutual life insurance companies in the United States. During this time the first life insurance sales office for any major company was opened in Interior Alaska at Fairbanks. 1973, led the North Pacific Region in group insurance sales.

1974: Self employed as partner in First Industrial Financiers of Alaska. First Industrial Financiers represented over one billion dollars of loan packages to outside financial institutions.

1975: Account Executive trainee, Merrill Lynch, Pierce, Fenner & Smith, California Street Office, San Francisco. Merrill Lynch is one of the nation's leading brokerage firms. The California Street office is one of the major offices within the firm structure. Training was specific relating to Alaskan industrial development. All projects of First Industrial Financiers were turned over to Merrill Lynch.

1975-76: Self employed, Patent Development. Worked closely with Mr. Joseph C. Balch of Salcha, Alaska in developing certain patents related to soils refrigeration. Mr. Balch is holder of over thirty patents. The initial soils refrigeration patent was one of the ten Award of Merit exhibits at the annual new products exhibits at the New York Coliseum in 1966.

October 1976-May 1977: Assistant Project Director, Village Management Assistance Program, Tanana Chiefs Conference, Inc. Fairbanks, Alaska. The Tanana Chiefs Conference, Inc. is the non-profit corporation serving the area encompassed by Doyon Ltd., one of the twelve regional corporations established by the Alaska Native Claims Settlement Act. The Village Management Assistance Program was established to provide management assistance to village corporations established by the ANCSA. The Assistant Project Director was in charge of the staff of eight people,involving considerable travel throughout the region to identify needs of village corporations. The villages of Galena and Ruby responded most favorably to an educational approach with a request for further assistance.

May 1977: Sales Manager, first Tundra Times Special Summer Edition. The Tundra Times Special Summer Edition was directed as a free advertising mailer to the state's native community north of the Alaska Range. The content of the paper featured Alaskan agriculture.

June, 1977-August, 1977: Instructor in Agriculture, University of Alaska Regional Learning Center, Galena, Alaska. The Regional Learning Center was officially founded in the beginning of June, 1977 to serve the villages in the Middle Yukon, Koyukuk areas. The Instructor in Agriculture assumed responsibilities to establish an experimental station in Galena with teaching responsibilities in Ruby and Galena in agriculture.

September, 1977: Contractor to prepare a grant for agricultural development, Notaaghleedin, Ltd. Galena, Alaska. Notaaghleedin, Ltd. is the village corporation of Galena, Alaska. The service agreement with the Notaaghleedin, Ltd. provides for the preparation of a grant/ or legislative application for agricultural development for the Notaaghleedin, Ltd.

October, November, 1977: Presently employed as Assistant Wildlife and Parks Officer, Tanana Chiefs Conference, Inc. This position includes responsibilities to arrange and assist in holding meetings with the Tanana Chiefs Advisory Fish and Game Council and the State of Alaska Fish and Game Advisory Committees in Tanana, Fort Yukon, Galena, Holy Cross, and McGrath.

Professional awards, conferences, and papers:

1962: One of four International Farm Youth Exchange delegates to Switzerland, May-November. The International Farm Youth Exchange Program was organized to promote better understanding between and among farm peoples in 128 countries worldwide.

1962: One of three American delegates to the Third World Rural Youth Conference, Luntern, Holland. Held in June, 1962, the Thirld World Rural Youth Conference was sponsored by the World Assembly of Youth, New York, New York. Conference attendees came from throughout the free world to discuss mutual problems of rural life.

1969: Author, Oil, Catalyst for Alaskan Economic Growth, a paper presented at the 20th Alaska Science Conference, Fairbanks, Alaska.

1975: Co-Author with Joseph C. Balch, Permafrost: From the Bottom Up, a paper presented at the Third Port and Ocean Engineering Conference Under Arctic Conditions, University of Alaska, Fairbanks, Alaska.

1976: Author, Oil,Energy and Balanced Economic Growth in Alaska, a paper presented at the 27th Alaska Science Conference, University of Alaska, Fairbanks, Alaska.

1977: Author, Alaska, the Nation's Powerhouse, a paper presented at the Fairbanks town meeting on Energy, Fairbanks, Alaska, March, 1977.

1977: Attended Safety of Structures under Dynamic Loading, Trondheim, Norway. The conference considered problems of construction of offshore drilling platforms in Northern latitudes with the best known lecturers in several fields over a period of ten days.

1977: Attended annual meetings of the American Agricultural Economics Association, San Diego, California. Representative of Citizens for the Management of Alaska Lands.

Presently: Co-Chairman with Dr. Wayne E. Burton in organizing a symposium for the annual meetings of the American Agricultural Economics Association in Blacksburg, Virginia, "Creating a Northern Agriculture, the Alaskan Case." These will be the first ever joint meetings of the American and Canadian Agricultural Economics Associations.

1977: Author, Editorial for Tundra Times supporting the Northwest Pipeline route and concurrent petrochemical development in Interior Alaska. The Tundra Times is the state's oldest newspaper with emphasis on news delivery to native communities.

Member: Alpha Gamma Rho, Professional Agricultural Fraternity.
Gamma Sigma Delta, Honorary Agricultural Fraternity
American Agricultural Economics Association

December, 1977- present: Under contract with the Bureau of Indian Affairs to organize the Alaska Agricultural Development Foundation. The founding convention was held at the Alaska Methodist University January 26-28, 1978. As one of the founding directors, currently working on financing the foundation.

February, 1978- April, 1978: Consultant to the University of Alaska to begin teaching programs in Contemporary Business, Accounting, and Typing in the villages of Allakaket and Bettles, Alaska.

March 16, 1978

I am currently developing a paper on financing agricultural development in Alaska which will be delivered at the symposium on Alaskan agriculture at the American Agricultural Economics Association annual meetings at Blacksburg, Virginia mentioned above. My research to date has included visits to the Federal Reserve Board in Washington, D. C. as well as to the Federal Land Bank,Federal Intermediate Credit Bank and the Bank for Cooperatives in Washington, D. C. I first became aware of the House Bill 763 at the Federal Intermediate Credit Bank office in Spokane, Washington last week.

MESSAGES FROM THE GOVERNOR

"February 22, 1978

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

Dear Mr. Speaker:

It is my expressed objective to encourage and assist commercial development of presently under-utilized Alaska fish resources. Development activities which are economically sound and will lead to healthy community and State growth are of the highest priority. Therefore, I am committed to the establishment of a resident Alaska fishing fleet on bottom fish stocks and on-shore processing facilities.

If bottom fish development is to occur within a schedule more rapid than would occur in normal market operation, State Government must act as a catalyst, taking positive actions, now. I am convinced that the industry and Alaska coastal communities can and must develop in harmony with rational planning. This is especially true for the Aleutian Islands - Alaska Peninsula region where substantial fisheries activities have occurred with little or no regard to community needs.

To provide for the coordination of such efforts emanating from the Legislature, the Executive, and the University of Alaska, I invite your designation of two members of the House to join with an Administration team to consider and expand or modify the following action plan:

1. Identify the financial and administrative requirements necessary for a comprehensive infrastructure development plan for Alaska coastal communities.

   a. Concentrate efforts in the areas of greatest potential and need.

   b. Consider present and future support needs of a fishing industry and requirements for healthy community development.

   c. Review the New Cities Act as an instrument for infrastructure development, should new communities be required.

   d. Recommend specific comprehensive port development projects.

2. Provide funds to support bottom fish production trials by existing in-shore vessels using gear types other than single vessel trawls. Through an educational system, encourage experienced technicians and fishermen from other states and countries to participate in this and other similar research and development projects.

3. Actively seek and encourage responsible investment, both domestic and foreign, through organized development groups to promote investment opportunities.

4. Prepare analyses of capital requirements whereby State financial programs may provide incentives for on-shore processing plant investments.

5. Prepare a work document to determine technical and financial assistance necessary to assure that properly equipped vessels are prepared to enter the fishery as markets and handling facilities are established.

6. Investigate the desirability and feasibility of obtaining a waiver to the Jones Act for temporary use of American manned foreign vessels during conversion to a U.S. Fleet.

7. Identify and recommend favorable areas for future trade development activities and assist in the development of an aggressive marketing program nationally and internationally.

8. Continue administration and analysis of existing assistance programs to processors. Continue application and administration of EDA technical assistance grants to support fishing operations.

9. Coordinate State participation with private industry and federal involvements encompassing bottom fish development activities.

Thank you Mr. Speaker for your encouragement and support. I firmly believe that this cooperative effort will result in a comprehensive, coordinated approach to the development of this vital State resource.

Sincerely,

Jay S. Hammond
Governor

Copies of the Governor's letters have been placed on each member's desk.

SPOKANE BANK FOR COOPERATIVES

FARM CREDIT BANKS BUILDING
W. 705 FIRST AVENUE
SPOKANE, WASHINGTON 99204
TELEPHONE: (509) 456-7340

April 20, 1978

The Honorable Alvin Osterback
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Osterback:

I appreciated the opportunity to visit with you last week regarding the Bank for Cooperatives' potential involvement with the Commercial Fishing and Agriculture Cooperative Development Bank. We would be pleased to assist in the development of the bylaws, lending guidelines and other policies and procedures of the new Cooperative Development Bank. Our Senior Vice President, A. E. Van Winkle, who has had over thirty years experience with our Bank, would be available to assist the board and management of the Cooperative Development Bank in the development of policies and procedures.

I have enclosed the index of our Bank's Policy and Operations Manual and a copy of the Credit and Business Development Department section of this manual. Toward the end of this section is a Credit Report Format which may be of interest. The Credit Report is the document used by our loan analysts to present a loan proposal to the Loan Committee for its approval or rejection. All sections of our Policy and Operations Manual are available to you and would be made available to the Board of Directors of the Cooperative Development Bank.

Also enclosed is a copy of the Bylaws of Growers Credit Corporation. Growers Credit Corporation is a cooperative organized to make loans to its grower-members. This cooperative obtains its funds from the Bank for Cooperatives and lends those funds plus its own net worth to its members.

The enclosed documents are only an indication of the type of information that is available. We would be pleased to provide any information that you may request. Senator Kerttula, Jim Edenso and Keith Specking have requested that we send copies of the enclosed information to them also. I have mailed this information to them under separate cover.

Mr. Van Winkle and I plan to be in Juneau during the month of May. We would like to meet with you at that time and I will call to make an appointment. If we may be of any assistance prior to that time, please do not hesitate to call on us.

Very truly yours,

Larry K. Butterfield
Assistant Vice President

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A. APPLICATION PROCESSING PROCEDURES

Business analysts' responsibilities in connection with loan accounts will include processing applications for loans, processing other requests made by the borrowers, calling to the attention of the Vice President-Credit or other Bank officer unusual circumstances which may jeopardize the loan or the Bank's relationship with the borrower, and generally serving as the Bank's primary contact with the borrower.

A set of application forms should usually be sent to borrowers with seasonal loans at least 60 days prior to the expiration date of the loan. A set of application forms will include an Application for Loan (Form BC 126), Resolution of the Board of Directors (Form BC 126-C), and a Corporate Certificate (Form BC 126-B for repeat borrowers and Form BC 126-D for new borrowers). Sample forms are attached in the Appendix. More than one type of loan may be applied for by the use of one set of application forms.

Credit Department personnel will be assigned to applicants or borrowers by the Vice President-Credit. The account will then remain the responsibility of the person so designated until it has been reassigned. Applications should be reviewed for adequacy upon receipt. Generally defective or incomplete application papers should be returned to the borrower immediately for correction in order that the attorney's opinion can be completed before the application is presented to the Loan Committee. However, if the discrepancy is such that it will not hinder completion of the attorney's opinion, the application paper(s) may be returned to the borrower for completion following approval of a loan commitment by the Loan Committee.

Increases in applications and applications for increases in existing loans may be accepted by letter or verbally and need not be accompanied by the usual Application for Loan and Corporate Certificate if received within 12 months of a previous, complete application. Likewise, applications for a different type of loan may be accepted by letter or verbally, and need not be accompanied by the usual Application for Loan form and Corporate Certificate if received within 90 days of a previous, complete application. In either case, a replacement Resolution of the Board of Directors will be needed to support the increased amount.

B. CREDIT ANALYSIS AND REPORTING PROCEDURES

1. General:

All loan actions by the Loan Committee shall be taken on the basis of information presented within a written memorandum, credit report or supplemental credit report. Such reports normally shall be prepared prior to a loan commitment action by the Loan Committee. In unusual cases where it is necessary to make a commitment without a written report, a post-commitment written report shall be prepared containing the relevant information upon which the commitment was considered and made.

In order to facilitate reading and understanding credit report information, such reports should utilize a consistent, uniform format to the extent appropriate to the circumstances.

The credit report shall contain sufficient information to allow members of the Loan Committee and, where appropriate, representatives of the Central Bank for Cooperatives and Farm Credit Administration, to make independent judgments relative to credit report recommendations. In general, the amount of time, effort and thoroughness of credit analysis shall vary depending on such factors as:

a. Loan amount

b. Loan quality

c. Loan complexity

d. Bank's experience with applicant - An original application requires more analytical detail than a supplemental. An applicant that has not borrowed from the Bank for some time requires more analysis than one upon which a credit report has recently been written.

e. Type of applicant - An applicant with an operation of a type unusual or unfamiliar to Bank personnel requires a more exhaustive analysis than one of a type commonly handled. Material prepared by outside consultants should be made part of the credit report whenever necessary for adequate analysis.

f. Special handling requirements - Additional credit report detail is needed on loans requiring Farm Credit Administration's approval since their representatives may not have access to background information available to Bank personnel.

2. Credit Reports:

The primary purpose of a credit report is to summarize, communicate and document the information needed for a loan decision. A credit report should be prepared in connection with most loan applications. An exception may be made if there is a recent credit report on file and there have been no major changes. In such cases the application may be presented by a memorandum supported by the last credit report.

A total credit report will be in two parts - a "Credit Report" (format shown in Exhibit 1) which presents the application and current supporting information and a "Permanent Report" (format shown in Exhibit 2) which covers matters that usually do not change much from year to year. The current credit report should make reference to the permanent report and any significant changes since the permanent report was prepared. The total credit report and permanent report combined should be self-contained to the extent that representatives of the Central Bank for Cooperatives, Farm Credit Administration, and others not closely associated with the association will have information and background necessary for a decision.

3. Other Memoranda:

a. Amendments - A request for an amendment in loan terms should be presented by a memorandum prepared by the assigned business analyst.

Normally changes in loan agreement provisions should be handled by an amendment to the existing loan agreement.

b. Miscellaneous - Other actions which require analysis by the Credit Department need to be initiated by a memorandum setting forth the necessary information.

C. BORROWER RELATIONS

In addition to the handling of various loan servicing activities, analysts assigned to specific borrower accounts shall have a major responsibility to develop and maintain good borrower relations. Inasmuch as such analysts usually serve as the Bank's primary contact with the borrower, a two-way communication liaison role is essential to good Bank-borrower relations.

D. NEW BUSINESS DEVELOPMENT

The following shall be developed and maintained by the Credit Department:

1. Names and addresses of operating cooperatives in the District and a record of new business development contacts made by Bank representatives.

2. A separate "Loan Inquiry" file containing information regarding inquiries from potential borrowers and the Bank's response.

3. A separate "New Cooperative Organization Inquiry" file containing information regarding inquiries from groups desiring information or assistance in forming a cooperative.

E. HANDLING OF SPECIAL ATTENTION LOANS

In order for the credit staff to have an effective format to deal with loans needing special attention and to provide the association with a detailed time-framed program for seeking a solution to the problems identified, the following procedure is to be used:

1. A Special Attention Loan List will be maintained by the Vice President-Credit and Business Development identifying loans which have serious credit weaknesses. This list will be reviewed and updated at the monthly credit staff meeting at which time any changes in the condition or status of a listed loan will be discussed in detail. During the week following the credit staff meeting, the Loan Committee will review the list and during the succeeding month may add loans to the list as it reviews the respective loan proposals.

   Loans in this special attention category are to have significant credit weaknesses including one or more of the following:

   a. Inadequate working capital;

   b. History of low earnings or recent substantial decrease in earnings;

   c. Management change, or poor management;

   d. Inventory or receivable problems;

   e. Problems in providing normal statements or reports to the Bank;

f. Cash flow problems or delinquency with major creditors;

g. Highly leveraged position;

h. Recent significant change in sales; and

i. Evidence of speculation in either marketing commodity or supply inventory.

Any loan of the Bank having such weaknesses should be considered for inclusion on this Special Attention Loan list. Efforts should be made, however, to keep the number of loans on this list to a minimum so that the credit staff can maximize its efforts on those accounts which need priority attention.

2. When a loan is added to the Special Attention Loan List for the first time, a meeting will be requested with the association's management, and in most cases, the board within 30 days after the loan has been put on the Special Attention Loan List. This meeting should be attended by the business analyst handling the account and a junior or senior officer. The following areas will be discussed during that meeting:

a. Evaluation of problem;

b. Discussion of alternatives for solution of the problem, or problems;

c. Determination of a format and timetable for corrective action.

Sufficient information will have been gathered prior to this meeting by the Bank staff to determine the format for the meeting and prepare any necessary comparisons, ratios, charts and graphs, or other information to assist the manager and/or Board in identification of the problem and in determination of a solution to the problem. After the meeting with the association, the business analyst will prepare a report for the Loan Committee which will cover the following areas:

a. The extent of the problem or problems which caused the loan to be classified as a special attention loan will be explained including the extent of the impairment of the financial condition and/or the potential loss involved.

b. The cause of the problem will be identified and discussed;

c. A program for corrective action will be described with specific dates for completion of each corrective step proposed. Ideally, this program will have been presented to the board of directors, or determined during the meeting with the association so as to have had the concurrence of the manager and board. An example of a proposed time format is attached as Exhibit "A".

4. The program will then be presented by the analyst to the Loan Committee and the Loan Committee will have the responsibility of reviewing the program and implementing any follow-through action.

5. An outline of the program including each corrective step with appropriate time frames will be described in a letter to be sent to the board thereby reinforcing the Bank's concern about the problems involved and reconfirming deadlines of action to be taken by the association.

6. The Vice President-Credit and Business Development will maintain a master calendar for all loans included in the special attention loan category which will show all actions required by the program submitted to the Loan Committee and the respective deadlines for each step therein. These programs will be reviewed at least monthly with the credit staff, or more often as necessary.

7. Unless specifically waived by the Loan Committee, all special attention loans will have the following requirements:

   a. Monthly financial statements; and

   b. Monthly or more frequent collateral reports.

8. In order to facilitate the action program with the association, it may be suggested at the meeting with the board and management that a committee of the board be formed to work with the Bank determining and implementing the solution to the financial problems of the association.

9. If at any time a loan is not responsive to these special loan handling procedures or otherwise merits more concentrated "problem" loan administration, then the matter should be brought to the attention of Loan Committee and the Loan Closing and Services Department.

CREDIT REPORT FORMAT

Appl. No.
Date

TO: Loan Committee

FROM: (name of analyst)

APPLICANT: (name and address of association)

PRODUCT OR SERVICE AND RECENT LOAN HISTORY

1. Brief description of services provided, products handled, and in some cases, the area or areas served.

2. Schedule summarizing recent loans and those now in effect showing loan number, date, amount of commitment, amount brought forward, advances, peaks, lows (seasonal only) and current outstanding balance.

Generally, the low shown for a seasonal loan should be the low to date for the season being financed by the loan. This schedule should be followed by brief comments, as appropriate, concerning such things as the period during which the seasonal loan was zeroed out, reasons for a carryover in a seasonal loan or an increase in a carryover, payment status of the term loan, security provisions for the term loan (if such will not be presented later), etc.

REFERENCE TO PERMANENT REPORT

The following statement should be used in referring to the Permanent Report:

This report is supplemented by a Permanent Report dated _____ which contains information concerning this association that does not ordinarily change much from year to year. The Permanent Report has been reviewed and remains correct in all material respects except the following:

AMOUNT APPLIED FOR AND PURPOSE

1. Description of amounts applied for and purposes for which funds will be used.

2. Comments as required regarding:

   a. Reasons for a difference in the loan proposed from that applied for on the written application
   b. Reasons for an increase in a seasonal line
   c. The adequacy of the seasonal line to do the job.

3. Schedules listing expenditures should not only be structured to convey information to the Loan Committee, but should also be designed so they can be used for, or at least provide, a meaningful basis for the "Schedule of Expenditures Report" which will be required of the borrower. The "breakdown" to be used in the "Schedule of Expenditures Report"

should be coordinated with the borrower when possible.

4. For term loans, areas to be considered and commented on may include:

   a. Whether major construction projects are covered by firm contracts
   b. Plans regarding performance bonds
   c. Timing of capital expenditures and expected completion dates
   d. Need for the facility and expected benefits
   e. Whether all property is covered by existing mortgage
   f. Whether new property is deeded or leased
   g. Who designed major construction
   h. Site preparation and testing
   i. Whether used equipment is included in purchases.

Other information that would be included in this section when appropriate:

a. Schedule showing all loans and commitments to this borrower by the Bank now in effect and being proposed
b. Indication of a participation loan
c. Indication of loans requiring prior or post approval by Farm Credit Administration
d. Description of other lines of credit, if any, and the terms of such lines
e. A reminder if special handling is required; for example, when a member of the District Board, Central Bank or Federal Farm Credit Board is also an officer, employee, or Board member of the association
f. Whether other creditors are to be paid, the amounts, plans, and other pertinent information
g. When other creditors are involved, who holds the insurance policies
h. Comment regarding whether filing to cover "equipment of the type used in farming" is necessary.

RECOMMENDATIONS

This section should include a summary of recommendations regarding loan terms and related matters including, as appropriate:

1. Amounts and types of loans
2. Security
3. Advance limits
4. Repayment amounts and dates and commitment expiration dates
5. Requirements for performance bonds, contracts, mortgagee title insurance, working capital, and other conditions
6. Waiver if collateral reports are not to be required
7. Outstanding balance clause amount for new or supplemental mortgages
8. Clearance for planned equity redemptions, facility expenditures, etc.
9. Waiver if filing to cover "equipment of the type used in farming" is not necessary
10. Requirements regarding liens of other creditors
11. Review date if considered necessary
12. Special provisions.

Unless stated otherwise, it will be understood that the loan agreement will also include the terms in the standard printed loan agreement for the type of loan under consideration.

SECURITY

1. Describe the book and appraised values of the recommended fixed asset security.
2. Describe exclusions.
3. Show the percent the proposed and existing term loans are of the book and appraised values of the recommended security. If a portion of the seasonal loan rests on term security, this portion should be included in the foregoing percentage.
4. Indicate values of secondary security. If equities in other cooperatives are used as secondary security, indicate whether the issuing company has waived its rights of offset.
5. Describe existing mortgages as to date, outstanding balance clause amount, and whether existing mortgages cover all of the recommended security.
6. If a new or supplemental mortgage is needed, indicate if it is to cover deeded or leased land, and whether there are any existing liens. If property is leased, give name of the owner. If the owner is other than a major railroad, consider (and make appropriate recommendation in Recommendations section) the need to obtain a lien search against the owner and the need to require that the lease be recorded.
7. Provide information to support recommendations for mortgagee title insurance.

   Total amount of mortgagee title insurance required =

   $$\text{Est. total security appraisal value} \times \frac{\text{Total loan amount}}{\text{Est. dollar appraisal value of real property security}}$$

8. Provide information to support recommendation for outstanding balance clause.
9. If used equipment is being obtained, indicate if a lien search against the vendor has or should be made. If the association has obtained such a search, copy of its search may do. If not, consideration should be given to whether Bank should request a lien search. Generally, a search should be required unless the used equipment is only a nominal part of the total security.
10. Field investigation should include a check on procedures and values used in reporting collateral.
11. Collateral report format should be coordinated with the borrower.
12. Indicate whether pool products pledged as security are covered by a grower contract giving adequate authority to pledge the products covered and whether substantially all growers have signed the contract.

FINANCIAL CONDITION

Comparative financial statements prepared as indicated on the instruction cards attached and identified as Exhibits _____ through _____ should be attached to each credit report.

Comments should be made as required in the circumstances on balance sheet accounts and in some cases on the figures on Exhibit "B" to the credit report (the net worth reconciliation -- source and use figures). Only accounts or changes of major significance require comments. Some of the more common comments and concerns would cover:

1. Receivables

   a. Comparative b[illegible] down
   b. Comparative aging or number of days' sales covered, or both
   c. Description of credit policy, both written and practiced
   d. Adequacy of reserve for bad debts
   e. Bad debt experience
   f. Current condition of growers in the area. Have they had a particularly bad year?

2. Inventories

   a. Comparative breakdown
   b. Basis of valuation, i.e. cost, market or other basis
   c. Position -- Is level or number satisfactory?
   d. Whether costs that must be paid have been reserved when inventories have been valued at market
   e. Obsolescence or dead wood
   f. Inventory control procedures
   g. Inventory turnover.

3. Net Facilities

   a. Additions made or planned
   b. Adequacy of the facilities
   c. Condition of the facilities.

4. Other Notes and Contracts

   a. Reasons for
   b. Repayment terms
   c. Security for
   d. Whether clearance is to be required or is to be waived
   e. Business analyst should make it a practice to review UCC information requests before credit examinations and discuss indicated liens of other creditors with association. Other liens are to be discouraged. If a lien of a creditor other than this Bank is to be tolerated, the credit report should reflect the reasons and need for this lien, the value of the property covered, and a recommendation regarding clear nce or waiver of clearance.

5. Due Growers

   a. Indicate what account consists of
   b. Indicate expected returns on pools and comparison with prior years, area cash market, etc.
   c. Whether "capital retains" from the pool or pools covered are still in this figure or are in net worth.

6. Net Worth

   a. Revolving plans and program
   b. Adequacy of revolving program
   c. Whether approval of a planned retirement is being requested or has already been approved
   d. Adequacy of capital generation to fund satisfactory revolving program
   e. Describe adjustments shown on the net worth reconciliation if significant in amount.
   f. Terms and conditions of capital stock and equities are normally described on Exhibit "B" of the comparative financial statements. Bank should have sample copies on file of certificates or other writings (including letters of notification).
   g. Due-dated capital should be shown in the term liabilities section of the balance sheet and should be called to the Loan Committee's attention.

CONTINGENT LIABILITIES

1. Describe.
2. If no contingent liabilities, so state.
3. Expected results of pending lawsuits or damage claims
4. Adequacy of liability insurance protection.

WORKING CAPITAL

1. Projection to the next harvest, next fiscal year-end, or both
2. Comparison with prior years
3. Capital flow planning. Borrowers should be encouraged to project capital flows ahead five years or so and to update their projections at least annually. A format for making such projections is attached as Exhibit _____.
4. Comment as to the adequacy of working capital.

CURRENT OPERATIONS

1. Expected results of current year's operations, taking care to indicate the amount of patronage refunds included in net margin figure
2. Expected tonnage or volume
3. Expected pool returns and comparison with prior years, area cash market, etc. (if not already covered under "Due Growers")
4. Significant developments that might bear on association's operations; for example, crop failure, closing down of major local industry, adequacy of irrigation water, pollution control requirements, changes in government regulations, etc.
5. Industry trends
6. Member support
7. Present and future needs by members for the goods and services provided. Possible need to change "goods and service" mix in the future.
8. New competition.

INSURANCE

1. Amounts and types of coverage for:

    a. Buildings and equipment
    b. Inventories
    c. Product, automobile, operations and premises liability
    d. Employee dishonesty
    e. Business interruption

2. Building and equipment insurance, cash value or replacement cost
3. Frequency of insurance appraisals
4. Comment as to adequacy of insurance coverage.

ATTORNEY'S OPINION

1. Statement as to attorney's findings
2. Report any qualifying statements made by attorney in his opinion and make recommendations where required.

SOURCE OF INFORMATION

1. Sources of information and date(s) of visit or recent telephone or other contacts.

MANAGEMENT

1. Manager
2. Age (approximation if exact age is not known)
3. Years in position
4. Comments -- If management continues to be satisfactory, then omit No. 4. (This section will be used to discuss any changes or problem areas appropriate, including those listed below.)

    a. Comments on any changes in management during the past year including reasons for the change and background and experience of the new manager
    b. Comments on management ability if operating results or observations would indicate that management is not or may not be able to perform adequately
    c. If present management is anticipating retirement in the near future, comment on the availability or lack of potential management within the organization and, if possible, the age and experience of the probable replacement.
    d. Observations concerning any problems between the board and management
    e. Any dissensions or problems with the board.

PERMANENT REPORT

Exhibit 2
Section I

Prepared by:

HISTORY: Date of incorporation -
Mergers, acquisitions or major additions -

This section includes the date of incorporation and any significant events that have occurred since that date, including but not limited to major construction projects, mergers, acquisitions, changes in operations, etc.

These events are listed chronologically and each item to be preceeded by the year in which the event occurred. If available, any construction project also to include the price of the project.

OPERATIONS: Type of service or product -
Location of facilities -
Major supplier, marketing affiliate or agency -
Terrority served -
Percent of volume in area -
Type of agriculture -
Method of operation -
If pool, timing of payments -
Brand names -
Marketing contract - ; Cancellation provisions -

TAX STATUS: Exempt -
Compliance with 1962 Revenue Act -
Method of notification to members -

COOPERATIVE ASPECTS:
Corporate paper are adequate -
Provision for eliminating voting rights of inactive members -
Voting member limited to one vote -
or limit of 10% stock dividend -
Voting by proxy allowed -
Voting by mail allowed -

CAPITAL: Type Voting Div. (%) Cum. Revolved Estates Due Date Sour

History and Status of Capital Retirement Program

Date Amount Year % of Net Worth

The first part of the capital section lists each type of net worth on capital and indicated whether each type of capital has voting rights, pays dividends, is revolved or paid to estates, is due dated, and also how that type of capital is provided.

The second section is intended to show the effectiveness of the association's capital retirement program and includes a summary of the association's recent year's history of repaying capital.

It is expected that these sections will not only show the association's commitment to maintaining an annual revolve, but also will indicate how quickly the capital is turning over. It is expected that after the permanent reports have been updated, this consolidated comparative data will provide useful information concerned in the normal percentage of revolving capital retired each year per industry.

AUDIT: Unqualified -

MANAGEMENT AND DIRECTORATE:

Board of Directors - Number of members -
- Length of term -
- Limitation of no. of years -

Past & Present Management Name Years in Position

AMENDED BY-LAWS

OF

GROWERS CREDIT CORPORATION

ARTICLE I

OFFICES

The principal office of the corporation in the State of Washington shall be located in the City of Wenatchee, County of Chelan. The corporation may have such other offices, either within or without the State of Washington, as the Board of Directors may designate or as the business of the corporation may require from time to time.

The registered office of the corporation required by the Washington Business Corporation Act to be maintained in the State of Washington may be, but need not be, identical with the principal office in the State of Washington, and the address of the registered office may be changed from time to time by the Board of Directors.

ARTICLE II

SHAREHOLDERS

Section 1. ANNUAL MEETING. The annual meeting of the shareholders shall be held on the first Tuesday in the month of February in each year, beginning with the year 1971, at the hour of 10:00 o'clock A.M., for the purpose of electing Directors and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of Washington, such meeting shall be held on the next succeeding business day. If the election of Directors shall not be held on the day designated herein or any annual meeting of the shareholders, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the shareholders as soon thereafter as conveniently may be.

Section 2. SPECIAL MEETINGS. Special meetings of the shareholders, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President or by the Board of Directors, and shall be called by the President at the request of the holders of not less than 10 per cent of all outstanding shares of the corporation entitled to vote at the meeting.

Section 3. PLACE OF MEETING. The Board of Directors may designate any place, either within or without the State of Washington, as the place of meeting for any annual meeting or for any special meeting called by the Board of Directors. A waiver of notice signed by all shareholders entitled to vote at a meeting may designate any place, either within or without the State of Washington, as the place for the holding of such meeting. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the principal office of the corporation in the State of Washington.

Section 4. NOTICE OF MEETING. Written notice stating the place, day and hour of the meeting, and in case of a special meeting, the purpose or purposes for which the meeting is called, shall, unless otherwise prescribed by statute, be delivered not less than ten, nor more than fifty days before the date of the meeting, either personally or by mail, by or at the direction of the President, or the Secretary,

or the persons calling the meeting, to each shareholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the shareholder at his address as it appears on the stock transfer books of the corporation, with postage thereon prepaid.

Section 5. CLOSING OF TRANSFER BOOKS OR FIXING OF RECORD DATE. For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or shareholders entitled to receive payment of any dividend ,or in order to make a determination of shareholders for any other proper purpose, the Board of Directors of the corporation may provide that the stock transfer books shall be closed for a stated period, but not to exceed, in any case, fift days. If the stock transfer books shall be closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders, such books shall be closed for at least ten days immediatel preceding such meeting. In lieu of closing the stock transfer books, the Board of Directors may fix in advance a date as the record date for any such determination of shareholders, such date in any case to be not more than fifty days, and, in case of a meeting of shareholders, not less than ten days prior to the date on which the particular action, requiring such determination of shareholders, is to be taken. If the shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the Board of Directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of shareholders. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof.

Section 6. VOTING LISTS. The officer or agent having charge of the stock transfer books for shares of the corporation shall make a complete list of the shareholders entitled to vote at each meeting of shareholders or any adjournment thereof, arranged in alphabetical order, with the address of and the number of shares held by each. Such list shall be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any shareholder during the whole time of the meeting for the purposes thereof.

Section 7. QUORUM. A majority of the outstanding shareholders of the corporation entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of shareholders. If less than a majority of the outstanding shares are represented at a meeting, a majority of the shares so represented may adjourn the meeting from time to time without further notice. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. The shareholders present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough shareholders to leave less than a quorum.

Section 8. PROXIES. At all meetings of shareholders, a shareholder may vote in person or by proxy executed in writing by the shareholder or by his duly authorized attorney in fact. Such proxy shall be filed with the Secretary of the corporation before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

Section 9. VOTING RESTRICTIONS. No shareholder shall be entitled to more than one vote upon each matter submitted to a vote at a meeting of shareholders, regardless of the number of shares of stock in this corporation which such shareholder may own. At each election

for Directors, every shareholder entitled to vote at such election shall have the right to one vote, in person or by proxy, for each director position then being voted upon, but he shall not be entitled to cumulate his votes.

Section 10. VOTER QUALIFICATIONS. In order to vote, a shareholder must at the time of such vote be a current bonafide producer of agricultural and horticultural products within the State of Washington or an association of such producers, and, in addition thereto, must be a current patron of this corporation. In the event that a shareholder shall fail to qualify as a current producer and patron as herein required, such shareholder shall, during such non-qualifying period, have no rights in the management of affairs of the corporation other than the right to participate, in accordance with the law, in case of dissolution, and to receive the par value or book value of such stock, whichever is less, in the event of a sale or transfer of such stock, as provided in the Articles of Incorporation.

Section 11. SHAREHOLDER WARRANTY. By subscribing or applying for, or becoming a holder and owner of record of the common stock of this corporation, each subscriber, applicant or owner or holder of record or acceptor expressly warrants that he is, or will at once become and continue to be eligible to be a common shareholder of this corporation, and expressly agrees that if and when the Board of Directors finds him to be ineligible as a shareholder, that during the period of such ineligibility he shall have no voice or right as a shareholder in the management of the affairs of this corporation and all such management shall be determined and conducted as though such subscription or application for, or issuance of, such stock has never been made.

Section 12. VOTING OF SHARES BY CERTAIN HOLDERS. Shares standing in the name of another corporation may be voted by such officer, agent or proxy as the By-Laws of such corporation may prescribe, or in the absence of such provision, as the Board of Directors of such corporation may determine.

Shares held by an administrator, executor, guardian or conservator may be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote shares hold by him without a transfer of such shares into his name.

Section 13. INFORMAL ACTION BY SHAREHOLDERS. Any action required to be taken at a meeting of the shareholders, or any action which may be taken at a meeting of the shareholders, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the shareholders entitled to vote with respect to the subject matter thereof.

Section 14. COPIES OF ARTICLES AND BY-LAWS. Every shareholder shall be provided a copy of the corporate articles and by-laws upon first becoming a shareholder. Copies of all amendments to the Articles of Incorporation and By-Laws shall be distributed to all shareholders upon the adoption of such amendments.

ARTICLE III

BOARD OF DIRECTORS

Section 1. GENERAL POWERS. The business and affairs of the corporation shall be managed by its Board of Directors.

Section 2. NUMBER AND TENURE. The number of directors of the corporation shall be seven. There shall be one director who is a resident of and/or a producer of agricultural and horticultural products in Chelan County, one director who is a resident of and/or a producer of agricultural and horticultural products in Douglas County, and one director who is a resident of and/or a producer of agricultural and horticultural products in Okanogan County, each of whom shall hold office for a term of three years and until his successor shall have been elected and qualified. The remaining four directors shall be directors at large and each shall hold office for a term of two years and until his successor shall have been elected and qualified. The names and addresses of the directors in office as of the date of these restated amended by-laws, that is February 20, 1973, are as follows:

(1) Director at Large, Position No. 1, now filled by Stanton H. Cain whose address is P.O. Box 126, Malott, Washington 98829.

(2) Director at Large, Position No. 2, now filled by Carroll P. Rank whose address is P.O. Box 243, Cashmere, Washington 98815.

(3) Director at Large, Position No. 3, now filled by Robert R. Brunner whose address is Rt. 3, Box 3197, Wenatchee, Washington 98801.

(4) Director at Large, Position No. 4, now filled by H. Leslie Carpenter whose address is Rt. 1, Box 72, Manson, Washington 98831.

(5) Chelan County Director, now filled by Robert M. Todd whose address is P.O. Box 217, Entiat, Washington 98822.

(6) Douglas County Director, now filled by William G. Stewart whose address is 2480-4th Street SE, East Wenatchee, Washington 98801.

(7) Okanogan County Director, now filled by Leonard R. Hutchinson whose address is Rt. 1, Box 105, Tonasket, Washington 98855.

Section 3. DIRECTOR QUALIFICATIONS. Each director shall be a common shareholder of this corporation or the authorized representative of an association which is a shareholder of this corporation. All directors at the time of their election and at all times during the term of their office shall, either individually or through the associations which they represent, meet the voting restrictions and voting qualifications and stock ownership requirements imposed upon the stockholders of this corporation pursuant to its Articles of Incorporation and By-Laws.

Section 4. REGULAR MEETINGS. A regular meeting of the Board of Directors shall be held without other notice than this By-Law immediately after, and at the same place as, the annual meeting of shareholders. The Board of Directors may provide, by resolution, the time and place, either within or without the State of Washington, for the holding of additional regular meetings without other notice than such resolution.

Section 5. SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by or at the request of the President or any two directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place, either within or without the State of Washington, as the place for holding any special meeting of the Board of Directors called by them.

Section 6. NOTICE. Notice of any special meeting shall be given at least two days previously thereto by written notice delivered personally or mailed to each Director at his business address, or by telegram. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting. The attendance of a director shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 7. QUORUM. A majority of the number of Directors fixed by Section 2, of this Article III, shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than such majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

Section 8. MANNER OF ACTING. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 9. ACTION WITHOUT A MEETING. Any action that may be taken by the Board of Directors at a meeting may be taken without a meeting if a consent in writing, setting forth the action so to be taken, shall be signed before such action by all of the Directors.

Section 10. VACANCIES. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining directors. A director elected to fill a vacancy shall be elected to serve until the next election of directors by the shareholders. Any directorship to be filled by reason of an increase in the number of directors may be filled by election by the Board of Directors for a term of office continuing only until the next election of directors by the shareholders.

Section 11. EMPLOYMENT OF GENERAL MANAGER. The Board of Directors shall have the power to employ a general manager and such other employees as may be necessary to carry out the purposes of the corporation and to fix the compensation for such general manager and other employees. No director shall serve as general manager.

Section 12. COMPENSATION. The compensation of the director, and President of the corporation may be fixed at any annual or special meeting of the shareholders. The directors shall fix the compensation of the general manager and all other employees of the corporation.

Section 13. INDEMNIFICATION AND INSURANCE. (a) The Corporation shall indemnify each person who is or was a a Director or officer, of the corporation against any and all liability and reasonable expense that may be incurred by him in connection with or resulting from any threatened, pending or completed claim, action, suit, or proceeding whether civil, criminal, administrative or investigative, or in connection with an appeal relating thereto, in which he may become involved, as a party or otherwise, by reason of his being or having been a director or officer of the corporation, or by reason of any past or future action, taken or not taken in his capacity as such director or officer whether or not he continues to be such at the time such liability or expense is incurred, provided such person

acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, he had no reasonable cause to believe that his conduct was unlawful. As used in this section, the terms "liability" and "expense" shall include but shall not be limited to, attorneys' fees, judgments, fines and amounts paid in settlement, actually and reasonably incurred by him, in connection with such action, suit or proceeding. The termination of any claim, action, suit or proceeding, whether civil or criminal, by judgment or settlement (whether with or without court approval) or conviction or upon a plea of guilty or of nolo contendere, or its equivalent, shall not create a presumption that a director or officer did not meet the standards of conduct set forth in this section.

(b) In the event of a threatened, pending or completed action or suit against a person, by or in the right of the corporation, to procure a judgment in its favor by reason of the fact that such person was or is a director or officer, of the corporation, then in such event, before indemnification shall be made the standards and qualification imposed in subparagraph (a) of this section shall be met and, in addition thereto, no indemnification shall be made in respect to any such claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application, that, despite the adjudication of liability, but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

(c) Any such director or officer referred to in this section who has been wholly successful, on the merits or otherwise, with respect to any claim, action, suit, or proceeding of the character described herein shall be entitled to indemnification as of right. Except as provided in the preceding sentence, any indemnification hereunder shall be made only upon a determination that such is proper in the circumstances and that the standards imposed herein have been met. Such determination shall be made as follows:

(1) By the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or

(2) If such a quorum is not obtainable or, even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or

(3) By the shareholders of the corporation.

(d) Expense incurred with respect to any such claim, action, suit or proceeding may be advanced by the corporation prior to the final disposition thereof upon receipt of an undertaking by or on behalf of the recipient to repay such amount unless it shall ultimately be determined that he is entitled to indemnification under this section. The rights of indemnification provided in this section shall be in addition to any rights to which any person concerned may otherwise be entitled by contract or as a matter of law, and shall inure to the benefit of the heirs, executors, and administrators of any such person. The right of indemnification herein provided is secondary to any insurance possessed by a director, or officer of the corporation or by the corporation itself which covers any of the risks of loss for which indemnification is herein provided.

(e) The corporation, acting through its officers and Board of Directors, shall have the power and authority to purchase and maintain insurance on behalf of any person who is or was a director or officer of the corporation, against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such whether or not the corporation would have the power to indemnify him against such liability under the provisions of this section.

ARTICLE IV

EXECUTIVE COMMITTEE

Section 1. APPOINTMENT. The Board of Directors by resolution adopted by a majority of the full board, may designate three of its members to constitute an Executive Committee. The designation of such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any member thereof, of any responsibility inposed by law.

Section 2. AUTHORITY. The Executive Committee, when the Board of Directors is not in session, shall have and may exercise all of the authority of the Board of Directors except to the extent, if any, that such authority shall be limited by the resolution appointing the Executive Committee and except also that the Executive Committee shall not have the authority of the Board of Directors in reference to amending the Articles of Incorporation, adopting a plan of merger or consolidation, recommending to the shareholders the sale, lease or other disposition of all or substantially all of the property and assets of the corporation otherwise than in the usual and regular course of its business, recommending to the shareholders a voluntary dissolution of the corporation or a revocation thereof, or amending the By-Laws of the corporation.

Section 3. TENURE AND QUALIFICATIONS. Each member of the Executive Committee shall hold office until the next regular annual meeting of the Board of Directors following his designation and until his successor is designated as a member of the Executive Committee and is elected and qualified.

Section 4. MEETINGS. Regular meetings of the Executive Committee may be held without notice at such times and places as the Executive Committee may fix from time to time by resolution. Special meetings of the Executive Committee may be called by any member thereof upon not less than one day's notice stating the place, date and hour of the meeting, which notice may be written or oral, and if mailed, shall be deemed to be delivered when deposited in the United States mail addressed to the member of the Executive Committee at his address. Any member of the Executive Committee may waive notice of any meeting and no notice of any meeting need be given to any member thereof who attends in person. The notice of a meeting of the Executive Committee need not state the business proposed to be transacted at the meeting.

Section 5. QUORUM. A majority of the members of the Executive Committee shall constitute a quorum for the transaction of business at any meeting thereof and action of the Executive Committee must be authorized by the affirmative vote of a majority of the members present at a meeting at which a quorum is present.

Section 6. ACTION WITHOUT A MEETING. Any action that may be taken by the Executive Committee at a meeting may be taken without a meeting if a consent in writing, setting forth the action so to be taken, shall be signed before such action by all of the members of the Executive Committee.

Section 7. VACANCIES. Any vacancy in the Executive Committee may be filled by a resolution adopted by a majority of the full Board of Directors.

Section 8. RESIGNATIONS AND REMOVAL. Any member of the Executive Committee may be removed at any time with or without cause by resolution adopted by a majority of the full Board of Directors. Any member of the Executive Committee may resign from the Executive Committee at any time by giving written notice to the President or Secretary of the corporation, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 9. PROCEDURE. The Executive Committee shall elect a presiding officer from its members and may fix its own rules of procedure which shall not be inconsistent with these by-laws. It shall keep regular minutes of its proceedings and report the same to the Board of Directors for its information at the meeting thereof held next after the proceedings shall have been taken.

ARTICLE V

OFFICERS

Section 1. NUMBER. The officers of the corporation shall be a President, one or more Vice-Presidents (the number thereof to be determined by the Board of Directors), a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors. Any two or more offices may be held by the same person, except the offices of President and Secretary.

Section 2. ELECTION AND TERM OF OFFICE. The officers of the corporation to be elected by the Board of Directors shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the shareholders. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or shall have been removed in the manner hereinafter provided.

Section 3. REMOVAL. Any officer or agent may be removed by the Board of Directors whenever in its judgment, the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 4. VACANCIES. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for a term of office continuing only until the next election of directors by shareholders.

Section 5. BOND. The Directors may, at their discretion, require any or all officers and employees of the corporation to furnish such fidelity bond or bonds as the Directors may determine; the corporation to pay all premium charges on such bonds furnished.

Section 6. PRESIDENT. The President shall be the principal executive officer of the corporation. He shall, when present, preside at all meetings of the shareholders and of the Board of Directors. He

may sign, with the Secretary or any other proper officer of the corporation thereunto authorized by the Board of Directors, certificates for shares of the corporation, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-Laws to some other officer or agent of the corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 7. THE VICE PRESIDENT. In the absence of the President or in the event of his death, inability or refusal to act, the Vice President shall perform the duties of the President and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice President may sign, with the Secretary or an Assistant Secretary, certificates for shares of the corporation; and shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 8. THE SECRETARY. The Secretary shall: (a) keep the minutes of the proceedings of the shareholders and of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; (c) be custodian of the corporate records and of the seal of the corporation and see that the seal of the corporation is affixed to all documents the execution of which on behalf of the corporation under its seal is duly authorized; (d) keep a register of the post office address of each shareholder; (e) sign with the President, or a Vice President, certificates for shares of the corporation, the issuance of which shall have been authorized by resolution of the Board of Directors; (f) have general charge of the stock transfer books of the corporation; and (g) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 9. THE TREASURER. The Treasurer shall : (a) have charge of and be responsible for all funds and securities of the corporation; (b) receive and give receipts for monies due and payable to the corporation from any source whatsoever, and deposit all such monies in the name of the corporation in such banks, trust companies or other depositaries as shall be selected in accordance with the provisions of Article VI of these By-Laws; and (c) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 10. ASSISTANT SECRETARIES AND ASSISTANT TREASURERS. The Assistant Secretaries, when authorized by the Board of Directors, may sign with the President or a Vice President certificates for shares of the corporation the issuance of which shall have been authorized by a resolution of the Board of Directors. The Assistant Treasurers shall respectively, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The Assistant Secretaries and Assistant Treasurers, in general, shall perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Directors.

Section 11. GENERAL MANAGER. The General Manager shall be the chief administrative officer of the corporation in control of all administrative functions and in general charge of all of the business of the corporation. His powers shall include the right and authority to make and deliver receipts for the payment of any indebtedness owing

and paid to the corporation and to execute valid releases of any and all security instruments or mortgage liens given to the corporation as security for such indebtedness.

ARTICLE VI

SAVINGS

Section 1. ALLOCATION OF SAVINGS. The corporation is hereby obligated to allocate to the shareholders who patronize it the net patronage savings as defined in the By-Laws (Article VI, Section 4) for each fiscal year on a patronage basis, which allocation shall be paid in whole or in part in cash, or in whole or in part in credits, as hereinafter stated. The amount allocated to each patron shareholder of the corporation and not paid in cash shall be credited to Retained Patronage Earnings in the name of such patron shareholder on the books of the corporation. All amounts so credited to any patron shareholder of the corporation shall have the same status as though the amount so credited had been paid in cash to the patron shareholder and the patron shareholder had then furnished a corresponding amount of capital to the corporation. As soon as practicable after the close of each fiscal year, a statement shall be issued to each patron shareholder showing the amount of Retained Patronage Earnings that said patron shareholder has been credited with by the corporation in that fiscal year.

Section 2. REFUNDING OF EXCESS RETAINED PATRONAGE EARNINGS. In order to further the cooperative character of this corporation, it shall refund its Retained Patronage Earnings at such time as the Board of Directors finds that the financial condition of the corporation will so permit. The Board of Directors of the corporation shall annually determine the capital requirements of the corporation and after so doing shall review the capital made available by each patron to the corporation. If the Board of Directors determines that a patron has contributed capital in excess of his proportionate share of the total capital requirement of the corporation, said excess may be refunded to the patron as funds are available. In so doing, the Board of Directors may establish priorities, based upon the percentage of excess capital, for payments to patrons who the Board determine have contributed capital in excess of their proportionate share.

Section 3. ALLOCATION OF LOSSES. Whenever a net patronage loss occurs, said loss shall be borne, insofar as possible, by patrons in the year of said loss in accordance with their respective patronage with the corporation during the year of said loss and shall be charged to said patron shareholders' capital accounts in the following manner and order:

(1) Against the Retained Patronage Earnings standing to the credit of said patron shareholder or to which he may be entitled, until such loss is satisfied in full or the Retained Patronage Earnings or other amounts to which he may be entitled, have been fully depleted.

(2) After fully depleting the Retained Patronage Earnings, the balance of the loss shall next be applied against the Reserve Fund standing to the credit of said patron shareholder or to which he may be entitled, as provided in Article VII, Section 6 of these By-Laws.

(3) If the applications set out in subsections (1) and (2) above are not sufficient to fully satisfy the loss so allocated to any patron shareholder, the balance of the loss remaining shall

be borne by the patron shareholder to whom said loss has been allocated and/or all patron shareholders of the corporation on as equitable a basis as the Board of Directors in its sole discretion finds practicable.

The principal on which this section is based is that the corporation is operating at cost and that any charge made against the Retained Patronage Earnings or any other capital funds constitutes an additional assessment to the patron shareholders to cover said deficiencies. Whenever a net non-patronage loss occurs, the corporation shall first apply said loss, to the extent allowable, in accordance with the carry back and carry forward provisions of the applicable income tax codes and regulations. Any balance remaining may be charged to the shareholders' Retained Patronage Earnings, Allocated Capital Retain or Reserve Fund as determined by the Board of Directors.

Section 4. DEFINITIONS. As used in these By-Laws the term:

(a) "Net Patronage Savings" means the excess of income directly related to loans made to borrowers less applicable expenses, as provided by the income tax codes and regulations.

(b) "Net Patronage Losses" means the excess of expenses over income directly related to loans made to borrowers as provided by the income tax codes and regulations.

(c) "Net Non-Patronage Income" means the excess of income from sources not related to loans made to borrowers less applicable expenses as provided by the income tax codes and regulations.

(d) "Net Non-Patronage Losses" means the excess of expenses over income not related to loans made to borrowers as provided by the income tax codes and regulations.

Section 5. SHAREHOLDER TAX REPORTING. Each person, firm or corporation, who hereafter becomes a shareholder in this corporation, and each shareholder of this corporation on the effective date of this By-Law who continues as a shareholder after such date, shall by such act alone, consent that the amount of any assessment for allocated capital retain and reserve fund and distribution with respect to any patronage occurring after the effective date of this By-Law which are made in written notices with respect to such assessments and/or distributions (as defined in 26 U.S.C. 1388) and which are received by said shareholder from the corporation, will be taken into account by said shareholder at their stated dollar amounts in the manner provided in 26 U.S.C. 1385 (a) in the taxable year in which such written notices with respect to such assessments and/or distributions are received by said shareholder.

Section 6. LIEN. The Retained Patronage Earnings standing to the credit of the borrower are the property of the borrower, subject to a first lien to this corporation for any indebtedness owed by the holder thereof to the corporation and dissolution provisions all as provided herein.

Section 7. CONSENT AND AUTHORIZATION. By becoming a shareholder of the corporation or continuing as a shareholder after notice of this change in its By-Laws a shareholder agrees to be bound by the Savings provisions set forth herein.

ARTICLE VII

SPECIAL FUNDS

Section 1. ALLOCATED CAPITAL RETAIN. The corporation shall establish a capital fund known as "Allocated Capital Retain". When a member first joins the corporation, he shall pay into the Allocated Capital Retain fund a per packed box amount, as established by the Board of Directors from time to time, of his average annual production for the preceding three years. In addition thereto, each patron shareholder shall each year pay into said fund an amount equal to a percentage, as established from time to time by the Board of Directors, of interest charges on loans made to him by the corporation. Funds collected shall be credited in full to a capital account maintained in the name of each patron. The funds so collected may be used as collateral for borrowing and loaning purposes by the corporation at the discretion of the Board of Directors.

Section 2. REFUNDING ALLOCATED CAPITAL RETAIN. In order to further the cooperative character of this corporation, it shall refund its Allocated Capital Retain at such time as the Board of Directors finds that the financial condition of the corporation will so permit. The Board of Directors of the corporation shall annually determine the capital requirements of the corporation and after so doing shall review the capital made available by each patron to the corporation. If the Board of Directors determines that a patron has contributed capital in excess of his proportionate share of the total capital requirement of the corporation, said excess may be refunded to the patron as funds are available. In so doing, the Board of Directors may establish priorities, based upon the percentage of excess capital, for payments to patrons who the Board determines have contributed in excess of their proportionate share.

Section 3. TRANSFER OF ALLOCATED CAPITAL RETAIN. The allocated Capital Retain standing to the credit of a patron who is not then a current borrower, may, with the prior permission of the Board of Directors, be transferred. The holder of Allocated Capital Retain shall request the secretary of the Corporation to transfer his Allocated Capital Retain.

Section 4. SALE OF ALLOCATED CAPITAL RETAIN. The Allocated Capital Retain standing to the credit of a patron who is not then a current borrower may, with the prior permission of the Board of Directors, be sold by the holder thereof.

Section 5. LIEN ON ALLOCATED CAPITAL RETAIN. Allocated Capital Retains standing to the credit of the owner thereof are the property of said owner, subject to a first lien to this corporation for any indebtedness owed by the holder thereof to the corporation, dissolution provisions and subject to the provisions set forth herein.

Section 6. RESERVE FUND. The corporation shall establish and maintain a "Reserve Fund" to be used for bad debts and for losses as set forth herein in Article VI, Section 3. The funds collected may be used as collateral for borrowing or may be loaned by the corporation to its members, all at the discretion of the Board of Directors. Each Patron shareholder shall pay into said fund an amount equal to a percentage, as established from time to time by the Board of Directors, of interest charges on loans made to him by the corporation. The funds collected shall be credited in full to a separate capital account known as the Reserve Fund maintained in the name of each patron.

Section 7. REVOLVING OF RESERVE FUND. The Reserve Funds remaining after reduction for losses as provided in Article VI, Section

3 hereof, may be revolved to patron shareholders at the discretion of the Board of Directors. Upon revolving said fund, the oldest outstanding Reserve Funds by years shall be revolved first.

Section 8. LIEN ON RESERVE FUND. The Reserve Fund standing to the credit of the borrower are the property of said borrower, subject to a first lien to this corporation for any indebtedness owed by the holder thereof to the corporation, dissolution provisions, bad debts and net patronage losses, all as provided herein.

Section 9. ACCOUNTING. The corporation shall account to its patrons for the funds collected for both Allocated Capital Retain and Reserve Funds during the corporation's fiscal year. Such accounting shall be made within eight and one-half months from the close of the fiscal year.

Section 10. CONSENT AND AUTHORIZATION. By becoming a shareholder of the corporation or continuing as a shareholder after notice of this change in its By-Laws a shareholder agrees to be bound by the Special Funds provisions set forth herein.

ARTICLE VIII

DISSOLUTION

Upon dissolution or winding up of the corporation in any manner, after paying all debts and after retiring all outstanding common stock at par, the remaining assets shall be distributed as follows: (1) all allocated Capital Retain book entry holders shall first be paid in full or pro-rata without priority at the fac value of their Capital Retain as shown on the books of the Corporation; (2) all Reserve Fund book entry holders shall next be paid in full or pro-rata without priority the face amount of their book entry as shown on the books of the Corporation; (3) the balance of all corporate assets shall next be distributed, without priority, to the holders of Retained Patronage Earnings in proportion to their respective credits thereof as shown on the books of the corporation.

ARTICLE IX

CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 1. CONTRACTS. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

Section 2. LOANS. No loans shall be contracted on behalf of the corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

Section 3. CHECKS, DRAFTS, ETC. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation, shall be signed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 4. DEPOSITS. All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositaries as the Board of Directors may select.

ARTICLE X

CERTIFICATES FOR SHARES AND THEIR TRANSFER

Section 1. CERTIFICATES FOR SHARES. Certificates representing shares of the corporation shall be in such form as shall be determined by the Board of Directors. Such certificates shall be signed by the President or a Vice President and by the Secretary or an Assistant Secretary and sealed with the corporate seal or a facsimile thereof. All certificates for shares shall be consecutively numbered or otherwise identified. The name and address of the person to whom the shares represented thereby are issued, with the number of shares and date of issue, shall be entered on the stock transfer book of the corporation. All certificates surrendered to the corporation for transfer shall be cancelled and no new certificate shall be issued until the former certificate for a like number of shares shall have been surrendered and cancelled; except that in case of a lost, destroyed or mutilated certificate a new one may be issued therefor upon such terms and indemnity to the corporation as the Board of Directors may prescribe.

Section 2. TRANSFER OF SHARES. No shares shall be transferred without the prior approval of the Board of Directors. Transfer of shares of the corporation shall be made only on the stock transfer books of the corporation by the holder of record thereof or by his legal representative, who shall furnish proper evidence of authority to transfer, or by his attorney thereunto authorized by power of attorney duly executed and filed with the Secretary of the corporation, and on surrender for cancellation of the certificate for such shares. The person in whose name shares stand on the books of the corporation shall be deemed by the corporation to be the owner thereof for all purposes.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 1. FISCAL YEAR. The fiscal year of the corporation shall begin on the first day of June and end on the thirty-first day of May in each year.

Section 2. CORPORATE SEAL. The Board of Directors shall provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the corporation and the state of incorporation and the words, "Corporate Seal".

Section 3. WAIVER OF NOTICE. Whenever any notice is required to be given to any shareholder or director of the corporation under the provisions of these By-Laws or under the provisions of the Articles of Incorporation or under the provisions of the Washington Business Corporation Act, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE XII

AMENDMENTS

These By-Laws may be altered, amended or repealed and new By-Laws may be adopted by the shareholders at any regular or special meeting of the shareholders.

CERTIFICATION

STATE OF WASHINGTON)
) ss.
COUNTY OF CHELAN)

H. LESLIE CARPENTER and CARROLL P. RANK, being first duly sworn on oath deposes and say: We are the President and Secretary

Alaska Fisheries Development Corporation (Informational)

BOX 969
CORDOVA, ALASKA 99574
(907) 424-3116

March 13, 1978

The Honorable Terry Gardiner
House of Representatives
State Capitol Building
Juneau, Alaska 99811

Dear Representative Gardiner,

The Alaska Fisheries Development Corporation (Corporation) is a not-for-profit Alaska corporation recently formed by members of the Alaska fishing industry. The organization has been carefully structured so that its voting membership will equitably reflect both the harvesting and the processing sectors of the industry. Since December 3, 1977, a representative group of fishermen and processors has worked cooperatively to both form the Corporation and to draft a comprehensive bottomfish proposal which would win industry's support. Both goals have been realized.

Though many factors have encouraged this promising effort on the part of historically opposed segments of the industry, the most persuasive has been the promise of 2.7 million dollars in federal funding which the industry was led to believe would be available from Saltonstall-Kennedy Fund monies for the development of the Alaska bottomfish industry. Because it was necessary to have a viable legal entity which could receive and manage such monies and programs, the industry was compelled to coordinate its efforts and form the corporation. The current bottomfish proposal is the first of the research and development projects which the Corporation anticipates it will undertake.

Though early indications from NMFS and NOAA are encouraging the Corporation has been informally advised that contrary to earlier agency assurances the full 2.7 million dollars is not available for Alaska. Concurrently a hard look is being taken at this somewhat surprising cooperative effort on the part of industry. Skeptics lurk at every corner despite the demonstrated ability of this organization to perform well and to be flexible as well as resourceful.*

*Though timely filed with NMFS the proposal was modified by by industry at the urging of both NMFS staff and high-level NOAA personnel. The revised proposal includes the independently submitted proposal of the Aleutian-Pribloff Fisheries Cooperative additional supporting marketing and economic data and a change from a one to a two year time frame.

To date members of the industry have volunteered their time with the understanding that incurred travel, telephone and printing expenses will be reimbursed. Similar organizations in other areas of the United States have and are obtaining funding for such initial activities through federal channels. Alaska's request to NMFS for such seed money was denied, though the Alaska Sea Grant program donated $2000 for travel expenses to insure that working sessions were attended by fishermen as well as processors.

The Corporation is aggressively seeking funding with a membership drive and from donations of supportive components of the industry. Though the response has been excellent the process is a slow one. In order to maintain interest in and committment to the Corporation and the proposal and to attract future funding, it is imperative that the proposed projects are implemented as soon as the money is available. A qualified staff, a solid budget and a base of operations are all prerequisites to the successful management of the projects.

Thus the Corporation seeks a grant of $100,000 from the State of Alaska. It is essential that such funding be appropriated immedeately for two reasons: 1) to indicate to both federal agencies and the industry itself that the State endorses this activity and has confidence in the industry's ability to look after its own needs and 2) to insure that there is a management team in place as soon as possible.

It is crucial that the viability of the Corporation be insured; that it is poised to swing into action as soon as the allocation of S-K funding for Alaska is confirmed so that no momentum is lost. Delay could well result in denial of funding for 1979 and beyond, not to mention the impact that such failure would have on the development of this most important fishery.

Thank you in advance for considering this request for a grant for $100,000. Your concern and support of the fishing industry in Alaska does not go unnoticed. It is the industry of the future for Alaska.

Respectfully,

The Board of Directors
Alaska Fisheries Development
Corporation

Sara S. Hemphill

by:
Sara S. Hemphill

SSH:dd

BUDGET SUMMARY

Project		Federal Funds	Other
1.	Alaska Fisheries Development Corporation	$ 236,250	$
2.	Full-year Offshore Trawling Demonstration	1,200,000	
3.	Aleutian/Pribilof Bottomfish Development	300,000	
4.	On-board Fishermen Trainee Program	473,530	
5.	Kodiak to Chignik Bottomfish Development	300,000	
6.	Prince William Sound Bottomfish Assessment	300,850	49,000
7.	Test Fishery for Cod, Rockfish, and other Bottomfish	300,000	
8.	Longline and Trawl Fishing Demonstration in Eastern Gulf of Alaska	300,000	
9.	Technical Assistance in Adopting New Gear for Bottomfish Fishing		141,000
10.	Project Evaluation	75,000	
	Total Estimated Costs	$3,485,630	$190,000

INDUSTRY CURRENT AND PROJECTED DIRECT CONTRIBUTIONS TO THE AFDC PROGRAM

Estimated out-of-pocket expenses by individual fishermen and processors to participate in planning meetings and ADFC formation	$ 267,000
Estimated costs which will be incurred by participating fishermen in the AFDC program	1,981,000
Estimated costs which will be incurred by processors to participate in AFDC program	881,000
Total	$3,079,000

The above figures are considered conservative and do not include values or capital costs of vessels or processing facilities now in place or expected to be built.

PROJECT OUTLINES

1. Formation of non-profit corporation; application to IRS for non-profit status
2. Solicitation of member organizations and member processors
3. Review of submitted project proposals
4. Solicitation of funding for future projects
5. Appointment of executive director and setting up office in Anchorage

BUDGET SUMMARY

	Cost	Government Contribution	Industry Contribution
Start-up expenses (18 Committee members, 4 meetings)			
Printing (est.)	$ 200.00		$ 200.00
Travel		$ 2,000.00	$12,700.00
Professional services	$18,000.00		$18,000.00
Telephone (est.)	$ 500.00		$ 500.00
Note: to date memberships have contributed			$ 285.00
Executive Director (salary 12 months)	$54,000.00		
Secretary	$14,400.00		
Travel	$36,000.00		
Phone	$ 9,600.00		
Legal Fees	$12,000.00		
Office Rental and overhead (6 months)	$15,000.00		
		$236,250.00	

(Looking for state funding - $10,000.00/$15,000.00)

$101,250 is requested for FY78 and $135,000 is requested for FY79.

Alaska State Legislature

House of Representatives

Committee on Resources

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

9 February 1978

Dr. Belden Hull Daniels
4 Sentry Hill Place
Boston, Massachusetts 02114

Re: HB 763

Dear Dr. Daniels:

Enclosed for your attention and information is a copy of the bill that came from your proposal on an Alaskan Fish Development Bank which you set forth on the meeting with the consultants in December of last year.

Please review the bill at your earliest convenience and let us know what your thoughts are on any suggested amendments or revisions.

The bill has not been scheduled for hearings to date but it is anticipated that it will be scheduled within a month's time. Your speedy reply, therefore, would be greatly appreciated.

We are very grateful for your input into this legislation during the Interim. Representative Terry Gardiner is eager to work with the Committee on the Renewable Resources aspect and the impact this bill would have on it, which is a question you might also want to consider in looking the bill over. The Committee will want it to be as good as it can be.

Thanks again for your cooperation.

Sincerely,

Susan Hunter

Susan Hunter, Secretary
House Resources Committee

SH/ms
Enc.

Belden
Maybe we can
set you up
for a few
days while the
Dawn

A1 —

— A new idea on the question of 2ND MORTGAGES BY STATE LOAN PROGRAM.

~~[illegible]~~ State will take second mortgages, but:

1) charge a premium rate (say 12%) for any loans which start in an 2ND position. Premium rates ~~would~~ (portion above regular rate) to go into reserve fund to offset losses.

2) LIMIT STATE PARTICIPATION TO SAY 25% of total loan.

3) LIMIT AMOUNT OF ANY ONE LOAN, TO SAY $100,000.

This would make sure that

1) All losses (if any)
are properly offset by
higher rates on 2ND MTGS.

2) Chance of Loss reduced
by 1) Limiting amount and
% of participation

Would help financing
Secondary to program,
overcoming the Dept.'s
Objections.

Alaska State Legislature

House of Representatives

Committee on Resources

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

27 March 1978

TO: Representative Osterback, Chairman
House Resources Committee

FR: Jackleen Allen, Staff
House Resources Committee

RE: Dr. Frank Orth's recommended amendments for CSHB 763

1. Section 1, (1) - (6), replace all words of "fishermen and farmers" with "fishing businesses and agriculture" respectively.

2. Page 9, Section 41.45.210, line 25, replace the ";" with "," and add the following: "and to seafood and agriculture processors, marketers, and firms providing technical services to the agriculture and fishing industries for projects which will establish a facility within Alaska or which will establish or expand a market for the harvest of resident commercial fishermen or farmers.".

3. Page 10, Section 41.45.210, paragraphs (7) and (8) should be collapsed and combined, with lines 12 and 13 removed from paragraph (8) "relating to the development of farms, storage and processing of farm produce, livestock and machinery", with the added referral to paragraph (1) in Section 41.45.210.

1,000,000 40/0
100,000

I like that

NW. livestock

HB

791

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3810

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 23, 1978

SUBJECT: HB 791 and HB 792

TO: The Honorable Al Osterback, Chairman
House Resources Committee

FROM: Richard G. Haggart
Research Analyst

This memorandum is in response to yesterday's request from Ms. Diann Nelson of your staff that we prepare a summary analysis of HB 791 and HB 792 which are currently before your committee.

HB 791

This bill would amend AS 38.05.180(n) relating to oil and gas conservation agreements arising from issuance of state leases. Specifically, the bill would make it mandatory for any lease containing a cooperative or unit plan of development or operation to also include a provision giving the commissioner of Natural Resources authority to regulate (for purposes of accomplishing objectives of Alaska's general oil and gas conservation statute [AS 31.05]) the rates or quantities of oil or natural gas produced from such leases. The current statute makes inclusion of such production authority in a lease-related unit plan a matter of departmental discretion.

HB 792

HB 792 would amend AS 31.05.110(o) relating to the state's oil and gas conservation authority. Specifically, the proposed legislation would:

Sec. 1. Remove the present requirement that at least 62.5% of the royalty owners approve any change or amendment in a unit operating agreement promolgated under AS 31.05.

Sec. 2. Remove the present requirement that at least 62.5% of the royalty owners approve initial unit operating agreements promolgated under AS 31.05.

AGO 547806

In essence, HB 792 reserves all decisions regarding unit operating agreements to those leaseholders with an operating interest and the Department of Natural Resources--as opposed to the present system, under which all decisions pertaining to unit agreements or their modification must be ratified by at least 62.5% of the royalty owners.

RGH:jm

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
HB791	2/15/78	Dept. of Natural Resources	2/24/78
	"	" " Commerce	"
	"	" " Revenue	"
	"	Alaska Pipeline Commission	"
	"	N.W. Alaskan Pipeline Co.	"
	"	Div. of Oil + Gas	"
	"	Rep. Malone	"
	"	Rep. Chatterton	"
	"	Rep. Miles	"
	"	Keith Specking	"
	"	Geoff Haynes	"

HB

807

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

2-10-78

Date: April 4, 1978

Mr. Speaker:

The Committee on RESOURCES has had HB 807
"An Act relating to a fee punch card system for king salmon sport fishing."

under consideration and (a majority of the committee) (the committee reports it back as follows)

( ) recommends it do pass ( ) recommends it do not pass

( ) recommends it do pass with attached amendment(s)

( ) recommends it be replaced with CS for _____

and _____ ( ) new title ( ) same title

( ) AND attaches a Letter of Intent ( ) New Fiscal Note

( ) reports it back without recommendation

( ) and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

OTHER RECOMMENDATIONS:

_____
Chairman

H 60 (rev. 6/77)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

SUBPORT BUILDING - JUNEAU 99801

March 16, 1978

The Honorable Hugh Malone
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Malone:

The following information is provided in accordance with your request for use in the House Resources Committee concerning CSHB 807.

First you requested a fiscal note showing:

a. Revenues produced by the bill

b. Expenses incurred as a result of the bill

The fiscal note is enclosed, though a separate fiscal note is also being prepared by the Department of Revenue concerning this bill. We have provided them with the following base from which to project costs and estimate revenue.

Using our experience with the free punch card, our staff estimates that 100,000 cards would be required to meet the anticipated demand. Our experience also indicates that up to 50% of the cards picked up may not be used.

With a $5.00 stamp several uncertainties are present:

a. There may be initial resistance to the price, at least until the angler sees the first king salmon caught.

b. The $5.00 price will deter the casual pick-up of stamps, as happened with the free punch cards. On the other hand, stamp collectors may offset this somewhat.

c. What affect the opening of additional streams will have on attracting new anglers is unknown, but most likely will increase participation by new anglers.

d. The run strength will have a definite impact on the sale of stamps. If the word is out that lots of kings are in and are being caught, sales will be high. If the run is poor and the catch is down, sales of stamps would be reduced.

The Sport Fish staff estimates, under these uncertain conditions, that stamp sales during the first years of implementation would be near 50,000 sold.

Second, you requested an explanation of the financial aspect of the bill and a short narrative showing the relationship between the Fish and Game Fund revenues and expenditures.

The Fish and Game Fund was established to meet Federal requirements regarding State participation in the Fish and Wildlife Restoration Programs, commonly called the "D-J program" (Sport Fish) and the "P-R program" (Game). The Fish and Game Fund may be made up of the following monies:

- money received from the sale of State sport fishing and hunting licenses and special permits;
- proceeds received from the sale of furs, skins and specimens taken by predator hunters and other employees;
- money received in settlement of a claim or loss caused by damage to the fish and game resources of the State;
- money received from Federal, State, or other governmental units or from a private donor for fish and game purposes;
- money from any other source (§ 17 Art 1 Ch 94 SLA 1959)

In actuality, almost all of the funds deposited in this account have been derived from the sale of sport fishing and hunting licenses.

In 1975 and 1976 the Fish and Game Fund was depleted to the point where cash flow problems were present and difficulty occurred in covering daily expenses in spite of monthly claims for reimbursement on Federal contracts. The Sport Fish budgets in FY 1974, 1975, 1976, 1977 and 1978 were below-maintenance level budgets due to inadequate reserves in this fund. In 1977, the Division was given $539.8 in general funds by the Legislature to help cover the shortage of funds in the account and, during that session, legislation was passed to increase the resident and non-resident sport fishing, hunting and trapping licenses and certain tag fees. In the period (1974-1978), the Division restructured its programs and established and partially implemented a lay off list for permanent staff. This occurred during a period when angler pressure on the resource and the numbers of anglers entering the fishery were rapidly increasing. The Sport Fish budget and funding sources have been as follows for FY '77 and '78:

Funding Sources	FY 1977	FY 1978
Federal Receipts	$1,267.0	$1,269.9
General Funds	539.9	-0
Fish and Game Funds	1,040.6	1,816.8
	$2,847.5	$3,086.7

Anticipated revenue from license sales under the new rate during calendar 1977 was expected to replace the special General Fund allowance during 1978. This has occurred, as approximately $1,935.7 was collected in Sport Fish license sales.

In spite of the additional revenue generated by the basic license fee increase several years ago, part of the increase was committed to replace the General Fund appropriations provided the prior year, and annual increased costs of doing business attributed to inflation has effectively taken its share of the balance. In addition, increasing benefits are provided to Alaskans through the sport fishing and hunting license structure that singly appear inconsequential, but collectively do have a definite impact on revenues to the Fish and Game Fund, e.g., license exemption of those over 60 years of age with 30 years of residency and the 25¢ hardship licenses; for which there are definite indications of abuse. Therefore, there is a remaining need for the money that could be generated by the king salmon stamp. For more detail, please note the material included.

In summary, the king salmon stamp should generate approximately $200,000. Associated costs for king salmon investigations and punch card management could cost approximately $156,000, if it was available and allocated, leaving approximately $50,000 surplus to collections. It is felt that revenue from the king salmon stamp could provide the necessary funding to manage the recreational Cook Inlet king salmon stocks.

Sincerely,

for Ronald O. Skoog
Commissioner

Enclosures

Cost estimates to implement a Cook Inlet King Salmon punch card fishery program have been defined as follows:

Approximately 108,000-122,000 anglers fished in Cook Inlet in 1977 and will expend close to 200,000 man days of effort during 1979.

A. Punch Card Costs:

I. Printing costs for punch card:

100,000 @ $75/1000 = $7,500

Postage based on 40% return of 72,000 cards (includes $150 for permit) = $3,900

Subtotal $11,400

II. Distribution and Collection of Punch Card: books. One man-month Aide time, $1,500

travel costs/or Anchorage, Matanuska Valley and Kenai Peninsula areas $ 500

Subtotal $ 2,000

The following listing will provide for a release of existing funds and include the costs for providing a program to monitor and manage the punch card fishery as directed by the Board.

Lower Kenai Streams - Existing program-additional funds will ~~permit release~~ now of some permanent personnel (presently 5 permanent staff are committed to this program during the limited weekends fishery) to pursue their other assigned projects. Additional Aides will permit the continuation of this project. Additional cost is minimal - Aide time, $4,000.

Kasilof River - New opening-stratified creel census designed by a Biometrician will be used at four access points. There will be no boat census initially; Aerial boat counts are planned. Since this is a new fishery, we will evaluate the relative effort originating at each access point and, after evaluation, adjust our sampling effort accordingly. No additional equipment is needed but additional costs total $5,500.

Kenai River - Effort by the public will likely result in over 10,000 angler interviews for catch and effort data. Changes to existing programs will entail increased aerial boat counts to provide a more adequate coverage of this large river system with increased Aide time. At present, estimates of stock status (run size) is unknown. Aircraft use for these systems must rely heavily on helicopters with the increased costs associated with this method. Cost $25,000.

Deep Creek Marine Fishery - Data collected to date indicates stock seperation of Kenai Peninsula kings from Susitna fish is possible with a quite high degree of reliability. Stocks from various Kenai Peninsula streams can be separated with less reliability. A stratified creel census will be conducted with an increase in scale sampling. Cost $15,000.

Susitna Streams - Five east side and three west side streams will be open to angling. Since we are unsure of how this new fishery will react, the Division plans to place two Aides on each stream during the open periods. In addition to collecting standard data on the catch, we will be evaluating the best way to manage these fisheries. Therefore, rather than establishing a statistically valid census design, we will conduct a nearly steady census. Since many anglers will be boaters, east and west side crews will have to be closely coordinated. In all, approximately nine man months of Aide time will be required in addition to permanent staff participation. Cost $16,500.

Total Management: $66,000

With the 14 streams, plus the marine area open to king salmon angling, the Sport Fish Division will, in future years, not be able to continue to provide catch estimates as precise as they are currently providing. However, with overall management of the Susitna stocks still undecided and the obvious potential to over-harvest runs in the Kenai River, the Division is married to a long-term, expensive monitoring program if anglers are to continue to benefit from this resource.

III. Punch card data work-up:

2 man months secretarial (clerk typist)	$2,200
1 man month biologist/ biometrics.	$2,500
Telephone or mail questionnaire for cards not returned	$1,900
Subtotal	$6,600
Total	$20,000

B. Management Implications to the Program.

The punch card fishery has remained relatively small over the years. The recent rapid growth of the Cook Inlet area in numbers of anglers, has placed a budgetary impact on the limited resources available to the Sport Fish Division. In the past, a small punch card fishery was absorbed into the existing program with only minor impact. Current demands, plus the expansion contemplated, will seriously impact all programs in Cook Inlet to the eventual exclusion of all but the punch card king salmon effort. Additional revenue sources will permit continuation of critical programs involving other species and problems, while providing the necessary funds to adequately conduct a sound king salmon punch card effort.

In addition, research must be more adequately pursued to provide the necessary information on which adequate management decisions must be made. Programs which are presently identified and for which funding is not available include:

1. Stock separation - king salmon destined for upper inlet streams must be more critically determined from those stock on the Kenai Peninsula and the Kenai River. Timing, magnitude of runs, and migratory routes must be determined.

2. Early life history studies to determine seaward migration and enumeration of smolts.

3. Extensive background work is required to determine stock status on the Kenai River. A $50,000 engineering feasiblity study is in the current CIP Budget for an adult/smolt weir trap facility for this system. The Kenai River is the largest king salmon system on the Peninsula. No data exists on the magnitude of this run.

4. Pre-enhancement (stocking) evaluation will be required before (and after) artificial propagation programs can begin or their effects measured.

The research investigations outlined above will cost approximately $70,000.

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CSHB 807
Title "An Act relating to a fee stamp system for King Salmon"
Requested by Mr. Hugh Malone, Speaker Date March 15, 1978

II. FISCAL DETAIL
Agency Affected Alaska Department of Fish and Game
Program Category Affected Sport Fish
Budget Request Unit(s) Affected

EXPENDITURES (Thousands of Dollars)

		FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	NONE-	-	-	-	-	-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify) F&G Fund	237.5					

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

The above figure is based on 50,000 licenses sold and receiving $4.75 from each stamp purchased...25¢ is kept by the vender.

IV. DATE March 15, 1978 PREPARED BY E.J. Harper
AGENCY
PHONE

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

33-001 (Rev. 12/77)

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

March 23, 1978

SUBJECT: King Salmon Sport Fishing Stamp
CSHB 807

TO: Representative Hugh Malone

FROM: Kenneth E. Vassar
Legislative Counsel

As you requested, I am including herein a work draft copy of a revised draft of CSHB 807 (fee stamp system for king salmon sport fishing). The draft includes a provision for the channeling of revenues received from the sale of the fee stamps to the division of sport fish within the Department of Fish and Game.

As you know, Article IX, Section 7, of the state constitution prohibits dedication of the proceeds of any state tax or license, except "when required by the federal government for state participation in federal programs." The existing provisions of AS 16.05.100 - 16.05.130, at least insofar as the dedication of fish and game licenses is concerned, is authorized under this clause of the constitution by virtue of the requirement in 16 U.S.C. 669 and 16 U.S.C. 777. These federal statutes require the dedication of state fishing and hunting license proceeds in order for the state to qualify for federal assistance. Section 777 provides in part:

> No money apportioned under this Act to any State, except as hereinafter provided, shall be expended therein until its legislature, or other State agency authorized by the State constitution to make laws governing the conservation of fish, shall have assented to the provisions of this Act and shall have passed laws for the conservation of fish, which shall include a prohibition against the diversion of license fees paid by fishermen for any other purpose than the administration of said State fish and game department...

This federal statute clearly was intended to provide for the conservation of fish (not just sport fish), and in that regard it specifically provides that license fees paid by fishermen be dedicated to the administration of the state's fish and game department. It could be argued that the provision of this redraft of CSHB 807 is in contravention of that statute by dedicating certain license fees to the administration of a division of the department, thus reducing the department's effectiveness in conserving fish in relation to fishing activities other than sport fishing. If the provision is not in compliance with the federal statute, it would clearly be prohibited under the state constitution as an unlawful dedication of the proceeds of a state license.

If you would like to replace the original draft with this one, please return the original to me; and we will provide a final draft of this version. If I can provide any further assistance, please let me know.

KEV:jpd

Enclosure

for the HB 807 file

Not as on p. 23 just a few pages marked to show that it is divided by Agent Training

FEDERAL AID IN FISH AND WILDLIFE RESTORATION

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF SPORT FISHERIES AND WILDLIFE

Regulatory Announcement 52

(Issued October 1968. Supersedes Regulatory Announcements 64 and 65)

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GENERAL INFORMATION

Purpose of the fish and wildlife restoration acts

Fish and wildlife in the United States are valuable natural resources. Recreational benefits alone dependent upon fishing and hunting each year exceed 700 million man-days. Some 33 million hunters and fishermen who enjoy this recreation annually spend more than $4 billion for the pleasure. In recognition of the value of these recreational activities to Americans and the need to conserve and restore the fish and wildlife resources that make them possible, Congress passed two important acts to assist State fish and game departments in their stewardship. These acts were intended to stimulate progressive research and management through programs financed in part by Federal grants in aid to the States.

The Federal Aid in Wildlife Restoration Act, approved September 2, 1937, and popularly known as the Pittman-Robertson Act, was designed to help check the depletion of the Nation's wildlife and to insure efficient administration in its restoration.

The Federal Aid in Sport Fish Restoration Act, approved August 9, 1950, and popularly known as the Dingell-Johnson Act, was designed to help protect and restore the Nation's sport-fishery resources.

The Acts provide that the Federal Government may pay up to 75 percent of the cost of work performed by the States on approved projects.

Sources of revenue

Funds available under the Pittman-Robertson program are derived from a manufacturers' excise tax of 11 percent on sporting arms and ammunition.

The revenue that supports the Dingell-Johnson program comes from a manufacturers' excise tax of 10 percent on fishing rods, creels, reels, and artificial lures, baits, and flies.

Moneys collected by the Treasurer of the United States during each fiscal year are authorized to be appropriated for the succeeding fiscal year for carrying out the purposes of the Acts.

Merged administration of the acts

To ensure economy, efficiency, and operational uniformity in the execution of these closely related laws, the Secretary of the Interior delegated administration of both to the Bureau of Sport Fisheries

and Wildlife of the United States Fish and Wildlife Service. Many of the procedures developed to carry out the wildlife-restoration program have been adopted wholly or in part for its fisheries counterpart. This is evident in the single set of regulations and standards and in the merged administration of the two activities.

How States qualify to participate

To participate in these programs, a State must assent to the provisions of the Dingell-Johnson and Pittman-Robertson Acts "and shall have passed laws for the conservation of fish (wildlife) which shall include a prohibition against the diversion of license fees paid by fishermen (hunters) for any other purpose than the administration of said State fish and game departments."

All States have assented to the provisions of the Acts.

Only fish and game departments or other authorities vested, under State laws, with fish and wildlife conservation functions are eligible to receive reimbursement for approved projects under the Acts.

Project initiation and accomplishment

When a State desires to obtain Federal Aid funds, its fish and game department submits a project statement to the Bureau of Sport Fisheries and Wildlife, describing the restoration work proposed and the estimated cost. If the project statement meets the requirements of the law, is substantial in character and design, and fulfills the requirements of the Secretary's Rules and Regulations, it is approved.

The State fish and game department then sends the Bureau a signed project agreement with full and detailed information, including a financial plan and sufficient supporting data to justify obligation of funds for the work described. Approval of a project agreement by the Bureau represents a contract for work mutually agreed upon between the Secretary of the Interior and the State fish and game department.

An amount is then set aside from the sum apportioned to the State, to meet the Federal Government's share of the project's cost. When the project is completed, or from time to time as work progresses, reimbursement is claimed by the State and paid by the Federal Government for work satisfactorily completed.

Types of suitable project activities

To carry out the purposes of these grant-in-aid programs—to restore populations of fish and wildlife and thereby increase hunting and fishing opportunities—it is a basic requirement that all fish and wildlife restoration projects be substantial in character and design. They may include activities of the following types:

Coordination.—Reimbursement can be approved for the planning and supervision of projects by State personnel to insure effective administration of the work.

Research.—Studies designed to develop new knowledge of fish, wildlife, or their habitats are approvable.

Surveys and inventories.—Studies designed to provide fish or wildlife management data such as current stocks, harvest information, and fisherman or hunter use can be approved.

Land purchase.—States must have adequate control of restoration units prior to the development of capital improvements or the programing of substantial investments on land units. Control may be obtained through purchase, gifts, long term easements, or leases. The costs for such acquisitions can be approved.

Land and water developments.—Development activities designed to increase hunter and fisherman use of restoration units are approvable. Examples of such work are constructing public fishing lakes, developing access areas to public hunting grounds and fishing waters, planting food and cover crops, and stocking birds, mammals, or fish where needed. A State must assure the Bureau that adequate planning and design has preceded actual work to insure substantial results.

Maintenance.—Federal Aid funds can be approved for the upkeep and repair of capital improvements acquired or constructed under Federal Aid Projects.

Management.—Work concerned with the harvest or control of wild birds, mammals, and fish as a means of managing the resource is approvable.

Activities not approvable under the Acts

There are limitations on types of conservation activities that can be funded by the Acts. Conservation programs carried out through law enforcement, information and education, and extension activities, important as they may be, cannot be financed. Congress intended that funds appropriated should be used for fact-finding and in direct action programs for restoration of sport fishes and wildlife.

Maintenance and management activities

The Acts require that projects completed under their provisions shall be maintained by the States. A State may not spend more than 25 percent of the moneys apportioned to it under either Act in any fiscal year to help defray maintenance costs.

The Pittman-Robertson Act authorizes expenditures for the management of wildlife areas and resources, but limits expenditures for such purposes to not more than 30 percent of the amount apportioned to a State in any fiscal year. No such limitation on management activities is contained in the Dingell-Johnson Act.

Ownership and administration of restored units

All lands acquired become the property of the States and are maintained and administered by them under State laws. All structures built and all equipment purchased with these cooperative funds likewise become State property.

Incidental benefits

One of the critical needs to meet today's demands for outdoor recreation is space. Some land and water areas made available through the Federal Aid in Fish and Wildlife Restoration Programs may also be suitable for other types of outdoor recreation. If the associated recreation activities interfere with the primary objectives of the Acts, Federal Aid participation in total costs must be limited to the part concerned with fish or wildlife restoration. On areas acquired and managed by Federal Aid in Fish and Wildlife Restoration funds, fishing or hunting must be given primary consideration and must not suffer by competition from other forms of outdoor recreation.

Method of allocating funds to the States

The method of allocating Pittman-Robertson funds to each State is as follows: Half in the ratio that the area of the State bears to the total area of all the States, and half in the ratio that the number of paid hunting-license holders of the State bears to the total number of paid hunting-license holders of all the States.

Dingell-Johnson money is apportioned to each State as follows: Forty percent in the ratio that the area of the State (including coastal or Great Lakes waters) bears to the total area of all the States, and sixty percent in the ratio that the number of persons holding paid licenses to fish for sport or recreation in the State bears to the number of such persons in all the States.

Under each Act an initial deduction, not to exceed 8 percent, is made for administering the Act, and deductions are made for apportionments to Guam, Puerto Rico, and the Virgin Islands.

Disposition of unused funds

If a State wishes to use funds available under the Acts, it must notify the Secretary of the Interior each year within 60 days after receiving the certification of apportionment of funds, of its desire to participate. If such notification is not made, or if a State declines to participate, or if it fails to expend or obligate its entire apportionment within the period the funds are available, such apportionments or unused balances are then available for expenditure by the Secretary in carrying out programs of the Bureau of Sport Fisheries and Wildlife. Unused Dingell-Johnson funds revert to the Bureau's fishery research program and unused Pittman-Robertson funds help pay for work conducted under the Migratory Bird Conservation Act.

Period of availability of funds

Money apportioned to any State for any fiscal year unobligated by an approved project at the close of that fiscal year is available for obligation in that State until the close of the succeeding year. For example, funds that became available for expenditure on July 1, 1965, could be obligated for work on projects as late as June 30, 1967, provided the State complied with the requirement of notifying the Secretary of the Interior of its desire to use apportioned funds and continues to be eligible.

RULES AND REGULATIONS OF THE SECRETARY OF THE INTERIOR FOR ADMINISTRATION OF THE FEDERAL AID IN FISH AND WILDLIFE RESTORATION ACTS

§ 80.1 **Definitions.** As used in this part, terms shall have the meanings ascribed in this section.

(*a*) **Federal Aid Act(s).** (1) The Act of Congress, approved September 2, 1937, entitled "An Act to provide that the United States shall aid the States in wildlife restoration projects, and for other purposes" (50 Stat. 917, as amended; 16 U.S.C., sec. 669-669i), commonly referred to as the Pittman-Robertson Act; and (2) the Act of Congress, approved August 9, 1950, entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes" (64 Stat. 430, as amended; 16 U.S.C., sec. 777-777k), commonly referred to as the Dingell-Johnson Act.

(*b*) **State.** Any State of the United States, the territorial areas of Guam and the Virgin Islands, and the Commonwealth of Puerto Rico.

(*c*) **State Fish and Game Department.** Any department or division, or commission, or official of a State empowered under its laws to exercise the functions ordinarily exercised by a State Fish and Game Department, the Secretary of Agriculture of Puerto Rico, or the Governor of Guam or the Virgin Islands.

(*d*) **Fish and wildlife.** (1) The term "fish" is limited to aquatic, gill breathing, vertebrate animals bearing paired fins; and (2) the term "wildlife" is limited to wild birds and wild mammals.

(*e*) **Project.** A sound and substantial undertaking with the general objective of restoring or managing fish and wildlife populations now and for the future and for the preservation and improvement of sport fishing, hunting, and related uses of these resources.

(*f*) **Project substantiality.** A substantial project is one which will provide benefits to hunters and fishermen commensurate with cost, and which is designed in accordance with accepted fish and wildlife conservation and management practices and sound engineering principles.

(*g*) ***Project segment.*** An essential part or division of a project, usually separated as a period of time, occasionally as a unit of work.

(*h*) **Land acquisition.** The acquisition of lands, waters, or interests therein, by purchase, condemnation, lease, or gift.

(*i*) **Development.** Improving areas of land or water through the construction of works and facilities, improvement of soil and water conditions, establishing or controlling vegetation and animal populations, and including operation and protection of the areas.

(*j*) **Research and surveys.** Investigations into problems of fish and wildlife management necessary for the efficient administration of these resources, including:

(1) **Research.** Studies designed to supply new information about fish and wildlife, their environment, or the development of new methods for management of these resources.

(2) **Surveys and inventories.** Routine collection of data on the abundance and utilization of fish and wildlife, or the condition of their environment, through the application of established methodology.

(*k*) **Management.** For purposes of the limitation on the use of Federal Aid in Wildlife Restoration funds for the management of wildlife areas and resources, the term includes measures and facilities for the harvest and control of wild birds and mammals.

(*l*) **Maintenance.** Repair and upkeep of capital improvements acquired or constructed under the Federal Aid Acts. A capital improvement is any successfully established improvement having an expected useful life in excess of 5 years. For the purpose of qualifying for maintenance, a project is completed when the lands have been acquired, or capital improvements have been finished.

(*m*) **Coordination.** The selection, planning, direction, supervision, and coordination of projects within a State's Federal Aid program, including the coordination of this program with other related activities of the fish and game department.

(*n*) **Administration.** As used in Section 1 of each of the Federal Aid Acts, relating to diversion of license fees, in this part of administration of a fish and game department includes all of the normal operations and functions of such an organization.

§ 80.2 **Apportionment and certification.** The Secretary shall apportion funds in the manner prescribed in the Acts, as soon as possible after receiving notification of the amounts which have become available for the purposes of the Acts. He shall promptly certify to the Secretary of the Treasury and to each State Fish and Game Department, the respective sums which he has deducted for administering and executing the Acts and the respective sums which he has apportioned to each State for the ensuing fiscal year.

322-030—65——2

§ 80.3 **Notice of desire to participate.** Any State Fish and Game Department desiring to avail itself of the benefits of the Acts, shall notify the Secretary within 60 days after it has received from him a certificate of apportionment of funds available to the State.

§ 80.4 **Period of availability of funds.** Funds are available to a State for expenditure or obligation during the fiscal year for which they are apportioned and until the close of the succeeding fiscal year. For the purpose of this section, obligation of apportioned funds occurs when a project agreement or amendment thereto is signed by the Secretary or his authorized representative.

§ 80.5 **Diversion of funds.**

(*a*) Conditions to participation in the benefits of these Acts are that a State's hunting and fishing license revenues must be used only for administration of its Fish and Game Department and Federal Aid funds granted under the Acts must be used for the purposes of approved projects. A diversion of license fees occurs when a State Fish and Game Department, through legislative action, or otherwise, loses control of the expenditure of any portion of its hunting license or sport fishing license revenues, or expends such revenues for any purpose other than the administration of the State Fish and Game Department. A diversion of Federal Aid funds occurs whenever they are applied by a State to activities or purposes which are not a part of an approved project, or when real property acquired or constructed with Federal Aid funds under these Acts passes from the control of the State Fish and Game Department or is used for unapproved purposes in a manner or to an extent which interferes with the accomplishment of project purposes as they were approved by the Secretary, or as they may be amended with the approval of the Secretary.

(*b*) When a diversion of funds occurs, a State thereby becomes ineligible to receive Federal Aid funds under the pertinent Act from the date the diversion occurs until (1) action is taken to return the administration of hunting and sport fishing license fees to the State Fish and Game Department; (2) hunting and sport fishing license fees used for purposes other than the programs of the State Fish and Game Department are replaced; (3) Federal Aid funds used for purposes or activities which are not a part of an approved project are replaced; (4) Federal-Aid financed real property which has passed from the control of the State Fish and Game Department is restored to that control, or a property of equal value at current market prices and with commensurate benefits to fish and wildlife is acquired with non-Federal funds to replace it; or (5) uses of Federal-Aid financed real property which interfere with the accomplishment of approved project objectives are ceased: *Provided, however,* That, where any projects were approved in compliance with the terms of the pertinent Act prior to diversion, and Federal Aid funds were obligated to carry out such projects, such funds shall remain available therefor until expended, without regard for the intervening period of the State's ineligibility under the Federal Aid Acts: *Provided, further,* That, when the State shall find, and the Secretary agree, that a property is no longer useful for the purposes for which it was acquired or constructed, and that it is not practical to convert the property to other fish or wildlife restoration, development, or management purposes, the State may sell the property and apply the proceeds of sale as the State Fish and Game Department and the Secretary may then agree: *Provided, further,* That, when required by this section to acquire a property with non-Federal funds, a State shall be given a reasonable time, up to 3 years, to accomplish this, before becoming ineligible to receive Federal Aid funds.

§ 80.6 **General information for the Secretary.** Before any Federal funds may be obligated for any project to be undertaken in a State, there shall be furnished to the Secretary upon his request, information regarding the laws affecting fish or wildlife conservation and the authority of the State Fish and Game Department and of local officials with respect to the establishment and maintenance of projects; and the existing provisions of the State constitution or laws relating to revenues for the protection, restoration, and management of fish or wildlife.

(*a*) **Document signature.** The Secretary of State of each State or any authorized official of the State shall certify as to the duly appointed official(s) authorized in accordance with State law to commit the State to participation under the provisions of the Acts and to sign Federal Aid project documents. The Secretary shall be advised promptly of any change made in such authorizations to sign Federal Aid documents.

(*b*) **Program information.** The Secretary may, from time to time, request and the State Fish and Game Department shall furnish information relating to the administration and maintenance of any project established under the Acts.

(*c*) **Planning-Programing-Budgeting System.** To promote the most efficient use of the financial resources of the Federal Government, Federal funds are budgeted according to a Planning-Programing-Budgeting System. In order that Federal funds for financing projects under the Federal Aid Acts may be budgeted under this system, States must furnish such plans and programs as the Secretary may require for this purpose.

§ 80.7 **Hunting and fishing license information.**

(*a*) Information concerning the number of paid hunting-license holders and the number of persons holding paid licenses to fish for sport or recreation in the State in the preceding year shall be furnished the Secretary by the Fish and Game Department of each State on or before December 15 of each year in form specified by the Secretary.

(*b*) This information shall be certified as accurate by the Director of the State Fish and Game Department. He shall furnish, when requested by the Secretary, evidence used in determining accuracy of the certification.

§ 80.8 **Activities prohibited.** Neither law enforcement nor public relation activities which are not incidental to custodial functions on an approved Federal Aid project may be financed under the programs.

§ 80.9 **Uses other than for fish and wildlife.** With respect to projects which are designed to include uses other than for fish or wildlife, reimbursement of costs from funds under the Federal Aid Acts shall be limited to the extent of the benefits to fish and wildlife resulting from such projects. Participation in maintenance of completed projects shall be similarly limited. Also, the costs of maintenance shall be appropriately shared according to the use of the area and facilities; Federal Aid funds shall not be applied to maintenance required by use other than for approved project purposes.

§ 80.10 **Minimum Federal participation.** A minimum Federal Aid participation of 10 percent in the cost of each project is required as a condition of approval.

§ 80.11 **Project statement.** A project statement shall be submitted for each proposed project which shall contain such fundamental information as the Secretary may require, in order that he may determine if a project meets the requirement of being substantial in character and design in accordance with standards set forth in the Federal Aid in Fish and Wildlife Restoration Manual. This Manual is distributed to all program participants and is available at the Washington and Regional Offices of the Bureau of Sport Fisheries and Wildlife.

§ 80.12 **Financial plan.** A budget or spending plan listing estimated expenditures by activities (land acquisition, development, research, management, maintenance, and coordination) as related to the elements of Planning, Programing, and Budgeting shall be submitted for each project in a State covering the work to be performed over a specified period.

§ 80.13 **Plans, specifications, and estimates.** The annual financial plan shall be accompanied by supporting documents listing and describing the work to be performed with the funds listed therein. These

shall be as follows: (*a*) Engineering plans, specifications, and estimates shall be submitted for major construction activities. (*b*) Plans in job description form shall be submitted for each logical and effective unit of research activity. (*c*) Work plans, listing the development activities to be carried out under the financial plan shall be submitted. (*d*) Schedules of supervisory and technical personnel to be employed and major items of equipment to be purchased shall be provided.

§ 80.14 **Project agreement.** After the Secretary shall have approved project statements and the required plans, specifications, and estimates, the mutual obligations to be undertaken by the cooperating agencies shall be evidenced by an agreement to be executed between the State Fish and Game Department and the Secretary. An agreement shall cover the financing proposed in one financial plan and the work items described in the documents supporting it.

§ 80.15 **Officials not to benefit.** No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or any part agreement, made under the Federal Aid Acts, or to any benefit that may arise therefrom.

§ 80.16 **Equal employment opportunity.** Each project agreement shall contain the equal employment opportunity provision of Part III of Executive Order 11246 (30 F.R. 12319) and as it may be amended.

§ 80.17 **Submission of documents.** Papers and documents required by the Acts or by the regulations in this part shall be deemed submitted to the Secretary from the date of receipt by the Director of the Bureau of Sport Fisheries and Wildlife, or by the appropriate Regional Director of the Bureau.

§ 80.18 **Divergent opinions over project merits.** Any difference of opinion about the substantiality of a proposed project, nature of development required, or appraised value of land to be acquired, are considered by qualified representatives of the Bureau of Sport Fisheries and Wildlife and the State. Final determination in the event of continued disagreement rests with the Secretary.

§ 80.19 **Land control.** The State Fish and Game Department must control lands or waters on which improvements are made. Control may be exercised through fee title, lease, easement, or agreement. Control must be adequate for protection, maintenance, and use of the improvement throughout its useful life.

§ 80.20 **Samples of materials to be submitted.** Whenever requested, suitable samples of materials to be used in construction work shall be submitted to the Secretary by or on behalf of the State Fish and Game Department to be tested for suitability and conformity with standard specifications.

§ 80.21 **Contracts.** Contracts shall be solicited and awarded according to the laws and regulations of the State except as otherwise provided in this part.

§ 80.22 **Safety and accident prevention.** In the performance of each project, the State shall comply with all applicable Federal, State and local laws governing safety, health and sanitation. The State shall be responsible that all safeguards, safety devices, and protective equipment are provided and will take any other needed actions reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work.

§ 80.23 **Statements and payrolls.** The regulations of the Secretary of Labor applicable to contractors and subcontractors (29 CFR Part 3), made pursuant to the Copeland Act, as amended, (40 U.S.C. 276c), and to aid in the enforcement of the Anti-Kickback Act (18 U.S.C. 874) are made a part of this regulation by reference. The State Fish and Game Department will comply with these regulations and any amendments or modifications thereof and the State Prime Contractor will be responsible for the submission of statements required of subcontractors thereunder. The foregoing shall apply except as the Secretary of Labor may specifically provide for reasonable limitation, variations, tolerances, and exemptions.

§ 80.24 **Prosecution of work.**

(*a*) The State Fish and Game Department shall carry all approved projects through to satisfactory completion with reasonable promptness. Projects with activities extending over a period of years may be financed from a number of succeeding apportionments as appropriate to the schedule.

(*b*) Research work shall be continuously coordinated with other studies conducted by the State and other agencies in order to avoid unnecessary duplication.

(*c*) All work shall be performed in accordance with applicable State laws.

(*d*) Appropriate and adequate means shall be employed to insure economy and efficiency in the completion of the project.

§ 80.25 **Personnel.** The State Fish and Game Department shall employ adequate and competent personnel to initiate and carry Federal Aid projects through to satisfactory completion.

§ 80.26 **Maintenance of completed projects.** The State Fish and Game Department shall exercise all reasonable means to insure permanent and proper management and maintenance of each completed acquisition or development of lands or waters.

§ 80.27 **Production of income.** Federal Aid funds shall not be spent for the purpose of producing income; e.g.,

(*a*) Producing agricultural crops in excess of those required for attracting, conserving, and enhancing wildlife populations.

(*b*) In connection with the acquisition of lands, paying for readily marketable timber or the salvage value of structures either of which are excess to project purposes when the State can secure immediate reimbursement through removal and sale.

(*c*) Purchasing transportation, construction, or farming equipment not needed for its full life on activities which are approvable for Federal Aid assistance.

(*d*) Conducting public hunting and fishing activities where user fees substantially pay for these costs.

Federal Aid funds used for such purposes shall be replaced as required under § 80.5, "Diversion of funds."

§ 80.28 **Inspection.** Supervision of each project by the State Fish and Game Department shall include adequate and continuous inspection. The project will be subject at all times to Federal inspection.

§ 80.29 **Civil rights.** Approval of each agreement shall be conditioned upon the acceptance by the United States of an assurance executed in writing by the properly authorized representative of the contracting State agency, or political division of the contracting State, supported by proper certification, guaranteeing that the program will be conducted in accordance with Title VI of the Civil Rights Act of 1964 and with the rules and regulations promulgated thereunder by the Secretary and published as 43 CFR Part 17 (filed December 3, 1964) to that end.

§ 80.30 **Federal Aid payments.** Payments under the Federal Aid Acts, including such preliminary costs and expenses as may be incurred in and about such projects, shall not be made unless the project statement, such plans, specifications, and estimates as are required by the Secretary, and all other documents that may be necessary or required in the administration of these acts, shall have first been submitted to and approved by the Secretary. Payments shall be made only by way of reimbursement for expenditures reported and certified by the State Fish and Game Departments. Payments shall be made only to the State office or official designated by the State Fish and Game Department and authorized under the laws of the State to receive public funds of the State.

(*a*) Federal Aid payments shall not exceed 75 percent of the cost of a project or the amount specified in the agreement, whichever is less: *Provided*, That Federal Aid payments to the territorial areas of Guam, the Virgin Islands and the Commonwealth of Puerto Rico

shall not exceed the amount specified in the agreement and in no event shall they be required to pay an amount which will exceed 25 percent of the cost of any project.

(*b*) Federal Aid payments on projects terminated prior to completion shall be limited to the cost of benefits produced, provided the work accomplished is substantial in character and design.

(*c*) Payments for acquired real property shall not exceed 75 percent of the fair and reasonable value of the property as approved by the Secretary.

(*d*) Overhead and preliminary costs which are clearly tied to an approved project may be reimbursed provided the claims are supported by accurate records.

§ 80.31 **Form of vouchers.** Vouchers on forms provided by the Secretary and certified as therein prescribed, showing amounts expended and the amount of Federal Aid funds claimed to be due on account thereof, shall be submitted to the Secretary by the State Fish and Game Department.

§ 80.32 **Records and reporting.** Reports shall be furnished as requested by the Secretary. Cost records shall be maintained separately for each project. In projects containing multiple activities, costs for research, acquisition, development, and coordination shall be segregated. The accounts and records maintained by the State, together with all supporting documents, shall be open at all times to the inspection of authorized representatives of the United States, and copies thereof shall be furnished when requested.

§ 80.33 **Records retention period.** The records, accounts, and supporting documents required to be maintained under the regulations in this part for each project shall be retained by the State Fish and Game Department until the expiration of 3 years after final payment of reimbursement to the State on the project.

§ 80.34 **Convict labor.** The State shall not employ any persons undergoing sentence of imprisonment at hard labor to perform work on projects approved under the Federal Aid Acts.

§ 80.35 **Water pollution control.** In the performance of each project, the State shall take necessary action to avoid pollution of water as a direct or indirect result of project activity. Water quality must be maintained at a level consistent with State water quality standards approved by the Secretary.

§ 80.36 **Purchase of equipment.** Advance approval by the Secretary is required for the purchase with Federal Aid participation of items of equipment costing in excess of $500.

§ 80.37 **Patents.** Every project agreement and subcontract, having as a purpose the conduct of experimental or research work, shall contain a patent article conforming to the President's Statement of Government Patent Policy, issued October 10, 1963, 28 F.R. 10943.

§ 80.38 **Fish and wildlife planning.** It is desirable that the expenditure of funds made available under the Federal Aid Acts be guided by long-range fish and wildlife plans. Therefore, undertakings of statewide planning for fish and wildlife are of the highest priority for Federal Aid Financing.

expended for such purpose. (Sept. 2, 1937, ch. 899, § 8, 50 Stat. 919; July 24, 1946, ch. 605, § 2, 60 Stat. 656; August 12, 1955, ch. 861, § 2, 69 Stat. 698.)

SEC. 8(a). The Secretary of the Interior is authorized to cooperate with the Commissioner of Agriculture and Commerce of Puerto Rico, the Governor of Guam, and the Governor of the Virgin Islands, in the conduct of wildlife-restoration projects, as defined in section 2 of this Act, upon such terms and conditions as he shall deem fair, just, and equitable, and is authorized to apportion to Puerto Rico, Guam, and the Virgin Islands, out of money available for apportionment under this Act, such sums as he shall determine, not exceeding $10,000 each for Puerto Rico, Guam, and the Virgin Islands, in any one year, which apportionments, when made, shall be deducted before making the apportionments to the States provided for by this Act; but the Secretary shall in no event require any of said cooperating agencies to pay an amount which will exceed 25 per centum of the cost of any project. Any unexpended or unobligated balance of any apportionment made pursuant to this section shall be available for expenditure in Puerto Rico, Guam, or the Virgin Islands, as the case may be, in the succeeding year, on any approved project, and if unexpended or unobligated at the end of such year is authorized to be made available for expenditure by the Secretary of the Interior in carrying out the provisions of the Migratory Bird Conservation Act. (Sept. 2, 1937, ch. 899, § 8(a), as added Aug. 14, 1941, ch. 367, 55 Stat. 632, and amended Aug. 9, 1950, ch. 528, 64 Stat. 369; July 2, 1956, ch. 489, § 2, 70 Stat. 473; Aug. 1, 1956, ch. 852, § 7, 70 Stat. 903; June 25, 1959, Public Law 86-70, § 15, 73 Stat. 143.)

SEC. 9. Out of the deductions set aside for administering and executing this Act and the Migratory Bird Conservation Act, the Secretary of the Interior is authorized to employ such assistants, clerks, and other persons in the city of Washington and elsewhere, to be taken from the eligible lists of the Civil Service; to rent or construct buildings outside of the city of Washington; to purchase such supplies, material, equipment, office fixtures, and apparatus; and to incur such travel and other expenses, including purchase, maintenance, and hire of passenger-carrying motor vehicles, as he may deem necessary for carrying out the purposes of this Act. (Sept. 2, 1937, ch. 899, § 9, 50 Stat. 919; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

SEC. 10. The Secretary of the Interior is authorized to make rules and regulations for carrying out the provisions of this Act. (Sept. 2, 1937, ch. 899 § 10, 50 Stat. 919; 1939 Reorg. Plan No. II, § 4(f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433.)

FEDERAL AID IN SPORT FISH RESTORATION ACT

(DINGELL-JOHNSON ACT OR FEDERAL AID IN FISH RESTORATION ACT)

[Act of August 9, 1950 (64 Stat. 430), as amended (16 U.S.C. 777–777k)]

SEC. 1. The Secretary of the Interior is authorized and directed to cooperate with the States through their respective State fish and game departments in fish restoration and management projects as hereinafter set forth: No money apportioned under this Act to any State, except as hereinafter provided, shall be expended therein until its legislature, or other State agency authorized by the State constitution to make laws governing the conservation of fish, shall have assented to the provisions of this act and shall have passed laws for the conservation of fish, which shall include a prohibition against the diversion of license fees paid by fishermen for any other purpose than the administration of said State fish and game department, except that, until the final adjournment of the first regular session of the legislature held after passage of this Act, the assent of the governor of the State shall be sufficient. The Secretary of the Interior and the State fish and game department of each State accepting the benefits of this Act shall agree upon the fish restoration and management projects to be aided in such State under terms of this Act, and all projects shall conform to the standards fixed by the Secretary of the Interior. (Aug. 9, 1950, ch. 658, § 1, 64 Stat. 430)

SEC. 2. For the purpose of this Act the term "fish restoration and management projects" shall be construed to mean projects designed for the restoration and management of all species of fish which have material value in connection with sport or recreation in the marine and/or fresh waters of the United States and include—

(a) such research into problems of fish management and culture as may be necessary to efficient administration affecting fish resources;

(b) the acquisition of such facts as are necessary to guide and direct the regulation of fishing by law, including the extent of the fish population, the drain on the fish supply from fishing and/or natural causes, the necessity of legal regulation of fishing, and the effects of any measures of regulation that are applied;

(c) the formulation and adoption of plans of restocking waters with food and game fishes according to natural areas or districts to which such plans are applicable, together with the acquisition of such facts as are necessary to the formulation, execution, and testing the efficacy of such plans;

(d) the selection, restoration, rehabilitation, and improvement of areas of water or land adaptable as hatching, feeding, resting, or breeding places for fish, including acquisition by purchase, condemnation, lease, or gift of such areas or estates or interests therein as are suitable or capable of being made suitable therefor, and the construction thereon or therein of such works as may be necessary to make them available for such purposes, and such preliminary or incidental costs and expenses as may be incurred in and about such work. The term "State fish and game department" shall be construed to mean and include any department or division of department of another name, or commission, or official or officials, of a State empowered under its laws to exercise the functions ordinarily exercised by a State fish and game department. (Aug. 9, 1950, ch. 658, § 2, 64 Stat. 431; July 2, 1956, ch. 459, § 3, 70 Stat. 473; as amended July 12, 1960, § 12, 74 Stat. 413.)

SEC. 3. To carry out the provisions of this Act, there is authorized to be appropriated an amount equal to the revenue accruing from tax imposed by section 3406 of Title 26, on fishing rods, creels, reels, and artificial lures, baits, and flies during the fiscal year ending June 30, 1951, and each fiscal year thereafter. The appropriation made under the provisions of this section for each fiscal year shall continue available during the succeeding fiscal year. So much of such appropriation apportioned to any State for any fiscal year as remains unexpended at the close thereof is authorized to be made available for expenditure in that State until the close of the succeeding fiscal year. Any amount apportioned to any State under the provisions of this Act which is unexpended or unobligated at the end of the period during which it is available for expenditure on any project is authorized to be made available for expenditure by the Secretary of the Interior in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport and recreation. (Aug. 9, 1950, ch. 658, § 3, 64 Stat. 431.)

SEC. 4. So much, not to exceed 8 per centum, of each annual appropriation made in pursuance of the provisions of section 3 of this Act as the Secretary of the Interior may estimate to be necessary for his expenses in the conduct of necessary investigations, administration, and the execution of this Act and for aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or fresh

waters shall be deducted for that purpose, and such sum is authorized to be made available therefor until the expiration of the next succeeding fiscal year. The Secretary of the Interior, after making the aforesaid deduction, shall apportion the remainder of the appropriation for each fiscal year among the several States in the following manner, that is to say, 40 per centum in the ratio which the area of each State including coastal and Great Lakes waters (as determined by the Secretary of the Interior) bears to the total area of all the States and 60 per centum in the ratio which the number of persons holding paid licenses to fish for sport or recreation in the State in the second fiscal year preceding the fiscal year for which such apportionment is made, as certified to said Secretary by the State fish and game departments, bears to the number of such persons in all the States: *Provided*, That such apportionments shall be adjusted equitably so that no State shall receive less than 1 per centum nor more than 5 per centum of the total amount apportioned to all of the States: *Provided, further*, That where the apportionment to any State under this section is less than $1,500 annually, the Secretary of the Interior may allocate not more than $1,500 of said appropriation to said State to carry out the purposes of this Act when said State certifies to the Secretary of the Interior that it has set aside not less than $1,500 from its fish-and-game funds or has made, through its legislature, an appropriation in this amount for said purposes. So much of any sum not allocated under the provisions of this section for any fiscal year is authorized to be made available for expenditure to carry out the purposes of this Act until the close of the succeeding fiscal year, and if unexpended or unobligated at the end of such year such sum is authorized to be made available for expenditure by the Secretary of the Interior in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation. (Aug. 9, 1950, ch. 658, § 4, 64 Stat. 432.)

SEC. 5. For each fiscal year beginning with the fiscal year ending June 30, 1951, the Secretary of the Interior shall certify to the Secretary of the Treasury, and to each State fish and game department, the sum which he has estimated to be deducted for administering and executing this Act and the sum which he has apportioned to each State for such fiscal year. Any State desiring to avail itself of the benefits of this Act shall notify the Secretary of the Interior to this effect within sixty days after it has received the certification referred to in this section. The sum apportioned to any State which fails to notify the Secretary of the Interior as herein provided is authorized to be made available for expenditure by the Secretary of the Interior in carrying out the provisions of the fish-research program of the Fish and Wildlife Service. (Aug. 9, 1950, ch. 658, § 5, 64 Stat. 432.)

SEC. 6. Any State desiring to avail itself of the benefits of this Act shall, by its State fish and game department, submit to the Secretary of the Interior full and detailed statements of any fish-restoration and management project proposed for that State. If the Secretary of the Interior finds that such project meets with the standards set up by him and approves said project, the State fish and game department shall furnish to him such surveys, plans, specifications, and estimates therefor as he may require: *Provided, however*, That the Secretary of the Interior shall approve only such projects as may be substantial in character and design, and the expenditure of funds authorized shall be applied only to such approved projects and if otherwise applied they shall be replaced by the State before it may participate in any further apportionment under this Act.

Items included for engineering, inspection, and unforeseen contingencies in connection with any works to be constructed shall not exceed 10 per centum of the cost of such works and shall be paid by the State as a part of its contribution to the total cost of such works. If the Secretary of the Interior approves the plans, specifications, and estimates for the project, he shall notify the State fish and game department and immediately certify the fact to the Secretary of the Treasury. The Secretary of the Treasury shall thereupon set aside so much of said appropriation as represents the share of the United States payable under this Act on account of such project, which sum so set aside shall not exceed 75 per centum of the total estimated cost thereof. No payment of any money apportioned under this Act shall be made on any project until such statement of the project and the plans, specifications, and estimates thereof shall have been submitted to and approved by the Secretary of the Interior. (Aug. 9, 1950, ch. 658, § 6, 64 Stat. 432.)

SEC. 7. When the Secretary of the Interior shall find that any project approved by him has been completed or, if involving research relating to fish, is being conducted, in compliance with said plans and specifications, he shall cause to be paid to the proper authority of said State the amount set aside for said project: *Provided*, That the Secretary of the Interior may, in his discretion, from time to time, make payments on said project as the same progresses; but these payments, including previous payments, if any, shall not be more than the United States pro rata share of the project in conformity with said plans and specifications. Any construction work and labor in each State shall be performed in accordance with its laws and under the direct supervision of the State fish and game department, subject to the inspection and approval of the Secretary of the Interior and in accordance with the rules and regulations made pursuant to this Act. The Secretary of the Interior and the State fish and game department of each State may jointly determine at what times and in what amounts payments, as work progresses, shall be made under this Act. Such payments shall be made against the said appropriation to such official or officials, or depository, as may be designated by the State fish and game department and authorized under the laws of the State to receive public funds of the State. (Aug. 9, 1950, ch. 658, § 7, 64 Stat. 433.)

SEC. 8. To maintain fish-restoration and management projects established under the provisions of this Act shall be the duty of the States according to their respective laws: *Provided*, That beginning July 1, 1953, maintenance of projects heretofore completed under the provisions of this Act may be considered as projects under this Act: *Provided further*, That not more than 25 per centum of the allocation from Federal funds in any one year after July 1, 1953, may be set aside for such maintenance projects. Title to any real or personal property acquired by any State, and to improvements placed on State-owned lands through the use of funds paid to the State under the provisions of this Act, shall be vested in such State. (Aug. 9, 1950, ch. 658, § 8, 64 Stat. 433.)

SEC. 9. Out of the deductions set aside for administering and executing this Act the Secretary of the Interior is authorized to employ such assistants, clerks, and other persons in the District of Columbia and elsewhere, to be taken from the eligible lists of the civil service; to rent or construct buildings outside of the District of Columbia; to purchase such supplies, materials (equipment, office fixtures, and apparatus; and to incur such travel and other expenses, including publication of technical and administrative reports, purchase, maintenance, and hire of passenger-carrying motor vehicles, as he may deem necessary for carrying out the provision of this Act. (Aug. 9, 1950, ch. 658, § 9, 64 Stat. 433.)

SEC. 10. The Secretary of the Interior is authorized to make rules and regulations for carrying out the provisions of this Act. (Aug. 9, 1950, ch. 658, § 10, 64 Stat. 434.)

SEC. 12. The Secretary of the Interior is authorized to cooperate with the Commissioner of Agriculture and Commerce of Puerto Rico, the Governor of Guam, and the Governor of the Virgin Islands, in the conduct of fish restoration and management projects as defined in section 2 of this Act, upon such terms and conditions as he shall deem fair, just, and equitable, and is authorized to apportion to Puerto Rico, Guam, and the Virgin Islands, out of money available for apportionment under this Act, such sums as he shall determine, not exceeding $10,000 each for Puerto Rico, Guam, and the Virgin Islands, in any one year, which apportionments, when made, shall be deducted before

making the apportionments to the States provided for by this Act; but the Secretary shall in no event require any of said cooperating agencies to pay an amount which will exceed 25 per centum of the cost of any project. Any unexpended or unobligated balance of any apportionment made pursuant to this section shall be available for expenditure in Puerto Rico, Guam, or the Virgin Islands, as the case may be, in the succeeding year, on any approved project, and if unexpended or unobligated at the end of such year is authorized to be made available for expenditure by the Secretary of Interior in carrying on the research program of the Fish and Wildlife Service in respect to fish of material valve for sport[1] recreation. (Aug. 9, 1950, ch. 658, § 12, 64 Stat. 434; July 2, 1956, ch. 462, § 4, 70 Stat. 473; Aug. 1, 1956, ch. 852, § 8, 70 Stat. 908; June 25, 1959, Public Law 86–70, § 16, 73 Stat. 143.)

SEC. 13. The effective date of this Act shall be July 1, 1950

[1] So in original. Probably should read "sport or."

U.S. GOVERNMENT PRINTING OFFICE: 1960

Original sponsor: Malone

IN THE HOUSE BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 807

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to a fee stamp system for king salmon sport fishing; and providing for an effective date."

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

* Section 1. AS 16.05.251 is amended by adding a new paragraph to read:

(13) implementation of a fee stamp system, for king salmon sport fishing in areas designated by the board.

* Sec. 2. AS 16.05.340(a) is amended by adding a new paragraph to read:

(20) Resident king salmon sport fishing stamp . . . . . 5(A)

However, a person who possesses a 25-cent license, as provided in (5) of this subsection, may receive a king salmon sport fishing stamp without charge. The stamp is nontransferable and shall be signed by the bearer before use.

* Sec. 3. AS 16.05.940 is amended by adding a new paragraph to read:

(26) * "license" includes fee stamps issued for the current fishing season as provided in sec. 340(a)(20) of this chapter.

* Sec. 4. This Act takes effect January 1, [1980.] 1979

*Take out the word "Resident" (could apply that only residents would have to buy or pay for the stamps). Removal recommended by Sen Rardisla.

A. Obtaining a stamp does not preclude the need to obtain a sport fishing license in order to take king salmon.

Alaska House of Representatives

HUGH MALONE

POUCH V
JUNEAU
99811

P O. BOX 9
KENAI
99611

February 6, 1978

Mr. Calvin Fair, D.D.S.
P. O. Box 369
Soldotna, Alaska 99669

Dear Cal:

I am having legislation drafted regarding the king salmon punch card and fee system.

I'll send a copy to you, when I receive it, for your comments.

Thank you for your letter.

Very truly yours,

Hugh Malone

HM:JB:sf

CALVIN M. FAIR, D.D.S.
P O BOX 369
SOLDATNA ALASKA 99669

January 30, 1978

Rep. Hugh Malone
Pouch V
Juneau, Alaska
99801

Dear Hugh:

Concerning the king salmon punch card and fee bill. Have you had time yet to consider if you would want to submit it?

I feel the fee stipulation is a very important consideration as to whether or not we will have a punch card or game tag system here on the Kenai. The department just does not feel they can carry the cost of a card or tag unless it pays for itself.

If you do submit it, are there any persons in particular, myself or sport fish biologists should contact to help it along?

According to the testimony we (Fish Bd.) heard in Anchorage in October and again in December you can assume the public is solidly in support of the card or tag and a fee if necessary to assure it.

Warm regards,
Calvin Fair
Calvin M. Fair

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
HB807	2/15/78	Dept. of fish & Game	2/21/78
	"	" " Commerce	"
	"	Rep. Malone	"
	"	Keith Specking	"
	"	Geoff Haynes	"

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1978 MAR 3 AM 12 50

02359 PDM TDA EAGLE RIVER ALASKA 1[illegible] 9AGP AST

PMS REP ALVIN OSTERBACK

JUN

OUR ORGANIZATION REQUESTS HB807 BE AMEN[illegible] READ

FRESH WATERS ONLY AND PASSED.

DALE BONDURANT PRESIDENT SPORTSMENS GAME PRESERVATIONS

ASSOCIATION BOX 407 EAGLE RIVER AK

A ALASKA COMMUNICATIONS INC.
PHONE 586-6440
JUNEAU, ALASKA 99801

#

02141 POM ANCORAGE AK 15 03-31 200P AST

PMS REP ALVIN OSTERBACK

JUN

OUR LEAGUE REQUESTS HOUSE BILL 807 BE AMENDED TO READ

FRESH WATERS ONLY AND PASSED.

SAM E MCDOWELL PRESIDENT

ANCHORAGE CHAPTER IZAAK WALTON LEAGUE OF AMERICA

ANCHORAGE ALASKA

1978 MAR 31 PM 8 AM

HB

814

Paid in full next Tuesday

Paid 3/7/78

AGO 122844

Two eggs

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
HB 814	2/27/78	Geoff Haynes	3/1/78
	"	Keith Specking	"
	"	Virginia dal Piaz, Ak. Conservation Society	"
	"	Mary Putman, Anchorage Parks & Rec. Municipality of Anchorage	"
	"	Rep. Buchholdt	"
	"	Dept. of Natural Resources	"
	"	Alaska Center for the Environment	"

SANDLAKE COMMUNITY COUNCIL
7703 Arlene St.
Anchorage, Alaska 99502

April 16, 1978

The Honorable Alvin Osterback
Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99801

Re: House Bill 814, "An Act Creating the Anchorage Recreation Area"

Dear Mr. Osterback:

Several of the community councils in the Anchorage area have taken a strong interest in the future of the above bill designating certain state-owned land as recreation sites.

This council is particularly interested in Parcel No. (3), the Connors Lake area, since it is located within our boundaries. A portion of this area has been in use for several years as a snow machine area under a lease arrangement with the municipality. It is our understanding that the area covered in the bill would include this already heavily-used area, plus additional land extending around Connors Lake to Strawberry Road. Recreational land is in extremely short supply in most of Anchorage, and the rapid population growth is making heavy demands upon what is available. We understand that the ultimate aim is to transfer the lands in the bill to the Municipality of Anchorage for their development and maintenance. The Sand Lake area is one of the areas in which growth pains are currently being heavily felt, and it is urgent that lands be set aside now to meet the parks and recreational needs of this area.

We have been informed that there is considerable work necessary on this bill to correct and clarify it. The Sand Lake Community Council would like to urge that this work be completed as soon as possible, and that the bill be acted upon during this session of the legislature.

Sincerely yours,

John S. Phillips, President
SandLake Community Council

cc: Repr. Ed Dankworth
Bob Robertson, Parks & Rec.
Fed. of Community Councils

legal descriptions open to question

HB 133

Introduced: 2/14/78
Referred: Resources and Finance

IN THE HOUSE BY BUCHHOLDT

lands transferred to municipality to be used in Dev. of Aviation

HOUSE BILL NO. 814

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act creating the Anchorage Recreation Area."

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

* Section 1. AS 41.20 is amended by adding new sections to read:

ARTICLE 9A. ANCHORAGE RECREATION AREA.

Sec. 41.20.346. DECLARATION OF PURPOSE. The designation of certain state-owned land for recreational use in the Municipality of Anchorage is essential to relieve the pressure of an expanding urban population. The state land described in sec. 348 of this chapter is waterfront land which is scarce in the Anchorage bowl, and is best shared by all people.

Sec. 41.20.348. DESIGNATED STATE LAND RESTRICTED TO USE AS PUBLIC RECREATIONAL AREA. State-owned land lying within the parcels described in this section are designated as the Anchorage Recreation Area in accordance with AS 38.05.295.

(1) Spenard Lake Area. Township 13 North, Range 4 West, Seward Meridian
Section 35: NE1/4 NW1/4 NW1/4, NE1/4 NW1/4, NE1/4 SE1/4 NW1/4

(2) Point Woronzof/Point Campbell Area. Township 13 North, Range 4 West, Seward Meridian
West of ~~runway clear zones in~~ clear zone for North South runway Sections 20, 21, 28, 29, 32, and 33

(3) Connors Lake Area. Township 12 North, Range 4 West, Seward Meridian

Section 1: SW1/4 NW1/4 and SW1/4
Township 13 North Range 4 West Seward Meridian
Section 35: SE1/4
Section 36: S1/2 SW1/4, NW1/4 SW1/4

Sec. 41.20.340. DESIGNATION OF MANAGEMENT RESPONSIBILITY. The land described in sec. 348 of this chapter is assigned to the Department of Natural Resources for control, development, and maintenance as a state recreation area.

Sec. 41.20.351. INCOMPATIBLE USE PROHIBITED. The commissioner of natural resources shall designate by regulation incompatible uses within the boundaries specified in sec. 348 of this chapter, and those incompatible designated shall be prohibited or restricted, as provided by regulation. Picnicking, day camping, cross-country skiing, and snowmobiling at places designated by the Department of Natural Resources, are expressly authorized uses, at times and in a manner considered appropriate by the commissioner of natural resources.

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No H.B. 814
Title An Act Creating the Anchorage Recreation Area
Requested by Buchholt Date Feb. 14, 1978

II. FISCAL DETAIL
Agency Affected Dept. Natural Resources, Division of Parks
Program Category Affected
Budget Request Unit(s) Affected

EXPENDITURES (Thousands of Dollars)

		FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES			12.000	14.000		
200	TRAVEL			1,000	1,000		
300	CONTRACTUAL			3,000	55,000	3,317,500	2,756,875
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL			16,000	70,000	3,317,500	2,756,875

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS			[illegible]	[illegible]	1,658,750	1,378,437.50
OTHER (Specify) Bond Limit			[illegible]	[illegible]	1,658,750	1,378,437.50

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

1. FY 79 Production of a master development plan. Includes a printed 'draft' copy for public distribution.
2. FY 80 Topographic mapping, soil testing necessary for site design studies. Production of site design drawings for plan implementation.
3. FY 81 Construction of facilities at Point Worsley, Connors Lake and Campbell Lake (see attached sheets for details)
4. FY 82 Completion of facilities at Point Worsley, Connors Lake and construction of facilities at the area south of Connors Lake. (see attached sheet for details)

IV. DATE Feb 27, 1978 PREPARED BY Jayne B. Comer
AGENCY Alaska Division of Parks
PHONE 274-4574

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

38.001 (Rev. 10/76)

Operations & Maintenance

	year I	year II	total (@ completion of all facilities)
100	$164,000	$260,000	$260,000
200	1,000	2,000	2,000
300	50,000	100,000	100,000
400	40,000	80,000	90,000
500	45,00	160,000	15,000
600			
Total	$300,000	$602,000	$457,000

Positions	year I	year II	year III & completion
full time	4	11	5
part time seasonal	5	10	10
Total	9	5	5

Jeanne B. Comer

SANFORD P. RABINOWITCH
Landscape Architect/Park Planner

DEPARTMENT OF
NATURAL RESOURCES
Division of Parks

619 Warehouse Ave.
Suite 210
Anchorage, AK 99501
Phone 274-4676

Cost Evaluation

MASTER DEVELOPMENT PLAN FY 79

Park Planner II	100	6 months	$ 12,000
	200	travel & per diem	1,000
Graphic artist	300	1 month	1,300
		publication of draft plan	3,000
		total	$ 17,300

Topographic MAPPING & SOIL TESTING FY 80

Topographic mapping	300	(1000 acres)	$ 40,000
Soil testing	300	(750 acres)	15,000
		total	$ 55,000

SITE DESIGN FY 80

Park Planner II (landscape architect)	100	7 months	$ 14,000
	200	travel & per diem	1,000
		total	$ 15,000

CONSTRUCTION 30%

	FY 81	FY 82
Point Wozniak:		
2 stairways from bluffs to beach areas	$20,000	
2 viewing structures on bluffs	$20,000	
25 picnic sites	25,000	
25 picnic sites		$25,000
3 double vaulted latrines	21,000	
2 double vaulted latrines		14,000
4 miles paved bike path	250,000	
2½ miles foot path	20,000	
2 miles foot path		20,000
7 miles ORV paths	50,000 ~~35,000~~	
7 miles ORV paths		50,000 ~~35,000~~
150 car parking area	150,000	
150 car parking area		150,000
contact station	15,000	
signs	5,000	
signs		5,000
18 hole golf courses & necessary structures	1,750,000	1,750,000
sub total	$2,346,000	2,014,000

	FY 81	FY 82
Connors Lake:		
1 mile bike path	$50,000	
3 miles foot path	30,000	
1 boat launching ramp	12,500	
1 boat launching ramp		12,500
50 picnic tables sites	50,000	
3 double vaulted latrines	21,000	
2 double vaulted latrines		14,000
50 car parking area	50,000	
50 car parking area		50,000
7 miles ORV path	50,000	
contact station	15,000	
signs	2,500	
signs		2,500
sub total	$281,000	$79,000

Connors Lake (south parcel):	FY 82
10 picnic tables sites	$10,000
50 car parking area	50,000
1 miles board walk; interpretive signs	50,000
signs	2,500
sub total	$112,500

	FY 81	FY 82
Spennel Lake		
10 picnic sites	10,000	
1 double vaulted latrine	7,000	
1 viewing structure	10,000	
sub total	$27,000	

subtotals:	FY 81	FY 82
Point Woznof	2,346,000	2,014,000
Connors Lake	281,000	79,000
Connors Lake (south)	—	112,500
Spennel Lake	27,000	—
	$2,654,000	2,205,500
engineering costs at 25%	663,500	551,375
total construction costs	$3,317,500	2,756,875

Summary of dollar costs

MASTER DEVELOPMENT PLAN	17,300
MAPPING & SOIL TESTING	55,000
SITE DESIGN	15,000
CONSTRUCTION	6,074,375
Total	$6,161,675

Municipality of Anchorage

POUCH 6-650
ANCHORAGE, ALASKA 99502
(907) 264-4356

GEORGE M. SULLIVAN
MAYOR

DEPARTMENT OF CULTURAL AND RECREATIONAL SERVICES

March 6, 1978

D.F.T. S.T.

Honorable Alvin Osterback, Chairman
Resources Committee
House of Representatives
State of Alaska
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

RE: House Bill 814

The Municipality has had the opportunity to further assess HB-814 and offers the following comments and clarification of those contained in our letter on March 1, 1978.

It has long been and still is the position of the Municipality of Anchorage that additional land is needed for recreational purposes within the urban area of the Municipality, and particularly the area in question. Included in the Municipality's long range plan for park, recreation, and open space lands has been the use, eventually, of portions of the lands designated in HB-814 for such purposes. Toward this end, the history of the Municipality's involvement in these areas as concerns recreational usage, is as follows:

1. POINT WORONZOF: The Municipality has long sought transfer of title from the State to the Municipality of certain portions of the Woronzof lands for recreational purposes, negotiating in the past with the Division of Aviation, and more recently with the Department of Transportation. Would HB-814 preclude possible transfer of title to the Municipality in the future? This would not be desirable.

2. CONNORS LAKE: The Municipality has leased the Connors Lake area for the past six years for recreational purposes. It is most desireable for the Connors Lake area to be fully committed to recreational purposes as HB-814 proposes.

3. SPENARD LAKE: Presently the Municipality leases a small area on the north side of Spenard Lake from the Division of Aviation for swimming beach and picnic purposes. Recently the Municipality awarded a contract for paving the parking area of this recreational area.

While the Municipality supports the designation of recreational lands within the areas cited in HB-814, we cannot offer full support to the bill as currently written. There are areas of concern and many unanswered questions. Some of them are:

1. The Municipality's sewage treatment plant is located within the Point Woronzof lands designated in the bill. We would not want the land necessary for existing and future use of the sewage treatment plant to be designated as recreational land. Such usage would appear to be an incompatible use as set forth in Sec. 351 of the bill.

2. The Municipality has a facility, presently used for alcoholic treatment purposes, located within the Point Woronzof lands designated in the bill. How would Sec. 351 affect its usage?

3. The legal descriptions as set forth in HB-814 are too all encompassing and infringe upon other existing and necessary usages. The areas designated for recreational purposes must be closely reviewed and the bill should more clearly define the boundaries of any portion so designated, taking into account existing usage and the need for same.

4. Sec. 340 should more clearly spell out what is intended by "control, development and maintenance as a state recreation area." The questions posed in our letter of March 1, 1978, need to be addressed:

   ---Is it the intent of the bill that the Department of Natural Resources shall have full control and responsibility for this area?

   ---Does the Department of Natural Resources want this responsibility?

   ---Under this bill, could the Department of Natural Resources lease the land to the Municipality for recreational purposes? If so, the bill should be amended to reflect this.

5. Under this bill, could the State transfer title of these lands to the Municipality for recreational purposes at a later date? This feature should be included in the bill.

6. Has consideration been given to this area being made available to the Municipality under the 10% land selection provision of Title 29 after it is assigned to the Department of Natural Resources? Would this bill prohibit this land from eventually being available for selection by the Municipality under this program? If so, this would not be desirable.

Should the Municipality's areas of concern be accommodated by amendments to the bill, we would like the opportunity to comment on the bill at that time in light of any amendments.

It is requested that copies of this letter by made available to all members of the Resource Committee. Thank you for your consideration of our comments.

Respectfully,

Wilda G. Hudson

WILDA G. HUDSON, Director

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LANDS

TO: Neil Johannsen, Chief
Park Planning

DATE: February 28, 1978

FILE NO:

TELEPHONE NO:

FROM: Robert Goddard, Associate Planner
Planning & Classification

SUBJECT: HB 814 Land Status

Pursuant to your request for a land status check of the proposed park lands delineated in House Bill #814 I have prepared the attached status plats and brief written narrative.

(1) Spenard Lake Area - Township 13 North, Range 4 West, Seward Meridian, Section 35: NE1/4 NW1/4 NW1/4, NE1/4 NW1/4, NE1/4 SE1/4 NW1/4. I checked with Roger Mead of the Division of Aviation concerning this site and he informed me that the eastern portion of the shoreline of Spenard Lake is in private ownership. He also said that the northern and southern shores of Spenard Lake were purchased from the Municipality through a federal funding program. This program stipulates that the funds be utilized for aviation purposes only. Therefore, the Division of Aviation feels that the proposed legislation (Sec. 41.20.346) conflicts with the federal funding requirements.

(2) Point Woronzof/Point Campbell Area - Township 13 North, Range 4 West, Seward Meridian, West of runway clear zones in Sections: 20, 21, 28, 29, 32 and 33. The subject lands within section 20 and 21 are encumbered by Municipal ownership and an ILMT to the Division of Aviation (note attached status plat). The Division of Aviation land has been identified for future aviation related purposes. The subject lands within sections 28 and 29 are mostly federal lands with the exception of an approximate 180 acre tract of state land that is encumbered under ILMT 21236 to the Division of Aviation. The remaining subject lands have been encumbered by leases to the Municipality, ILMT 21236, and Division of Aviation OSL-367 lands. The OSL-367 lands are in the clear zone for the International Airport. The area outside the clear zone has been identified by the Division of Aviation as a potential future general aviation site (note attached status plats).

(3) Connors Lake Area - Township 12 North, Range 4 West, Seward Meridian, Section 1: SW1/4 NW1/4, SW1/4; Township 13 North, Range 4 West, Seward Meridian, Section 35: SE1/4; Section 36: S1/2 SW1/4, NW1/4 SW1/4. These lands are made up of University and School Trust Lands. Both the University and the State School Board should be contacted. The subject lands within section 36 are encumbered by lease #42596 to the Municipality for a sanitary landfill and by lease #30266 to the Pacific Seal Co. of Alaska, Inc. The subject lands within section 35 are within the International Airport clear zone - OSL-57 (note attached status plats). The lands within section one of township 12 north, range 4 west are presently under a letter of non-objection to the Municipality for snowmachine uses (Letter Permit 62979). The Division of Aviation has no objection to the utilization of these areas for park purposes. However, much of these lands are presently encumbered by leases.

In conclusion, I feel that the Municipality should be contacted regarding the possible utilization of their lease lands in the Connors Lake area for the proposed recreation site. The remaining proposed areas are probably not well suited for recreation purposes due to their high value as aviation lands. However, the lands within Section 20: Township 13 North, Range 4 West that are owned by the Municipality appear to have good potential for recreational utilization. The Municipality should be contacted concerning this possibility.

cc: Ted Smith
Larry Dutton

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF PARKS / 323 E. 4TH AVENUE
ANCHORAGE 99501
JAY S. HAMMOND, GOVERNOR

March 1, 1978

HB 814 "An Act Creating the Anchorage Recreation Area"

Testimony by Neil C. Johannsen
Chief of Planning, Division of Parks

I am Neil C. Johannsen, Chief of Planning with the Division of Parks.

The Division of Parks strongly supports the creation of additional park lands in the Greater Anchorage Area.

As far back as 1973 local citizen surveys indicated the importance of park land and recreational facilities. Over 93% of those responding to an Anchorage recreation survey said "recreation was vital" to them (Rowan Group 1973). Today these feelings remain strong as our citizens respond with intense interest to the draft Anchorage Municipal Trails Plan and the draft General Development Plan for Chugach State Park.

It is not, however, the desire of this division to operate the proposed Anchorage Recreation Area. Rather, we recommend that once the facility is established that its planning, operation and maintenance be taken over by the Anchorage Municipal Parks & Recreation Department. Recent discussions with Bob Robertson, Director of that department, indicate strong support for this arrangement.

Such a transfer of responsibility is consistent with the Division of Parks' emphasis on outdoor recreation areas and parks and similarly consistent

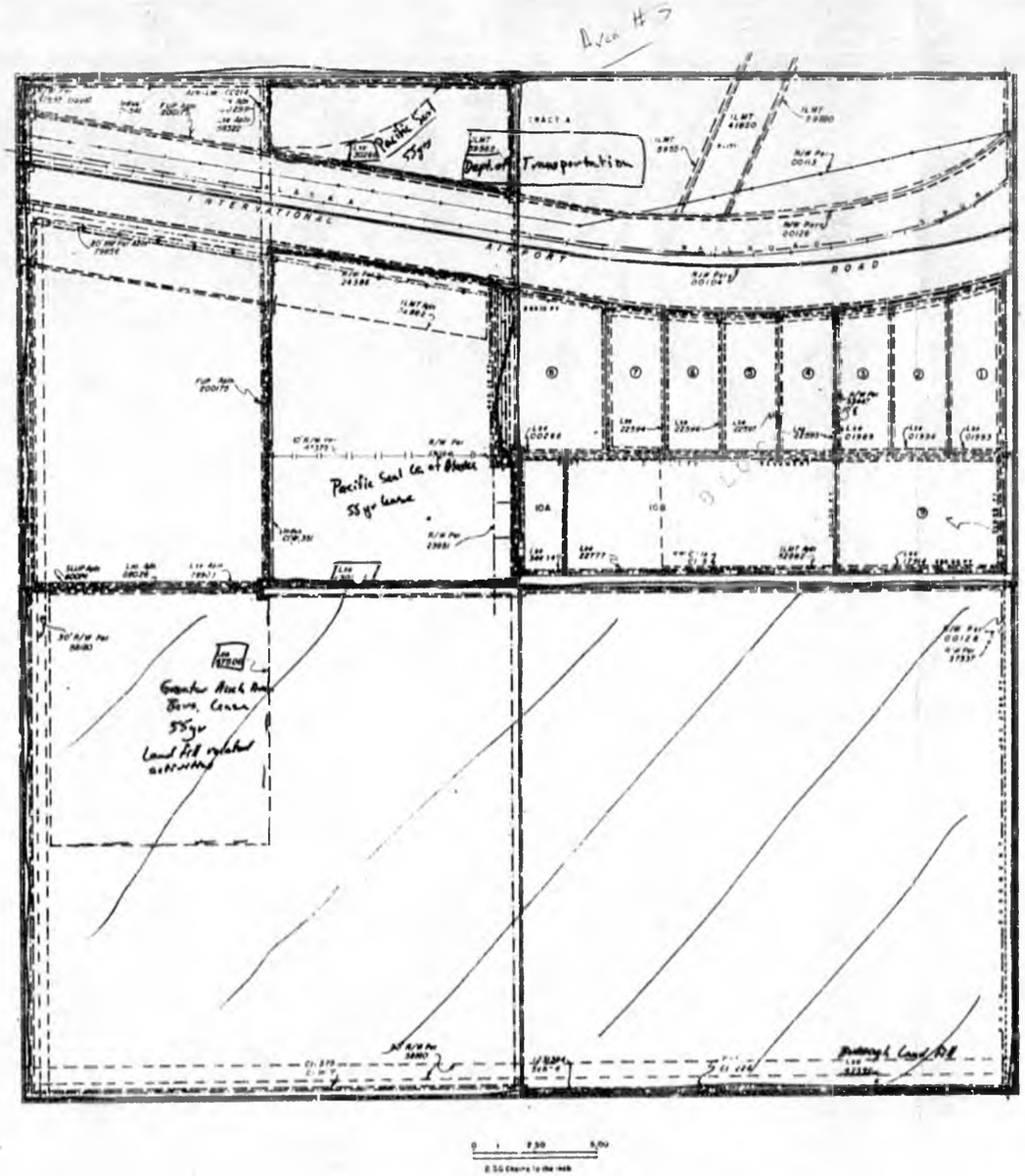
with intensively developed urban recreation areas managed by the Anchorage Municipality. At this time, the Division of Parks is negotiating the transfer of areas to local parks departments in both Anchorage and Fairbanks which are oriented to local urban populations in metropolitan areas. The proposed Anchorage Recreation Area should be similarly handled.

The bill needs to clarify proposed boundaries to avoid disputes with private interests and other state agencies. In particular, the Department of Transportation and Public Facilities should be consulted.

The fiscal note prepared for the bill represents a possible future for the area. Proposed construction items draw heavily from preliminary surveys completed by the Anchorage Municipal Parks and Recreation Department including a $3.5 million proposal for an 18 hole golf course.

In summary, the Division of Parks strongly supports the bill trusting that the problem of land status is resolved and that the Anchorage Municipal Department of Parks and Recreation assumes authority for the area after its establishment.

SW¼ SECTION 36 TOWNSHIP 13N RANGE 4W OF THE SEWARD MERIDIAN, ALASKA



REFERENCE

LAND ESTATE
(SUPPL.)

OTHER ACTIONS AFFECTING DISPOSAL OR USE OF STATE LANDS

THP PART SURVEYED SEC 20 T13 R4 W SM PLAT ACCEPTED 10/16/58

STATE OF ALASKA SURVEY (17) MAT SUBD PLAT ACCEPTED 8/22/60

** BLOCK 1, LOTS 1-7, 9-10 NOTICE LAND AUCTION @ 2.18.68

** LOTS 8-10 NOTICE LAND AUCTION @ 2.18.68

* MOA WITHIN NE¼ SW¼ SE¼ NW¼ SEC 36 NOTICE LAND AUCTION @ 2.18.68

* NOTICE LAND AUCTION @ TR. 1 MAT SUBD U.S. LOTS 8,9,10

SURVEY PLAT OF TRACT A [illegible]

NOTICE OF LAND AUCTION @ 90 [illegible]

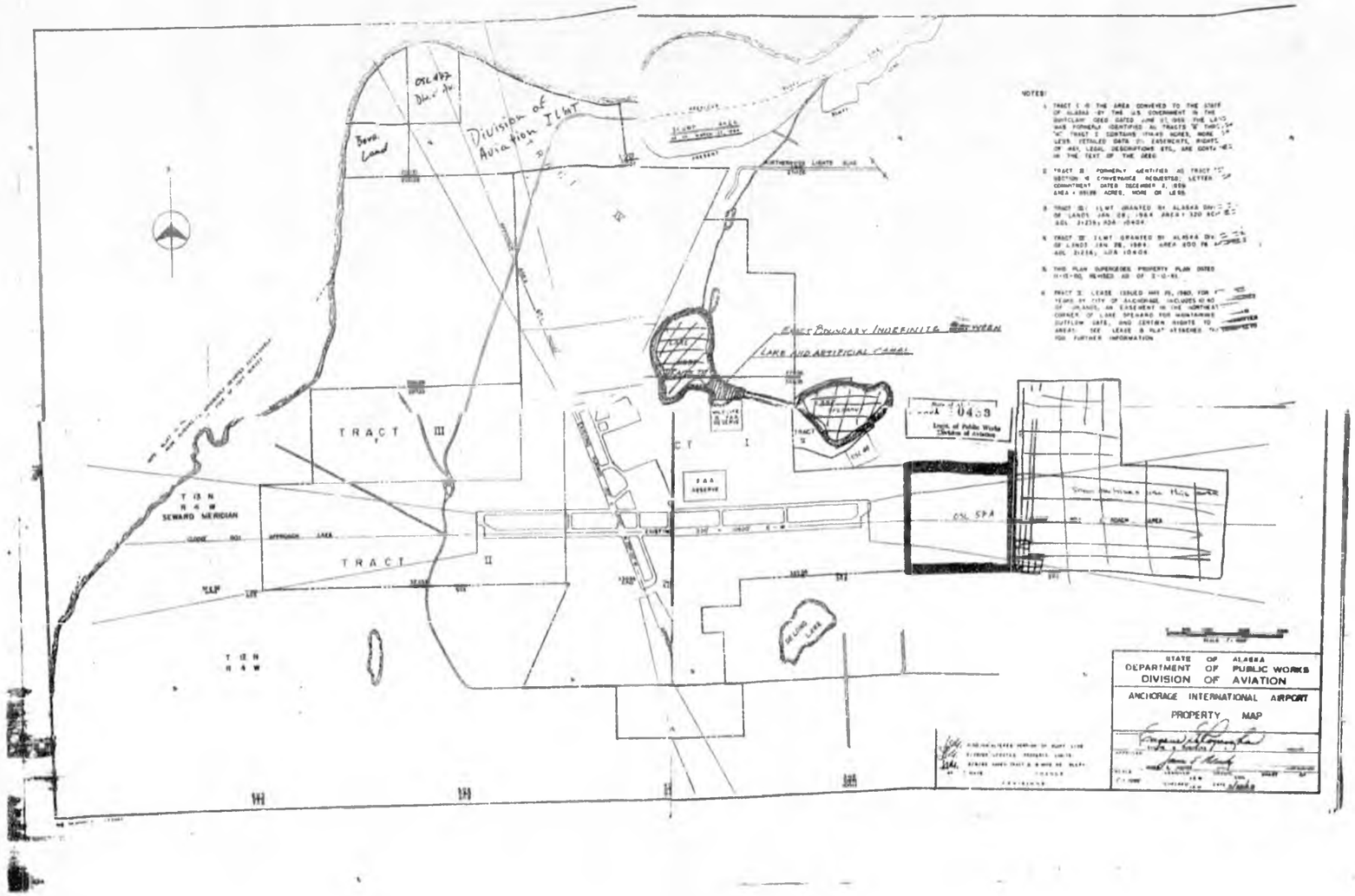
SURVEY INT'L MAT SUBD. PLAT APPVD [illegible]

NOTICE LAND AUCTION @ 120 [illegible]

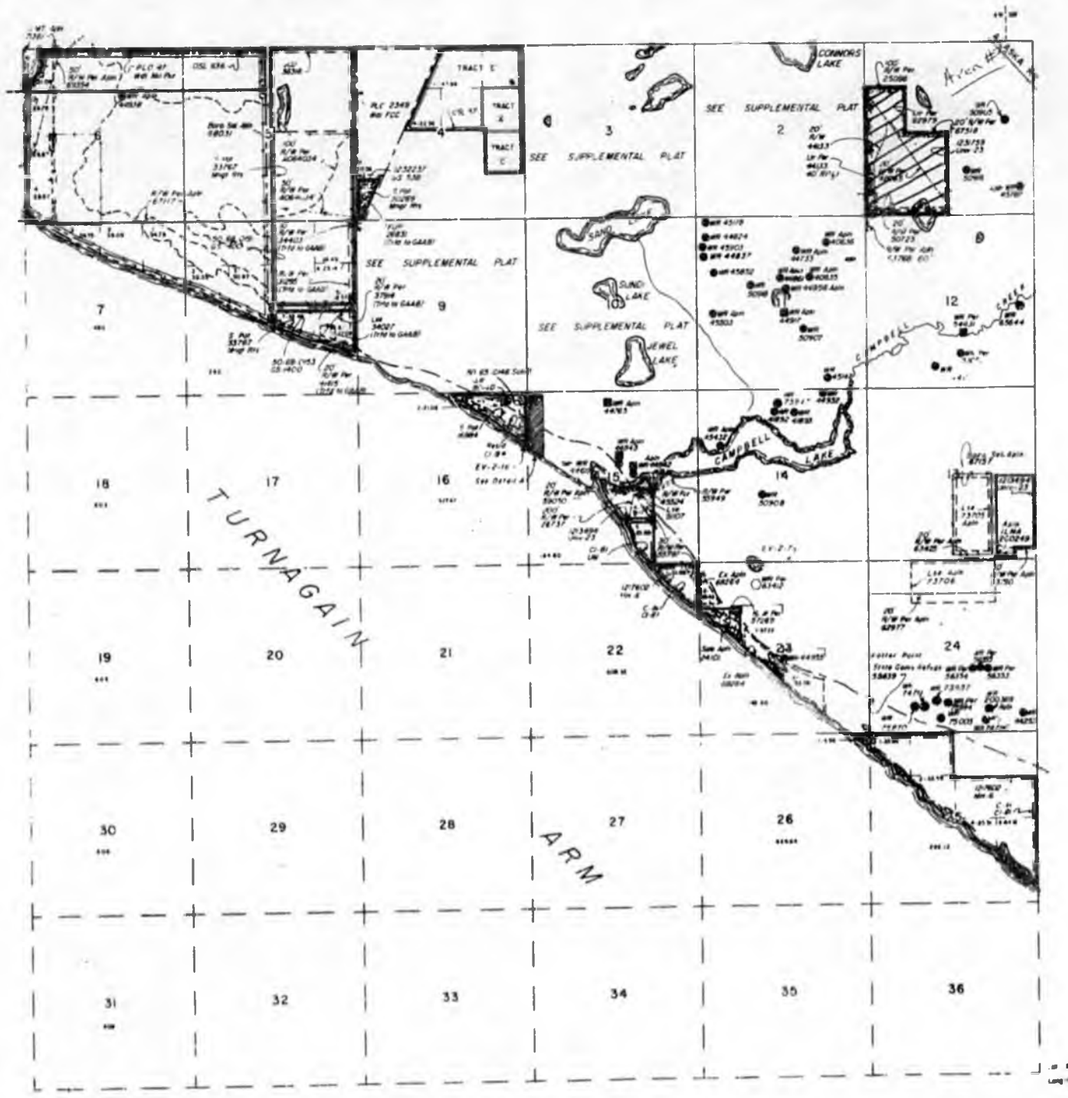
NOTICE LAND AUCTION @ 2.18.69, 1.32

NOTICE LAND AUCTION @ TR. 2 [illegible] 1.32 "INTEGRAL"

DATE	CHECKED BY
10 27 77	MB


Division of Aviation
TRACT III
TRACT II
T 13 N
R 4 W
SEWARD MERIDIAN
T 12 N
R 4 W
FAA RESERVE
OIL SPA
LAKE
NORTHERN LIGHTS BLVD
EXACT BOUNDARY INDEFINITE BETWEEN LAKE AND ARTIFICIAL CANAL
NOTES:
1. TRACT I IS THE AREA CONVEYED TO THE STATE OF ALASKA BY THE U.S. GOVERNMENT IN THE QUITCLAIM DEED DATED JUNE 17, 1955 THE LAND WAS FORMERLY IDENTIFIED AS TRACTS "B" THRU "H". TRACT I CONTAINS 1744.69 ACRES, MORE OR LESS. (DETAILED DATA ON EASEMENTS, RIGHTS OF WAY, LEGAL DESCRIPTIONS ETC., ARE CONTAINED IN THE TEXT OF THE DEED
2. TRACT II FORMERLY IDENTIFIED AS TRACT "I" SECTION 18 CONVEYANCE REQUESTED; LETTER COMMITMENT DATED DECEMBER 2, 1976 AREA = 99.88 ACRES, MORE OR LESS.
3. TRACT III: ILWT GRANTED BY ALASKA DNR DOL 21238; ADA-10404
4. TRACT III ILWT GRANTED BY ALASKA DNR DOL 21238; ADA-10404
5. THIS PLAN SUPERCEDES PROPERTY PLAN DATED 11-15-60, REVISED AS OF 2-12-81
6. TRACT II: LEASE ISSUED MAY 19, 1960, FOR YEARS BY CITY OF ANCHORAGE, INCLUDES 40 AC OF UPLANDS, AN EASEMENT IN THE NORTHEAST CORNER OF LAKE SPENARD FOR MAINTAINING OUTFLOW GATE, AND CERTAIN RIGHTS TO AREAS. SEE LEASE & PLAT ATTACHED FOR FURTHER INFORMATION
A 0453
STATE OF ALASKA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF AVIATION
ANCHORAGE INTERNATIONAL AIRPORT
PROPERTY MAP

TOWNSHIP 12 N RANGE 4 W OF THE SEWARD MERIDIAN, ALASKA



SCALE

STATE OF ALASKA
DEPT OF NATURAL RESOURCES
DIVISION OF LANDS

LAND ESTATE

DETAIL A

OTHER ACTIONS AFFECTING DISPOSAL OR USE OF STATE LANDS

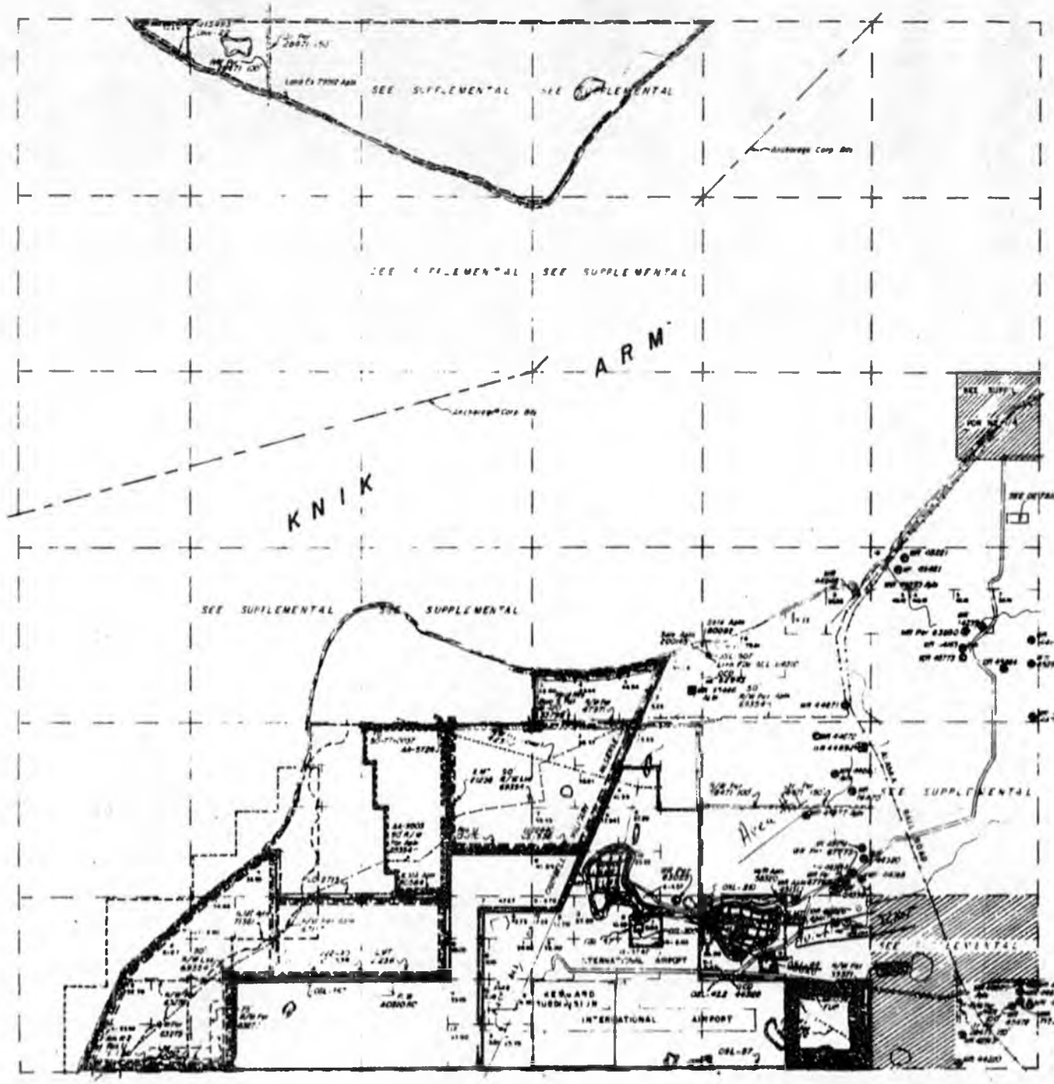
Letter Permit Create a Harbor entrance channel

DATE CHECKED BY

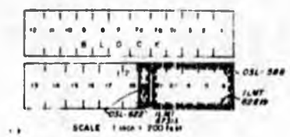
21478 mb

T 12 N
R 4 W
SM

TOWNSHIP 13 N RANGE 4 W OF THE SEWARD MERIDIAN, ALASKA



LAND ESTATE



DETAIL A

OTHER ACTIONS AFFECTING DISPOSAL OF STATE LANDS

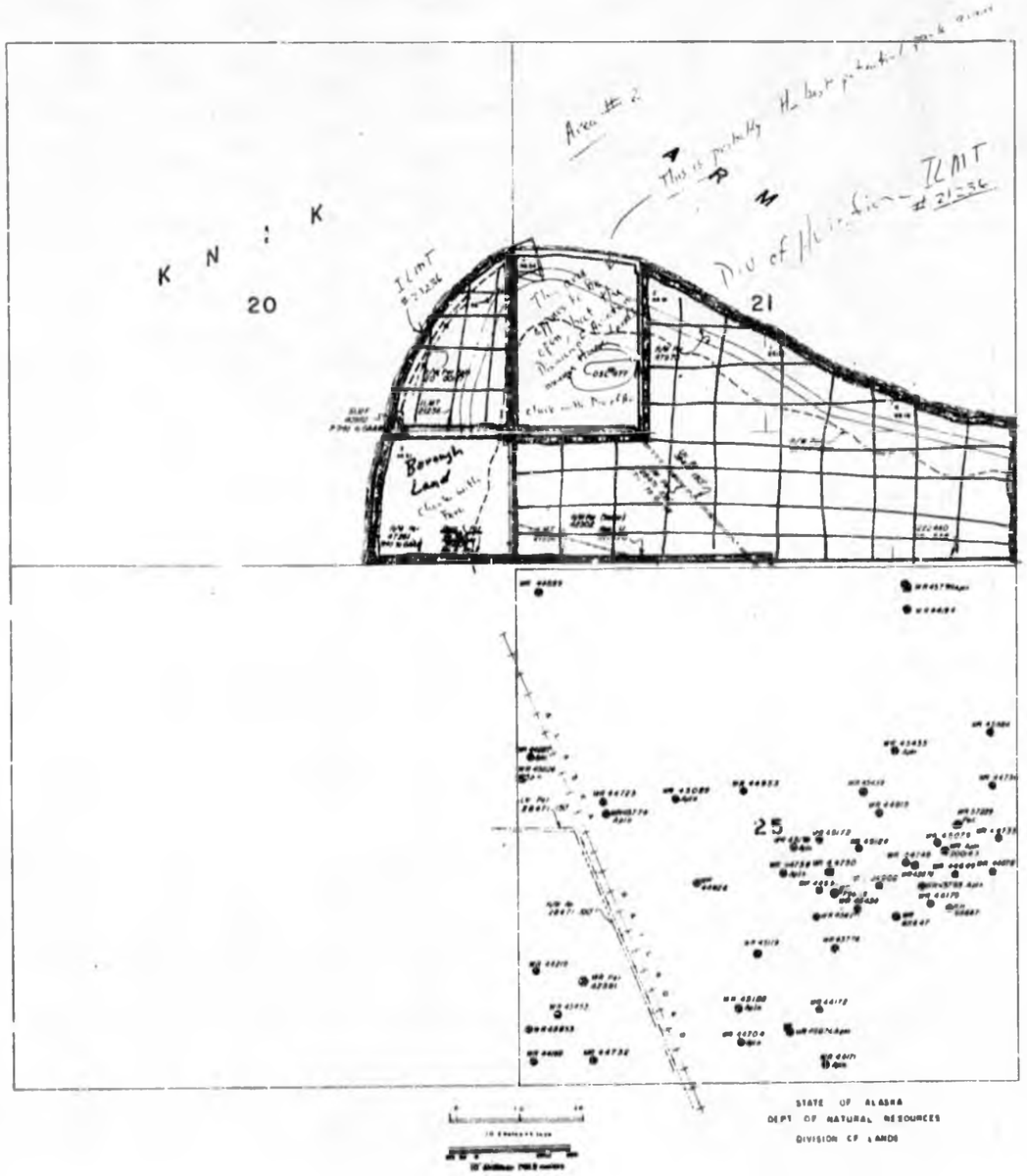
THE PLAT IS ACADEMIC, SE & S.L. SURVEY PLAT OFFICIALLY FILED [illegible]
SURVEY PLAT SECT. 20-29, 31-36, OFFICIALLY FILED [illegible]
SUPPL. SURVEY SEC 28 PLAT OFFICIALLY FILED [illegible]
LAKE BOUNDARY SURVEY PLAT RECORDED [illegible]
TO & SEC 28 STATE OF ALK SURVEY APPL. [illegible]
PLAT ACCEPTED [illegible]
SUPPL. PLAT SECS 19,30 APPVD. [illegible]
R.O.S. PER TRANS TO STATE NOW KEPT ON FILE [illegible]
LOTS 7-1, 8-1, 8W1/4 SEC 30, ACCEPTED [illegible]
FILE ADL 64-88
ORIG. ANCH. TRS., PLAT OFFICIALLY FILED [illegible]
MERIDIAN LOTS 7-10, SEC 30, ORIG. ANCH. TRS., CONSTRUCTION [illegible]
LOT 7A, PLAT APPVD 10-16-84, ANCH RECORDING DIST. AS ADL 64-88
REPLAT LOTS 3-6 S.P.R. SEC 30, ORIG. ANCH. TRS., CREATING LOT 14, PLAT APPVD. [illegible]
REPLAT LOTS 1-9 SEC 29, ORIG. ANCH TRS., CREATING LOT 16, PLAT APPVD. [illegible]
REPLAT LOTS 1-8 SEC 17, SOUTH B.C. ANCH TRS., CREATING LOTS 1-7, T.R. TR. TR. SC. 8-17, 18 S.E. PLAT [illegible]

Division of Aviation, Interim Management Tracks #1&2 (Flat Plane Area)
T13N R4W SM: Section 35, SE¼
Within ADL - 9 NE Area directly under glide path of Ints national Airport runway

R-1-78 JW

STATE OF ALASKA
DEPT OF NATURAL RESOURCES
DIVISION OF LANDS

SECS. 20,21,25 TOWNSHIP 13N RANGE 4W OF THE SEWARD MERIDIAN, ALASKA



REFERENCE

LAND ESTATE
(SUPPL.)

Estate o/o Anchorage Corp Adj

OTHER ACTIONS AFFECTING DISPOSAL OR USE OF STATE LANDS.

SURVEY PLAT SEC 25 OFFICIALLY FILED 11-16-18

"	"	"	20	"	"	"
"	"	"	21	"	"	"

CURRENT TO	BY
9-15-79	MB

SEC 21
T 13 N
R 4 W
5 M

HB

821

COMMITTEE REPORT

HOUSE

2/14/78

FURTHER: FINANCE

Date: April 10, 1978

Mr. Speaker:

The Committee on RESOURCES has had HB 821

"An Act making a special appropriation to the Department of Fish and Game to plan for and construct a chum salmon demonstration hatchery on the Noatak River; eff. date."

under consideration and (a majority of the committee) (the committee reports it back as follows)

(X) recommends it do pass ( ) recommends it do not pass

( ) recommends it do pass with attached amendment(s)

( ) recommends it be replaced with CS for _____

and _____ (X) new title ( ) same title

(X) AND attaches a Letter of Intent ( ) New Fiscal Note

( ) reports it back without recommendation

( ) and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

J. T. Malone Do Pass

Mark H. Snider Do Pass " "

Pete Kott " "

Fred H. [illegible] " "

[illegible] " "

OTHER RECOMMENDATIONS:

[illegible] " "

_____

Chairman

H 60 (rev. 6/77)

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
HB 821	4/6/78	Geoff Haynes	4/12/78
	"	Keith Specking	"
	"	Dept. of Fish & Game	"
	"	Rep. Schaeffer	"
	"	United Fishermen of Alaska	"

LETTER OF INTENT

The Honorable Hugh Malone
Speaker of the House

Dear Mr. Speaker:

By reporting HB 821 out of the House Resources Committee it is the intent of the Committee that the State take immediate steps to develop fisheries rehabilitation programs in Northern and Western Alaska and that the best place to begin such a program is in the Kotzebue Sound area as referred to in HB 821.

The appropriation contains money for the studies required for the site and other environmental considerations in the construction of the hatchery, as well as an appropriation for an estimated amount to take approximately one year minimum. Due to this, the Finance Committee should consider the appropriateness of alternate funding, including a direct appropriation during this Legislative session, as contained in this bill, general obligation bonds, and possibly an appropriation during the next Legislature.

Regardless of the most appropriate funding source for the construction, the Department of Fish and Game and the Legislature must give attention to this area of the State in developing the fisheries resource to become a more significant element in the economy of the State.

Alvin Osterback
Rep. Alvin Osterback, Chairman

Merle G. Snider
Rep. Merle Snider, Vice-Chairman

Rep. Don Bennett

Rep. Dick Eliason

Rep. Mike Miller

Rep. Rick Urion

Rep. Sally Smith

Rep. Hugh Malone

Rep. Bill Akers

Introduced: 2/14/78
Referred: Resources and Finance

CS

IN THE HOUSE BY SCHAEFFER

HOUSE BILL NO. 821

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Fish and Game to plan for and construct a chum salmon demonstration hatchery ~~on the Noatak River~~; and providing for an effective date."

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

* Section 1. The sum of ~~$2,000,000~~ is appropriated from the general fund to the Department of Fish and Game for use by the division of fisheries rehabilitation, enhancement and development to plan for and construct a chum salmon demonstration hatchery ~~on the Noatak River~~.

* Sec. 2. This Act takes effect ~~July 1, 1978~~.

CS

AMENDMENT #1 by Schaeffer

Amendment to House Bill #821

PAGE 1 LINE 6 Thru 15

Delete all material and insert the following:

: FOR AN ACT ENTITLED: "An Act making a special appropriation to the Department of Fish and Game and to the Department of Transportation and Public Facilities and providing for an effective date."

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

* Section 1. The sum of $616,147 is appropriated from the general fund to the Department of Fish and Game for use by the Division of fisheries rehabilitation, enhancement and development to plan for a chum salmon hatchery in the Kotzebue Sound Area.

* Sec. 2. The sum of $2,500,000 is appropriated from the general fund to the Department of Transportation and public facilities to design and construct a chum salmon hatchery in the Kotzebue Sound Area.

* Section 3. Sec. 2 shall lapse into the general fund if it is not incumbered by June 30, 1979.

* Sec. 4. This act takes effect immediately in accordance with AS 01.10.-070 (c).

NORTHERN HATCHERY

1st year Investigation on Operational Budget for FY79

LEGISLATIVE INTENT: House Bill No. 821 amended

PAYROLL - 100

1 Range 20 Engineer-Salary + Benefits	= $ 44,773	
1 Range 18 Fish Biologist III-Salary + Benefits	= 41,596	
24 man-months (FC II range) Temp.-Salary + Benefits-OT	= 43,778	
TOTAL.....		$130,147

TRAVEL -200

Airline Fares - 30 trips @$500.00	= 15,000	
120 days per diem for 2 people @50/day	= 12,000	
Charter flight for 4, 60 days @ $200/day	= 12,000	
TOTAL.....		39,000

CONTRACTUAL - 300

Topographic Surveys, Geological and Hydraulic, Geothermal survey, Land acquisition investigation. 2 sites @$200,000	= 400,000	
Office Space - 8 months @ $1,000 and $2000 rental equipment	= 10,000	
TOTAL.....		410,000

SUPPLIES -400

Office supplies plus arctic clothing, calculators and tape recorders	= 3,000	
TOTAL.....		3,000

EQUIPMENT - 500

Instruments to measure water velocity and temperature, soil type and temperature plus overland transport vehicle or snow machine	= 10,000	
TOTAL.....		10,000

NORTHER HATCHERY

International symposium on the bio-economic aspects of a salmon hatchery design and operation in arctic alaska to be held in Kotzebue August 21,22,23,24,25 with participants from USA,Alaska,Japan,Canada,Russia

TRAVEL- 200

Travel and Per diem and lodging	= 16,000	
TOTAL.....		16,000

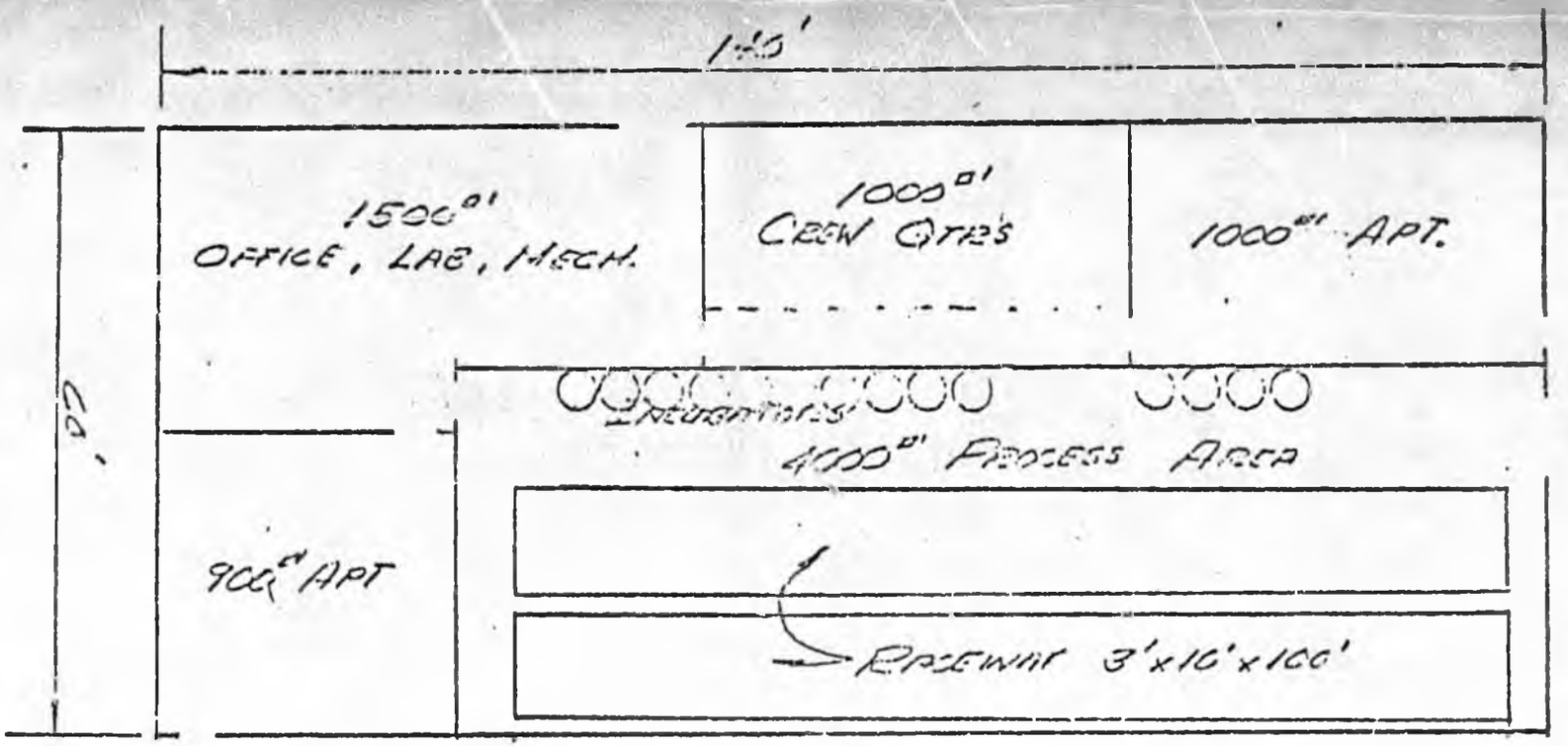
CONTRACTUAL -300

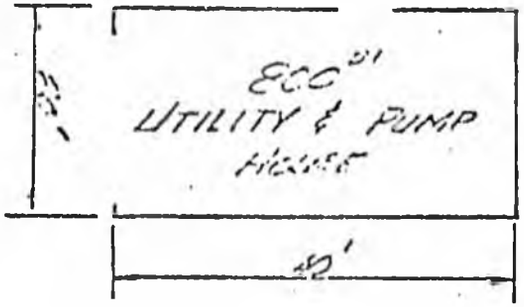
Consultant fees	= 8,000	
TOTAL.....		8,000

TOTAL BUDGET $616,147

Legislative Intent:: House Bill No. 821 amended

It is the intent of the legislature that Sec. 2 , of the bill be used for design and construction of a Chum Hatchery at a site selected in consultation with the Division of Fisheries, rehabilitation, enhancement and development and in consultation with the recommendation of the International symposium on the bio-economic aspects of a salmom hatchery in arctic alaska. Any non-incumbered funds shall be lapsed into the general fund should it be found that the project is not feasible or practical. The design of the facility is to capture the best utilization of the facility for the rehabilitation, enhancement and deveop-ment of the chum salmon and minimize facility space for staff & employees, office space, Lab., crew qtrs.





CONCEPT

10 Million Eggs
1200 gpm Spring Water for Incubation
14 FRED Incubators
2 - 100 x 10 x 3 Raceways
2500 gpm (desirable) for Rearing

HATCHERY LAYOUT

ALASKA DEPARTMENT OF FISH AND GAME SUPPORT BUILDING JUNEAU, ALASKA			
NORTHERN HATCHERY			
DRAWN BY PL	CHECKED BY	DATE 3-19-73	SHEET OF
APPROVED BY		SCALE 1" = 20'	NUMBER

Please

KOTZEBUE SOUND AREA FISHERIES COOPERATIVE
KOTZEBUE, ALASKA 99752

HB 821

The Honorable Representative Al Osterback
Pouch V.
Juneau, Alaska

Dear Mr. Osterback,

The Kotzebue Sound Area Fisheries Cooperative would like to go on record supporting HB 821, an Act making a special appropriation to the Department of Fish and Game to plan and construct a chum salmon demonstration hatchery on the Noatak River.

The Board feels very strongly that a hatchery facility in this area would enhance stability in our commercial fishing industry, which I might add, is the only viable economic base in the Kotzebue Area. Since the beginning of our Commercial fishing in the summer of 1962, the numbers of fish caught have varied tremendously because of Climital conditions affecting the spawning areas. We cannot control the climate but we can control the future stock through the hatchery system.

The commercial fishing industry, although seasonal, is a million dollar industry in the Kotzebue area. When all the oil and minerals are extracted from this the fish will always return to provide millions of dollars to the residents of the Kotzebue Area presently and in the years to come. Thank you for your concern and support for protecting and promoting our renewable resources.

Copied - 1
appropriately
filed

Sincerely,

Bobby Schaeffer, President

Rep. Schaffer

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER / SUBPORT BUILDING – JUNEAU 99801

March 29, 1978

The Honorable John C. Sackett
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Sackett:

The cost estimates for salmon hatchery development in Northwestern Alaska are enclosed per your recent request. The estimate for site investigations is for one year's activity only, with a goal to select two of the best sites in the region. A second year of investigation at the two sites will be necessary prior to hatchery design and construction. The estimate of total development costs is for the hatchery layout shown. The total cost may vary drastically from this estimate because of unknowns at the site to be selected.

The funding of investigations for a chum salmon hatchery in Northwestern Alaska will indicate a major commitment for the State to fully assess the potential and to proceed with hatchery development as soon as artificial propagation appears economically feasible there.

The data necessary for an evaluation of the economic feasibility of chum salmon hatcheries in Northwestern Alaska is currently not available to us. The high value of the large chum salmon in the Kotzebue area together with potential spring water sources adjacent to the highway system near Nome are optimistic indicators for the feasibility of hatcheries in the area.

Sincerely,

for Ronald O. Skoog
Commissioner

EC 3-16-78

HATCHERY PROJECT BUDGET

FY 79 OPERATIONAL FUNDS

Project Name: NORTHERN HATCHERY Number: ———
SITE INVESTIGATION

Notes: General investigation plus water studies for 2 chum salmon hatcheries in region from Katzebue Sound to Kotzebuin Bay.

ACTIVITY	CODE	BUDGET	REMARKS
BIOLOGY		103,000	
Payroll	001-100	60,000	1-FB3 + temporaries
Travel	001-200	20,000	per diem, airline, charter
Fees	001-300	10,000	office + water samples
Equipment	001-400	3,000	
	001-500	10,000	portable invert. comp.
ENGINEERING		490,000	
Payroll	002-100	70,000	1-CE 2 + temporaries
Travel	002-200	20,000	per diem, airline, charter
Fees	002-300	400,000	2-water investigations
PROJECT TOTAL		593,000	

NORTHERN HATCHERY

1st Year Investigation on Operational Budget

Payroll - 100

1 Range 20 Engineer - Salary + Benefits	=	$ 44,773
1 Range 18 Fish Biologist III - Salary + Benefits	=	41,596
24 man-months (PC II range) Temp. - Salary, O.T. + Benefits	=	43,778
Line 100 Total	=	$130,147
	Say	$130,000

Travel - 200

Airline Fares - 30 trips @ $500.00	=	$ 15,000
120 days per diem for 2 people @ $50/day	=	12,000
Charter flight for 4, 60 days @ $200/day	=	12,000 ✓
Line 200 Total	=	$ 39,000
	Say	$ 40,000

Contractual - 300

5 Topographic Surveys, Geological and Hydraulic Investigations. 2 sites @ $200,000 (Geothermal Survey, Land Acquisition, Environmental)	=	$400,000
Office Space - 8 months @ $1,000 and $2,000 rental equipment	=	10,000
Line 300 Total	=	$410,000

Supplies - 400

Office supplies plus arctic clothing, calculators, and tape recorders.....$ 3,000

Equipment - 500

Instruments to measure water velocity and temperature, soil type and temperature plus overland transport vehicle or snow machine.....$ 10,000

NORTHERN HATCHERY

10 MILLION FRY

Mobilization & Site Preparation	400,000
Incubation Space 4000 Sq.Ft. @ $120	480,000
14 Incubators @ $1500 plus OUTFITTING EQUIPMENT	200,000
Support Space 5200 Sq.Ft. @ $150	780,000
Furnishing	40,000
Water Supply, Distribution & Waste	800,000
Power Generation	300,000
CONST INFLATION	400,000
Contract Total	3,400,000
Engineering & Contingencies @ 10%	340,000
Design & Administration @ 10%	340,000
Investigations 1st year 593,000 2nd year 327,000	920,000
Total Project Cost	$5,000,000

HB

830

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
HB 830	2/28/78	Dept. of Natural Resources	3/14,3/15/78
	"	Dept. of Commerce	" "
	"	Dept. of Revenue	" "
	"	Alaska Pipeline Commission	" "
	"	N.W. Alaska Pipeline Co.	" "
	"	State/Fed. Land Use Planning Comm.	" "
	"	Special Committee on Royalty Oil	" "
	"	Div. of Minerals & Energy Mgmt. (Joe Green, Dir.)	" "
	"	Alaska Oil & Gas Association (Keith Arnold)	" "
	"	Jack Roderick, Dept. of Natl.Res.	" "
	"	Exxon (Bob Walker)	" "
	"	Steering Council for Alaska Lands	" "
	"	Keith Specking	" "
	"	Geoff Haynes	" "
	"	Div. of Oil & Gas Conservation	" "
	"	Alaska Federation of Natives	" "
	"	Rep. Chatterton (prime sponsor)	" "
	"	Rep. Malone (co-sponsor)	" "

AGO 935875

an application for extension is filed by the record title holder or an assignee whose assignment has been filed for approval, or an operator whose operating agreement has been filed for approval.

(d) The commissioner may provide for extension of the term of a lease whether competitive or noncompetitive, if all or part of the lease is included in an approved unit plan or program of secondary recovery operation to bring about or restore production.

(e) All noncompetitive oil or gas leases issued under this section shall be conditioned upon the payment by the lessee in advance of an annual rental of 50 cents an acre or fraction of an acre. All competitive oil and gas leases issued under this section shall be conditioned upon the payment of an annual rental, before discovery on the leased lands, of $1 an acre or fraction of an acre. A minimum royalty of $1 an acre instead of rental is payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.

(f) Repealed by § 7 ch 30 SLA 1964.

(g) An offeror for a federal oil and gas lease whose lease was issued after January 2, 1959, or a qualified applicant for a preference right under the Act of July 3, 1958, (72 Stat. 322) whose application for a preference right was filed before January 3, 1959, has a preference right to a state lease on the shorelands included within the exterior boundaries of the federal lease.

(h) If lands described in the offer for a federal lease are covered by nontidal water and are excluded from the federal lease on the basis of navigability, the state shall, upon application within 60 days after notice of the exclusion, if not previously filed, grant a preference lease for the areas excluded, carrying the same provisions as an ordinary state lease on the same lands, except that the term of the state lease shall conform in all respects to that of the adjoining federal lease including extended terms. The state shall issue a shorelands preference lease where a federal lease has been issued before March 31, 1960, and application is made to the state before July 1, 1960. Where a federal lessee or offeror failed before January 3, 1959, to file a proper application for a preference right under the Act of July 3, 1958, he may apply for a state preference lease under this section, subject to the rights of intervening applicants.

(i) Where the lands are classified as competitive, they shall be leased by competitive bidding. The holder of the preference right has 10 days after receipt of notice in which to submit an amount equal to the highest bid plus the rental for the first year.

(j) Upon timely application as provided by regulation, the state shall issue to the holder of a federal lease a state shorelands lease covering land within the exterior boundaries of the federal lease which has been excluded on the basis of navigability or which are later administratively or judicially determined to be "shorelands." The term of every shoreland lease shall conform to that of the adjacent federal lease including

AGO 935876

extended terms. The authority of the state to classify the lands as competitive or noncompetitive shall not be impaired.

(k) Instead of the foregoing procedure, the federal lessee or his assignee may, at his option, exercise his preference right for a state lease on the shorelands included within the exterior boundaries of his federal lease by applying to the division of lands, Department of Natural Resources. If, at the time of applying, the lands are classified as noncompetitive, the state shall, upon application, issue a lease covering whatever shorelands are included within the exterior boundaries of the federal lease. If, at the time of applying, the shorelands included in the federal lease are classified as competitive lands, the lands shall be leased by competitive bidding. The competitive lease shall be issued to the federal lessee or his assignee upon payment to the state of an amount equal to the highest bid for the lease, plus the rental for the first year, payment to be made within 10 days after the lessee's or assignee's receipt of written notice from the director of the division of lands of the amount of the highest bid. These leases, whether competitive or noncompetitive, shall carry the same conditions as an ordinary state lease on the same lands, except that the term of the state lease shall conform to that of the adjoining federal lease, including extended terms, and shall terminate if the federal lease is terminated for any reason. The lease shall provide for annual rental at the rate of $100 a unit of 640 acres or part thereof of the lands included within the federal lease until agreement is reached between the state and the Secretary of the Interior of the United States, or his authorized representative, as to the actual area of the shorelands included in the federal lease, and as to the apportionment between the state and federal government of the rental theretofore paid under the federal lease.

(l) The lease of a record lessee of a federal oil and gas lease who filed, or whose predecessor in interest filed, between July 3, 1958, and January 3, 1959, a proper preference right application under the Act of July 3, 1958, (72 Stat. 322) to have included in the lease the shorelands within the exterior boundaries of the lease and which lease or any part of it has terminated or failed as to the shorelands due to mispayment of or failure to pay the required rental as to the shorelands in advance of the anniversary date of the federal lease, shall be revived and reinstated as to the shorelands upon payment to the Bureau of Land Management of the United States Department of the Interior or to the state of all rental payable as to the shorelands under the lease since January 3, 1959. The rights under this section terminate 60 days after receipt of notice from the director, but not later than March 31, 1961. Nothing herein operates to extend a lease beyond its stated term.

(m) To conserve the natural resources of all or a part of an oil or gas pool, field, or like area, (whether or not the part is then subject to a cooperative or unit plan of development or operation), lessees and their representatives may unite with each other, or jointly or separately with

others, in collectively adopting or operating under a cooperative or a unit plan of development or operation of the pool, field, or like area, or a part of it, whenever determined and certified by the commissioner to be necessary or advisable in the public interest. The commissioner may, with the consent of the holders of leases involved, establish, alter, change, or revoke drilling, producing, rental minimum royalty, and royalty requirements of the leases and make regulations with reference to the leases, with like consent on the part of the lessees, in connection with the institution and operation of a cooperative or unit plan as he determines necessary or proper to secure the proper protection of the public interest. The commissioner may provide that oil and gas leases issued under this section shall contain a provision requiring the lessee to operate under a reasonable cooperative or unit plan, and he may prescribe a plan under which the lessee shall operate. The plan shall adequately protect all parties in interest, including the state.

(n) A plan authorized by (m) of this section, which includes lands owned by the state, may contain a provision vesting the commissioner, or a person, committee, or state agency with authority to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under the plan. All leases operated under a plan approved or prescribed by the commissioner are excepted in determining holdings or control under § 140 of this chapter. The provisions of this section concerning cooperative or unit plans are in addition to, and do not affect AS 31.05

(o) Producing acreage on a known geologic structure of a producing oil or gas field is excluded from chargeability as against the acreage limitation provisions of § 140 of this chapter.

(p) When separate tracts cannot be individually developed and operated in conformity with an established well-spacing or development program, a lease, or a portion of a lease, may be pooled with other lands, whether or not owned by the state, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the commissioner to be in the public interest. Operations or production under the agreement shall be considered as operations or production as to each lease committed to the agreement.

(q) The commissioner may, on conditions which he prescribes, approve drilling, or development contracts made by one or more lessees of oil or gas leases, with one or more persons, whenever, in his discretion, the conservation of natural products or the public convenience or necessity requires it or the interests of the state are best served. All leases operated under approved drilling, or development contracts, and interests under them are excepted in determining holding or control under § 140 of this chapter.

(r) To avoid waste or to promote conservation of natural resources, the commissioner may authorize the subsurface storage of oil or gas, whether or not produced from state lands, in lands leased or subject to lease under this section. This authorization may provide for the payment of a storage fee or rental on the stored oil or gas, or, instead of the fee or rental, for a royalty other than that prescribed in the lease when the stored oil or gas is produced in conjunction with oil or gas not previously produced. A lease on which storage is so authorized shall be extended at least for the period of storage and so long thereafter as oil or gas not previously produced is produced in paying quantities.

(s) Each oil or gas lease issued by the state shall contain a provision requiring the lessee to furnish the Department of Labor a quarterly report regarding the employment on the leased property of state residents. The commissioner of labor shall promulgate regulations necessary to carry out the provisions of this subsection. (§ 3(7) art VIII ch 169 SLA 1959; am § 18 ch 61 SLA 1960; am § 1 ch 124 SLA 1962; am §§ 4—7 ch 30 SLA 1964; am § 20 ch 70 SLA 1964; am § 2 ch 91 SLA 1967; am § 1 ch 65 SLA 1969; am § 1 ch 86 SLA 1970)

Revisor's note (1970). — In ch. 86, SLA 1970, subsection (s) of AS 38.05.180 was incorrectly designated (t).

Cross references. — See note to AS 38.05.020. As to establishment of drilling units for pools, see AS 31.05.10[illegible] As to gross production tax, see AS 43.55.010.

Purpose of subsection (a). — The provisions of subsection (a) of this section were intended to insure that leases on valuable oil and gas producing state lands will be made available to the public on a fair and equitable basis, that the state will be adequately compensated for its natural resources, and that the state's resources are developed in an orderly fashion. For the commissioner to decide that these purposes are furthered by providing for bidding by cash bonus cannot be said to be unreasonable. Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

And construction thereof. — The only reasonable construction that can be placed on subsection (a) of this section is that the legislature intended to give the commissioner broad authority to determine the kind of bonus he will accept. The legislature at the time it passed subsection (a) was undoubtedly aware that under competitive bidding procedures different forms of bonuses might be offered. It did not itself prescribe a particular form, but instead provided that competitive bidding shall be "under general regulations," and that lands shall be leased upon the payment of "such bonus as may be accepted by the commissioner." The plain language of the statute shows that royalties were to be fixed independently of the acceptance of the highest bonus. Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Power to change law respecting lease extensions is vested in state. — The governmental power to change the law respecting the granting of lease extensions, vested in Congress prior to statehood and preserved by § 6(k) of the Alaska Statehood Act, became vested in the state when the lands subject to the lease were granted to the state as its property. Kirkpatrick v. Commissioner, Dep't of Natural Resources, Sup. Ct. Op. No. 201 (File No. 388), 391 P.2d 7 (1964).

And has been exercised by the Alaska Land Act. — The state has exercised its power to change the law respecting lease extensions by the Alaska Land Act and by regulations adopted under its authority. Kirkpatrick v. Commissioner, Dep't of Natural Resources, Sup. Ct. Op. No. 201 (File No. 388), 391 P.2d 7 (1964).

Subsection (c) has no application to pre-statehood federal leases. — Read in the context of article 6 of this chapter, it becomes apparent that subsection (c) of this section, as to extensions, relates only to leases issued by the state under the authority of the Alaska Land Act, and is not pertinent with respect to pre-statehood federal leases. Kirkpatrick v. Commissioner, Dep't of Natural Resources, Sup. Ct. Op. No. 201 (File No. 388), 391 P.2d 7 (1964).

Subsection (c) of this section, relating to extensions of state oil and gas leases, has no application to federal leases of lands

AGO 935877

Editor's note. — Section 10, ch. 136, SLA 1977, provides, in subsection (a): "If a court of competent jurisdiction invalidates the differential economic limit factor computation under AS 43.55.013(a) and (b), the economic limit factor contained in (b) of that section shall be used for computation of the economic limit for all oil."

Section 11, ch. 136, SLA 1977, provides: "This Act applies to production during the month of July, 1977 and succeeding months."

Sec. 43.55.015. Tax per barrel of oil.

Repealed by § 9 ch 136 SLA 1977.

Editor's note. — The repealed section derived from § 4, ch. 101, SLA 1972; § 2, ch. 4, FSSLA 1973.

Section 11, ch. 136, SLA 1977, provides: "This Act applies to production during the month of July, 1977 and succeeding months."

Legislative committee report. — For report on ch. 101, SLA 1972 (FC CS HCSSB 168), see 1972 House Journal, p. 963.

Sec. 43.55.016. Gas production tax. (a) There is levied upon the producer of gas a tax for all gas produced from each lease or property in the state, less any gas the ownership or right to which is exempt from taxation The tax is equal to either the percentage-of-value amount calculated under (b) of this section or the cents-per-Mcf amount calculated under (c) of this section, whichever is greater, multiplied by the economic limit factor determined for gas production of the lease or property under § 13 of this chapter. If the amounts calculated under (b) and (c) of this section are equal, the amount calculated under (b) of this section shall be treated as if it were the greater for purposes of this section.

(b) The percentage-of-value amount equals 10 per cent of the gross value at the point of production of the taxable gas produced from the lease or property.

(c) The cents-per-Mcf amount equals $.064 per thousand cubic feet of taxable gas produced from the lease or property as adjusted by § 12 of this chapter. (§ 1 ch 136 SLA 1977)

Editor's note. — Section 11, ch. 136, SLA 1977, provides: "This Act applies to production during the month of July, 1977 and succeeding months."

Sec. 43.55.017. Relation to other taxes. (a) Except as provided in this chapter and in ch. 58 of this title, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

(1) producing oil or gas leases;

(2) oil or gas produced or extracted in the state;

(3) the value of intangible drilling and exploration expenses.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by ch. 57 of this title or income taxes, franchise taxes or taxes upon the retail sale of oil or gas products. (§ 1 ch 136 SLA 1977)

Editor's note. — Section 11, ch. 136, SLA 1977, provides: "This Act applies to production during the month of July, 1977 and succeeding months."

Sec. 43.55.018. Credit against tax. (a) There shall be allowed as a credit against the taxes levied under this chapter for a lease or property the early development incentive credit accrued for that lease or property under AS 43.58.180. In no event may the credit allowed for a lease or property exceed 50 per cent of the taxes levied under this chapter for that lease or property.

(b) The credit shall be allowed on a monthly basis. (§ 2 ch 159 SLA 1975)

Editor's note. — Section 8, ch. 159, SLA 1975, contains a severability clause.

Section 9, ch. 159, SLA 1975, effective June 26, 1975, provides: "AS 43.58.030, 43.58.180, and AS 43.55.018 are included in this Act so as to avoid double taxation of the same interest in oil and gas and as an incentive for the early production of oil and gas discovered in the state. The legislature believes that the inclusion of these sections granting tax credits does not in any manner change the intent, validity or enforceability of the basic ad valorem tax imposed by the Act. If the inclusion of these sections results in a judicial decision that the ad valorem tax imposed by AS 43.58.010 is invalid, these sections shall be void and of no effect whatsoever and the Act shall be read as if these sections had never been included."

Sec. 43.55.020. Payment of tax. (a) The gross production tax on oil or gas shall be paid monthly. The tax is due on the 20th day of each calendar month on oil or gas produced from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

(b) The gross production tax on oil or gas shall be paid by or on behalf of the producer

(c) Repealed by § 7 ch 101 SLA 1972, effective July 1, 1972.

(d) In making settlement with the royalty owner the producer may deduct the amount of the tax paid on royalty oil or gas, or may deduct royalty oil or gas equivalent in value at the time the tax becomes due to the amount of the tax paid.

(e) Gas produced in excess of that needed for safety purposes, except gas used in the operation of a lease or property in drilling for or producing oil or gas, or for repressuring, is considered, for the purpose of this chapter and in the amount used, as gas produced from a lease or property. Gas flared beyond the amount authorized for safety by the Department of Natural Resources under AS 31.05.170(11)(H) is considered as gas produced, except that it is subject to a penalty equal to the tax computed under § 16 of this chapter as adjusted by § 12 of this chapter per thousand cubic feet of gas for the month in which the gas was flared.

AGO 935878

STATE OF ALASKA
THE LEGISLATURE

POUCH V, STATE CAPITOL
JUNEAU, ALASKA 99811

HOUSE OF REPRESENTATIVES

TO RESOURCES

REMARKS:

Please return HB 830. We now have a Sponsor Substitute for this bill.

FROM edith DATE 3/13/78

LAA 25-H

AGO 935879

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BY
THE STATE OF ALASKA

AGO 935880

Alaska Statutes

Title 31. Oil and Gas.

Chapter
05. Conservation (§§ 31.05.010—31.05.170)
15. Common Purchasers of Oil (§§ 31.15.010—31.15.050)
30. Miscellaneous Provisions (§§ 31.30.010—31.30.070)

Chapter 05. Conservation.

Article
1. Administration (§§ 31.05.010—31.05.080)
2. Regulation of Operations (§§ 31.05.090—31.05.120)
3. Levy of Tax and Disposition of Funds (Repealed)
4. General Provisions (§§ 31.05.150—31.05.170)

Article 1. Administration.

Section
10. Application
20. Waste prohibited
30. Powers and duties of department
35. Confidential reports
40. Rules and regulations of department
50. Notice
60. Action by department
70. Attendance and testimony of witnesses
80. Rehearings and appeals

Sec. 31.05.010. Application. This chapter applies to all lands in the state lawfully subject to its police powers. It applies to lands of the United States or to lands subject to the jurisdiction of the United States only to the extent that control and supervision of conservation of oil and gas by the United States on its lands fails to carry out the intent and purposes of this chapter and otherwise applies to federal lands so far as an officer of the United States having jurisdiction, or his authorized representative, shall approve any of the provisions of this chapter or orders of the department which affect lands. (§ 14 ch 40 SLA 1955)

Am. Jur., ALR and C.J.S. references. — 34 Am. Jur., Gas and Oil, §§ 1 to 157.
Constitutionality of statute regulating petroleum production, 86 ALR 418.
58 C.J.S. Mines and Minerals §§ 1 to 3.

Sec. 31.05.020. Waste prohibited. The waste of oil and gas in the state is prohibited. (§ 1 ch 40 SLA 1955)

ALR and C.J.S. references. — Constitutionality of statute controlling exploitation or waste of oil and gas, 24 ALR 307; 78 ALR 834.
Constitutionality of statute, ordinance, or regulation limiting rights of surface owner in respect of oil or gas, 67 ALR 1346; 99 ALR 1119.
Construction and effect of statutes regulating production of oil or gas in a manner or under conditions constituting waste, 86 ALR 431.
58 C.J.S. Mines and Minerals § 234.

Sec. 31.05.030. Powers and duties of department. (a) The department has jurisdiction and authority over all persons and property, public and private, necessary to carry out the purposes and intent of this chapter.

(b) The department shall investigate to determine whether or not waste exists or is imminent, or whether or not other facts exist which justify or require action by it.

(c) The department shall adopt rules, regulations and orders and take other appropriate action to carry out the purposes of this chapter.

(d) The department may require

(1) identification of ownership of wells, producing leases, tanks, plants and drilling structures;

(2) the making and filing of reports, well logs, drilling logs, electric logs, lithologic logs, directional surveys, and all other subsurface information on a well drilled for oil or gas, or for the discovery of oil or gas, or for geologic information, and the required reports and information shall be filed within 30 days after the completion, abandonment, or suspension of the well;

(3) the drilling, casing and plugging of wells in a manner which will prevent the escape of oil or gas out of one stratum into another, the intrusion of water into an oil or gas stratum, the pollution of fresh water supplies by oil, gas or salt water, and prevent blowouts, cavings, seepages and fires;

(4) the furnishing of a reasonable bond with sufficient surety conditions for the performance of the duty to plug each dry or abandoned well or the repair of wells causing waste;

(5) the operation of wells with efficient gas-oil and water-oil ratios, and may fix these ratios;

(6) the gauging or other measuring of oil and gas to determine the quality and quantity of oil and gas;

(7) every person who produces oil or gas in the state to keep and maintain for a period of five years in the state complete and accurate records of the quantities of oil and gas produced, which shall be available for examination by the department or its agents at all reasonable times.

(e) The department may regulate, for conservation purposes

(1) the drilling, producing and plugging of wells;

(2) the shooting and chemical treatment of wells;

(3) the spacing of wells;

(4) the disposal of salt water, nonpotable water and oil field wastes;

(5) the contamination or waste of underground water.

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(f) The department may classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this chapter. (§ 4 ch 40 SLA 1955; am § 2 ch 75 SLA 1960; am § 1 ch 209 SLA 1970)

Applied in Bradley v. State, 2 Alaska L.J. No. 6, pg. 88 (June-July, 1964).

Sec. 31.05.035. Confidential reports. (a) For all wells for which a permit to drill has been issued by the department since January 3, 1959, the department may require:

(1) the making and filing of reports, well logs, drilling logs, electric logs, lithologic logs, directional surveys, and all other subsurface information on a well drilled for oil or gas, or for the discovery of oil or gas, or for geologic information; and

(2) the filing of all logs, except experimental logs, dipmeter surveys, and velocity surveys run on a well and not required by (1) of this subsection.

(b) Reports and information required under (a)(1) and (2) of this section shall be filed within 30 days after the completion, abandonment, or suspension of a well. However, under (a)(1) of this section, the department may not require the making of a log on a well completed, abandoned or suspended before June 19, 1970.

(c) The reports and information marked confidential shall be kept confidential for 24 months following the 30-day filing period unless the owner of the well gives written permission to release the reports and information at an earlier date. Well location, depth, status and production data and production reports required by the department to be filed subsequent to the 30-day filing period shall be considered public information and shall not be classified confidential. Production data, as used in this subsection, means volume, gravity and gas-oil ratio of all production of oil or gas after the well begins regular production. (§ 2 ch 209 SLA 1970)

Sec. 31.05.040. Rules and regulations of department. (a) The department shall prescribe rules and regulations governing practice and procedure before it under this chapter.

(b) All orders issued by the department shall be in writing, shall be entered in full and indexed in books kept by the department for that purpose, and shall be public records open for inspection at all times during reasonable office hours. A copy of an order certified by the department, under its seal, shall be received in evidence in all courts of the state with the same effect as the original. (§ 9 1, 5 ch 40 SLA 1955)

Revisor's note. — Subsection (b) of this section and AS 31.05.050—31.05.080 are generally superseded by the Administrative Procedure Act (AS 44.62).

However, the department seems to have power to hold hearings and make orders relating to "pooling," etc. (AS 31.05.100 and 31.05.110), which may or may not fall under the Administrative Procedure Act. If those hearings and orders do not fall under the Administrative Procedure Act, then the procedure in (b) of this section and in AS 31.05.050—31.05.080 would apply.

Sec. 31.05.050. Notice. (a) A notice required by this chapter shall be given in accordance with the Administrative Procedure Act (AS 44.62).

(b) Procedures to be followed under (a) of this section do not apply if the nature of the notice is not of a statewide or general application but is concerned only with operations on a single well or within a single field and the modification of procedure is within the authority delegated to the department under § 30 of this chapter. A notice required by this chapter shall be given by one publication in a newspaper published in the borough in which the hearing is to be held, or if none is published in the borough, in a newspaper published in this state and circulating within the borough, and posted in at least one public place within the borough, at least 10 days before the date of the hearing. The notice shall be issued in the name of the state, shall be signed by the department, and shall specify the style and number of the proceeding, the time and place of the hearing, and shall briefly state the purpose of the proceeding. The department may also give, or require the giving of, additional notice in a proceeding, or class of proceeding, which it considers necessary or desirable. (§ 9 4 ch 40 SLA 1955; am § 1 ch 190 SLA 1968; am § 1 ch 87 SLA 1969)

Revisor's note. — See Revisor's note to AS 31.05.040.

Legislative committee reports. — For report on ch. 190, SLA 1968 (CSHB 595), see 1968 House Journal, p. 748. For report on ch. 87, SLA 1969 (HB 49 am S), see 1969 Senate Journal, p. 897.

Sec. 31.05.060. Action by department. The department may act upon its own motion, or upon the petition of an interested person. On the filing of a petition concerning a matter within the jurisdiction of the department under this chapter, the department shall promptly fix a date for a hearing, and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The department shall enter its order within 30 days after the hearing. (§ 9 6 ch 40 SLA 1955)

Revisor's note. — See Revisor's note to AS 31.05.040.

C.J.S. reference. — 58 C.J.S. Mines and Minerals § 242.

Sec. 31.05.070. Attendance and testimony of witnesses. (a) The department may summon witnesses, administer oaths, and require the production of records, books and documents for examination at a hearing or investigation conducted by it. No person may be excused from attending and testifying, or from producing books, papers and

records before the department or a court, or from obedience to the subpoena of the department or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. This section does not require a person to produce books, papers or records, or to testify in response to an inquiry not pertinent to some question lawfully before the department or court for determination. No natural person is subject to criminal prosecution or to a penalty or forfeiture for or on account of any transaction, matter or thing concerning which, in spite of his objection, he may be required to testify or produce evidence, documentary or otherwise, before the department or court, or in obedience to its subpoena. However, no person testifying is exempt from prosecution and punishment for perjury committed in so testifying.

(b) If a person fails or refuses to comply with the subpoena issued by the department, or refuses to testify as to any matter regarding which he may be interrogated, any court of record in the state, upon application of the department, may issue an attachment for the person and compel him to comply with the subpoena, and attend before the department and produce the records, books, and documents for examination, and give his testimony. The court may punish for contempt as in the case of disobedience to a subpoena issued by the court, or for refusal to testify in court. (§ 10 ch 40 SLA 1955)

Revisor's note. — See Revisor's note to AS 31.05.040.

Sec. 31.05.080. Rehearings and appeals. (a) Within 20 days after written notice of the entry of an order or decision of the department, or such further time as the department grants for good cause shown, a person affected by it may file with the department an application for the rehearing in respect of the matter determined by the order or decision, setting forth the respect in which the order or decision is believed to be erroneous. The department shall grant or refuse the application in whole or in part within 10 days after it is filed, and failure to act on it within this period is a refusal of it and a final disposition of the application. If the hearing is granted, the department may enter a new order or decision after rehearing as may be required under the circumstances.

(b) A party to the rehearing proceeding, dissatisfied with the disposition of the application for rehearing, may appeal from it to the superior court in the judicial district in which any property affected by the decision of the department is located, by filing a petition for the review of the action of the department within 20 days after the entry of the order following rehearing or after the refusal of rehearing as the case may be. The petition shall state briefly the nature of the proceedings before the department and shall set out the order or decision of the department complained of and the grounds of invalidity of it upon

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which the applicant will rely. However, the questions reviewed on appeal shall be only questions presented to the department by the application for rehearing. Notice of appeal shall be served upon the adverse parties and the department in the manner provided for the service of summons in civil proceedings. The trial upon appeal shall be without a jury, and the transcript of proceedings before the department, including the evidence taken in hearings by the department, shall be received in evidence by the court in whole or in part upon offer by either party, subject to legal objections to evidence, in the same manner as if the evidence was originally offered in the superior court. The department's action complained of is prima facie valid and the burden is upon the party seeking review to establish the invalidity of the action of the department. The court shall determine the issues of fact and of law and shall, upon a preponderance of the evidence introduced before the court, which may include evidence in addition to the transcript of proceedings before the department, and the applicable law, enter its order either affirming or vacating the order of the department. Appeals may be taken from the judgment or decision of the superior court in the same manner as provided for appeals from any other final judgment entered by a superior court.

(c) The pendency of proceedings to review does not of itself stay or suspend operation of the order or decision being reviewed, but during the pendency of the proceedings, the superior court may, upon its own motion or upon proper application of a party, stay or suspend, in whole or in part, operation of the order or decision pending review, on the terms the court considers just and proper and in accordance with the rules of civil procedure. The court, as a condition to staying or suspension of operation of an order or decision, may require that one or more parties secure, in the form and amount as the court considers just and proper, one or more other parties against loss or damage due to the staying or suspension of the department's order or decision, if the action of the department is affirmed.

(d) The rules of practice and procedure in civil cases govern the proceedings for review and appeal to the extent they are consistent with this chapter. (§ 11 ch 40 SLA 1955)

Revisor's note. — See Revisor's note to AS 31.05.040.

Article 2. Regulation of Operations.

Section
90. Permits and fees to drill wells
100. Establishment of drilling units for pools
110. Unitization and unitized operation of pools and integration of interests by agreement
120. Use of gas from well to manufacture carbon products without permit is prima facie waste

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Sec. 31.05.090. Permits and fees to drill wells. A person desiring to drill a well in search of oil or gas shall notify the department of his intent on a form prescribed by the department and shall pay a fee of $100 for a permit for each well sought to be drilled. Upon receipt of notification and fee, the department shall promptly issue a permit to drill, unless the drilling of the well is contrary to law or a regulation or order of the department, or unless the person is in violation of a department regulation, order or stipulation pertaining to drilling, plugging or abandonment of a well. The drilling of a well is prohibited until a permit to drill is obtained in accordance with this chapter. (§ 5 ch 40 SLA 1955; am § 1 ch 120 SLA 1970)

Sec. 31.05.100. Establishment of drilling units for pools. (a) For the prevention of waste, to protect and enforce the correlative rights of lessees in a pool, and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, or the reduced recovery which might result from too small a number of wells, the department shall, after a hearing, establish a drilling unit or units for each pool. The establishment of a unit for gas shall be limited to the production of gas.

(b) Each well permitted to be drilled on a drilling unit shall be drilled under the rules and regulations and in accordance with the spacing pattern as the department prescribes for the pool in which the well is located. Exceptions to the rules and spacing pattern may be granted where it is shown, after notice and hearing, that the unit is partly outside the pool, or for some other reason a well so located on the unit would be nonproductive, or topographical conditions are such as to make the drilling at such a location unduly burdensome. If an exception is granted, the department shall take such action as will offset any advantage which the person securing the exception may have over other producers by reason of the drilling of the well as an exception, and so that drainage from developed units to the tract with respect to which the exception is granted will be prevented or minimized, and the producer of the well drilled as an exception will be allowed to produce no more than a just and equitable share of the oil and gas in the pool.

(c) When two or more separately owned tracts of land are embraced within an established drilling unit, persons owning the drilling rights in it and the right to share in the production from it may agree to pool their interests and develop their lands as a drilling unit. If the persons do not agree to pool their interests, the department may enter an order pooling and integrating their interests for the development of their lands as a drilling unit for the prevention of waste, for the protection of correlative rights, or to avoid the drilling of unnecessary wells. Orders effectuating such pooling shall be made after notice and hearing, and shall be upon terms and conditions which will afford to the owner of each tract the opportunity to recover or receive his just and equitable share of the oil and gas in the pool without unnecessary expense. Operations incident to

the drilling of a well upon a portion of a unit covered by a pooling order shall be considered for all purposes to be the conduct of the operation upon each separately owned tract in the unit by the several lessees of it. The portion of the production allocated to the lessee of each tract included in a drilling unit formed by a pooling order shall, when produced, be considered as if it had been produced from the tract by a well drilled on it. If pooling is effectuated, the cost of development and operation of the pooled unit chargeable by the operator to the other interested lessee is limited to the actual and reasonable expenditures for this purpose, including a reasonable charge for supervision. As to lessees who refuse to agree upon pooling, the order shall provide for reimbursement for costs chargeable to each lessee out of, and only out of, production from the unit belonging to such lessee. In the event of a dispute relative to the costs, the department shall determine the proper costs upon notice to all interested parties and hearing. Appeals may be taken from the determination as from any other order of the department. If a lessee drills and operates, or pays the expense of drilling and operating the well for the benefit of others, then in addition to any other right conferred by the pooling order, the lessee drilling or operating has a lien on the share of production from the unit accruing to the interest of each of the other lessees for the payment of his proportionate share of such expenses. All the oil and gas subject to the lien, or so much of the oil and gas subject to the lien as is necessary shall be marketed and sold by the creditor, and the proceeds applied in payment of the expenses secured by the lien, with the balance, if any, payable to the debtor.

(d) The department shall, in all instances where a unit has been formed out of lands or areas of more than one ownership, require the operator, upon request of a lessee, but subject to the right of the operator to market production and collect the proceeds with respect to a lessee in default, as provided in (c) of this section, to deliver to the lessee or his assigns his proportionate share of the production from the well common to the drilling unit. The lessee receiving his share shall provide at his own expense proper receptacles for the receipt and storage of it.

(e) If persons owning the drilling or other rights in separate tracts embraced within a drilling unit fail to agree upon the pooling of the tracts and the drilling of the well on the unit, and if the department is without authority to require pooling as provided by this section, then, subject to all other applicable provisions of this chapter, the lessee of each tract embraced within the drilling unit may drill on his tract, but the allowable production from the tract shall be the proportion of the allowable production for the full drilling unit as the area of the separately owned tract bears to the full drilling unit. (§ 6 ch 40 SLA 1955)

Cross reference. — As to oil and gas, see AS 38.05.180.

adjoining owners as to pumping oil, 5 ALR 421.

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Sec. 31.05.110. Unitization and unitized operation of pools and integration of interests by agreement. (a) To prevent, or to assist in preventing waste, to insure a greater ultimate recovery of oil and gas, and to protect the correlative rights of persons owning interests in the tracts of land affected, these persons may validly integrate their interests to provide for the unitized management, development, and operation of such tracts of land as a unit. Where, however, they have not agreed to integrate their interests, the department, upon proper petition, after notice and hearing, has jurisdiction, power and authority, and it is its duty to make and enforce orders and do the things necessary or proper to carry out the purposes of this section.

(b) If upon the filing of a petition by the department and after notice and hearing, all in the form and manner and in accordance with the procedure and requirements provided in this section, the department finds that (1) the unitized management, operation and further development of a pool or portion of a pool is reasonably necessary in order to effectively carry on pressure control, pressure-maintenance or repressuring operations, cycling operations, water flooding operations, or any combination of these, or any other form of joint effort calculated to substantially increase the ultimate recovery of oil and gas from the pool; (2) one or more of the unitized methods of operation as applied to the pool or portion of it is feasible, and will prevent waste and will with reasonable probability result in the increased recovery of substantially more oil and gas from the pool than would otherwise be recovered; (3) the estimated additional cost, if any, of conducting such operations will not exceed the value of the additional oil and gas so recovered; and (4) the unitization and adoption of one or more of the unitized methods of operation is for the common good and will result in the general advantage of the owners of the oil and gas rights within the pool or portion of it directly affected, it shall make a finding to that effect and make an order creating the unit and providing for the unitization and unitized operation of the pool or portion of it described in the order, upon the terms and conditions, as may be shown by the evidence to be fair, reasonable, equitable, and which are necessary or proper to protect, safeguard and adjust the respective rights and obligations of the several persons affected, including royalty owner, owners of overriding royalties, oil and gas payments, carried interests, mortgages, lien claimants and others, as well as the lessees. The petition shall set out a description of the proposed unit area with a map or plat of it attached, shall allege the existence of the facts required to be found by the department as provided in this paragraph and shall have attached to it a recommended plan of unitization applicable to the proposed unit area and which the petitioner considers to be fair, reasonable and equitable.

(c) The order of the department shall define the area of the pool or

portion of it to be included within the unit area and prescribe with reasonable detail the plan of unitization applicable to it. Each unit and unit area shall be limited to all or a portion of a single pool. Only so much of a pool as has been defined and determined to be productive of oil and gas by actual drilling operations may be so included within the unit area. A unit may be created to embrace less than the whole of a pool only where it is shown by the evidence that the area to be so included within the unit area is of a size and shape as may be reasonably required for the successful and efficient conduct of the unitized method of operation for which the unit is created, and that the conduct of it will have no material adverse effect upon the remainder of the pool. The plan of unitization for each unit and unit area shall be one suited to the needs and requirements of the particular unit dependent upon the facts and conditions found to exist with respect to it. In addition to other terms, provisions, conditions and requirements found by the department to be reasonably necessary or proper to carry out the purpose of this chapter, and subject to the further requirements of this section, each plan of unitization shall contain fair, reasonable and equitable provisions for

(1) the efficient unitized management or control of the further development and operation of the unit area for the recovery of oil and gas from the pool affected; under such a plan the actual operations within the unit area may be carried on in whole or in part by the unit itself, or by one or more of the lessees within the unit area as the unit operator subject to the supervision and direction of the unit, dependent upon what is most beneficial or expedient; the designation of the unit operator shall be by vote of the lessees in the unit in a manner provided in the plan of unitization and not by the department;

(2) the division of interest or formula for the apportionment and allocation of the unit production, among and to the several separately owned tracts within the unit area such as will reasonably permit persons otherwise entitled to share in or benefit by the production from such separately owned tracts to produce and receive, instead thereof, their fair, equitable and reasonable share of the unit production or other benefits of it; a separately owned tract's fair, equitable, and reasonable share of the unit production shall be measured by the value of each such tract for oil and gas purposes and its contributing value to the unit in relation to like values of other tracts in the unit, taking into account acreage, the quantity of oil and gas recoverable from it, location on the structure, its probable productivity of oil and gas in the absence of unit operations, the burden of operations to which the tract will or is likely to be subjected, or so many of these factors, or such other pertinent engineering, geological or operating factors as may be reasonably susceptible of determination; unit production as that term is used in this chapter means all oil and gas produced from a unit area from the effective date of the order of the department creating the unit

regardless of the well or tract within the unit area from which the same is produced;

(3) the manner in which the unit and the further development and operation of the unit area shall or may be financed and the basis, terms and conditions on which the cost and expense of it shall be apportioned among and assessed against the tracts and interests made chargeable with it, including a detailed accounting procedure governing all charges and credits incident to such operations; upon terms and conditions as to time and rate of interest as may be fair to all concerned, reasonable provision shall be made in the plan of unitization for carrying or otherwise financing lessees who are unable to promptly meet their financial obligations in connection with the unit;

(4) the procedure and basis upon which wells, equipment and other properties of the several lessees within the unit area are to be taken over and used for unit operations, including the method of arriving at the compensation for it, or of otherwise proportionately equalizing or adjusting the investment of the several lessees in the project as of the effective date of unit operation;

(5) the creation of an operating committee to have general overall management and control of the unit and the conduct of its business and affairs and the operations carried on by it, together with the creation or designation of other subcommittees, boards or officers to function under the authority of the operating committee as may be necessary, proper or convenient in the efficient management of the unit, defining the powers and duties of all the committees, boards and officers, and prescribing their tenure and time and method for their selection;

(6) the time when the plan of unitization becomes effective;

(7) the time when and the conditions under which and the method by which the unit shall or may be dissolved and its affairs wound up.

(d) No order of the department creating a unit and prescribing the plan of unitization applicable to it becomes effective until the plan of unitization has been signed or ratified in writing, or approved by the lessees of record of not less than 62.5 per cent of the unit area affected by it and by the owners of record of not less than 62.5 per cent (exclusive of royalty interests owned by lessees or by subsidiaries of any lessee) of the normal one-eighth landowners' royalty interest in and to the unit area, and the department has made a finding either in the order creating the unit or in a supplemental order that the plan of unitization has been so signed, ratified or approved by lessees and royalty owners owning the required percentage interest in and to the unit area. Where the plan of unitization has not been signed, ratified or approved by the lessees and royalty owners owning the required percentage interest in and to the unit area at the time the order creating the unit is made, the department shall, upon petition and notice, hold additional and supplemental

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hearings as may be requested or required to determine if and when the plan of unitization has been signed, ratified or approved by lessees and royalty owners owning the required percentage interest in and to the unit area and shall, in respect to the hearing, make and enter a finding of its determination in this regard. If the lessees and royalty owners, or either, owning the required percentage interest in and to the unit area have not signed, ratified or approved the plan of unitization within a period of six months from the date on which the order creating the unit is made, the order creating the unit ceases to be of further force and effect and shall be revoked by the department.

(e) Except as otherwise expressly provided in this section, all proceedings held under this chapter, including the filing of petitions, the giving of notices, the conduct of hearings and other action taken by the department shall be in the form and manner and in accordance with the procedure provided in §§ 40—60 of this chapter. Additional notice shall be given as the department requires.

(f) From the effective date of an order of the department creating a unit and prescribing the plan of unitization applicable to it, the operation of a well producing from the pool or portion of it within the unit area defined in the order by persons others than the unit or persons acting under its authority or except in the manner and to the extent provided in the plan of unitization is unlawful and is prohibited.

(g) The obligation or liability of the lessees or other owners of the oil and gas rights in the several separately owned tracts for the payment of unit expense shall at all times be several and not joint or collective and in no event shall a lessee or other owner of the oil and gas rights in the separately owned tract be chargeable with, obligated or liable, directly or indirectly, for more than the amount apportioned, assessed or otherwise charged to his interest in such separately owned tract under the plan of unitization and then only to the extent of the lien provided for in this chapter.

(h) Subject to such reasonable limitations as may be set out in the plan of unitization, the unit has a first and prior lien upon the leasehold estate and all other oil and gas rights (exclusive of a one-eighth landowners' royalty interest) in and to each separately owned tract, the interest of the owners in and to the unit production and all equipment in the possession of the unit, to secure the payment of the amount of the unit expense charged to and assessed against such separately owned tract. The interest of the lessee or other persons who by lease, contract or otherwise are obligated or responsible for the cost and expense of developing and operating a separately owned tract for oil and gas in the absence of unitization shall, however, be primarily responsible for and charged with any assessment for unit expense made against the tract and resort may be had to overriding royalties, oil and gas payments, royalty interests in excess of one-eighth of the production, or other interests which otherwise are not chargeable with these costs, only in

the event the owner of interest primarily responsible fails to pay the assessment of the production to the credit thereof, or production is insufficient for that purpose. If the owner of any royalty interest, overriding royalty, oil or gas payment, or any other interest which under the plan of unitization is not primarily responsible for it pays in whole or in part the amount of an assessment for unit expense for the purpose of protecting such interest, or the amount of the assessment in whole or in part is deducted from the unit production to the credit of such interest, the owner of it is to the extent of the payment or deduction subrogated to all the rights of the unit with respect to the interest or interests primarily responsible for the assessment. A one-eighth part of the unit production allocated to each separately owned tract shall be regarded as royalty to be distributed to and among, or the proceeds of it paid to, the royalty owners free and clear of all unit expense and free of any lien for it.

(i) Property rights, leases, contracts and all other rights and obligations shall be regarded as amended and modified to the extent necessary to conform to the provisions and requirements of this chapter and to any valid and applicable plan of unitization or order of the department made and adopted under this chapter, but otherwise remain in effect.

(j) Nothing contained in this chapter shall be construed to require a transfer to or vesting in the unit of title to the separately owned tracts or leases on them within the unit area, other than the right to use and operate them to the extent set out in the plan of unitization; nor shall the unit be regarded as owning the unit production. The unit production and the proceeds from the sale of it shall be owned by the several persons to whom it is allocated under the plan of unitization. All property, whether real or personal, which the unit may in any way acquire, hold or possess, shall not be acquired, held or possessed by the unit for its own account but shall be acquired, held and possessed by the unit for the account and as agent of the several lessees and shall be the property of the lessees as their interests appear under the plan of unitization, subject, however, to the right of the unit to the possession, management, use or disposal of the same in the proper conduct of its affairs, and subject to any lien the unit may have on it to secure the payment of unit expense. Neither the unit production or proceeds of the sale of it, nor the other receipts shall be treated, regarded, or taxed as income or profits of the unit; but instead, all such receipts shall be the income of the several persons to whom or to whose credit the same are payable under the plan of unitization. To the extent the unit may receive or disburse the receipts it shall only do so as a common administrative agent of the persons to whom the receipts are payable.

(k) The amount of the unit production allocated to each separately owned tract within the unit, and only that amount, regardless of the well or wells in the unit area from which it may be produced and regardless

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of whether it is more or less than the amount of the production from the well or wells, if any, on any such separately owned tract, shall for all intents, uses and purposes be regarded and considered as production from the separately owned tract, and, except as may be otherwise authorized in this chapter, or in the plan of unitization approved by the department, shall be distributed among or the proceeds of it paid to the persons entitled to share in the production from the separately owned tract in the same manner, in the same proportions, and upon the same condition that they would have participated and shared in the production or proceeds of it from such separately owned tract had not the unit been organized, and with the same legal effect. If adequate provisions are made for the receipt of it, the share of the unit production allocated to each separately owned tract shall be delivered in kind to the persons entitled to it by virtue of ownership of oil and gas rights in it or by purchase from the owners subject to the rights of the unit to withhold and sell the same in payment of unit expense under the plan of unitization, and subject further to the call of the unit on such portions of the gas for operating purposes as may be provided in the plan of unitization.

(l) No agreement or plan for the development and operation of a field or pool of oil or gas as a unit, if approved by the department for the purpose of conserving oil or gas, violates a statute of the state prohibiting monopolies or acts, arrangements, agreements, contracts, combinations or conspiracies in restraint of trade or commerce.

(m) Operations carried on under and in accordance with the plan of unitization shall be regarded and considered as a fulfillment of a compliance with all of the provisions, covenants and conditions, express or implied, of the several oil and gas leases upon lands included within the unit area, or other contracts pertaining to the development of it insofar as the leases or other contracts may relate to the pool or portion of it included in the unit area. Wells drilled or operated on any part of the unit area no matter where located shall for all purposes be regarded as wells drilled on each separately owned tract within the unit area.

(n) Nothing in this section or in any plan of unitization shall be construed as increasing or decreasing the implied covenants of a lease in respect to a common source of supply or lands not included within the unit area of a unit.

(o) The unit area of a unit may be enlarged to include adjoining portions of the same pool, including the unit area of another unit, and a new unit created for the unitized management, operation and further development of the enlarged unit area, or the plan of unitization may be otherwise amended, all in the same manner, upon the same conditions and subject to the same limitations as provided with respect to the creation of a unit in the first instance; except that where the amendment to the plan of unitization relates only to the rights and obligations as between lessees the requirement that it be signed, ratified, and approved by royalty owners of record of not less than 62.5 per cent of the unit area

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ALR reference. — Operator's or lessee's responsibility for production of oil or gas in excess of allowance as affected by his ignorance of excess production or his failure to profit thereby, 150 ALR 1149.

Sec. 31.05.120. Use of gas from well to manufacture carbon products without permit is prima facie waste. The use of gas from a well producing gas only, or from a well which is primarily a gas well for the manufacture of carbon black or similar products predominantly carbon is declared to constitute waste prima facie, and the gas well shall not be used for this purpose unless it is clearly shown at a public hearing held by the department, on application of the person desiring to use the gas, that waste would not take place by the use of the gas for the purpose applied for, and that gas which would otherwise be lost is now available for such purpose, and that the gas to be used cannot be used for a more beneficial purpose, such as for light or fuel purposes, except at prohibitive cost, and that it would be in the public interest to grant the permit. If the department finds that the applicant has clearly shown a right to use the gas for the purpose applied for, it shall issue a permit upon terms and conditions it finds necessary in order to permit the use of the gas and at the same time require compliance with the intent of this section. (§ 8 ch 40 SLA 1955)

Article 3. Levy of Tax and Disposition of Funds.

Section

130 — 140. [Repealed]

Secs. 31.05.130 — 31.05.140.

Repealed by § 2 ch 247 SLA 1970.

Editor's note. — Section 2, ch. 247, SLA 1970, effective July 1, 1970, provides that this repeal does not prevent the expenditure of funds authorized by other disaster relief legislation.

The repealed article derived from §§ 151, 152, ch. 40, SLA 1955.

Article 4. General Provisions.

Section

150. Penalties
160. Injunctive relief
170. Definitions

Sec. 31.05.150. Penalties. (a) A person who wilfully violates a provision of this chapter, or a rule, regulation or order of the department adopted under this chapter is subject to a penalty of not more than $1,000 for each act of violation and for each day that the violation continues, unless the penalty for violation is otherwise provided for and made exclusive in this chapter.

(b) If a person, for the purpose of evading this chapter, or any rule, regulation or order of the department adopted under this chapter, wilfully makes or has made a false entry in a record, account or memorandum required by this chapter, or by a rule, regulation or order, or wilfully omits, or causes to be omitted, from a record, account or memorandum, full, true and correct entries as required by this chapter, or by a rule, regulation or order, or removes from the state or destroys, mutilates, alters or falsifies such record, account or memorandum, the person is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $5 000, or by imprisonment in jail for not more than six months, or by both.

(c) A person who knowingly aids or abets another person in the violation of any provision of this chapter, or a rule, regulation or order of the department adopted under this chapter is subject to the same penalty as that prescribed by this chapter for the violation by the other person.

(d) The penalties provided in this section are recoverable by suit filed by the attorney general in the name and on behalf of the department in the superior court of the judicial district in which the defendant resides or in which any defendant resides, if there is more than one defendant, or in the superior court of the judicial district in which the violation occurs. The payment of a penalty does not relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of the violation.

(e) The commissioner of natural resources may impose a penalty payment on every 1,000 cubic feet of natural gas flared, vented or otherwise determined to be waste as defined in § 170(11) of this chapter. The penalty shall be the fair market value of the natural gas at the point of waste. (§ 12 ch 40 SLA 1955; am § 1 ch 195 SLA 1968)

C.J.S. reference. — 58 C.J.S. Mines and Minerals § 241.

Sec. 31.05.160. Injunctive relief. (a) Whenever it appears that a person is violating or threatening to violate any provision of this chapter, or any rule, regulation or order of the department, the department shall bring suit against that person in the superior court of the judicial district where the violation occurs or is threatened, to restrain the person from continuing the violation or from carrying out the threat of violation. In the suit, the court shall have jurisdiction to grant to the department, without bond or otherwise undertaking, such prohibitory and mandatory injunctions as the facts warrant.

(b) If the department fails to bring suit to enjoin a violation or threatened violation within 10 days after receipt of written request to do so by a person who is or will be adversely affected by the violation, the person making the request may bring suit in his own behalf to restrain the violation or threatened violation in the court in which the department may bring suit. If the court finds that injunctive relief should be granted, the department shall be made a party and shall be substituted for the person who brought the suit, and the injunction shall be issued as if the department had at all times been the plaintiff. (§ 13 ch 40 SLA 1955)

Sec. 31.05.170. Definitions. In this chapter, unless the context otherwise requires

(1) "and" includes "or" and "or" includes "and";

(2) "correlative rights" mean the opportunity afforded, so far as it is practicable to do so, to the owner of each property in a pool to produce without waste his just and equitable share of the oil or gas, or both, in the pool; being an amount, so far as can be practically determined, and so far as can practicably be obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas, or both under the property bears to the total recoverable oil or gas or both in the pool, and for such purposes to use his just and equitable share of the reservoir energy;

(3) "department" means the Department of Natural Resources;

(4) "field" means a general area which is underlain or appears to be underlain by at least one pool, and includes the underground reservoir containing oil or gas; and the words "pool" and "field" mean the same thing when only one underground reservoir is involved, but "field" unlike "pool" may relate to two or more pools;

(5) "gas" includes all natural gas and all hydrocarbons produced at the wellhead not defined as oil;

(6) "oil" includes crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas;

(7) "owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil and gas he produces from a pool for himself and others;

(8) "person" includes a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind, and includes a department, agency or instrumentality of the state or a governmental subdivision of the state;

(9) "pool" means an underground reservoir containing, or appearing to contain, a common accumulation of oil or gas. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term "pool";

(10) "producer" means the owner of a well or wells capable of producing oil or gas or both;

(11) "waste" means, in addition to its ordinary meaning, "physical waste" and includes

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(A) the inefficient, excessive, or improper use of, or unnecessary dissipation of, reservoir energy; and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well in a manner which results or tends to result in reducing the quantity of oil or gas to be recovered from a pool in this state under operations conducted in accordance with good oil field engineering practices;

(B) the inefficient above-ground storage of oil; and the locating, spacing, drilling, equipping, operating or producing of an oil or gas well in a manner causing, or tending to cause, unnecessary or excessive surface loss or destruction of oil or gas;

(C) producing oil or gas in a manner causing unnecessary water channeling or coning;

(D) the operation of an oil well with an inefficient gas-oil ratio;

(E) the drowning with water of a pool or part of a pool capable of producing oil or gas, except in so far as and to the extent authorized by the department;

(F) underground waste;

(G) the creation of unnecessary fire hazards;

(H) the release, burning, or escape into the open air of gas, from a well producing oil or gas, except to the extent authorized by the department;

(I) the use of gas for the manufacture of carbon black, except as provided in this chapter;

(12) "cubic foot" of natural gas means the volume of gas contained in one cubic foot of space measured at a pressure base of 14.65 pounds per square inch absolute and a temperature base of 60 degrees Fahrenheit. (§ 2 ch 40 SLA 1955; am §§ 2, 3 ch 195 SLA 1968)

Chapter 15. Common Purchasers of Oil.

Section	Section
10. Hearing on question of discrimination	40. Penalty
20. Determination of common purchaser	50. Definitions
30. Responsibility of common purchaser	

Sec. 31.15.010. Hearing on question of discrimination. (a) Upon the complaint of a person having an interest in the production of oil from a field, the commission shall hold a hearing or hearings, or, at the commission's own discretion, the commission may hold a hearing or hearings to determine if there has been unjust and unreasonable discrimination in purchases of oil offered for purchase within the state,

(1) in favor of one or more owners of oil produced as against another owner in the same field; or

(2) in favor of one or more fields in reasonably close proximity to each other.

(b) In determining whether there has been unjust and unreasonable discrimination in favor of one or more owners of oil produced from a field, the commission shall consider the kind and quality of the oil, the sales prices of the oil, and other related matters.

(c) In determining whether there has been unjust and unreasonable discrimination in favor of one or more fields in reasonably close proximity to each other, the commission shall consider the kind and quality of the oil, the sales prices of the oil, the size and location of the fields, the maximum efficient rate of production from the pools, the cost and mode of transporting the oil from the fields, the term of the offerings, and other related matters. (§ 1 ch 7 FSSLA 1973)

Sec. 31.15.020. Determination of common purchaser. (a) Where a purchaser is purchasing from a field and the commission finds that the purchaser has unjustly and unreasonably discriminated in purchases with regard to oil offered for sale in favor of one or more owners of oil produced in the field, he shall order the purchaser to be a common purchaser with respect to oil offered for sale from the field.

(b) Where a purchaser is purchasing from fields in reasonably close proximity to each other and the commission finds that the purchaser has unjustly and unreasonably discriminated in purchases with regard to oil offered for sale in favor of one or more of the fields, he shall order the purchaser to be a common purchaser with respect to oil offered for sale from each field involved.

(c) A purchaser cannot be ordered to be a common purchaser on the basis of purchases of oil taken in kind by the United States or the State of Alaska, or on the basis of the payment of royalties, overriding royalties, net profits, carried interests or similar interests, whether in kind or in value or on the basis of a producer taking its own production. (§ 1 ch 7 FSSLA 1973)

Sec. 31.15.030. Responsibility of common purchaser. (a) A common purchaser purchasing in this state shall purchase ratably without unjust and unreasonable discrimination in favor of any owner or producer over any other owner or producer offering to sell oil produced from a field where it is a common purchaser or from fields in reasonably close proximity to each other where it is a common purchaser.

(b) If a purchaser is a common purchaser in more than one field in reasonably close proximity to each other, the commission may order the purchaser to purchase ratably from the fields involved in proportions which will prevent unjust and unreasonable discrimination among the fields.

(c) The commission may make inquiry in each field concerning the connections of the various producers and when unjust and unreasonable discrimination is found to be practiced by any common purchaser as defined in this chapter the commission shall issue an order to the common purchaser to make reasonable extensions of their lines and reasonable connections as will prevent the discrimination. (§ 1 ch 7 FSSLA 1973)

Sec. 31.15.040. Penalty. A person violating an order issued under this chapter shall be assessed by the commission a civil penalty of not less

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than $1,000 nor more than $10,000. Each day a violation continues constitutes a separate offense. (§ 1 ch 7 FSSLA 1973)

Sec. 31.15.050. Definitions. In this chapter

(1) "commission" means the Alaska Pipeline Commission;

(2) "field" means a general area which is underlain or appears to be underlain by at least one pool, and includes the underground reservoir containing oil or gas; and the words "pool" and "field" mean the same thing when only one underground reservoir is involved, but "field" unlike "pool" may relate to two or more pools;

(3) "oil" includes crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas;

(4) "pool" means an underground reservoir containing oil; each zone of a general structure which is completely seperated from any other zone in the structure is covered by the term "pool";

(5) "purchaser" means a person who purchases oil in the state. (§ 1 ch 7 FSSLA 1973)

Chapter 30. Miscellaneous Provisions.

Section	Section
10. Damages for wrongful extraction of oil or gas	40—70. [Repealed]

Sec. 31.30.010. Damages for wrongful extraction of oil or gas. (a) If oil or gas has been or is extracted from any existing or subsequently drilled well by any person without right but who asserts a claim of right in good faith or who is acting under an honest belief as to the law or the facts, the measure of damages, if there is any right of recovery under existing law, shall be the value of the oil or gas at the time of extraction, without interest, after deducting all costs of development, operation, and production. The costs shall include taxes and interest on all expenditures from the date of the expenditures.

(b) In this section "oil or gas" includes all hydrocarbon minerals. (§ 1 ch 73 SLA 1964)

Secs. 31.30.040—31.30.070.

Repealed by § 4 ch 170 SLA 1975.

Editor's note. — The repealed sections derived from § 1, ch. 170, SLA 1975.

Legislative committee report. — For report on ch. 170, SLA 1975 (CSHB 258 am S), see 1975 House Journal, p. 524.

AGO 535890

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

March 21, 1978

SUBJECT: Draft Resources Committee Substitute for SSHB 830

TO: The Honorable C. V. "Chat" Chatterton

FROM: Gregg K. Erickson
Director of Research

As you directed, we have engrossed the language you presented us yesterday into a work draft committee substitute for SSHB 830. The draft committee substitute is attached herewith.

Although we have incorporated your language into SSHB 830, as you specifically directed, we would caution that doing this has introduced a number of uncertainties into the bill. Among these are the following:

1. Sec. 31.05.015 COMPENSATION OF MEMBERS OF THE COMMISSION. By deleting the phrase "equal to that of a commissioner of a principal executive department" after the word "salary", you are presumably reserving to later legislative action the establishment of commissioners' salaries. If this is to be done in the course of the budgetary process, I would suggest that the staff of the Legislative Finance Division be contacted to insure that the salary allocation is made a separate line item, or that other appropriate steps are taken to insure that legislative intent with respect to salaries, whatever it might be, is fulfilled. If it is the legislative desire to have the members of this commission treated for salary purposes the same way as members of all other regulatory commissions, then it will be necessary to amend the Alaska Salary Commission Act (AS 39.23.060) in order to include the commission in the purview of the salary review body.

2. Sec. 31.05.023(b) and (c). The effect of your change to subsection (b) is to place the professional staff of the commission and the personal secretaries of each commissioner in the exempt service. If this is your intention, it would be desirable, although not strictly required, that a conforming amendment to AS 39.25.110 be adopted as well. The effect of your change will be to give the commission pretty much complete discretion with respect to establishing the salaries of its

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professional staff members (with the exception of the executive director) and the commissioner's personal secretaries, subject only to the overall constraint of having to live within their budget. Since you did not delete (d), we assume you wish to leave the executive director's salary pegged to that of a commissioner of a principal executive department.

3. Sec. 31.05.025 CONFLICT OF INTEREST. The language you provided would make employees, consultants and members of the commission subject to AS 39.50 and AS 39.51. We would call your attention to the fact that *Sec. 2 of the bill already brings the commissioners under chapter 50. If it is desired to bring the employees and consultants of the department under this chapter, amendment to AS 39.50 will be required. Bringing consultants and employees under AS 39.50 will, of course, mean that they will be subject to the full public disclosure requirements now imposed on legislators and other "public officials" as defined in that chapter.

Subsection ( ) of this section gives the governor authority to determine whether a conflict of interest exists, presumably based on the disclosures required under AS 39.50. It is not clear, however, what action the governor would take if he determines such a conflict exists, or what authority the governor would have in the event a member, consultant or employee of the commission disagreed with the governor's determination that a particular holding would impair the person's ability to act in the "best interests of the people of Alaska".

AS 31.51 will need to be amended if it is desired to bring consultants under its provisions.

4. Sec. 31.05.026 RELATIONSHIP TO DEPARTMENT OF NATURAL RESOURCES. We are not clear as to your intent in adding subsection (d). If subsection (c) is to be superseded, then it probably should be deleted as well. It would appear that your intent in (d) is to vest all information gathering responsibility in the commission. This could create difficulties for the department if it attempts to require persons conducting geophysical exploration or drilling on state lands to provide it with information to assist the state in planning for and conducting the leasing of oil and gas lands. Furthermore, it is not clear what exemptions would be allowed to "the general rule" that is described in subsection (d).

With respect to subsection (e) we are not clear as to the intent or effect of the first sentence. The second sentence of this subsection appears to encourage interagency agreements, but by enumerating the areas to which such agreements may be

entered into, and by specifying that they may be only for "the sole purpose of efficiency" the sentence could be construed as limiting such agreements to the areas enumerated, and for the purpose specified. Subsection (f) seems to speak to the same material as contained in subsections (a) and (b). We cannot judge what its effect would be, either taken together with (a) and (b) or standing alone.

A prior scheduling commitment to another committee will prevent us from attending your markup hearing this afternoon, but we hope these comments may be helpful.

GKE:jm
Attachment

CC: The Hon. Hugh Malone (co-sponsor)

AMENDMENT

OFFERED IN THE HOUSE: BY: _____

TO: Sponsor Substitute for HOUSE BILL No. 830

SENATE BILL No. _____

PAGE: 4 LINE: Between lines 4 and 5

*Sec. 1 of SSHB 830 is amended by the addition of a new section to read as follows:

Sec. 31.05.026. RELATIONSHIP TO DEPARTMENT OF NATURAL RESOURCES.

(a) The department shall have standing before the commission to raise all issues relating to state owned land without regard to the type of proprietary interest held by the state in that land.

(b) With respect to federal land from which the state or any subdivision of the state is entitled under federal law to receive a share of the federal royalty interest, the department shall have the same standing before the commission as if it were the holder of the equivalent royalty interest.

(c) When both the department and the commission have the authority to require, and do require, the submission of substantially the same information from persons subject to this chapter, the commission, in order to alleviate the administrative burdens placed on those persons, may by regulation enter into an agreement with the department whereby either the commission or the department shall have the responsiblity to collect the information lawfully required by both.

Alaska State Legislature

House of Representatives

Committee on Resources

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

March 16, 1978

AGENDA

8:00 a.m., Room 118, Capitol Building

Milton Lipton will address the Committee on:

SSHB 830 Alaska Oil and Gas Conservation Commission
HB 878 Oil and gas taxes; effective date

1:30 p.m., Court Room A, Court Building

HB 854 Leasing of State land for oil & gas development

Persons requesting to give testimony:

Robert LeResche, Commissioner, Department of Natural Resources
John Roderick, Chief of Special Projects, Dept. of Natural Resources
Ed Phillips, economist, Department of Natural Resources
Milton Lipton, consultant
(Mark Singletary, Arco, if time permits)

To be continued tomorrow at the same time and location.

(HB 878 - add to it)

AGO 935900

HB

835

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
HB 835	2/27/78	Geoff Haynes	3/1/78
	"	Keith Specking	"
	"	Rep. Nakak	"
	"	Dept. of Fish and Game	"
	"	Dept. of Natural Resources	"

Socio-Economic Evaluation of Reindeer Herding in Relation to Proposed National Interest (d) 2 Lands in Northwestern Alaska

Final Report for National Park Service

Institute of Arctic Biology
University of Alaska
Fairbanks, Alaska

FINAL REPORT: Socio-Economic Evaluation of Reindeer Herding in Relation to Proposed National Interest Lands (d)2 in Northwestern Alaska

RESEARCH CONTRACT: CX - 9000-6-0098, National Park Service, Pacific Northwest Region, U.S. Department of the Interior, Institute of Arctic Biology, University of Alaska

Fairbanks, Alaska
November 31, 1977

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CHAPTER VI - CONCLUSIONS AND RECOMMENDATIONS

Conclusions

1. The legislative histories of Congressional debates, appropriations, legislation, rules, and regulations pertaining to reindeer grazing and cooperative agreements between state and federal agencies indicate that in general the U.S. Government has supported the establishment, development, and perpetuation of reindeer grazing in Alaska. Change in this policy at this time, based on our research data, would not be supported by the reindeer herders, the Reindeer Herders Association, Village and Regional Corporations, nor, most importantly, by the people of the Seward Peninsula. Furthermore, change in this policy without providing alternatives would deprive the people of the region of an important food resource and would take away an enterprise that some individuals have spent many years of their lives developing.

One alternative suggestion has been to disallow reindeer herding on Seward Peninsula d(2) lands and to re-introduce caribou. We find this to probably be an unworkable plan for the following reasons. Caribou cannot be managed with the same degree of control as reindeer. If one is controlling caribou movements (which would be necessary to keep them off adjacent reindeer ranges) then a truly wild caribou herd does not

result. In addition, the practical problems of securing permission from the Alaska Department of Fish and Game to stock the area with caribou, moving them across adjacent reindeer ranges, and starting condemnation procedures for the current permit holders and their herd and facilities are so obvious that they do not even need to be discussed further. We would argue that this alternative should not be seriously considered. Furthermore, it is doubtful that a free-ranging caribou herd on d(2) lands could provide sufficient numbers of animals available for local harvest compared to well-managed reindeer herds.

2. Reindeer herding has been part of the social and economic environment on the Seward Peninsula for 85 years. This historical dimension cannot be erased without evoking bitterness and opposition on the part of the herders and the village residents. The contemporary reindeer herding situation is a product of previous historical and cultural forces and the current socio-economic milieu of the Seward Peninsula. Policy regarding reindeer herding must be formulated with a firm understanding of the biology and ecology of reindeer and of the social and economic aspects of Native village life. Reindeer herding management practices have changed as the social and economic conditions, of which herding is a part, have changed.

When reindeer herding was first introduced, it appears to have been attractive only to those men who were unable to make a living in the traditional way. As the herds increased during the 1920's, herding

became an acceptable lifestyle alternative. When the herds declined prior to World War II and other employment opportunities became available, interest in herding declined correspondingly. As the potential rewards from reindeer herding have increased since the 1950's, so too has interest and involvement in herding again increased. A legacy of inadequate government services to the herders does exist, including: incomplete feedback between baseline reindeer research and the herders; conflicting federal and state policies; bureaucratic specialization of areas of technical expertise, which has confused the exact role which the agencies and their personnel should play; and inadequate levels of funding for personnel, travel, research, and administration.

3. Reindeer provide a source of meat, by-products, income, and employment. Local markets for reindeer meat have been developed by the Native herders. There is currently no known alternative industry or activity that has been shown to be biologically compatible, economically feasible, or socially acceptable to replace or co-exist with reindeer herding. The presence of a reindeer herd or herds at a village means that there are employment opportunities which would probably otherwise not be available to the villagers. The herder serves to stimulate the village and regional economy with his herding operation by spending and investing his income in the village and region. The reindeer industry provides private sector employment in a region of the United States where little non-public sector employment is available.

The marketing and production practices of the reindeer herders are rational within the context of the social and economic systems of northwestern Alaska. Some herds have demonstrated stability in numbers of animals over the years. Regular slaughterings of the relatively same numbers of animals have taken place. The price received for the meat has increased, however, due to increasing income levels of the consumer population, a cultural preference for reindeer meat over other imported meat products, and increased prices of reindeer meat substitutes, coupled with rising production costs for labor, fuel, snow-machines, and food. Cooperative management agreements between the herders and the federal agencies would allow the herders to maintain stable herd sizes, as the agencies conduct range surveys to determine optimal carrying capacities, monitor range utilization, and protect range resources through a rotational grazing plan.

4. After 85 years on the Seward Peninsula, reindeer herding is a part of the contemporary Native lifestyle. Herding provides personal satisfaction and prestige for the herd owners/operators. The reindeer herders have integrated the prerequisites for successful herding into their social organization, value system, and seasonal round of activities. This does not mean that there are not occasional conflicts in scheduling and priorities. Instead, by making use of most of the available resources and opportunities, reindeer herding reflects one aspect of the total individual, household, and village adaptation to the arctic environment.

In general, economic specialization for Native peoples does not appear like a viable, long-term adaptive alternative in arctic conditions.

5. The reindeer industry provides a high-quality red meat protein source as an alternative to imported meat products and local wildlife species. During times of low caribou numbers in regions adjacent to Seward Peninsula, the reindeer industry may be a crucial source of inexpensive meat for people. If restrictions on the harvest of caribou from the Western Arctic Caribou Herd are continued in the future, the reindeer herds will continue to provide the most inexpensive, locally available, and culturally preferred meat alternative. While all herders and their families participate in other resource extraction and processing activities, and in the cash/wage economy to a greater or lesser degree, reindeer herding remains a primary source of income for them through the sale of meat, velvet antlers, and other by-products.

Conflicts between reindeer herding activities and other subsistence activities occur most often during the spring and summer. Fawning and the post-partum period are the most crucial times of year for the reindeer. Yet this is precisely the same time of year (mid-April to late May) when an intensification of subsistence activities traditionally takes place. Seal and beluga hunting, fishing, and bird hunting begin to occupy more and more of people's time, after a winter of relative inactivity. The conflict in the past was resolved by one of several means. The reindeer were brought near the coast where they could be watched on a rotational

basis as men hunted on the sea ice. A few designated people were placed in charge of the herd. As is sometimes the case now, the reindeer were simply left to fend for themselves during fawning season. Increased herding and guarding of the herd during fawning season and immediately afterward should be encouraged to improve fawning percentages survival and to protect the herd against predators.

6. Native foods, including reindeer meat, make up a significant portion of the Native diet on the Seward Peninsula. There is currently an increasing demand for reindeer meat. This is evidenced by the increases in price received by the herders for reindeer meat since 1969. If reindeer numbers continue to remain stable on the Seward Peninsula, the price received by herders, and therefore paid by the local consumers, may continue to increase in the near future.

7. Large reindeer herds can be operated successfully (in a business sense) on the Seward Peninsula. Herds of 4,000 reindeer, using part-time herding, have been successful in the past, and the preceding scenarios suggest that large herds, using full-time herding, can be successful in the future. There is room for improvement. The scenarios presented demonstrate that production can increase with the application of a few basic animal science practices. The decreased slaughter of productive females and increased fawn survival can help in the short run. In the long run, improved bull selection and better age-sex composition of the

herds could serve to increase production. Additional possibilities include the marketing of fawn meat and a sustained slaughter of between 20 and 25 percent of the herds yearly, once sufficient herd size and composition are developed. These changes in herd management practices, including year-round herding of large herds, could generate revenues from the herds greater than the costs of implementing the changes. The net result would be an increase in herder income, labor income, and the probability that reindeer meat would be available throughout the year. Increased production could lead to penetration of already identified markets, both within and beyond the state of Alaska. Local cultural preferences for steer meat and biases against fawn meat would have to be resolved.

8. Government policies, rules, and regulations which reduce herd sizes, reduce the incentive or potential for increased herd productivity, or limit marketing of reindeer products, would have undesirable impacts. There is a good possibility that reindeer meat availability would be reduced. The same could be true of income from herding and its contribution to the local economy and employment. The herders would face a loss in prestige and social standing in their village. Very closely tied to this is that most villagers do not appear to understand the basic thrust of the Alaska Native Claims Settlement Act. While ANCSA was intended to be a vehicle for "a fair and just settlement of all ... aboriginal land claims" (Section 2(a)), the Section 17d(2) provisions of

ANCSA are viewed often as interference with traditional activities on the public lands. For most village-oriented Native people, a change in land management practices is not understandable. Villagers ask why they cannot continue to do the things they have always done when all that appears to happen is that the land will be called a Reserve or Refuge. The personnel of all agencies concerned will have to establish close working ties with the affected villages in order to explain why public lands previously managed under multiple-use guidelines will in the future be managed within narrower NPS or USF&WS management mandates. Public meetings, informal socializing, brochures, radio and television broadcasts, or other media approaches can be employed to provide explanations. The opinions of the villagers should be considered in the course of the development of management plans for the area.

9. The production and marketing of velvet antler is likely to increase in importance to the herders in the next few years. Price received by the herders for this product has increased steadily since 1972. With the interest expressed by new buyers in entering this market, the trend of increasing price received will likely continue (because of competition for the product). Potential conflicts between Reserve or Refuge management and the herders are inherent in velvet antler harvesting practices. These currently involve the use of powerboats, airplanes, and a small helicopter for transporting labor and supplies and for shipping the velvet antler harvested to Nome for shipment out of state.

10. The acculturation process is an abstract, general notion which refers to the economic, social, and psychological accomodations made by the members of one culture to the technology, economics, and values of another culture. The acculturative process will continue on the Seward Peninsula in the near future and is currently giving rise to a class system among Natives, with an upwardly mobile Native elite. Accordingly, as the reindeer herders gain experience in dealing with the federal and state agencies which are concerned with reindeer, the Reindeer Herders Association may increase its operating efficiency. Although the federal agencies may believe that they are not contributing to culture change and the acculturation process, in fact they are. The very presence of National Park Service and/or U.S. Fish and Wildlife Service personnel and their activities cannot but affect the lives of the Natives peoples of northwestern Alaska. The acculturative trend is towards increasing extra-village and regional orientations to problem solving on the part of the people of northwestern Alaska.

11. Increased tourism or visitor use of the Reserve or Refuge due to reindeer herding is unlikely. Since summer is the peak (and virtually the only) tourist season, the only opportunities for herd visitation are when the animals are corralled, unless the visitor wishes to seek them out on the open range. Velvet antler harvesting, catrating, and slaughtering activities will likely be unappealling to most tourists. When the animals are on the open range in summer, they are difficult to locate

from the ground. The expense of locating them from the air is high relative to the reward that might be gained from seeing a herd on the tundra or shore. Aircraft operating restrictions may also preclude this activity. The mere presence of reindeer on the Seward Peninsula utilizing a Reserve or Refuge area may come as an unwanted surprise to many tourists on a group tour. The attraction of reindeer comes from their historical associations on the Seward Peninsula, the possibility of tasting reindeer meat at one of the hotels or restaurants in Nome and Kotzebue, and the thematic role of reindeer at Christmas time. Small parties might be welcomed at the corrallings, especially if they are interested in participating in the corralling activities. There are, however, potential conflicts between visitors, reindeer, and the reindeer herders.

Prominent among the expected conflicts is the annoyance or disturbance which back-country users may inflict on grazing reindeer. The use of visitor access points may also serve to disturb the animals when float planes, wheeled planes, or trucks utilize the access area. The presence of back-country users, their camps, and their food may attract the curious reindeer as well as predators, with resulting unpleasant and possibly serious encounters.

Recommendations

1. d(2) legislation for the Seward Peninsula and surrounding areas of ecological concern should allow the continuation of reindeer grazing on federally managed lands, subject to the terms and provisions of the Act of September 1, 1937 (50 Stat. 902; 48 U.S.C. 250k) and the regulations contained thereunder in 43 CFR 4132. We fully recognize the potential conflicts with other land uses and values which may arise from this recommendation, particularly with management plans for other wildlife such as caribou and migratory waterfowl. However, it would seem more important to allow local residents to remain as locally self-sufficient as possible in the production and procurement of their food.

2. d(2) legislation for the Cape Krusenstern national interest lands, the Noatak River basin national interest lands, and the Selawik River area national interest lands, and all the adjoining areas of ecological concern should not expressly prohibit the use of these lands for reindeer grazing. At some point in the future, it may become necessary and desirable to permit reindeer grazing on any or all of these lands. Advances in the management of reindeer herds, reindeer husbandry, or any disastrous decline in the availability of other wildlife food resources (particularly caribou) may make it locally desirable, and in the national interest, to permit the use of these lands for reindeer grazing, given the historical precedent for herding on these lands. The

local interest may be best served by allowing local residents to operate reindeer herds for their local consumption. The national interest may be best served by allowing local residents to use national interest lands for the production of their food, rather than resorting to the distribution of transfer payments (unearned income) to artificially support the human population.

3. The federal land managing agency(ies) on Seward Peninsula should develop strong working relations with the Reindeer Herders Association. The individual reindeer herder's activities should be allowed to the extent that they legally can be within the Congressional mandate. Range surveys and calculations of carrying capacities of the ranges should be conducted with all possible speed in order to develop efficient management plans for reindeer herding that are compatible with the goals of the local people, reindeer herders, and the agencies of the state and federal governments. Long range baseline research programs on reindeer physiology, biology, and ecology should be encouraged and supported by the state and federal government.

Assuming that reindeer herding is to continue on the Seward Peninsula d(2) lands, several management considerations arise. First it will be necessary for the federal land managing agency(ies) to conduct range surveys and to calculate the reindeer carrying capacity of the areas. Adequate biological information is virtually completely lacking from the Seward Peninsula to determine the role of reindeer in the ecosystem.

This report has indicated the extent and importance of reindeer in the economic and social system of the people on the Seward Peninsula. Without an adequate understanding of the role of reindeer in the tundra ecosystem, an adequate management plan for reindeer cannot be developed. Second, by utilizing the data from such range surveys, the federal agency(ies) will be able to determine, and if necessary regulate, herd sizes, movements, and seasonal range utilization to best protect the range. This is in the agency(ies) interest because it contributes to the preservation of the values which are found in the lands and associated resources on the Seward Peninsula. It might also indirectly benefit the herders because it will enable them to avoid under utiliation of the range, or over-utilization, with consequent range damage or depletion.

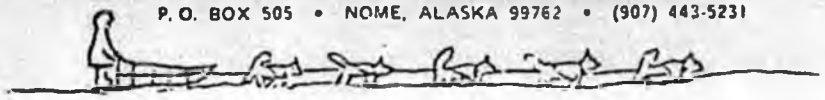
4. The federal land managing agency(ies) on the Seward Peninsula should develop management plans covering the operations of the individual reindeer herders on federal lands in consultation with the herders and other interested parties. The use of atv's, snow-machines, powerboats, airplanes, and helicopters should be permitted under legislative authority and regulation where the agency(ies) concerned can permit their use. As the herders are currently entitled to do, herd operators should be allowed to continue to construct, maintain, and utilize fences, buildings, corrals, reservoirs, wells, and other improvements by permit, as are found necessary for successful reindeer grazing and as are compatible with the goals of the land managing agency(ies) and the values for which

the Reserve or Refuge is established. Denying the use of mechanized transportation for reindeer production, particularly in connection with velvet antler harvesting, would probably force the reindeer herders to forego herding because alternative methods of harvesting antler are either uneconomical or impossible to implement. We recommend that agency personnel attend handlings to insure compliance with rules and regulations regarding mechanized vehicle use, camp fires, waste disposal, and other activities by the herders and antler purchasers.

5. In public relations and publicity materials concerning the Seward Peninsula national interest lands, the federal agency(ies) concerned should stress the local socio-economic importance of reindeer herding. This could be accomplished through the positive presentation of the history of reindeer herding, its current practice, products and their value, and monitoring of range conditions by the managing agency. Interpretive sites, brochures, pamphlets, and visitor guides can all be used as vehicles to explain reindeer herding to the visitor. The potential for unpleasant interactions between visitors, reindeer, wildlife, and the local residents should be carefully presented to avoid visitor-herder-reindeer conflicts. Since visitor-use-days are projected to be low during the first few years of Reserve or Refuge operation, this can give the agency concerned and the herders time to work out the nature of their relationship before visitor use has the opportunity to become a problem.

6. In attempting to minimize visitor and reindeer operation conflicts, agency management plans and orientations for visitors should emphasize the nature of reindeer, their probable and possible reactions to humans, and appropriate mitigating measures to avoid conflicts. These measures could include, but are not limited to: avoiding reindeer whenever they are encountered, not deliberately feeding reindeer (or any wildlife), camping at designated points away from reindeer summering areas (particularly along bodies of water and the coast), and caching food supplies away from tents. In addition, the careful handling of campfires to avoid starting tundra fires and destroying habitat, and the respecting of the private property of reindeer herders such as cabins, corrals, and fences are desirable. Since these improvements are often located on Native Allotment tracts, attention to the property rights of the owners should be given. An apparently abandoned cabin in summertime may in fact be a critical haven for shelter during a winter storm when people are travelling. Entry and the appropriation of any items contained therein is, of course, already prohibited by state statutes, as well as by courtesy.

KAWERAK, INC.
BERING STRAITS NATIVE ASSOCIATION
P. O. BOX 505 • NOME, ALASKA 99762 • (907) 443-5231



NAKAK

January 30, 1978

Representative Alfred C. Nakak
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Representative Nakak:

The Reindeer Herders Association is interested in continueing the reindeer grazing survey in the Seward Peninsula, using the E.R.T. Satellite system.

The RHA board met with Soil Conservation January 17, 1978 at Anchorage with State, Federal and U of A agency personnel. The attendance of those present is enclosed.

I am enclosing documents pertinent to our interest in getting grazing survey done. If there is any possibility of getting a supplemental funding to assist, it would be greatly appreciated.

Bering in mind also of our contact with Mr. Stell Newman, National Park Service and Mr. Fran Mauer U.S.F.&W.S. both with offices at Anchorage in trying to involve their respective agencies to assist us with dollars, since they have D-2 withdrawels within Seward Peninsula. Both gentlemen are out at Washington D.C. involved in the make-up of D-2 legislation. I did call Mr. Newman of the RHA meeting with Soil Conservation of our intent. Mr. Newman said he would check with N.P.S. at D.C. if any assistance would be available.

The following is the cost of the survey of 4½ million acres.

cost per S.C.S.		150,000.00
S.C.S. commitment 1/3 -	50,000.00	
B.I.A. commitment	20,000.00	
funds available		70,000.00
	Short	80,000.00

In discussions with herders and various State/Federal agencies suggestions have been made that agencies involved in Agriculture within the Administration should seek means of funneling Federal dollars towards Reindeer Agricultural Program. Since reindeer is a renewable resource and has great potential with proper application of assistance can be relied upon to cut the cost of living in this area.

Sincerely,

Danny Karmun, Coordinator
Reindeer Contract

DK/kd

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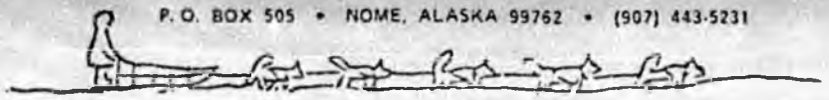

REINDEER HERDERS ASSOCIATION MEETING
ANCHORAGE, ALASKA
JANUARY 17, 1978

On January 17, 1978, at 10:00 a.m. the Executive Board Members of the Reindeer Herders Association met with representatives from State and Federal Agencies concerning range survey. Those in attendance were: Mr. Ted Freeman, Mr. Burt Clifford and Mr. Jim Preston from S.C.S.; Mr. Pete Scorup and Mr. Bob Mitchell from Agricultural Experimental Station; Mr. Edward Kern, Division of Agriculture; Mr. Earl Bracewell, U of A Extension Service; Mr. Bob Leedy, USFWS; Mr. H.P. Gazaway, USDI BIA; Mr. Dave Scott and Mr. Sal DeLeonardis, USDI BLM; and Dallas Cross from NANA. The meeting took place in the conference room of the S.C.S. building.

After welcoming everyone to the meeting, Mr. Karmun asked Mr. Preston to explain how the range survey was made. Mr. Preston stated that in 1976, 4½ million acres were surveyed. He explained in detail how the land sat imagery was used and how through this they try to figure out how much lichen is on the land and how much the reindeer eat per day. It was estimated that the reindeer eat 5-15 pounds per day, but they couldn't be sure of this figure because of trampling and they couldn't be sure that the deer were eating only the top 1/3 of the lichen. Mr. Preston mentioned that Professor Andreayof, Russian scientist determined regrowth takes 3 years for lichen based on a 6 month winter range use and breaking winter range use into 5 units.

Clifford Weyiouanna brought up the importance of studies like this because each herder knows how many deer their range can handle, but don't say exactly how many on their annual report because the present grazing permit states an estimated number of head on a given range. With the grazing survey each herd can be given an actual carrying capacity and work towards the maximum.

Mr. Sal DeLeonardis stated that something the Association should look at carefully is the type of operation going on now and what the advantages are to the cow/calf operation. He felt that it would be better for mass production. He also stressed the social and economic factor placed on the individual herders. He felt that the two should not be mixed.

Mr. Gazaway stated that the Bureau would like to see the survey continued and intensified. He stated that there are funds now available of $20,000.00. He also suggested that a letter be written with strong endorsement from Gary Longley BIA-Nome, for justification of receiving extra monies. Mr. Karmun stated that it is important and his feeling that this survey be conducted with established agencies that have expertise in this field.

Mr. Freeman stated he was sure that if some monies were alloted for range survey, S.C.S. would be able to come up with 1/3 of the monies to help out.

Mr. Sal DeLeonardis stated that if the herders were interested in expanding to maximum operation there were some questions that they would have to answer in order to make some headway.

1. What are the problems?
2. What is the solution?
3. What is the out come going to be, disaster?

The range survey needs to be justified. What is the urgency and need?

Mr. Karmun responded to questions put forth by Mr. DeLeonardis. In the RHA efforts to assist the Reindeer Industry the grazing survey is one of the vital steps to attain viability and steps once determined on carrying capacity to work towards increasing herds by proper husbandry methods. The Reindeer Industry at the present level are unable to meet the regions demands for meat. With the highest costs of living in the nation, our dependence in these renewable resource is heavily relied upon for a more reasonable meat source.

Once determined on actual carrying capactiy of each range, interest by herders is to maximise their herds. Once this is realized other methods of support would be towards creating facilities such as slaughter/freezer plants an outset at Nome for marketing. During my 2½ years with the Reindeer Industry there has been demand for practically every by-product of the reindeer, but we are hampered due to lack of proper facilities to meet the demand.

Those in attendance representing State and Federal agencies all agreed an interest in the grazing survey. Like any State or Federal agency pre-planning and budget requests need to be submitted year in advance. Availability of funds at this time is nil. The RHA representative will check with State and Federal within the Seward Peninsula withdrawel if they would support this venture. It was agreed by the principal agency S.C.S. that they would have to know by February 15th if $150,000.00 can be obtained for this current year. If we are unable to obtain this goal that concerted efforts be made for 1979.

Mr. Dave Scott BLM brought out some facts for the industry to consider. Pressure is mounting that environmental impact statements be accomplished. This applies to the reindeer grazing lands as well. The Reindeer Industry should approach the State to agree to dedicate 160' parallel line for the protection of reindeer and grazing from competing caribou on reindeer grazing lands. This office is interested in the survey and will submit proposal for 1979.

Mr. Gazaway, BIA posed a question to Mr. Freeman S.C.S. if they could do the survey for $75,000.00? Mr. Freeman responded with experience in the NANA survey it could not be done for less than $150,000.00 for 4½ million acres.

S.C.S. reiterated the importance of making use of the satellite

imagery done by U of A Fairbanks, both with Tom George and Dr. Kliens, both have had past experience in this field.

Both S.C.S. and RHA agreed to make contacts with agencies for possibile support in funds and report our findings.

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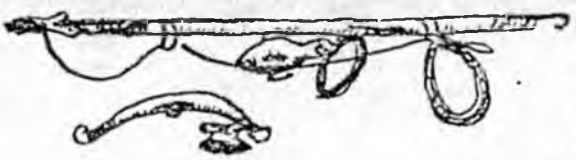

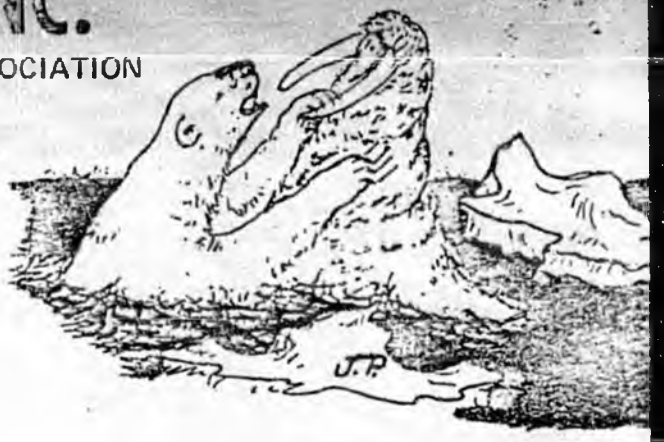

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November 11, 1976

Mr. Edward L. Nygard
Environmental Impact Analyst
Bureau of Indian Affairs
P.O. Box 3-8000
Juneau, Alaska 99802

Dear Ed:

This is a follow up to our telephone conversation regarding the seeking of additional funds towards the agriculture program. The Reindeer Herders Association interests is to continue the inventory and soil survey of reindeer grazing area leases held by the herders.

The NANA Corp. just completed a survey of the grazing areas of Kotzebue, Buckland and Deering. This was in joint efforts with B.I.A., University of Alaska, NANA, State of Alaska and Soil Conservation, funded by these agencies making use of the satellite.

Through this process, grazing area potentials are determined. A herder can also through this process determine the carrying capacity of reindear.

The Reindeer Herders Association feels this to be an important step in maintaining a level to benefit the herder.

The RHA efforts, if funding is made available, is to initiate a 5-year program. And start with the Goodhope and Weylouanna range in Espenberg and Shishmaref.

My records show Goodhope as having 1,157,120 acres and Weylouanna 832,663 acres for a total of 1,989,783 acres.

In checking with NANA, they estimate the cost coming to .03¢ an acre. Based on this figure the cost would be $59,693.49, plus adding

10% for unforeseen inflation.

The following will be the 5-year plan of survey and inventory:

1977	Goodhope/Weyiouanna Espenberg/Shishmaref	1,989,783 Acres
1978	Ongtowasruk/Olanna/Tocktoo Wales/Brevig/Brevig	2,007,394 Acres
1979	Kakarak/BIA/Davis Teller/Nome/Nome	1,885,406 Acres
1980	Johnson/Aukongak/Trigg Kougrok/Golovin/Death Valley	3,100,040 Acres
1981	Henry/Sagoonick/Stebbins Koyuk/Shaktoolik/Stebbins	2,117,960 Acres

I am sending a copy to Mr. Freeman of U.S. Soil Conservation since that department was involved with the NANA survey.

Any assistance in seeking funding is important. I am open to suggestions.

Thank you.

Sincerely,

Danny Kannan, Coordinator
Reindeer Contract

DK/ls

cc: Mr. Ted Freeman

UNITED STATES DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

2221 E. Northern Lights Blvd., Suite 129, Anchorage, Alaska 99504

December 2, 1977

Mr. Danny Karmun
Coordinator, Reindeer Contract
Kawerak, Inc.
Bering Straits Native Association
P.O. Box 505
Nome, Alaska 99762

Dear Mr. Karmun:

In a letter to the Bureau of Indian Affairs some time ago, you requested that the range surveys begun on the Seward Peninsula be continued to cover all of the reindeer range land in your area. The BIA has since contacted the USDA Soil Conservation Service (SCS) to explore the possibility of carrying on further range work next summer.

As you know, SCS was the agency that conducted the range surveys on the reindeer grazing lands within the NANA Regional Corporation's boundaries. The maps and the plant information developed are now being used by the herders, BLM, and SCS in preparing individual range management plans.

If range surveys are to be carried out next summer, several arrangements need to be made as early as possible. We would suggest that Kawerak, Inc. or the Reindeer Herders Association call a meeting of agencies and individuals who have interests in the Seward Peninsula to determine the priority ranges and the support that could be provided. The NANA Corporation and agencies such as BLM, BIA, National Park Service, Fish and Wild Life Service, SCS, and the State Division of Lands may want to participate in such a meeting.

We would appreciate hearing if you are interested in requesting further range surveys and if you think a meeting should be called to discuss the proposal. A January meeting would probably be as early as we could expect to get people together.

Sincerely,

Ted Freeman

Ted Freeman
State Resource Conservationist

cc: Clifford Weyionana, President, Reindeer Herders Association
Ed Nygard, Bureau of Indian Affairs, Juneau, Alaska
John Schaeffer, President, NANA Regional Native Corporation, Kotzebue, AK
Jim Preston, State Range Conservationist, SCS, Homer, Alaska
Dave Scott, Bureau of Land Management, Anchorage, Alaska

KAWERAK, INC.
P.O. BOX 505
NOME, ALASKA 99762

January 6, 1978

Mr. Ted Freeman
State Resource Conservationist
221 E. Northern Lights Blvd, Suite 129
Anchorage, AK. 99504

Dear Mr. Freeman:

In repla to your letter of December 2, 1977 regarding range survey on the Seward Peninsula, I have contacted all the principal agencies and the Reindeer Herders Association board officers.

This is to reconfirm our telephone conversation in which all agency personnal concurred to meet January 17, 1978 at your conferance room, 221 E. Northern Lights Blvd., Anchorage at 9:30 a.m.

The following association officers and myself will arrive in Anchorage on January 16, 1978: Clifford Weyiouanna, president; Alfred Karmun, vice-president; and Palmar Sagoonick, secretary.

I will send separate letters of invitations to Mr. Stell Newman, National Park Service; Mr. Fran Mauer, U.S. Fish & Wildlife Service; and Mr. Ted Smith, Chief State Land Resource.

If there is anything that you might require from us for information prior to the meeting please don't hesitate to call or write.

Sincerely,

Danny Karmun, Coordinator
Reindeer Contract

DK/ls

cc: C. Weyiouanna, Shishmaref
Ed Nygard, BIA, Juneau
Dave Scott, BLM, Fairbanks
Jim Preston, SCS, Homer
G. Longley, BIA, Nome

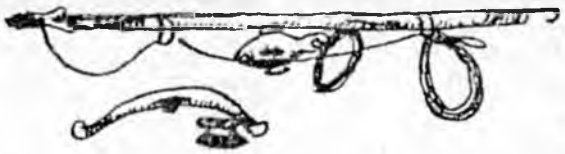
SOIL CONSERVATION MEETING
JAN 17, 1978
ANCHORAGE

Reindee Herders Assoc. Meeting

	Name	Affiliation	Address
1	Ted Freeman	SCS	2221 E Northern Lights Blvd
2	Pete Scorup	Ag. Exp Stn	P.O. Box AE Palmer
3	Dallas Cross	BIA	Box 4-4 Anc, AK 9950
4	Bill Mitchell	Agr. Exp. Stn. Head Agron.	Box AE, Palmer
5	Burt Clifford	SCS	Anchorage
6	Edward Kern	DIV OF AG	PALMER
7	Earl Bracewell	Ag A Extension Serv.	P.O. 869 Palmer
8	Bob Leedy	U.S. Fish + Wildlife Serv.	813 D St Anchorage, Alk
9	H P. Gazaway	USDI, BIA	Box 3-8000 Juneau, ak 99802
10	David O. Scott, Jr.	USDI BLM	Box 1150 Fairbanks, Alk. 99707
11	Clifford Weyiouanna	RHA	Shishmaref, Ak.
12	Samuel O. Aiken	RHA	Nome, Alk
13	Karen Dickson	RHA	Nome, Ak
14	Palmer Sagoonick	RHA	Shaktoolik, ak
15	Alfred K Karmun	RHA	Deering, ak 99736
16	Sal DeLeonardis	BLM	Anchorage
17	Jim Preston	SCS	Homer
18			
19			
20			

KAWERAK, INC.

BERING STRAITS NATIVE ASSOCIATION



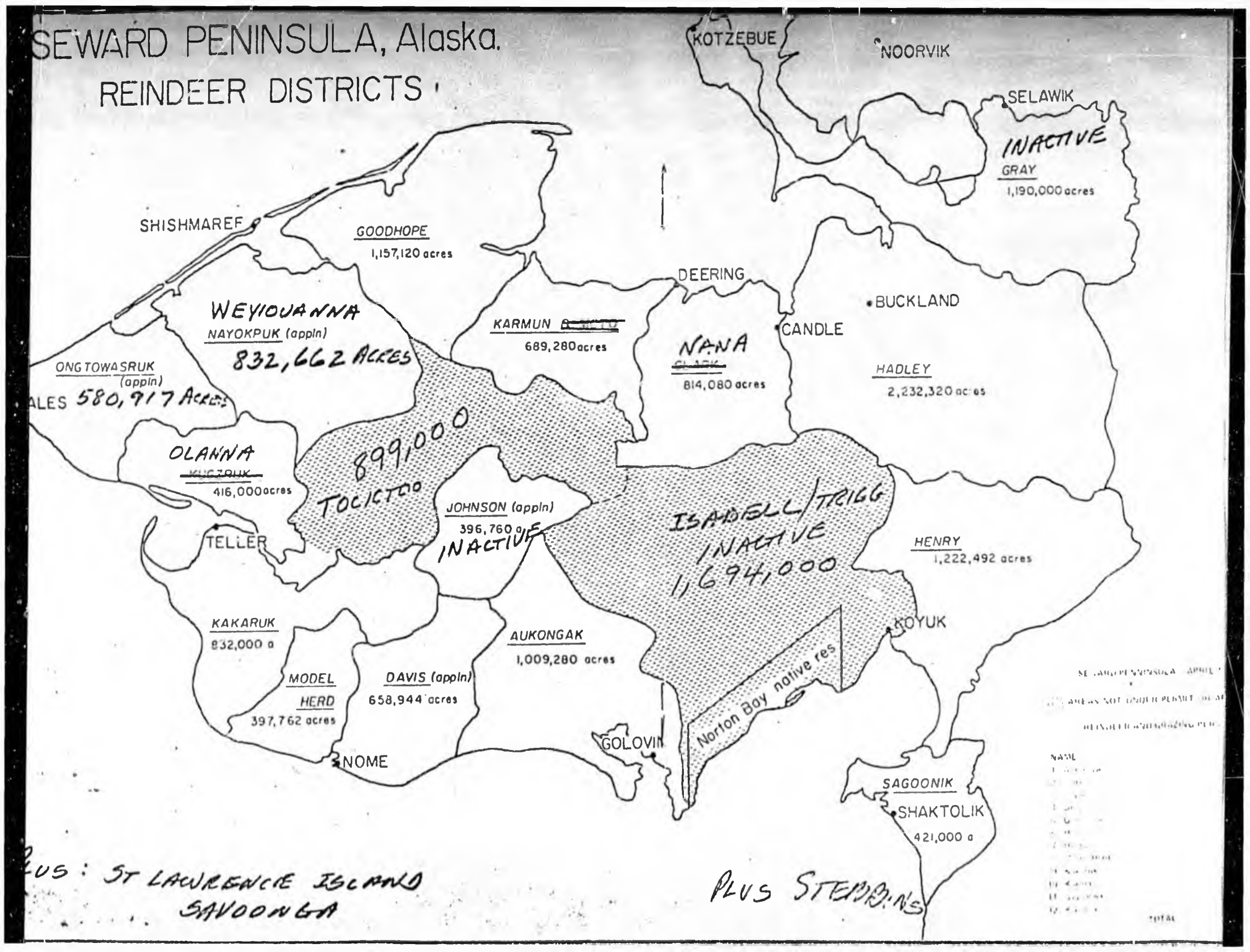
REINDEER HERDERS ASSOCIATION

APRIL 25, 1977

SUBJECT: CURRENT HERDERS LIST SEWARD PENINSULA

HERDER		ADDRESS	
AUKONGAK, SIG JR.		GOLOVIN, ALASKA	99762
DAVIS, LARRY T.	BOX 172	NOME, ALASKA	99762
GOODHOPE, FRED		SHISHMAREF, AK	99772
HADLEY, PAUL		BUCKLAND, ALASKA	99727
HENRY, ARCHIE		KOYUK, ALASKA	99753
KAKARAK, WILFRED		TELLER, ALASKA	99778
KARMUN, ALFRED		DEERING, ALASKA	99736
NANA CORP. HERD (DOUG SHELDON)	BOX 49	KOTZEBUE, AK	99752
OLANNA, WARD		BREVIG MISSION	99785
ONGTOWASRAK, CLARENCE		WALES, ALASKA	99783
SAGOONICK, PALMER		SHAKTOOLIK, AK	99771
SAVOONGA REINDEER CO. (PAT GOLOGERGEN)		SAVOONGA, ALASKA	99769
STEBBINS REINDEER CO. (TED KATCHEAK)		STEBBINS, ALASKA	99761
TOCKTOO, ARTHUR		BREVIG MISSION	99785
WEYIOUANNA, CLIFFORD		SHISHMAREF, AK	99772

P. O. BOX 505 • NOME, ALASKA 99762 • (907) 443-5231


SEWARD PENINSULA, Alaska.
REINDEER DISTRICTS
KOTZEBUE
NOORVIK
SELAWIK
INACTIVE
GRAY
1,190,000 acres
SHISHMAREF
GOODHOPE
1,157,120 acres
DEERING
BUCKLAND
CANDLE
WEYIOUANNA
NAYOKPUK (appln)
832,662 ACRES
KARMUN
689,280 acres
NANA
814,080 acres
HADLEY
2,232,320 acres
ONG TOWA SRUK
(appln)
ALES 580,917 ACRES
899,000
TOCICTOO
OLANNA
416,000 acres
JOHNSON (appln)
396,760 a
INACTIVE
ISABELL/TRIGG
INACTIVE
1,694,000
HENRY
1,222,492 acres
TELLER
KAKARUK
832,000 a
AUKONGAK
1,009,280 acres
KOYUK
MODEL
HERD
397,762 acres
DAVIS (appln)
658,944 acres
Norton Bay native res
GOLOVIN
NOME
SAGOONIK
SHAKTOLIK
421,000 a
PLUS: ST LAWRENCE ISLAND
SAVOONGA
PLUS STEBBINS

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 835
Title Special Appropriation to DNR for Reindeer Range Survey
Requested by _____ Date 3/1/78

II. FISCAL DETAIL
Agency Affected Natural Resources
Program Category Affected Economic Development-Agriculture
Budget Request Unit(s) Affected Administration and Support - Agriculture

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		80.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		80.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		80.0				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 3/1/78 PREPARED BY Patrick W. Conheady
AGENCY Department of Natural Resources
PHONE 465-2400

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

33-001 (Rev. 12/77)

HB

8354

Alaska State Legislature

House of Representatives

Committee on Resources

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

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1a. HB 854-Leasing of state land for oil and gas development
 b. Fiscal note for HB 854
 c. Applicable Alaska Statutes

2. Analysis of bill prepared by Legislative Affairs Agency

3. "Study of State Petroleum Leasing Methods and Possible Alternatives" prepared by the Department of Natural Resources, February, 1977.

4a. Transcript of Milton Lipton's comments to the joint Senate/ House Resources Committees on State leasing policy (January 25, 1978).
 b. Prepared testimony/comments on HB 854.

5. "Oil and Gas Leasing Policy, Alternatives for Alaska in 1977", by Dr. Mason Gaffney, February 1, 1977.

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
HB 854	2/28/78	Dept. of Natural Resources	3/16 & 3/17/78
	"	Dept. of Commerce	" "
	"	Dept. of Revenue	" "
	"	Alaska Pipeline Commission	" "
	"	N.W. Alaska Pipeline Co.	" "
	"	State/Fed. Land Use Planning Comm.	" "
	"	Special Committee on Royalty Oil	" "
	"	Div. of Minerals & Energy Mgmt. (Joe Green, Dir.)	" "
	"	Alaska Oil & Gas Association (Keith Arnold)	" "
	"	Jack Roderick, Dept. of Natl. Res.	" "
	"	Exxon (Bob Walker)	" "
	"	Steering Council for Alaska Lands	" "
	"	Keith Specking	" "
	"	Geoff Haynes	" "
	"	Alaska Federation of Natives	" "

HB 257

February 17, 1978

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

Dear Mr. Speaker:

Under authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill extensively amending and updating AS 38.05.180, Oil and Gas Leasing.

I am pleased to present for your consideration this major piece of legislation dealing with Alaska's energy future. Not since statehood has the legislature addressed itself to determining how best to lease our petroleum land. Conditions have changed dramatically since then, both for the petroleum industry and the state, and it is time to make such a reappraisal.

The proposed changes will update the leasing law to provide increased public control over exploration, development, and production from state land, obtain a fair return from our non-renewable resources, and, at the same time, provide land from which explorers may find new energy supplies.

How Alaska leases its oil and gas lands will in large part determine our continuing relationship with the oil industry. Many of the problems we now confront in determining the state's fair share of the Prudhoe field could certainly best have been resolved at the time the initial leases were offered by the state. This legislation would make that more likely in the future.

As you are aware, Congress is presently debating a new law covering federal oil and gas leasing on the

Outer Continental Shelf. As you are also aware, much of the attractive OCS land is directly adjacent to Alaska's three-mile offshore land. For this reason, my proposed legislation attempts to be as inclusive as the federal OCS legislation, but more workable, and thus, hopefully, more acceptable to the oil and gas industry.

This legislation is designed to accomplish a number of important state objectives. First, it requires state land to be offered competitively under any of several new leasing methods, including bidding by royalty, sliding royalty net profits and work commitment or a combination of any of these methods. Under certain circumstances, land may be offered on a noncompetitive basis.

Second, it reduces the length of the term of a lease from ten years to five years, to assure that exploration begins promptly once state land is leased. Under certain severe environmental conditions a lease may be for a longer period, but not to exceed ten years.

Third, the legislation increases rentals, including those on shut-in fields, to increase incentives to explore and produce oil and gas fields.

Fourth, the bill grants to the state the right to purchase up to 16 2/3 per cent of the oil and 100 per cent of the natural gas or gas products from the lease, thereby protecting sale commitment of royalty oil and gas in the event the state's royalty is reduced on marginal fields.

Fifth, it reduces the acreage limitation on state uplands so that more companies will have an opportunity to participate in exploring in Alaska and, for the same reason, it allows the state to restrict joint bidding by major or international oil companies.

Finally, the legislation provides that the executive branch will file two reports with the legislature each year. One will outline the state's leasing program for the forthcoming five years. The other will explain the leasing methods used or to be used. I have chosen this method of informing the legislature and the public because I believe there is a need to create as much certainty in leasing policies and procedures as possible. Requiring a five-year state

leasing program to be made public will, I believe, lend stability and predictability to the petroleum exploration business in Alaska and will also raise the level of consciousness of the citizens of Alaska about the workings of the oil business. I can think of no better way to the inform the legislature and the public than to report on a regular basis what land will be made available for oil and gas leasing and by which of several leasing methods the state proposes to offer that land.

The second report will note which leasing methods were used during the preceding year and which methods are proposed to be used in the coming year. Hopefully, enough explanation as to why one method was chosen over another will help educate us all. Although this places an increased burden on those chosen to make these day-to-day decisions, I think it appropriate to use this public accounting procedure for all subsequent state oil and gas lease sales.

Through your leadership, the legislature and my Department of Natural Resources have worked together in an effort to find a solution to Alaska's future leasing policy.

The legislature's action in commissioning Dr. Mason Gaffney's study last year and the subsequent work by the department has paid dividends in developing our understanding of the options available to the state. I wish to thank you for your foresight and cooperation in this most important matter.

Sincerely,

Jay S. Hammond
Governor

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 354
Title: Leasing and exploration of state land for oil and gas development
Requested by: Governor Date:

II. FISCAL DETAIL
Agency Affected: Department of Natural Resources
Program Category Affected:
Budget Request Unit(s) Affected:

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
Existing administrative staff are capable of evaluating and carrying out lease sales under any of the proposed leasing methods within the reporting period unless the number and volume of sales in significantly larger than expected. Should net profits or a post-discovery type leasing method be used by the State, prior to production some auditing and/or assessing functions will have to be increased. However, some of these services are now being performed by Department of Revenue personnel in reserves tax assessing, and by 1983, or thereabouts and beyond, when the impact of production is felt, may be interchangeable with Natural Resources personnel.

Jack Roderick

IV. DATE February 6, 1978 PREPARED BY Jack Roderick
AGENCY Commissioner's Office, Dept. of Nat. Resources
PHONE 279-5577

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

33-001 (Rev. 12/77)

LETTER OF INTENT

CSHB 854 (RESOURCES)

The Honorable Hugh Malone
Speaker of the House
Alaska State Legislature

Dear Mr. Speaker:

The Resources Committee substitute for House Bill 854 makes numerous changes in the legislation as proposed by the Governor. Two of these changes involve the deletion of the following language:

1. Subsection (f) on page 6.

2. In subsection (j) the following sentence (at the top of page 8 in the original bill) - "The commissioner may provide by regulation and in the lease that the lessee may earn production rights only to the depth drilled at the beginning of production from the lease."

The record should show that the committee's intent in deleting these two items was not to limit the discretion of the Commissioner of Natural Resources in these areas, but simply the result of its determination that the authority in both of these areas is implied, and does not require special authorizing language in the bill.

Alvin Osterback

Alvin Osterback, Chairman
House Resources Committee

Date: 4/14/78

DESCRIPTION OF LEASING METHODS IN HB854

Currently, the State of Alaska's leasing system is a cash bonus bid with a minimum fixed royalty of 12.5 percent. The methods outlined below include the present system with different fixed royalties, sliding scale royalty with bonus bid, sliding scale royalty bid with fixed bonus, net profit share bid with fixed bonus, royalty bid with fixed bonus and exploration work commitment. The basic elements of these methods are summarized below.

(1) Bonus Bid With Fixed Royalty

Bonus bid with fixed royalty is the system currently used by the State of Alaska. In a lease sale, the winning bid for a tract is the one which makes the highest sealed or auctioned cash bonus bid. There is also a minimum royalty of 12.5 percent. An advantage of this system is that government receives revenue regardless if there are economical quantities of oil or gas found and/or produced. To avoid early termination of production, royalties need to be flexible during a field's declining years.

(2) Sliding Scale Royalty With Bonus Bid (or Sliding Scale Bid with Fixed Bonus)

Under this system, the government receives a cash bonus bid and a sliding scale royalty. We used 12.5 percent as a minimum figure and 62.5 percent as a ceiling wherein the rate in any period is dependent upon the production of that period.

The royalty rate is graduated in much the same manner as the federal personal income tax. Table I gives two examples of a sliding scale royalty schedule. The royalty is progressive, that is, the royalty on additional production increases. For example, in the South Central Area, the initial 500 barrels pay a royalty of 12.5 percent, the next 500 barrels pay 25 percent. The royalty rate increases by 12.5 percentage points per 500 barrels until 2000 barrels of output are achieved. All production beyond 2001 barrels pays a royalty of 62.5 percent. Thus, if production reaches 5000 barrels, the average royalty rate is 50 percent. In the limit, the average rate would converge towards 62.5 percent as daily production continues to increase.

As field productivity declines and well production falls, the producer backs down the schedule and royalties decline. In order to optimally exploit the field, the royalties should decline to zero near the end of field life. Actually, final rates of five or six percent would result in minimal early shut down.

TABLE I
TYPICAL SLIDING SCALE ROYALTY SCHEDULES

SOUTH CENTRAL AREA

Daily Average Prod. Rate (Bbls./day)	Incremental Royalty Rate (%)	Royalty For Specific Producing Rates: Producing Rate (Bbls./day)	Royalty Production (Bbls./day)	Average Royalty Rate (%)
-500	12.5	500	62.5	12.50
501-1000	25.0	1000	187.5	18.75
1001-1500	37.5	1500	375.0	25.00
1501-2000	50.0	2000	625.0	31.25
2001-2500	62.5	2500	937.5	37.50
		3500	1562.5	44.64
		4500	2187.5	48.61
		5000	2500.0	50.00

NORTH SLOPE AREA

Daily Average Prod. Rate (Bbls./day)	Incremental Royalty Rate (%)	Royalty For Specific Producing Rates: Producing Rate (Bbls./day)	Royalty Production (Bbls./day)	Average Royalty Rate (%)
-1000	12.5	1000	125	12.50
1001-2000	25.0	2000	375	18.75
2001-3000	37.5	3000	750	25.00
3001-4000	50.0	4000	1250	31.25
4001 and above	62.5	5000	1875	37.50
		7000	3125	44.64
		9000	4375	48.61
		10000	5000	50.00

Note: The Sliding Scale Royalty Schedule for the North Slope area is significantly higher than for the South Central area because the higher North Slope operating costs result in a much higher economic limit.

Hopefully, this illustration clarifies the relationship between production rates and royalty rates.

Greater flexibility in setting the initial rate is the major advantage of this system while not running the risk of an uneconomically (for Industry) high royalty rate. On the other hand, to achieve an overall lower royalty payment, a company might spread out production over a longer period of time. Usually, however, because of the time value of money and increased operating costs, oil companies generally try to accelerate production.

(3) Net Profit Share Bid With Fixed Bonus

A small fixed bonus is required as earnest money. The bonus is low enough to encourage producers to bid a high net profit share while permitting profitable development.

(4) Royalty Bid With Fixed Bonus

This system utilizes the same method to calculate fixed bonus as described for Net Profit Share. The bid parameter is a function of production instead of net profits. Since the bonus is fixed, interested parties bid on the royalty rate that the government is to receive. The advantage of royalty bidding is that little front end money is needed by Industry. However, this could encourage speculation causing an overbid. Royalty bidding should encourage more competition among bidders and may allow the smaller companies a better chance of winning the tract.

(5) Work Commitment With Fixed Bonus, Royalty or Net Profit Share

The government itemizes the performance criteria such as the rate and amount of work to be performed on each tract. The total bid specified in dollar terms and a portion of the bid used for exploration and development activities. This system gives the government some control over the rate and extent of resource development.

TWO VIEWS ON BIDDING STRATEGIES

WEALTH MAXIMIZING STRATEGIES FROM THE STATE'S VIEWPOINT

The choice of bidding method cannot be made on the basis of any single criteria but is the result of evaluating a number of factors including but not limited to the potential economic payoff and physical characteristics of the lease area. HB854 offers essentially four leasing schemes. (1) Bonus Bid - Fixed Royalty, (2) Royalty Bid - Fixed Bonus, (3) Net Profit Bidding with Fixed Bonus, (4) Work Commitment with Bonus Bidding. These options will be briefly evaluated.

Bonus Bid - Fixed Royalty

If the royalty is fixed at 12-½%, there is no reason to use this option. It is of historical value only. At higher fixed royalties, it has some merit, but the higher fixed royalty means a lower bonus bid which is supposedly the advantage of the system. Private discount rates are too high for bonus bidding to be advantageous to the State. For example, a brief examination of an annuity table suggests that increases in the discount rate rapidly diminish the present value of a future income stream. This income stream can be interpreted as the discounted net revenues resulting from the potential discovery and development of an oil field. Table II illustrates the discount rate effect.

Table II
Present Value of an Annuity of $1 Million
(Values in 10^6)

Number of Years	Discount Rates					
	6%	10%	14%	16%	18%	20%
20	$11.470	$ 8.514	$6.623	$5.929	$5.353	$4.879
30	13.765	9.427	7.003	6.177	5.517	4.979
N	16.67	10.00	7.14	6.25	5.56	5.00

From the State's viewpoint, a 6% discount rate may properly reflect the present value of the income generated by the potential oil discovery. The industry, on the other hand, is likely to discount the future net income stream at much higher rates, say 20%. Thus, the maximum bid under ideal circumstances would be $5 million for an income stream that would yield net revenues of on million per year in perpetuity. Perpetuity is longer than the life of Prudhoe Bay.

Royalty Bid - Fixed Bonus

Relatively easy to administer - reduces risk and front end filter to the private sector. With sliding scale, most early shut down problems are avoided. The fact

that the State receives a revenue stream over a 20^{+} year time horizon also is an attractive feature. The Beaufort Sale is an ideal candidate for a royalty bidding scheme.

Net Profit Bidding

This is very attractive from a risk sharing point of view. All risks (geologic, exploration, development, and production costs as well as product price) are shared with the industry. Would increase exploration and development in remote high risk areas. May be useful where there is low probability of bid find. Under ideal circumstances (political) is the best of all possible options but does have serious administrative problems.

Work Commitment

Cases where State wants information and is willing to specify type of information desired. Good for high risk areas in remote locations. May also be used where the State wants more information before putting structures up for competitive bidding scheme.

On balance, the royalty bidding schemes represent a substantial improvement over bonus bidding and are administratively tractable. Given the time to build the expertise, it may be advisable to shift to profit sharing or ad valorem schemes.

MULTIPURPOSE STRATEGIES

Bonus Bids

Bonus bidding should be applied in cases where the State has either:

(a) A very great amount of knowledge about the resource, or
(b) The prospect is of extremely high risk, the lessor has little knowledge of the resource and expected value revenues would be marginal.

The first case (a) where tracts might be offered for Bonus Bidding could be that of a drainage or near drainage situation where the State wished to maximize its near term discounted revenues. It would be advisable to not offer all of the tracts for bonus bidding, but to withhold a percent of acreage to be sold at a later date, (Report 2-77). Also, since royalty and other bidding methods have shown to offer higher expected value revenues for lower risk cases it could be advisable to mix royalty bidding with the bonus bidding, a practice followed by the Federal Government in the recent Cook Inlet OCS sale.

In the second case (b), that of extreme high risk, bonus bidding can be used as a filter to determine the value of marginal tracts. This is discussed under the section on (t) low potential, high risk and previously leased.

Report 2-77 indicates that for very high risk cases all bidding methods approach the same level of expected value income for the State. In cases of small and marginal potential reservoirs the bonus bid method with its ease of administration might afford optimum state revenues. Report 2-77 also indicates that in probability of success percentages of 1 percent or less bonus bids could afford higher revenues, but the State should ensure that leasing under such high risk cases only occurs when sufficient knowledge is gained to indicate that the land to be leased is of such a low potential. For example, a geologic structure as large as the Prudhoe Bay anticline may have had a high degree of risk before it was drilled but its potential to hold enormous reserves was there. Bonus bidding should not have been used in that instance.

In summary, bonus bidding can be used when:

(1) Very small potential reservoirs are expected;

(2) Extreme risk is expected and the gaining of sufficient knowledge to determine the presence of reservoirs is unwarrented because of marginal to low potential indications.

(3) A sliding royalty should be considered in all bonus bid cases;

(4) This method could be used in a mixture with other methods such as royalty bidding;

(5) Also, in general, this method should only be considered when leasing in the less desirable state areas, i.e. those below the top 10 rank.

Royalty Bidding - Fixed Bonus

Report 2-77 indicates that royalty bidding and profit sharing deliver the highest expected value revenues to the State of all bidding methods. It is particularly effective where the probability of occurrence is high (i.e. low risk) and especially when the expected reservoirs are large. A sliding scale should be added in the declining production years to eliminate the problem of premature shut down. Cases for royalty bidding would be when:

(1) The State has enough knowledge to assess the size of potential traps.

(2) Potential reservoirs are not extremely small or of extreme risk.

The Beaufort Sea sale is a good example of a case for using Royalty bidding on tracts. In general, this method should be considered when leasing in the top 10 leasing areas on the desirability scale.

Net Profit Bidding

Net profit bidding would be most advantageous when costs and oil prices are in a state of extreme fluctuations making economic predictions unreliable. In remote high risk areas, this method might attract stronger bids than the royalty

or the bonus bid method.

Of the 35 potential State leasing areas, this method might be used to advantage on those areas below the top 10 in desirability.

Work Commitment

(See section (t)).

This bidding method can be best used where the State has a large (i.e. 100,000+ acres) area of probable low potential where industry has shown a general lack of interest in exploration and leasing. By offering a large area for lease to one lease owner, the State provides an extra incentive to undertake exploration and the State ensures the exploration by making the bid variable.

This method would be used in remote low potential high risk areas. Some of the State's 3 mile limit lands such as Area IX might be applicable to this method.

Low Potential & High Risk and Previously Leased Section (t)

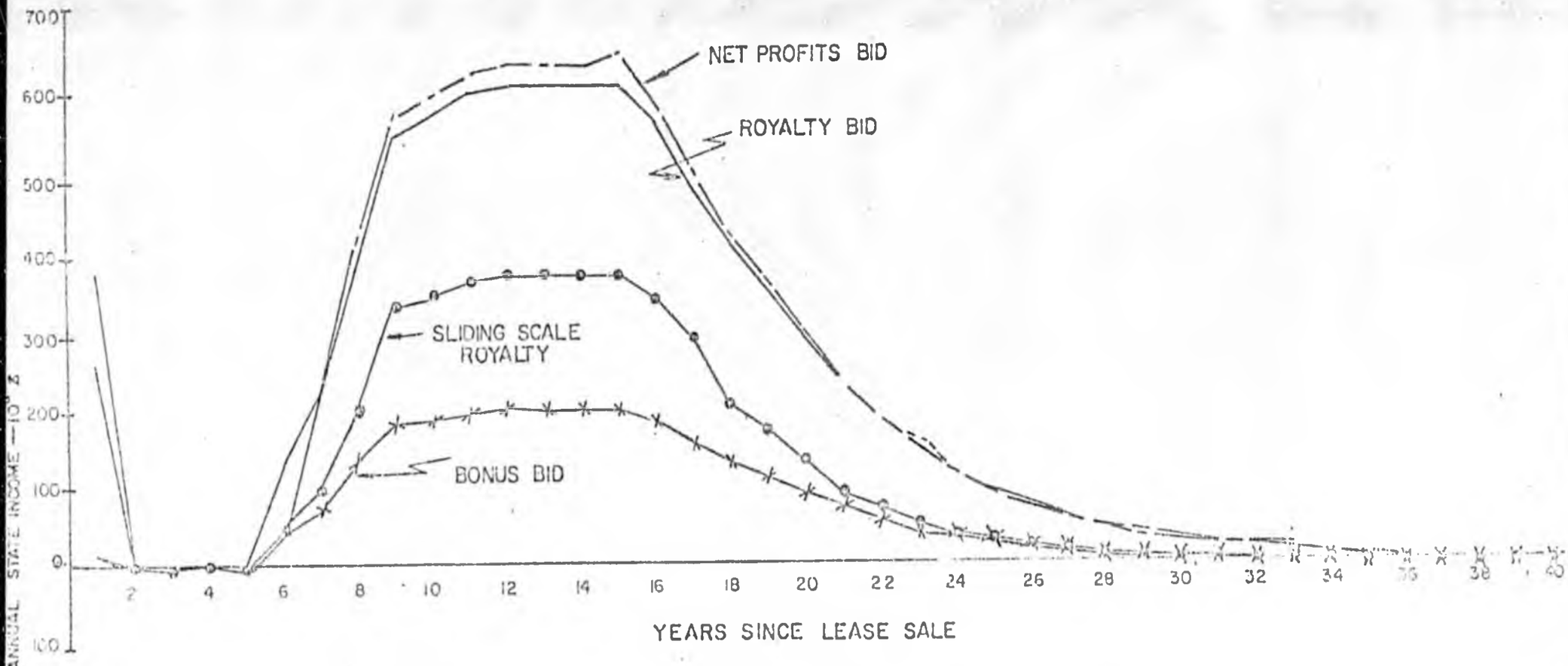
On the basis of exploration knowledge, lack of interest by industry and reasonable analysis, the department may determine that lands have very low potential for oil and gas.

As a means of encouraging the evaluation and possible development of these low potential lands, the department could:

(1) Offer the lands for competitive lease using a bonus bid with sliding royalty. A minimum bid equal to the first year's rentals could be used to filter the bids. This should give a check on the potential of the lands. The sliding royalty would act as a safeguard for very low value bonus bid tracts if a discovery is made later on the lands.

(2) On tracts that receive no acceptable bids, the commissioner could hold a non-competitive similtaneous drawing after proper notice (30 days). Tracts not receiving applications for the drawing could then be opened for over the counter applications. Tracts could be offered at fixed 50¢/year rentals, 5 year terms. A sliding scale royalty would be used in all cases to provide a revenue safeguard against future potential discoveries.

(3) In some cases, all tracts not receiving acceptable bids could be aggregated into large blocks (100,000 acres or more) and offered for work commitment bidding or development contracts.



COMPARISON OF STATE INCOME
FOR VARIOUS LEASING METHODS
AT 90% CHANCE SUCCESS

BEW 1-30-78

LEASING METHODS EXAMINED

BUT NOT INCLUDED IN HB 854

1. The so-called "dual leasing" system which would authorize the State to issue separate exploration and production leases. Senator Ted Steven's amendment to S-9 would permit the exploratory lessee to share with the government (Federal) the costs of the exploratory drilling program, which would be managed by the lessee, in exchange for a share of the revenues received by the government from a subsequently issued production lease.

   The Administration believes that the State can know before it offers its land for drilling what development and production activities it expects to take place.

2. Dr. Mason Gaffney's ad valorem charge, or a "post" royalty system versus the "ante" systems in HB 854. In other words, the state determines its take before discovery, not after. Other governments, like the Canadian national, are going to the "post" systems, i.e. "progressive incremental royalty."

3. Incentives. There are no direct incentives to lessees contemplated in HB 854, except that "work commitment" would allow cash bonuses not to go to the government but instead used by industry for exploration.

4. Government equities in leases or state-owned and operated exploration companies are not envisioned in HB 854.

5. Oil Payment Bidding - shift royalty to rental.

6. Performance System which provides government with the authority to specify the exact rate and extent of resource development.

7. Share Bidding or Phillips Plan. Bonus bids are entered for the entire structure instead of for a specific tract. Based on their equity in the field, each company receives a percent of the profits or losses with a maximum percentage participation by any one company.

8. Alberta's so-called "checkerboard" leasing system wherein a reservation holder may apply for leases over not more than 50% of the area in the reservation in a checker-board pattern. These leases convey the right to produce and sell the Crown's oil and gas, and the government retains the right to alter unilaterally the terms and conditions of the arrangement.

SUMMARY OF FEDERAL OCS REGULATIONS

PERTAINING TO GEOLOGICAL AND GEOPHYSICAL INFORMATION

Title 30, Section 251.12 of the Code of Federal Regulations specifies that individuals and companies granted OCS exploration permits are required to allow the Department of the Interior (DOI) to inspect and select the forms of information listed below. The permittee must notify the DOI immediately of the acquisition or analysis of any geological data (part a of the section) or the acquisition, processing, or reprocessing of any geophysical data (in part b) collected under the permit. The DOI has at least one year after such notification to choose the material. A longer time period may be specified in the individual permits. The permittee is not required to submit interpreted geological or geophysical information for inspection and selection. If the permittee transfers geophysical data or processed geophysical information to a third party or a third party who has received geophysical data or processed geophysical information directly or indirectly from a permittee transfers said data or information to another third party, the transferor must notify the DOI of the action and bind the third party to the obligations of the permittee. The first set of regulations of this type were approved and put into effect in November, 1975.

The geological data from which the DOI may select includes: (This applies to COST-type and other stratigraphic test holes.)

1. Complete record of all geological and geochemical data and information resulting from each operation;

2. Paleontological reports identifying the microfossils by depth, unless washed samples are kept for inspection by the USGS;

3. Copies of well logs or charts (electrical, radioactive, sonic, etc.);

4. Core or bottom samples analyses or a representative cut of the samples;

5. Detailed descriptions of hydrocarbon shows or hazardous conditions; and

6. Other geological data and analyzed geological information obtained under the permit, as specified by DOI.

The geophysical data, processed geophysical information and reprocessed geophysical information which may be selected includes:

1. A complete record of each geophysical survey conducted, including the final location maps of all survey locations;

2. All common depth point and high resolution seismic data;

3. Processed geophysical information derived from the seismic data;

4. Geophysical data and processed information obtained from, but not limited to:

a. Shallow and deep subbottom profiles

b. Bathymetry

c. Side-scan sonar

d. Magnetometer systems

e. Bottom profiles

f. Gravity surveys

g. Magnetic surveys

h. Special studies such as refraction and velocity surveys, and

5. Reprocessed information such as true amplitude sections, migrated sections, and bright spot analyses.

The DOI may choose any or all of the above data or information at any stage of processing. Thus far the local USGS Conservation Division Office has been selecting final processed data and information. The geophysical data must be kept confidential for ten years after the issuance of the permit. Processed, reprocessed, and interpreted geophysical information is released to the public ten years after it has been submitted to the USGS. Geological data and analyzed and interpreted geological information obtained from deep stragigraphic tests are released five years after completion of the test well or 60 calendar days after the issuance of the first Federal lease within 50 geographic miles of the test site, whichever is earlier.

STATE'S RIGHT TO PURCHASE OIL & GAS IN HB 854

The State has the right in HB 854(v) to purchase not more than 16 2/3% of the oil and up to 100% of the gas at the regulated price or fair market value at the point of sale. The right to purchase is needed to protect the "in kind" taking of its royalty by Alaska, a sale of said royalty, and a subsequent reduction of the royalty in the later stages of production (d).

New Mexico, 1973, enacted a law which gives it the right to reserve an option to purchase at any time at the prevailing market price any or all minerals, including oil and gas, produced from State land. Thus, New Mexico may purchase 100% of the oil and gas found on State land.

Whereas the New Mexico Commissioner is authorized to waive the reservation option with respect to any specific mineral, he may not do so for oil or gas.

The Act, Chapter 26 of the Session Laws of 1973, has never been exercised by New Mexico; thus no opportunity has been given to test its constitutionality.

If Alaska were to reserve an option to purchase up to the amount of the royalty, fixed or bid, an equivalent net profit share would have to be determined.

TESTIMONY BEFORE ALASKA HOUSE RESOURCES COMMITTEE
ON HOUSE BILL 854
APRIL 8, 1978

(The following is written from notes which were referred to in the testimony before members of the committee who were holding a work session on the bill.)

My name is John Carson. I am Division Geologist in Alaska for Chevron U.S.A. Inc. I testified before your committee on March 17 on this same bill. My purpose today is threefold.

1. To re-emphasize the major points of my previous testimony;
2. To address "Suggested Revisions to HB 854" submitted by another major oil company; and
3. To answer any questions that the committee may have at this time.

In reviewing my previous testimony I would like to first restate that Chevron sees no need for HB 854. We do see a need for a stable, predictable, planned leasing program on State of Alaska lands.

In my earlier testimony I stated seven points of opposition to the bill. I would like to repeat those now.

First, we oppose the wide variety of bidding methods to be employed.
Second, we are opposed to the requirement of having to submit our proprietary data to the Commissioner.
Third, we oppose the State's right to have a call on production above their royalty share.
Fourth, we feel the five-year term is too short.
Fifth, we oppose the Commissioner having to submit his leasing program to the legislature and also to his having to defend the methods used.
Sixth, we oppose the ban on joint bidding between major oil companies.
Seventh, we feel the reduction of chargeability on upland acreage from 500,000 to

200,000 is arbitrary and unwarranted.

Chevron's reactions to the "Suggested Revisions of HB 654" can be categorized in three ways: First, we will emphasize where we disagree with the revisions, second we will support a revision and amplify by adding comment; and third, we will make no comment to those sections with which we agree. I would now like to proceed through the copy of the dually printed bill which displays the original text on the left-hand side of the page and displays "Suggested Revisions" on the right-hand side.

Page 5, (c). Chevron supports the deletion of this section. We feel that the Commissioner will lose control of the leasing procedure. We are also concerned that the requirement that no method be used more than 50% of the time without reason will encourage experimentation into untried methods.

Page 6, (c). Suggested revisions have added wording at the bottom of the page which apparently has the intent of forcing the Commissioner to use cash bonus bidding unless the Commissioner finds that another method will better serve the State's purpose. Chevron agrees with the intent, but feels that this clause has nothing in it which will satisfy that intent. The Commissioner can surely "find" that a method he chooses is better. He does not have to defend it or prove it. We feel that a far better way to treat this matter is to delete those bidding methods from the bill which are onerous. In our opinion, all are onerous except cash bonus bidding which we feel is the best method for determining the market value of oil and gas leases.

Page 9, (d). While we agree that, if royalty bidding is used, an ity to reduce the royalty will have to be employed, we think this clause points one of the problems with royalty bidding. The industry is encouraged to bid a high royalty to win a tract thereby entering into a contract which they may not be able to fulfill.

Page 10, (f) Original HB 654. We agree with this deletion. The Commissioner already

has this authority.

Page 10, (f) Suggested Revisions. Chevron feels that this drilling incentive credit system may have some merit. However, we feel it must be spelled out very clearly as to what portion of what costs will be applied. Footage drilled may be misleading. Also it seems that it must be made clear as to what areas the credit may be applied to.

Page 13, (j). Chevron feels that a ten year lease term is mandatory. Operating in Alaska's environment is particularly troublesome with a five-year term. A special problem is confronted when the original well drilled is unsuccessful but encourages the operator to explore farther. In such a case the unit which may have been formed to drill the first well will fall apart unless another well is drilled within a specified time. Time may be needed to record more seismic data. In fact, two seasons may be needed. If enough encouragement is displayed to drill another well, then further permitting, rig contracting, etc., will use up valuable time.

Chevron feels that a reasonable rental escalation for the last portion of a ten-year lease term may be acceptable. However, rental rates should be frozen and not subject to escalation once reserves are established and the operator must wait for gathering or transportation systems to be permitted and installed. These delays are often out of the operator's control and he should not be punished for them.

Page 13, (j). The suggested revisions have wisely deleted the sentence about two-thirds of the way down the page which grants authority to the Commissioner to grant limited production rights. This is an onerous, unworkable stipulation and ignores traditional oilfield practices as well as subsurface geometric principles.

Page 18,(o). The last sentence of this section should be deleted. Chevron is unclear as to what is intended but if the State is to become a working interest participant, we are opposed. In addition, we do not think the taxpayers should share in this type of risk capital expenditure.

Page 21, (u). For reasons stated previously we agree with the deletion of the section which could ban joint bidding by any companies, including majors.

Page 21, (v). Chevron does not feel that the State should have a call on any of an operator's production above the royalty share. An operator needs assurance that he will have a certain amount of production in order to enter into and fulfill his contracts. The suggested revisions are a step in the right direction but they do not go far enough.

Page 21, (w). Chevron is opposed to submitting our geophysical data to the State. We are concerned that confidentiality which will be threatened by oversights and State employees leaving to enter private industry. These data are the very heart of our program and we are not willing to see their confidentiality threatened.

Page 22, (c). Although we still do not see the need for the reduction of acreage chargeability limitation in the upland, we feel that 400,000 acres is more reasonable than 200,000.

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUL 1 1976

JUN 29 1976

BAN ON JOINT BIDDING

Dear Mr. Chairman:

Section 105(e) of Public Law 94-163, the Energy Policy and Conservation Act, requires me to report to the Congress with respect to the feasibility and desirability of extending to onshore Federal energy leases the prohibition which now exists on joint bidding for Outer Continental Shelf oil and gas leases. I am happy to enclose the required report.

The recommendations of the report are that a joint-bidding ban be extended to oil and gas onshore, and to coal, but that no action be taken at this time as to oil shale, since no general leasing program for oil shale is now under way. It is our feeling that although little or no joint bidding has actually occurred in the past for onshore oil and gas or for coal, on balance the advantages of a limited ban seem to outweigh the disadvantages in these energy materials. We see no need to decide the issue for oil shale until general leasing is planned, at which time further experience with oil shale development may enable us to make a better-informed decision.

As you know, a ban on Outer Continental Shelf joint bidding was originated by the Department of the Interior and was in effect before the Energy Policy and Conservation Act was passed in December 1975. That Act legislated essentially the same ban as had previously been in our regulations. We have authority under the Mineral Leasing Act to promulgate onshore joint-bidding limitations as well, either by regulation or by announcement of qualifications for bidding. It is my view that legislation on this matter is unnecessary and undesirable, since a legislated ban is far too inflexible to suit the continually changing circumstances of the market for Federal energy leases. Rapid world energy price changes, differences in exploration risk among regions and even among individual leases in the same region, changing company structures and investment policies, and many other factors make it essential that joint-bidding limitations be easily and quickly adjusted, as they can be only if they are regulatory in character.

AMERICAN REVOLUTION BICENTENNIAL 1776-1976

Therefore, while it is my intention to limit joint bidding along the general lines suggested in this study, I do not recommend legislation on the matter. Further, I believe that more study is necessary of certain issues not yet adequately addressed. The exact size limits to be placed on eligibility for joint-bidding in coal are not well substantiated and need further work. No mention is made in this study of the criteria by which waivers to a ban should be granted when risks are unusually high because of large exploration costs, great exploration uncertainty, high technology, or any of a number of other possibilities for which allowance should be made. I am directing my staff to provide me with recommendations on these matters before I decide on the final promulgation of joint-bidding limitations.

Sincerely,

Secretary of the Interior

The Honorable Henry M. Jackson
Chairman
Senate Interior Committee
Washington, D.C. 20510

Enclosure

JOINT BIDDING FOR FEDERAL ONSHORE OIL AND GAS LANDS,

AND COAL AND OIL SHALE LANDS

(A study required by Section 105(e) of P.L. 94-163, the Energy Policy and Conservation Act of 1975)

Department of the Interior
Office of Policy Analysis
June 1976

In the Energy Policy and Conservation Act of 1975[1/], the Congress instructed the Secretary of the Interior to prescribe and make effective a rule which prohibits participation by more than one of the "major" oil companies in a joint bid for the oil and gas rights on any lands located on the Outer Continental Shelf (OCS), except where extremely high risk exists or where high exploration and development costs are involved. The Secretary was also instructed to study and report on the feasibility and desirability of extending this prohibition on joint bidding to the sales of oil and gas rights on Federal onshore lands, and to the sales of coal and oil shale rights on such lands.

The report that follows studies these questions In Section 2 the theory of joint bidding is outlined briefly. Here we examine the risk-sharing features of joint bidding in ventures whose outcomes are uncertain, and the consequent encouragement offered to smaller, more risk-averse firms to enter the bidding competition. But joint bidding has an opposite effect as well: a joint bid consolidates many offers into one, and converts what might have been active competition into legitimate collusion. We note some of the other features of joint bidding that bear on competition -- such as the opportunity that joint bidding negotiations may provide to exchange information about potential bids and geological data.

1/ 42 USC 6201; Public Law 94-163, 94th Congress, S. 622, Dec. 22, 1975. (See Appendix B where the relevant Sections 103(a-e) are reproduced).

We conclude that joint bidding is likely, on balance, to encourage competition if risks are large, and to discourage competition if risks are low.

In Section 3 we review the history of OCS bidding since its start in 1954, and we summarize some of the discussions and analyses of that history leading up to the 1975 restrictions on OCS joint bidding. This history is most useful as a benchmark against which to compare the situations in the current onshore oil and gas bidding, and the soon-to-be-active bidding for Federal coal and oil shale lands.

In Section 4 the characteristics of the bidding for competitively offered Federal onshore oil and gas lands are examined. Attention is focused on the levels of aggregate activity and on the investments, the costs, and the risks involved in onshore oil and gas ventures, especially as they compare to their counterparts in OCS ventures.

In Section 5 the prospects for competition in the sales of coal are examined. The structure of the industry -- which includes many firms not ordinarily considered coal mining firms -- is described, and the expected influence on that industry's behavior of the complicated patterns of western land ownership are analyzed.

We conclude that there is little justification for joint bidding for competitively leased Federal onshore oil and gas tracts. Although the probability is high that any such venture will not discover oil or gas, the magnitude of the typical operation in terms of the investment at

stake is so small that no pooling of risk is required to encourage competition. So long, then, as joint bidding is freely permitted there exists the potential that industry may use this device to obtain Federal leases at less than their true market value.

We recommend, then, that the restriction on joint bidding, exactly as stated in Section 105(a-d) of the Energy Policy and Conservation Act of 1975 (42 USC 6213), should be extended to cover the bidding for any right to develop crude oil, natural gas, and natural gas liquids on Federal lands other than those located on the Outer Continental Shelf.

We judge that the competition that can be expected in the bidding for western Federal coal lands is too fragile to allow the further dilution that unrestricted joint bidding would bring. We do not find the risks involved in undertaking the initial development of a coal tract to be of a large enough magnitude to justify unrestricted joint bidding. We conclude that a restriction on joint bidding, similar to that contained in Section 105 of the Energy Policy and Conservation Act of 1975 (42 USC 6213) should be extended to cover the bidding for any right to develop coal on Federal lands. We recommend, further, that the firms which are to be restricted from bidding with each other in joint coal ventures shall be those firms producing more than 25 million tons of coal annually.

In Section 6 the recent beginnings of a prototype shale oil industry on Federal lands are reviewed. Here technological uncertainties dominate

the picture. Experience is too limited to predict the future or, indeed, even the existence of this new industry with any assurance. One set of lease sales has taken place; more sales await the experiences gained in the early developmental stages of the four tracts already leased. The risk involved in a shale oil venture is high and might therefore appear to justify allowing joint bidding to make entry into competition more attractive. But the risk seems to be more at the development stage of the venture -- like some of the more advanced coal conversion proposals -- than at the discovery stage -- like OCS oil. There is the possibility, then, that means other than joint bidding can be found which will enable bidders to share these risks with other firms. Since new leasing in any quantity is, in any event, to be postponed until more developmental experience is gained on the four tracts already leased, it is appropriate to defer any action on a joint bidding restriction as well.

We recommend, then, that the decision on whether to restrict joint bidding for Federal oil shale lands be postponed to that time -- possibly three or four years hence -- when sufficient evidence on development and production experience shall have accumulated to warrant the resumption of leasing. At that time it will be more nearly feasible to assess the incidence of risk on the winner of an oil shale lease.

#3

SUGGESTED REVISION OF HOUSE BILL NO. 854

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(f) The commissioner may provide for the establishment of a drilling incentive credit system whereby a lessee drilling a well deemed to be an exploritory well on state lands may earn credits based on the footage drilled and the region in which the well is sited. Such credits are assignable, shall be effective for a limited period and may be used during that period toward a bid in a state lease sale, for royalty, lease rental or severance tax payments. In the same manner and under the same conditions the commissioner may provide for credits to be earned by persons doing geophysical work on state lands, provided that such work is performed during a period of two seasons prior to an announced lease sale on lands in the sale area. Such geophysical data shall become public after the sale has occurred.

b) (1) The commissioner shall annually prepare and submit to the legislature, between the first and the fourteenth day of each regular legislative session, a proposed oil and gas leasing program specifying as precisely as practicable the location of tracts proposed to be offered for oil and gas leasing during the third and fourth calendar years following the calendar year in which the proposed program is submitted to the legislature. Within 60 days after receiving the proposed oil and gas leasing program the legislature may by concurrent resolution disapprove all or any part of the proposed leasing program.

(2) Except as provided in (3) of this subsection, no oil and gas lease issued by the commissioner shall be valid unless it was included in a proposed leasing program submitted to the legislature during the third and fourth calendar years preceeding the year in which the lease is issued and was in a part of the program not disapproved by the legislature, except that an area proposed for leasing in the fourth calendar year after the year in which the program is submitted to the legislature may be leased if the commissioner reproposes the area to the following regular legislative session, and the area is not subsequently disapproved in accordance with (1) of this subsection.

(3) The commissioner may issue oil gas leases that have not been submitted to the legislature in accordance with (1) of this subsection if:

(A) the land to be leased was previously subject to a valid state of federal oil and gas lease;

(B) the land to be leased is contiguous to land already under state, federal or private lease, is no more than 5760 acres in area, and the commissioner finds, after hearing, that leasing of the land would result in a substantial probability of exploratory drilling activity on or adjacent to the land to be leased; or

(C) the land to be leased is adjacent to land owned or controlled by another party on which a discovery of commercial quantities of oil or gas has been made, and where the commissioner finds, after hearing, that a reasonable probability that the land to be leased contains oil or gas in communication with the oil or gas discovered on the land of the other party.

* Sec. 5. Transitional Provision. By the 14th day of the first session of the Eleventh Legislature the Commissioner of Natural Resources shall submit a proposed oil and gas leasing program to the legislature in accordance with AS 38.05.180(b), except that the proposed program shall cover all areas to be leased in 1979 through 1983. No lease, except as authorized under AS 38.05.180(b)(3), shall be issued during 1979, 1980, or 1981 unless it was included in this proposed leasing program, and was not disapproved by the legislature by concurrent resolution within 60 days of the date it received the proposed program.

Oil, Gas & Mineral Properties

LUM LOVELY, Geologist

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Phone (907) 277-1551

April 4, 1978

The Hon. C. V. Chatterton
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Re: House Bill 854

Dear "Chat":

I believe I've already mentioned to you that, in my opinion, the best interests of the State, the major oil companies, and independents alike will continue being served best by current oil and gas leasing laws. Not only is HB 854 not needed, it would in fact be counter productive in that it would thwart, rather than encourage, new exploration for oil and gas in Alaska. It also sets the stage for a burgeoning bureaucracy which the taxpayer needs like a hole in the head, and it begs for State encroachment into sectors of the oil business which would best be left in the hands of private enterprise.

In the event that HB 854 is enacted, it should at least contain a provision to retain our present system of non-competitive oil and gas leasing, for legal and moral as well as practical reasons.

For two years, now (since April 19, 1976), the State has been legally obligated under AS 38.05.145(b) to issue non-competitive leases on at least 100,000 acres that I know of in the Becharof Lake area on the Alaska Peninsula. These leases will have to be issued even if AS 38.05.145(b) is repealed with enactment of HB 854, that is, unless the repeal is made retroactive to a date preceding the State's original leasing obligation date. To make the repeal retroactive, however, would call for an immoral, if not illegal, breach of trust on the part of the Administration (who authored the bill). I would of course also view a retroactive repeal as a reprehensible abuse of legislative power.

From a practical standpoint, non-competitive leasing as we know it today is also needed in order to encourage exploration in Alaska's little explored, remote, and/or geologically questionable oil and gas provinces. Some specific practical as well as moral and legal reasons why non-competitive leasing must be retained for Susitna Basin (and similar low-priority areas) are set forth in my letter of March 31, 1978, to Natural Resources Commissioner Robert E. LeResche.

Rep. C. V. Chatterton April 4, 1978

After you have had an opportunity to read the enclosed copy of my letter to Mr. LeResche, I hope you will see your way clear to do what you can to kill HB 854 altogether. Barring that, any pressure which you or your colleagues can bring to bear to retain our present non-competitive leasing law through appropriate amendments to HB 854 will be greatly appreciated.

Very truly yours,

LUM LOVELY

Encl.

Copy: Robert E. LeResche, Commissioner of Natural Resources
Steve Cowper, Chairman, House Finance Committee
Alvin Osterback, Chairman, House Resources Committee
Samuel R. Cotten, Chairman, House Rules Committee
Joseph L. Orsini, Alaska Senate
Kay Poland, Chairman, Senate Resources Committee
Joseph P. Green, Director, DMEM, Anchorage
Patrick Dobey, Petroleum Manager, DMEM, Anchorage
Jack Roderick, Special Projects, DMEM, Anchorage
Gregg Erickson, Director, Div. of Research, Leg. Affairs Agcy.
Wm. W. Hopkins, Alaska Oil & Gas Association, Anchorage

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March 31, 1978

Dr. Robert E. LeResche, Commissioner
Alaska Department of Natural Resources
Pouch M
Juneau, Alaska 99811

Re: Issuance of non-competitive oil and gas leases in Susitna Basin

Dear Dr. LeResche:

It has just come to my attention that you or Governor Hammond will be announcing within the next few days that a relatively small area near Flaxman Island on the North Slope will soon be opened for competitive oil and gas leasing, and that many non-competitive oil and gas (and coal?) leases will finally be issued by the State pursuant to applications filed by numerous individuals as long as 2½ years ago. It is also my understanding that you will be announcing your intention to reject all currently pending non-competitive lease applications filed by oil and gas companies in Susitna Basin (many were filed nearly 2 years ago), in order that the land now covered by those applications might be reclassified for competitive oil and gas leasing only.

Your proposed North Slope competitive lease sale will surely generate spirited bidding because of Exxon's recent nearby oil discovery. And, you are certainly to be commended for acting affirmatively at long last on those non-competitive oil and gas lease applications which so many individuals filed in good faith so many years ago. If you have been adivsed that competitive interest will be high in those areas which are now covered by oil company applications for non-competitive leases in Susitna Basin, however, then your advisors are sadly out of touch with reality.

As an independent geologist who makes his living principally from oil and gas leasing activities, and as the one person who has more leasing experience in Susitna Basin than any other individual, I can assure you on the basis of real world experience that interest in Susitna Basin is extremely low at this time despite Union Oil Company's current reconnaissance seismic activities in the southwestern corner of the basin.

Rejection of oil company applications in Susitna Basin at this time will serve only to dampen what little interest there is in Susitna Basin already. Even if competitive interest were eventually to develop in the basin, however, required cumbersome and time consuming pre-leasing and leasing procedures would necessarily result in undue delays in exploration and development activities. If it is your intention to encourage early exploration for natural gas and/or oil in Susitna Basin, therefore, you will approve, rather than reject, all oil company non-competitive oil and gas

lease applications in the Basin, forthwith, just as you contemplate doing for those non-competitive lease applications which were filed by individuals in the area.

Please bear in mind that Susitna Basin is an extremely low-priority geologic province where oil possibilities are believed to be nil and possibilities for natural gas are marginal at best. The sedimentary section is thin in Susitna Basin, and structural information there is extremely scarse.

Moreover, hundreds of thousands of acres remain unleased (or even applied for) in the basin, despite the fact that this land has been available for non-competitive oil and gas leasing for many years now. I also wish to stress that Texaco dropped its oil and gas leases on over 150,000 acres in Susitna Basin after first conducting an extensive seismic program there some eight years ago. Furthermore, to my knowledge Texaco has no plans to drill its remaining 70,000 acres of leases in the basin before they expire next December.

I also think you should know that oil companies haven't exactly been stumbling all over themselves trying to buy my leases in Susitna Basin, either. It took me 7½ years to sell my 40,000-acre Yentna River lease block (to Union Oil Company and Pacific Lighting) in the southwest part of the basin, for example, and, after nearly eight years, I still haven't found any takers for my 47,000-acre Highway Bridge lease block in the east-central part of the basin despite the fact that Union Oil Company is now conducting seismic operations only 25 miles away. As a matter of fact, I still own leases in the immediate vicinity of Union's current shooting area which I haven't yet been able to sell or farm out!

I caution you not to interpret as an indication of high general interest the over-the-counter non-competitive oil and gas lease applications which Amarex Inc. and Gas Supply Corporation of Alaska (GASCOA, a subsidiary of Anchorage Natural Gas) filed jointly on 40,000 acres in the southeastern part of the basin, and on 36,000 acres in the north-central part of the basin nearly two years ago. These companies are so cautious about Susitna Basin, in fact, that, prior to filing the aforementioned applications, they were unwilling to purchase either my Yentna River lease block (which Union Oil and Pacific Lighting now own) or my Highway Bridge lease block, even for as little as $3.00 per acre (my rental investment at that time). In their view, there were (and still are) simply too many geological unknowns in Susitna Basin to justify spending more than a state filing fee of $20.00 per application plus the required annual rental of 50¢ per acre for leases there. Inasmuch as Amarex and GASCOA filed their applications with my help, I can also attest to the fact that their applications cover prospects which are inferred, only, on the basis of best-guess extrapolations from old, incomplete, and now publicly available seismic data which Pure Oil Company filed with the U.S.G.S. over 14 years ago.

Neither should you misconstrue Union Oil Company's recent over-the-counter filings for oil and gas leases in Susitna Basin as an indication that an abundance of favorable geological data is available in that area.

As a matter of fact, in filing its recent applications for non-competitive oil and gas leases on approximately 100,000 acres west of Mt. Yenlo, Union Oil Company had even less geological information to go on than Amarex and GASCOA had when they filed their aforementioned applications elsewhere in Susitna Basin. No outcrops are present where Union filed, for example, and neither has any seismic exploration ever been conducted in the area. Moreover, it should be obvious from the simple rectangular pattern of Union's filings west of Mt. Yenlo that the company hasn't the foggiest notion of what to expect geologically in the area. It would therefore be unrealistic, indeed, to expect Union (or anyone else, for that matter) to pay any more for leases in the area than the small filing fees and rentals which are presently required for state non-competitive leases.

Amarex, GASCOA (now McAlester Fuel Company), and Union Oil Company obviously filed their respective non-competitive oil and gas lease applications in Susitna Basin with the intention of eventually exploring large areas where geologic information is currently sparse or non-esistent. In data deficient areas such as these, however, history shows that 90% or more of the land will be condemned geologically by future exploration. These companies are therefore faced with the unpleasant task of condemning most is not all of their respective areas of interest as cheaply as possible!

In these circumstances, of course, it would be totally unrealistic to expect that any of the aforementioned companies (or any others) would suddenly become spirited bidders for competitive leases in any of the geologically questionable areas mentioned above. In fact, it is safe to say that no exploration whatsoever will be initiated in the aforementioned areas by either Amerex, McAlester, or Union Oil unless inexpensive non-competitive leases are first issued to them by the State pursuant to their currently pending applications

The facts make it clear that reclassification of the aforementioned areas for competitive leasing, only, would result in postponement, if not total abandonment, of new exploration and development efforts in Susitna Basin. The question is, however, "Can the State afford to block exploration in Susitna Basin at this time in hopes that competitive interest in the area may pick up at some indefinite time in the future?" I don't believe it can. Here's why.

As you know, Mr. Pat Dobey of the Division of Minerals and Energy Management here in Anchorage has warned the Administration and the public that the Anchorage Bowl area will be faced with a critical shortage of natural gas by 1985 (just seven years from now), unless more discoveries are made in south-central Alaska soon, or, in the alternative, unless a state-built-or-subsidized gas pipeline is laid from Prudhoe Bay to Anchorage.

It would of course be unwise for the State to spend taxpayers' money on a gas pipeline from Prudhoe Bay to Anchorage, when oil companies such as those who have filed for non-competitive leases in Susitna Basin appear ready, willing, and able to spend money from the private sector to explore for and develop natural gas reserves right here in Anchorage's own back yard.

It therefore behooves the State to approve the aforementioned oil companies' non-competitive oil and gas lease applications, forthwith, in order to clear the way for new exploration in Susitna Basin as soon as possible. Remember, Anchorage is rapidly running out of gas, and new discoveries of oil and gas generally require lead times ranging from five to ten years. The State simply cannot afford to hold up development in Susitna Basin any longer. To do so would be totally irresponsible.

While new exploration in Susitna Basin could be highly beneficial to the State of Alaska in general, and to Anchorage natural gas consumers in particular, it could also result in a significantly broadened tax base for the Matanuska-Susitna Borough in which Susitna Basin is situated. Obviously, any further impediments to early leasing, exploration, and development in the aforementioned areas will definitely not be in the best interests of the Matanuska-Susitna Borough. It is therefore to be expected that your proposal to reclassify lands for competitive leasing in Susitna Basin will be denounced by the Matanuska-Susitna Borough Assembly and Planning Department when your competitive reclassification proposal comes up for notice and review pursuant to Section 38.05.305 of the Alaska Statutes. Undue delay in broadening the borough's tax base could be avoided, of course, if you would simply approve all currently pending oil-company (and individually-filed) applications for non-competitive oil and gas leases in Susitna Basin forthwith.

While I believe you can justify immediate approval of all pending non-competitive oil and gas lease applications in Susitna Basin on the basis of the foregoing reasons alone, you must of course also consider the moral and legal aspects of your forthcoming proposal to reject all lease applications filed by oil companies while approving similar applications filed by individuals.

First of all, it must be remembered that all of the now-pending applications were filed in good faith pursuant to laws and regulations which were in effect when the applications were filed (and still are in effect). Moreover, it clear that most of these applications would have been approved already, were it not for the current land freeze.

The land freeze, of course, was originally designed to protect certain aggrieved parties until such time that their grievances could be reconciled by the courts and/or the Legislature (these grievances have since been reconciled). It was not intended to be used as a means of cheating oil companies out of non-competitive oil and gas leases when it was first instituted, and it should not be used as a weapon to be turned against oil companies now.

The oil companies which are involved here (and individuals, too, for that matter) have filed their lease applications pursuant to laws and regulations which are supposed to protect their first-priority rights to the lands in which they have revealed their interest to the world in good faith (their areas of interest are described in their applications, of course, and their applications are on public file for all to see). Accordingly, use of the land freeze as a means of selectively blocking the issuance of leases to

oil companies, while allowing the issuance of such leases to individuals, not only would constitute a reprehensible breach of trust on the part of the admininstation but also would serve double duty as an arbitrary and capricious abuse of administrative power which probably could be challenged successfully in court.

While oil and gas possibilities in Susitna Basin are generally considered to be marginal (even by those oil companies now holding oil and gas leases and lease applications in the area), the element of surprise in oil and gas exploration is such tnat significant reserves of oil and gas could nevertheless be discovered there. For a low-priority area such as Susitna Basin, however, economic incentives for exploration must be unusually attractive. You can provide this needed incentive, of course, simply by making it easy for everyone (including oil companies) to assemble large blocks of inexpensive non-competitive oil and gas leases in the area.

An early increase in the rate of exploration and development in Susitna Basin will clearly bring economic benefits not only to the State but to the Matanuska-Susitna Borough as well. It will also provide new jobs for oil workers, and it will stimulate new business for the service companies. Moreover, by making it known that you are clearing the way for possible early discoveries which could prevent the occurrence of an impending natural gas crisis in the Anchorage area, you could make considerable political hay in this important election year.

The foregoing observations make it obvious that competitive leasing will not stimulate urgently needed new exploration for oil and gas in Susitna Basin, whereas non-competitive oil and gas leasing will. I therefore urge you to reconsider your present plans to reclassify lands in Susitna Basin for competitive leasing only, and, instead, to approve all presently pending applications which oil companies and individuals alike have filed for non-competitive oil and gas leases in the area to date. I also urge you to lift the current land freeze in order to clear the way for future non-competitive oil and gas leasing in Susitna Basin. The sooner you take these important steps, of course, the sooner exploration can get under way, and the better it will be for all parties concerned.

Very truly yours,

L. C. LOVELY

Copies to: Jay S. Hammond, Governor, Juneau
Joseph P. Green, Director, DMEM, Anchorage
Patrick Dobey, Petroleum Manager, DMEM, Anchorage
Jack Roderick, Special Projects, DMEM, Anchorage
Gregg K. Erickson, Director, Div. of Research, Juneau
Lance Garola, Mat-Su Borough Planning Department, Palmer
Rep. C. V. "Chat" Chatterton, Juneau

(continued)

(continued)

Copies to: Senator Joseph L. Orsini, Juneau
Dale Teel, President, Alaska Gas & Service Co., Anchorage
R. L. Rich, Manager of Land, Amarex Inc., Oklahoma City
W. B. "Buzz" Sawyer, V. P., McAlester Fuel Co., Magnolia, Ark.
Wayne Rodges, Land Manager, Union Oil Co., Anchorage
Wm W. Hopkins, Executive Director, AOGA, Anchorage
Don Hartmen, Exploration Representative, Texaco Inc., Anchorage

SUMMARY OF ACREAGE LIMITATION
CHANGE IN HB 854

The acreage any one State lessee may hold is 500,000 acres upland and 500,000 acres offshore. HB 854 reduces the uplands to 200,000 acres. This is to help increase the number of upland lessees by limiting the holdings of the larger major oil companies. Offshore holdings will be unaffected.

No other state that we are aware of has an acreage limitation. But no other state is Alaska's size nor has any state tens of millions of acres available to lease.

The Federal government has an acreage maximum for its uplands within each state. During Alaska's territorial days the Federal oil and gas acreage limitation in Alaska was 100,000 acres. In other states it was 46,080 acres.

After 1961 the Federal maximum for Alaska rose to 300,000 acres in the Northern district (approximately north of the Yukon River) and 300,000 in the Southern district. These apply today. There is no Federal acreage limitation on the Outer Continental Shelf. Presently, the acreage limitation is 246,080 uplands acres of Federal leases per state, other than Alaska.

HB 854 grants companies five years from the effective date of the act to comply with the 200,000 upland acre maximum.

A list of major leaseholdings as of February, 1978, (showing uplands and offshore holdings of those companies which now exceed 200,000 acres) follows:

ALASKA OIL AND GAS ACREAGE HOLDINGS
(as of March 13, 1978)

COMPANY	ACRES		
ARCO	408,151.21	356,882.86	acres of uplands
		51,268.35	offshore
		408,151.21	total
UNION	287,032.83	233,138.75	uplands
		53,894.08	offshore
		287,032.83	total
PHILLIPS PETROLEUM	243,227.94	80,332.74	uplands
		162,895.20	offshore
		243,227.94	total
EXXON	158,627.73		
TEXACO	156,027.03		
SOHIO PETROLEUM	135,588.28		
BP ALASKA	103,218.99		
CITIES SERVICE	140,071.58		
CHEVRON	126,493.55		
AMOCO	126,134.64		
MOBIL	120,375.19		
MARATHON OIL	71,538.36		
BEARD OIL	71,260.49		
SHELL OIL	40,603.10		
GETTY	29,857.30		
SUN OIL	27,453.87		

WORK DRAFT
INCORPORATING CHANGES
MADE UP TO 4/9/78

ERICKSON
4/10/78

Introduced: 2/17/78
Referred: Resources and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 854

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the leasing and exploration of state land for oil and gas development."

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

Section 1. AS 38.05.180 is repealed and re-enacted to read:

Sec. 38.05.180. OIL AND GAS LEASING. (a) The legislature finds that

(1) the people of Alaska have an interest in the development of the state's oil and gas resources to

(A) maximize the economic recovery of the resources;

~~(B) minimize the exploitation of these natural resources in protection of the public interest;~~

B (C) maximize competition among parties seeking to explore and develop the resources;

C (D) maximize use of Alaska's human resources in the development of the resources;

(2) it is in the best interests of the state to encourage an assessment of its oil and gas resources and to allow the maximum flexibility in the methods of issuing leases to

(A) recognize the many varied geographical regions of the state and the different costs of exploring for oil and gas in these regions;

~~(B) recognize the need for stimulating development in particular regions of the state;~~

B (C) minimize the adverse impact of exploration, develop-

ment, production, and transportation activity, ~~on the environment of the state;~~

(B) maximize state revenue from profitable oil and gas production, while minimizing revenue from unsuccessful exploration and from marginal economic oil and gas production.

b) (1) The commissioner shall annually prepare and submit to the legislature, between the first and the fifteenth day of each regular legislative session, a proposed oil and gas leasing program specifying as precisely as practicable the location of tracts proposed to be offered for oil and gas leasing during the third and fourth calendar years following the calendar year in which the proposed program is submitted to the legislature. Within 60 days after receiving the proposed oil and gas leasing program the legislature may by concurrent resolution disapprove all or any part of the proposed leasing program.

(2) Except as provided in (3) of this subsection, no oil and gas lease issued by the commissioner shall be valid unless it was included in a proposed leasing program submitted to the legislature during the third and fourth calendar years preceeding the year in which the lease is issued and was in a part of the program not disapproved by the legislature, except that an area proposed for leasing in the fourth calendar year after the year in which the program is submitted to the legislature may be leased if the commissioner reproposes the area to the following regular legislative session, and the area is not subsequently disapproved in accordance with (1) of this subsection.

(3) The commissioner may issue oil gas leases that have not been submitted to the legislature in accordance with (1) of this subsection if:

(A) the land to be leased was previously subject to a valid state of federal oil and gas lease;

(B) the land to be leased is contiguous to land already under state, federal or private lease, is no more than 5760 acres in area, and the commissioner finds, after hearing, that leasing of the land would result in a substantial probability of exploratory drilling activity on or adjacent to the land to be leased; or

(C) the land to be leased is adjacent to land owned or controlled by another party on which a discovery of commercial quantities of oil or gas has been made, and where the commissioner finds, after hearing, that a reasonable probability that the land to be leased contains oil or gas in communication with the oil or gas discovered on the land of the other party.

(4) Simultaneously with submission of the leasing program required under (1) of this subsection, the commissioner shall submit to the legislature a report containing the following:

(A) the schedule of all lease sales held during the preceding calendar year, the bidding method or methods utilized and an analysis of the results of the bidding;

(B) a description of all lease sales to be held during the current and next two succeeding calendar years and, if determined, the bidding methods to be used;

(C) the reasons a particular bidding method has been selected.

(c) The commissioner may issue oil and gas leases on state land to the highest responsible qualified bidder determined by competitive bidding under regulations adopted by the commissioner. Bidding may be by sealed bid or according to any other bidding procedure the commissioner determines is in the best interests of the state. Whenever, under any of the leasing methods listed in this subsection, a royalty share is reserved to the state, it is free of all lease or unit expenses, including but not limited to separation, cleaning, dehydration, gathering, salt water disposal, and preparation for transportation off the lease or unit area. Following a pre-sale analysis, the commissioner may choose at least one of the following leasing methods:

(1) bonus bidding

(A) a cash bonus bid with a fixed royalty share reserved to the state of not less than 12 1/2 per cent in amount or value of the production removed or sold from the lease or unit area encompassing the lease;

(B) a cash bonus bid with a fixed royalty share reserved to the state based on a sliding scale according to volume of production but in no event less than 12 1/2 per cent in amount or value of the production removed or sold from the lease or unit area encompassing the lease;

(2) royalty bidding

(A) a fixed cash bonus with a royalty share reserved to the state as the bid variable but not less than 12 1/2 per cent in amount or value of the production removed or sold from the lease or unit area encompassing the lease;

(B) a fixed cash bonus with a royalty share reserved to the state based on a sliding scale according to the volume of production as the bid variable but not less than 12 1/2 per cent in amount or value of the production removed or sold from the lease or unit area encompassing the lease;

(3) net profit bidding

(A) a cash bonus bid with a fixed royalty share reserved to the state of not less than 12 1/2 per cent in amount or value of the production removed or sold from the lease or unit area encompassing the lease and a fixed share of the net profit derived from the lease of not less than 30 per cent reserved to the state;

(B) a fixed cash bonus with the share of the net profit derived from the lease reserved to the state as the bid variable;

(C) a fixed cash bonus with a fixed royalty share reserved to the state of not less than 12 1/2 per cent in amount or value of the production removed or sold from the lease or unit area encompassing the lease with the share of the net profit derived from the lease reserved to the state as the bid variable;

(D) the share of the net profit derived from a lease reserved to the state under this subsection is royalty sale proceeds for the purpose of the Alaska Permanent Fund under AS 37.10.065;

(4) a work commitment bid with a fixed cash bonus, or a fixed royalty or a fixed sliding scale royalty or a fixed net profits share reserved to the state, or any combination of these methods, at the discretion of the commissioner, with a work commitment stated in a dollar amount as the bid variable; however, in no event may a royalty

share reserved to the state be less than 12 1/2 per cent in amount or value of the production removed or sold from the lease or unit area encompassing the lease.

(d) To prolong the economical life of an oil and gas field, the commissioner shall adopt regulations for all bidding methods to allow reduction of royalty to compensate for increasing costs in the later stages of production decline. The commissioner may grant such a reduction of royalty so long as the reduced royalty begins no sooner than two years after initial production from the lease.

(e) The commissioner may, in his discretion, defer any part of the payment of a cash bonus, under (c) of this section, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years from the date of the lease sale.

~~(f) The commissioner may withhold acreage from leasing in a particular lease sale.~~

(g) The commissioner shall adopt regulations governing the calculation of net profits for lease sales under (c)(3) of this section. In the event of any dispute between the state and a lessee concerning the calculation of the net profits under the regulation adopted under this subsection, the burden of proof is on the lessee.

(h) The commissioner shall adopt regulations governing the exploration work commitment leasing method under (c)(4) of this section. The commissioner shall require either (i) a cash deposit for 20 per cent of the work commitment or, (ii) a performance bond, in form and substance and with a surety satisfactory to the commissioner, in the principal amount of 20 per cent of the exploration work commitment assuring the commissioner that the commitment will be faithfully discharged in accordance with this section, the regulations, and the lease.

A lessee who fails to discharge a work commitment in its entirety is liable to the state for the undischarged portion of the commitment. At his discretion, the commissioner may terminate the work commitment if he finds that the work would be unnecessary or cumulative.

h (f) At his discretion, the commissioner may enter into an agreement whereby, with the consent of the lessee, the state's royalty share of oil and gas production may be stored or retained in storage by the lessee, or the commissioner may enter into an agreement with one or more of the affected field lease holders to trade current royalty production from a field for a like amount, kind, and quality of future production, on the condition that the state receives back its stored or traded royalty share during the first half of the estimated field life or no later than 15 years after start of production, whichever is sooner.

i (f) An oil and gas lease must cover a reasonably compact area not exceeding 5,760 acres, and must be for a period of five years. The commissioner may grant a lease for a term greater than five years but not to exceed 10 years, where he finds that the longer period is necessary to encourage exploration and development in areas where environmental conditions severely restrict operations. An oil and gas lease shall be automatically renewed if and for so long thereafter as oil or gas is produced in paying quantities from the lease or, if the lease is committed to a unit approved by the commissioner. A lease issued under this section covering land on which there is a well capable of producing oil or gas in paying quantities does not expire because the lessee fails to produce oil or gas unless the lessee is allowed reasonable time to place the well on a producing status. Upon renewal, the commissioner may increase lease rentals so long as the increased rental rate does not exceed 150 per cent of the rate for the

preceding year. The commissioner may provide by regulation and in the lease that the lessee may earn production rights only to the depth drilled at the beginning of production from the lease. If drilling has commenced on the expiration date of the primary term of the lease and is continued with reasonable diligence, including such operations as redrilling, sidetracking, or other means necessary to reach the originally proposed bottom hole location, the lease continues in effect until 90 days after drilling has ceased and for so long thereafter as oil or gas is produced in paying quantities.

j(k) The commissioner may establish by regulation that after a well has been plugged and abandoned, the rental rate which was in effect during the year of abandonment is maintained for the remainder of the term. Rental is payable in advance and continues until income to the state from royalty, net profit, or exploration work commitment exceeds rental income to the state for that year; after the rental income schedule has been exceeded for three consecutive years, the rental terminates. Oil and gas leases shall provide for payment to the state of rental on the following basis:

(1) for the first year, $1.00 per acre;

(2) for the second year, $1.50 per acre;

(3) for the third year, $2.00 per acre;

(4) for the fourth year, $2.50 per acre;

(5) for the fifth year, $3.00 per acre.

k(l) Upon timely application as provided by regulation, the state may issue to the holder of a federal or private lease, a state shorelands lease covering land within the exterior boundaries of the federal or private lease which has been excluded on the basis of navigability or which is later administratively or judicially determined to be shoreland. The term of such a state shoreland lease shall be the same

as the term of the federal or private lease, but may not exceed five years.

(l) To conserve the natural resources of all or a part of an oil or gas pool, field, or like area, whether or not the part is then subject to a cooperative or unit plan of development or operation, lessees and their representatives may unite with each other, or jointly or separately with others, in collectively adopting or operating under a cooperative or a unit plan of development or operation of the pool, field, or like area, or a part of it, when determined and certified by the commissioner to be necessary or advisable in the public interest. The commissioner may, with the consent of the holders of leases involved, establish, change, or revoke drilling, producing, rental minimum royalty, and royalty requirements of the leases and adopt regulations with reference to the leases, with like consent on the part of the lessees, in connection with the institution and operation of a cooperative or unit plan as he determines necessary or proper to secure the proper protection of the public interest. The commissioner may require oil and gas leases issued under this section to contain a provision requiring the lessee to operate under a reasonable cooperative or unit plan, and he may prescribe a plan under which the lessee must operate. The plan must adequately protect all parties in interest, including the state.

(m) A plan authorized by (l) of this section, which includes land owned by the state, may contain a provision vesting the commissioner, or a person, committee, or state agency with authority to modify from time to time the rate of prospecting and development and the quantity and rate of production under the plan. All leases operated under a plan approved or prescribed by the commissioner are excepted in determining holdings or control under sec. 140 of this

chapter. The provisions of this section concerning cooperative or unit plans are in addition to, and do not affect AS 31.05.

(n) Producing acreage on a known geologic structure of a producing oil or gas field is excluded from chargeability as against the acreage limitation provisions of sec. 140 of this chapter.

(o) When separate tracts cannot be individually developed and operated in conformity with an established well-spacing or development program, a lease, or a portion of a lease, may be pooled with other land, whether or not owned by the state, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the commissioner to be in the public interest. Operations or production under the agreement are considered as operations or production as to each lease committed to the agreement.

(p) The commissioner may, on conditions which he prescribes, approve drilling, or development contracts made by one or more lessees of oil or gas leases, with one or more persons, when, in his discretion, the conservation of natural resources or the public convenience or necessity requires it or the interests of the state are best served. All leases operated under approved drilling or development contracts, and interests under them, are excepted in determining holding or control under sec. 140 of this chapter. Drilling or development contracts may include, at the discretion of the commissioner, provisions authorizing the state to share in the costs of exploration.

(q) To avoid waste or to promote conservation of natural resources, the commissioner may authorize the subsurface storage of oil or gas whether or not produced from state land, in land leased or subject to lease under this section. This authorization may provide for the payment of a storage fee or rental on the stored oil or gas, or,

instead of the fee or rental, for a royalty other than that prescribed in the lease when the stored oil or gas is produced in conjunction with oil or gas not previously produced in paying quantities.

(i) Each oil or gas lease issued by the state must contain a provision requiring the lessee to furnish the Department of Labor a quarterly report regarding the employment of state residents on the leased property. The commissioner of labor shall adopt regulations necessary to implement thi subsection. No lease issued under this chapter is valid unless it contains provisions requiring the employment of qualified Alaska residents in accordance with AS 38.40.030, and complies in all respects with the requirements of ch. this title.

(j) Notwithstanding any other provision of this section, land which has been offered for lease within the previous five years but which received no bids at competitive sale may be, at the discretion of the commissioner, immediately offered for lease, under regulations adopted by him, upon terms appearing most advantageous to the state, including leasing noncompetitively. The commissioner shall use a sliding scale royalty based upon such formulae as he determines to be in the public interest but not less than 12 1/2 per cent at the beginning of production from the lease in amount or value of the production removed or sold from the lease or unit area encompassing the lease. A lease must provide for payment to the state of rental but need not adhere to the rental schedule in (k) of this section nor to the 5,760-acres-per-lease limitation in (j) of this section. The lease term may not exceed five years except as provided in (j) and (k).

(t) In accordance with regulations adopted in advance the commissioner, with respect to any individual oil and gas lease sale, may, for the purpose of promoting competition, restrict joint bidding among major oil and gas companies.

(u) Each oil and gas lease shall give to the state has the right to purchase not more than 16 2/3 per cent of the volume of oil and up to 49 per cent of the volume of gas produced from a lease issued in accordance with this section, at the regulated price, or, if no regulated price applies, at the fair market value at the point of sale, except that any oil or gas obtained by the state as royalty or net profits shall be credited against the amount that may be purchased under this subsection. Oil and gas purchases under this subsection shall be subject to the provisions of AS 38.06.

(v) A lessee or permittee conducting any exploration for, or development or production of, oil or gas on state land shall provide the commissioner access to all noninterpretive data obtained from that activity and shall provide copies of that data, as the commissioner may request. The confidentiality provisions of AS 38.05.035 shall apply to the information obtained under this subsection.

(w) The commissioner shall promulgate regulations as may be necessary to carry out the purposes of this chapter.

4/10/78

* Sec. 2. AS 38.05.135(b) is repealed and re-enacted to read:

(b) When minerals are to be leased, in addition to any other notice given, notice must also be given as provided in secs. 305 and 345 of this chapter.

* Sec. 3. AS 38.05.140(c) is amended to read:

(c) No person may take or hold at one time phosphate leases on state lands exceeding in the aggregate 10,240 acres. No person may take or hold sodium leases or permits during the life of sodium leases on state lands, exceeding in the aggregate acreage 5,120 acres, except that the commissioner may, where it is necessary in order to secure the economic mining of sodium compounds, permit a person to take or hold sodium leases or permits for up to 15,360 acres. No person may take or hold at any one time oil or gas leases exceeding in the aggregate 500,000 acres granted on tide and submerged lands, and 200,000 [500,000] acres on all land [LANDS] other than tide and submerged land [LANDS], including leases held both as lessee and under option or operating agreement from others. A person has five years from the effective date of this Act to conform to the 200,000-acre upland limitation. Where more than a single person holds an interest in an oil or gas lease, each person shall be charged only with that percentage of the total acreage which corresponds to its percentage share of the total beneficial interest in the lease.

* Sec. 4. AS 38.05.145(b) is repealed.

* Sec. 5. Transitional Provision. By the fifteenth day of the first session of the Eleventh Legislature the Commissioner of Natural Resources shall submit a proposed oil and gas leasing program to the legislature in accordance with AS 38.05.180(b), except that the proposed program shall cover all areas to be leased in 1979 through 1983. No lease, except as authorized under AS 38.05.180(b)(3), shall be issued during 1979, 1980, or 1981 unless it was included in this proposed leasing program, and was not disapproved by the legislature by concurrent resolution within 60 days of the date it received the proposed program.

AtlanticRichfieldCompany Post Office Box 360
Anchorage, Alaska 99510
Telephone 907 277 5637

April 6, 1978

The Honorable Alvin Osterback
Chairman, Resource Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Chairman Osterback:

Recently, Mr. Mark Singletary provided the Resources Committee with verbal testimony reflecting Atlantic Richfield Company's reaction to proposals contained in HB 854.

Attached is written commentary on HB 854 which I would respectfully request that the Committee consider and include in the official record of these proceedings.

Sincerely,

Dave Harbour

Dave Harbour
Director
Alaska State and Local
Government Relations

ATLANTIC RICHFIELD COMPANY COMMENTS ON
HOUSE BILL 854

"An Act relating to the leasing and exploration of state land for oil and gas development."

April 6, 1978

Comments on Section 1:

Sec. 38.05.180(a)(1)(B)

In the description of the legislative purposes of this bill, there is a negative connotation given the word "exploitation" in Sec. 38.05.180(a)(1)(B). This section in general suggests sinister motives to the oil and gas industry which need to be "minimized." A possible modification should read, "regulate the development of these natural resources in protection of the public interest."

Sec. 38.05.180(a)(2)

Underlying this section is the notion that it is in the State's best interest to maximize the leasing methods available to the State. However, it is our view that the new leasing methods proposed are largely untested and may result in reduced revenues to the State. Further, it is not at all clear how a unit agreement could ever be formulated for a group of lessees who had obtained their leases under a combination of the proposed bidding methods.

Sec. 38.05.180(b)

This section deals with the Commissioner's obligations to prepare a leasing program for the following 5 year period and his obligation to keep the legislature informed. We are in favor of such a long-range leasing program and support the State's acknowledged

goal of "stability and predictability" in a petroleum leasing program. However, the long-range benefits intended and the State's goal are frustrated by the ability, and, indeed requirement, that the Commissioner review and possibly revise the leasing program at least annually. Perhaps the possibility of revision could be limited to the last two years of the ongoing five year programs so that industry could expend exploration dollars with some certainty that a sale will be held. Alternatively, Sec. 38.05.180(b)(3) should be deleted.

The annual submission to the legislature of the leasing program, although for "its information," would seem to presuppose further modification of the leasing program. Again, opportunity for yearly modification of the leasing program abrogates the State's goal of a stable and predictable petroleum leasing system. As an alternative to reporting to the legislature, the Commissioner could be required to make an annual public report of the leasing program.

Additionally, in Sec. 38.05.180(b)(5)(E), the Commissioner is required to justify in his report to the legislature why more than 50 percent of an area is leased under any one method of leasing. This requirement of justification seems to be an incentive, if not explicit direction, to utilize the full array of leasing alternatives for any one sale and to, in effect, "experiment".

The language in Sec. 38.05.180(b)(2) is extremely confusing and should be clarified. Further, it is not clear whether or not this section is directed to or will have any effect, intended or otherwise, on the Beaufort Sea sale.

Sec. 38.05.180(c)

This section authorizes four generic categories or methods of leasing: (1) "Bonus bidding," (2) "Royalty bidding," (3) "Net profit bidding," and (4) a "Work commitment bid." Several combinations or variations of methods are authorized under each of the generic headings.

The first method of conventional bonus bidding has the best overall record from the lessor's standpoint. A study of federal OCS sales through 1975 showed that industry had invested $35 billion in bonuses, exploration and development on OCS leases while receiving $22 billion in revenue.

Net profit bidding opens up a multitude of problems as to the definition of "net profit." This method would allow many companies to get into a land position for speculative purposes. It is a

fierce deterrent to early drilling as it is far easier and cheaper to wait out the competition. It is extremely cumbersome to administer and audit, and is even more costly to operate than royalty bidding methods.

The last method of bidding, a work commitment for a lease which cannot, by definition, exceed 5,760 acres, seems completely unworkable as such an area is much too small. This method is usually used in European and mid-east concessions or Canadian permits or reservations which share a common characteristic of being very large geographic areas.

In each of the four leasing methods, the language describing the State's royalty is troublesome. Each description of the State's royalty provides, "... royalty share reserved to the state of not less than 12 1/2 cent in amount or value of the production removed or sold from the lease or unit area encompassing the lease ...." (emphasis added) This language would preclude anything but 100 percent state units. Unitization of lands involving federal or native lands and state lands would be impossible because of the inability of the participants to give the state at least 12-1/2 percent of the production from the "unit area encompassing the [state] lease."

Further, it should be noted that all of the methods and components of the alternate leasing methods will necessitate substantial increases in the budgets and personnel of the agencies involved.

Finally, if some minimum flexibility in leasing methods is desired, the same could be accomplished with minor changes in the existing law.

Sec. 38.05.180(d)

This section allows the Commissioner to reduce royalty when production becomes uneconomical, but only after two years of production. The most recent federal leases require only one year of production, which would be more in line with the stated goal of the bill to minimize revenue from marginal production. Given the explicit description of the royalty in Sec. 38.05.180(c) as "not less than 12 1/2 percent ...," it is not clear whether the Commissioner could ever reduce royalty to any figure below 12 1/2 percent.

Sec. 38.05.180(e)

This section purportedly authorizes the Commissioner to defer payment of any part of a cash bonus bid, provided the bonus is paid within five years. This authority is in direct conflict with AS 38.05.335(c), neither referenced nor repealed by the bill, which requires a deposit of 20 percent, in cash, of the bid.

Sec. 38.05.180(f)

This section authorizes the Commissioner to withhold acreage from leasing in a particular sale. It is assumed that the motive of

this provision is a desire to increase the state's income from leasing by leasing, for example, only part of a structure, and then, once proven productive, leasing the remainder for higher amounts. However, this authority to withhold acreage can just as easily decrease the state's income, in the event the first acreage leased is found non-productive -- which is usually the case. In essence, this section is authorization for the Commissioner to "gamble" on the productivity of state lands.

This section also seems unfair to the first lessees, who, if the first tracts leased prove productive, are faced with the prospect of having to buy themselves back into the fruits of their own risk at a higher rate.

Sec.'s 38.05.180(g) and (h)

These sections relate net profits and work commitment leasing which, as previously discussed, are ill-advised.

Sec. 38.05.180(i)

There are no objections to this section so long as the trading or storage of royalty oil remains and is clearly the subject of mutual agreement.

Sec. 38.05.180(j)

This section concerns several of the provisions to be included in state oil and gas leases:

First, this section reduces the primary term of state leases from 10 to 5 years. It should be understood that in most areas of Alaska the ability to carry out exploration work is limited to a four month period per year, consequently a five year lease allows only 1-2/3 years of exploratory work. This is clearly insufficient in such a high cost, high risk area.

Second, this section provides that a state lease will be "renewed", if and for so long thereafter as oil and gas is produced in paying quantities or if the lease is committed to a unit. The term "renewed" should be replaced with the term "extended" as this is the long-understood and recognized effect of production or commitment to a unit.

Third, the section's provision concerning shut-in wells should be clarified, since, in its present form, it appears as though the shut-in well must be located on the land prior to the issuance of a lease

Fourth, this section authorizes the Commissioner to increase rentals up to 150 percent of the preceding year's rate and to provide that a lessee earns production rights only to the depth drilled at the beginning of production. Both of these provisions should be deleted as unnecessary and unworkable.

As to rental increases, as noted, Alaska is already a high cost, high risk area. The prospect of substantial rental increases

during the primary term of a lease will serve only to curb exploration not encourage it.

The provision concerning production rights only as to the depth drilled is unnecessary and unfair. Aside from an obvious example of the lessee drilling into the top of a reservoir and being mechanically unable to go deeper and thereby losing the main body of the reservoir, it also could result in split owne·ship of a lease with one party having to drill through another's rights to reach his own with possible damage to the upper reservoir resulting.

Finally, the means of extending a lease by drilling are set forth in this section. Given the seasonal nature of drilling in Alaska, the 90 day grace period after drilling has ceased should be expanded if further drilling is prevented by environmental considerations or other circumstances imposed by the State.

Sec. 38.05.180(k)

The increased rentals proposed in this section will discourage exploration and will not increase income to the State because the extra expense will be compensated by lower bid totals. The present $1.00 per acre per year rental should be retained.

Further, this section alters substantially the nature of the ordinary rental provisions in oil and gas leases. The rental to be paid under these provisions is no longer a delay rental. This

section provides, "Rental is payable in advance and continues until income to the state from royalty, net profit, or exploration work commitment exceeds rental income to the state ... for three consecutive years ...." There is no provision for credit or set-off of rental paid during those three years against the state's income from production. Consequently, for the first three years of production, the state would receive both rental income and production income.

Sec. 38.05.180(l)

This section should be modified to provide that the state shall issue a State shorelands lease, as AS 38.05.180 presently reads. Also, the Commissioner should be given the discretion to grant a shorelands lease in excess of five years.

Sec.'s 38.05.180(m) and (n)

These two sections concern the unitization of state leases and are re-enactments of present law. However, given the alternate leasing methods of the bill, and the previously discussed, implicit direction to the Commissioner to "experiment" with these methods, unitization of state leases will be extremely difficult, if not impossible.

It is entirely reasonable to assume that under this bill, a proposed unit will be composed of leases involving highly disparate royalty percentages and one net profits or other kind

of lease. The extreme difficulty of applying these completely different lease burdens to the production allocated to each lease under a proposed unit are obvious. These difficulties constitute a disincentive to unitization and therefore nullify the conservation benefits of unitization.

Sec. 38.05.180(o)

This section concerns the acreage chargeability of KGS leases and is unobjectionable.

Sec. 38.05.180(p)

This section is a re-enactment of the present authorization for the pooling of state leases. Like the provisions concerning unitization, the problems inherent in alternate leasing methods will make pooling more difficult, to the detriment of the conservation objectives of pooling.

Sec. 38.05.180(q)

This section authorizes the State to share in the costs of exploration under a drilling or development contract. Oil and gas exploration is extremely risky and historically the province of private enterprise. Financial participation by the state in an exploration venture raises fundamental questions as to the appropriate role of state government. Given the fact that most wells drilled are unsuccessful, and the substantial sums involved in drilling in Alaska, additional challenges may be anticipated as to the authority or wisdom of the State to participate in a particular drilling project.

Sec. 38.05.180(r)

This section is a re-enactment of present law concerning the subsurface storage of oil or gas on state leases. However, the present law's provision concerning the extension of the lease used for storage for the period of storage and so long thereafter as oil and gas are produced was deleted. This extension provision should be retained.

Sec. 38.05.180(s)

This section concerns the employment of state residents on state leases is substantially the same as the existing law.

Sec. 38.05.180(t)

This section is an attempt by the state to encourage exploration on lands on which no bids have been tendered. This philosophy is laudable. However, the Commissioner should not be restricted by the leasing details of this section.

Sec. 38.05.180(u)

This section would restrict joint bidding and should be deleted. Joint bidding can very well be to the advantage of the state as it tends to increase the size of the bids submitted and facilitates the exploration process. See, for example, the paper in the November 1976 issue of "Journal of Petroleum Technology" in which the authors conclude that "joint bidders tend to bid on more sought-after (and apparently more valuable) leases and that they tend to bid higher, on the average, than solo-bidding

competitors". Industry testimony before the U.S. Senate has indicated that since the first OCS sale in 1954, 172 companies have purchased OCS leases. 42% of these leases were not purchased by the major companies, and in recent years the smaller companies have increased their share of OCS production at the expense of the major oil companies.)

Depending on the content of the regulations adopted, this section may violate Article 8, §17 of the Alaska Constitution. This Constitutional provision requires that laws and regulations governing the use or disposal of natural resources must apply equally to all persons "similarly situated".

Sec. 38.05.180(v)

This section grants the state an unfettered option to purchase 16-2/3 percent of oil and up to 100 percent of gas produced from a state lease. This section will in effect eliminate the lessee's ability to use the gas sales contract as a method of financing. Consequently, gas exploration in Alaska will be discouraged if not precluded. Similarly, if the state should wait several years before deciding to take up to 100 percent of the gas, the discoveror of a gas field would be deprived of all income from his legally obtained gas, because he could not enter into a contract with any other user. This section would also eliminate or impair the ability of lessees to utilize the production payment as a method of financing, likewise discouraging exploration.

Sec. 38.05.180(w) This section requires state access to all of a permittee or lessee's exploration data and should be eliminated from the bill. This section is, in essence, a confiscation of valuable proprietary data, for the sole purpose of deciding whether the explorer has found anything or not. If the state decides he has, the area could then be thrown open to all other competitors, thereby removing any incentive for an aggressive company to be a leader or employ innovative ideas to discover new resources. This section completely removes that incentive, and thereby will cause significant state natural resources to remain unsought.

In addition, grave problems as to the preservation of the confidential nature of the data are inherent in this section. It is common knowledge that such information is extremely confidential and closely guarded by the individual members of the industry.

The existing law upon which the oil and gas industry has relied for the confidentiality of information is contained in AS 38.05.035(a)(9)(C). This existing provision requires the director to keep geological, geophysical and engineering data confidential "upon request of the persons supplying the information." As the Bill's provision requires disclosure of information to the Commissioner, not the director, and since it requires also access, as distinct from supplying copies, are the confidentiality provisions incumbent upon the director not

applicable to the information required to be disclosed to the Commissioner?

If this section is to be applicable to existing exploration data, then the Commissioner's access and utilization of such existing data is almost certainly an unconstitutional taking of this valuable and expensive property. If the Commissioner is to be allowed access at all to such data, such access should be limited to future data only. Further, there should be a requirement of the adoption of regulations prescribing the confidentiality of this data and the addition of statutory criminal penalties for intentional disclosure of such data.

Section 2

There are no objections to this section concerning notice of mineral leasing.

Section 3

This section would amend AS 38.05.140(c) to reduce the upland acreage limitation from 500,000 acres to 200,000 acres. In Alaska, where there are large areas of state lands which are potentially eligible for bid, a 500,000 acre limitation, which the present statute contemplates, is not unreasonable. The effect of a 200,000 acre limitation would clearly be to limit the participation of those individuals who are most active in exploration business in Alaska, i.e., those individuals who have

historically submitted the highest bids to the state. It is not at all clear why the state would seek to discourage, rather than to encourage, the continued involvement of those individuals in Alaska. Further, this section's applicability to the holding of existing lessee's -- requiring them to reduce their holdings within 5 years -- is an unconstitutional taking of leasehold estates.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

File

March 15, 1978

MEMORANDUM

SUBJECT: Leasing of State Land for Oil and Gas Development - HB 854 (W.O. #11/R)

TO: The Honorable Alvin Osterback

FROM: Gregg K. Erickson
Director of Research

You requested that we provide an analysis of this bill. We have done this below in a cursory manner, and have attached additional material provided by the Department of Natural Resources (DNR). We have also noted some areas where we see potential problems. You will undoubtedly be taking a great deal of testimony on this bill from DNR, the legislature's consultants (Milton Lipton and Mason Gaffney), and the industry. After you have heard the testimony we would be pleased to address any points that you may at that time wish to have analyzed in depth.

Under current law the state is restricted to leasing oil and gas lands under the bonus bid system, or by the non-competitive system, which is essentially a lottery. However, the use of the non-competitive system has been of little importance during the past fifteen years, since all lands of medium or high potential have been classified so as to make them only eligible for bonus bidding.

In recent years other jurisdictions, most notably the federal government, have been moving towards expanding the number of bidding systems that could be used in leasing oil and gas lands. The U.S. Senate and House of Representatives have passed different versions of a bill that would accomplish this, and are about to enter conference on this legislation.

The legislation before your committee, HB 854, resembles this federal legislation in a number of important ways. The major thrusts of both the Alaska bill and the federal legislation are directed at expanding a number of leasing systems that may be used by the government in disposing of its land, increasing the opportunities for smaller firms to participate in development of oil and gas resources, and at insuring that the government achieves an appropriate return for the leasing of its oil and gas lands. In addition, the federal legislation establishes

procedures for coordination and review of federal leasing plans by adjacent states, and establishes institutional arrargements for protection of the environment.

The attached material headed "Description of Leasing Methods in HB 854" sets out in summary form the systems that would be allowable under the Alaska legislation as it now stands. Also attached is a memorandum from Mr. Jack Roderick to Commissioner LeResche which describes the rationale which went into choosing these systems. This particular memorandum has been released by the Department with the request that its circulation be restricted to legislators and legislative staff. All the other attached material may be released to the public, if you so choose.

Some points which you may particularly wish to look into in your consideration of HB 854 are noted below:

1. Legislative Review. The legislation calls for submission by the commissioner to the legislature of an annual "leasing program". The administration apparently intends that no lease would be issued unless "it is for an area included in" the program (page 2, line 19). If this is indeed the intent, it perhaps could be clarified by amending language at this point. In any case, the you should note that the bill has been carefully drafted to avoid any active involvement in leasing policy by the legislature. This, of course, is no change from the current policy, but under HB 854 the latitude of the commissioner, in choosing leasing systems and in other matters, has been substantially increased, and the legislature may wish to be more involved.

2. Expenses Charged Against Royalty Oil. The bill contains language (subsection (c), on page 4) which would insure that future leases are not subject to the same sort of dispute over the cleaning and dehydration costs as the state is now litigating with the Prudhoe Bay producers.

3. Choice of Leasing Systems by the Commissioner. Nowhere in the bill does the legislature give the Commissioner of Natural Resources any guidance as to when he should or should not use a particular leasing system. The commissioner is required, in his annual "leasing program" submission, to explain to the legislature why he believes a particular system should be used in a particular area. However, the choice and the adequacy of the justification remain beyond legislative review. In the attached material DNR has provided some explanation as to the conditions that would call for the use of one system or another. The legislature may wish to consider these explanations, and - if it agrees with them - may wish to include language within the law to give the commissioner (and future commissioners) guidance along these lines.

4. Work Commitment Bidding. Paragraph (4) (on page 5) would establish work commitment bidding as a leasing alternative. Under this system the bid variable would be the amount of effort the lessee agrees to expend in exploring the land. Use of this alternative will, on the average, result in less revenue to the state, with the revenue that is foregone by the state being expended in developing resources that would otherwise be uneconomic. This is a clear instance of economic subsidy. The legislature may wish to consider whether this subsidy is desirable, and if so, whether this is the most efficient way to provide it.

5. Commissioner's Discretionary Authority to Reduce Royalty. The commissioner now has authority to reduce the royalty rate on tracts having marginal production. So far as we know this authority has never been utilized. Subsection (d) of the proposed law (page 6) retains this authority to lower royalties. It becomes much more significant in the context of this bill, however, because of its use of royalty bid and sliding scale royalty leasing systems. Particularly in the case of the royalty bid arrangement, a lessee may, with a very high royalty bid, acquire a tract on the assumption that the commissioner will reduce that royalty if and when production is developed. The legislature may wish to consider the possibly of limiting this authority to only to royalties paid ~~the~~ WHEN production level is within the lowest block of the royalty schedule, i.e., at the bottom of the "sliding scale".

6. Non-competitive Bidding. HB 854 would allow the commissioner, at his discretion, to offer acreage on a lottery system if the acreage had not received a bid in an earlier competitive sale. The legislature should be aware that this system, in combination with initial offerings at unrealistically high minimum bids, could be used to give away the state's oil and gas resources to private individuals or firms.

We will be pleased to examine these or other questions in more detail. We are confident that Mr. Lipton, Professor Gaffney, and the industry will raise additional questions that the legislature may also wish to examine.

GKE:dh
Attachments

My name is Morris Lowman and I represent Marathon Oil Company in Anchorage, Alaska, as its Senior Petroleum Landman. I have had 32 years experience in the oil industry of which 27 has been land related work. This experience has been in the states of California, Oregon, Washington and Alaska. My first exposure to Alaska work came in the late 1940's when I reduced surface geological work done by our geologist on triangular air photos to a plain map. In the 1950's, I was involved in the preparation of offers to lease for Federal lands when interest developed on the Kenai Peninsula. I was one of many petroleum landmen on the scene when it was announced that oil had been discovered at Swanson River. I had continued working acquaintances with Alaska land problems off and on until my permanent assignment to Anchorage in 1966.

We wish to thank you for the opportunity to express our views regarding HB 854, the proposed legislation entitled "An Act relating to the leasing and exploration of State land for oil and gas development".

I am submitting in writing a detailed statement of comments regarding this proposed piece of legislation and in my brief oral testimony I will dwell on the more onerous provisions and highlight or summarize our objections.

There are probably some provisions of the existing leasing act that need to be looked at, however, the existing law has been workable and the State has profited from its operation. We feel the whole-sale modifications as proposed in HB 854 are unnecessary and will create a considerable burden on the management of a leasing program with little or no net increase compensation to the State. It will be a burden to adjudicate and because of the many alternative discretionary decisions permitted, the commissioner may find himself open to challenges.

We have long encouraged the State to establish a leasing program as proposed in 38.05.180(b). We feel such a program

schedule, manpower needs and their financial needs. We do fear the provision contained therein that the commissioner must review and revise every year. This requirement takes away all stability a five year program is trying to provide.

Under Section 38.05.180(c), several alternative leasing methods are proposed. Other than the Cash Bonus bidding, we believe the systems proposed would not be to the best interest of the State of Alaska. When you use the royalty bidding or net profits bidding, you are assuming some of the risk and a governmental body should not be in the risk business. The costs and manpower required to manage and audit a net profits operation could become a bureaucratic nightmare and the net results to the State could be increased operational costs and less net returns for the benefit of its citizens. It is our belief that a work commitment type bidding would not be feasible or workable when a lease size is limited to 5,760 acres. This type of lease contract can best be utilized when large concessions can be granted. The agreements made by the Native Corporations are a good example.

Royalty bidding may be attractive to some operators, however, it is not the type of contract that encourages early evaluation of a tract. Also, there could be a danger of a party over bidding and rather than lose money on operations he would withhold development or would be requesting a modification of the terms of contract pursuant to Section 180(d) of this proposed legislation. How would a fair and equitable adjustment be made when you have the unsuccessful competitive bidders looking over your shoulder?

The report to the legislature on the various leasing methods, if used, as required Section 180(b)(5) would not be pertinent as it would probably be 10 to 15 years before a true evaluation is known. With competitive cash bonus bidding, you can generally determine its then present value when you have a willing seller and a willing buyer or buyers. Under

competitive royalty bidding,

may be open to question or challenge. For this reason, it would be smart to eliminate the royalty bidding method.

Section 180(g) provides for the commissioner to adopt regulations governing calculation of net profits. There are many interpretations of how to determine net profits and any rules established must be mutually acceptable and understood or it could be challenged. As stated above, such an auditing operation would be required and would cost the State more to audit such a method than by a straight royalty lease.

Section 180(h) gives the commissioner the discretion to terminate a portion of a work commitment if he finds that the work would be unnecessary or cumulative. This discretionary authority is dangerous as it would require the use of interpretative data. When dealing with geological information, it is highly interpretative and two identically educated persons can have legitimate differences of opinion which could be cause for challenge of any action taken.

Section 180(j) gives the commissioner the authority to provide a regulation and lease term that a lessee may earn production rights only to the depth drilled at the beginning of production from a lease. This in industry parlance is called horizontal segregation. This is a dangerous procedure and a poor business practice. When a party decides to test a structure, he usually drills to the best or the known productive horizon and if a discovery is made he will complete said well and continue development operations. It may be several years following initial drilling when enough data is available or the risk of drilling deeper is further minimized to merit such deeper drilling. By creating horizontal segregation, you increase the demand or call on surface usage and increase potential damage to the surface. Also, there would be danger of damage to shallow producing horizons from third party operations. We strongly oppose this provision and feel it is a detriment to the State.

Under Section 180(k), a rental in an oil and gas lease

for the rental period which is usually a year. When an operator drills a well and commences production operations, he then starts paying royalties or in some cases minimum royalties. Section 180(k) states that a lessee will continue paying rental until royalties have exceeded the rental rate for three (3) consecutive years. This sounds like the State wants its cake and to eat it also. This is an inflationary and a highly unethical proposal and we object to it. Also, we recommend the State establish a fixed rental rate and maintain it for the primary term of the lease or until the lease is placed on a production classification.

Section 180(v) says that the State has rights to purchase up to 100 percent of the volume of gas produced from a lease. If this type provision is included, it will do considerable harm to a viable petroleum industry. It would be difficult for a wildcatter to get financing and those companies that have already developed gas processing facilities would be in jeopardy of not having supplies for its plant. This section will in effect eliminate or impair the ability of lessees to use gas sales contracts or production payments as a method of financing, likewise discouraging exploration. No one should have this type of monoply on gas - not even a governmental body.

Section 180(w) provides for state access to all of a lessee's or permittee's exploration data and is objectionable to Marathon. A company's private proprietary data is its stock in trade and guarded closely. Any taking without due compensation is a grave injustice. This provision should be deleted.

There are several areas that need to be looked at closely for meaning or definition, however, those points herein above spoken to are the most objectionable and need to be eliminated.

Thank you for your attention and patience and if there are any questions, I will attempt to answer them.

Bristol Bay Native Corporation
445 E. 5TH AVENUE / P.O. BOX 220 / ANCHORAGE, ALASKA 99510 / PH (907) 278-3602

March 10, 1978

The Honorable Alvin Osterback
Chairman
House Resource Committee
Pouch V
Juneau, Alaska 99811

RE: H.B. 854

Dear Mr Chairman:

It is my understanding your committee will be holding hearings on H.B. 854 on March 16th and 17th, 1978. Unfortunately, we will have no representative at the hearings to testify and therefore, we respectfully request this letter be included in the official record of the hearings.

First of all, we object to most sections of this Bill as it is very complex, creates a multiple choice system that is unworkable, discourages exploration on State lands, and above all would have a serious impact on the development of our lands. We strongly urge that no action be taken on H.B. 854 this year.

Previous State selections and proposed selections in our region total several million acres with oil and gas potential in the Nushagak Basin (Bristol Bay Basin). BBNC lands in the onshore portion of this sedimentary basin would total about 1,750,000 acres surrounding 17 villages, several of which the Native lands are not contiguous. In other words, most of our lands with the new proposed State selections would be adjacent to or surrounded by State lands. In many instances, a drilling unit would involve both State and Native lands and in some instances, Federal lands. Therefore, any changes in leasing of State lands will have a direct effect on BBNC lands. Most of the provisions of H.B 854 would change the economics of State and Native lands in a producing unit. The net result will be that the portion of the unit under State leases would become uneconomical and abandoned first and the Native portion of the unit would then become less economical followed by early abandonment and thusly leaving large amounts of oil or gas in the ground. This could hardly be called conservation.

BBNC has had a joint agreement with a major oil company whereby, with commercial production, we will become a producing oil company. We do not lease our lands! Knowing some of our selected lands might not be adequate to cover undefined seismic structures, we anticipated leasing State or Federal lands in order to form drilling units for early development of our lands. About three years ago, we filed the necessary qualifying documents to hold both State and Federal oil and gas leases and have filed offers to lease on several thousand acres of Federal lands.

We have no problem with the present leasing system as it has been tried, tested, proven and above all, is understandable. Such a mixed bag of radical, czarist possibilities as proposed in H.B. 854 is uncomprehensible, unjustified and will no doubt have the opposite effect of the original intent, unless the intent was to retard development of State lands indefinately and in effect retard development of much of our lands.

Again, we strongly urge the postponement of any action on this Bill.

Sincerely,

W. C. Bishop

W. C. Bishop
Manager, Subsurface Resources

Bristol Bay Native Corporation
445 E. 5TH AVENUE / P.O. BOX 220 / ANCHORAGE, ALASKA 99510 / PH (907) 278-3602

March 10, 1978

The Honorable Alvin Osterback
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Al:

Due to previously scheduled meetings, we will be unable to have anyone at the hearings on H.B. 854, rescheduled for March 16th and 17th, 1978. Enclosed are sufficient copies of our testimony for each of the committee members.

Al, this Bill, if passed, would be disasterous for BBNC or any other region that has large areas of State selected lands with oil and gas potential. We would be especially hard hit as the State proposes to select several million more acres in our region which we had earlier supported.

This Bill would be a disservice to the entire State and a disaster to the Natives. It is so complex that few, even with an oil industry leasing background, would or could understand it. Certainly it would take months of research in order to salvage much that would be logical. Since there is a somewhat limited time this session, I would strongly urge you, as Chairman, to hold this Bill in committee without any further action.

With best regards.

Sincerely,

Bill

W. C. Bishop
Manager, Subsurface Resources

Encl: a/s

cc: Rep Nels Anderson, Jr.

SUMMARY OF FEDERAL OCS REGULATIONS

PERTAINING TO GEOLOGICAL AND GEOPHYSICAL INFORMATION

Title 30, Section 251.12 of the Code of Federal Regulations specifies that individuals and companies granted OCS exploration permits are required to allow the Department of the Interior (DOI) to inspect and select the forms of information listed below. The permittee must notify the DOI immediately of the acquisition or analysis of any geological data (part a of the section) or the acquisition, processing, or reprocessing of any geophysical data (in part b) collected under the permit. The DOI has at least one year after such notification to choose the material. A longer time period may be specified in the individual permits. The permittee is not required to submit interpreted geological or geophysical information for inspection and selection. If the permittee transfers geophysical data or processed geophysical information to a third party or a third party who has received geophysical data or processed geophysical information directly or indirectly from a permittee transfers said data or information to another third party, the transferor must notify the DOI of the action and bind the third party to the obligations of the permittee. The first set of regulations of this type were approved and put into effect in November, 1975.

The geological data from which the DOI may select includes: (This applies to COST-type and other stratigraphic test holes.)

1. Complete record of all geological and geochemical data and information resulting from each operation;

2. Paleontological reports identifying the microfossils by depth, unless washed samples are kept for inspection by the USGS;

3. Copies of well logs or charts (electrical, radioactive, sonic, etc.);

4. Core or bottom samples analyses or a representative cut of the samples;

5. Detailed descriptions of hydrocarbon shows or hazardous conditions; and

6. Other geological data and analyzed geological information obtained under the permit, as specified by DOI.

The geophysical data, processed geophysical information and reprocessed geophysical information which may be selected includes:

1. A complete record of each geophysical survey conducted, including the final location maps of all survey locations;

2. All common depth point and high resolution seismic data;

3. Processed geophysical information derived from the seismic data;

4. Geophysical data and processed information obtained from, but not limited to:

a. Shallow and deep subbottom profiles

b. Bathymetry

c. Side-scan sonar

d. Magnetometer systems

e. Bottom profiles

f. Gravity surveys

g. Magnetic surveys

h. Special studies such as refraction and velocity surveys, and

5. Reprocessed information such as true amplitude sections, migrated sections, and bright spot analyses.

The DOI may choose any or all of the above data or information at any stage of processing. Thus far the local USGS Conservation Division Office has been selecting final processed data and information. The geophysical data must be kept confidential for ten years after the issuance of the permit. Processed, reprocessed, and interpreted geophysical information is released to the public ten years after it has been submitted to the USGS. Geological data and analyzed and interpreted geological information obtained from deep stragigraphic tests are released five years after completion of the test well or 60 calendar days after the issuance of the first Federal lease within 50 geographic miles of the test site, whichever is earlier.

STATE'S RIGHT TO PURCHASE OIL & GAS IN HB 854

The State has the right in HB 854(v) to purchase not more than 16 2/3% of the oil and up to 100% of the gas at the regulated price or fair market value at the point of sale. The right to purchase is needed to protect the "in kind" taking of its royalty by Alaska, a sale of said royalty, and a subsequent reduction of the royalty in the later stages of production (d).

New Mexico, 1973, enacted a law which gives it the right to reserve an option to purchase at any time at the prevailing market price any or all minerals, including oil and gas, produced from State land. Thus, New Mexico may purchase 100% of the oil and gas found on State land.

Whereas the New Mexico Commissioner is authorized to waive the reservation option with respect to any specific mineral, he may not do so for oil or gas.

The Act, Chapter 26 of the Session Laws of 1973, has never been exercised by New Mexico; thus no opportunity has been given to test its constitutionality.

If Alaska were to reserve an option to purchase up to the amount of the royalty, fixed or bid, an equivalent net profit share would have to be determined.

TESTIMONY ON

ALASKA LEASING POLICY BILL

(H.B. 854)

By
Rod L. Boane
Alaska District Manager
Exxon Company, U.S.A.

Before The
State of Alaska
House Resources Committee

Juneau, Alaska

March 17, 1978

Mr. Chairman and Members of the Committee --

I am Rod L. Boane, District Manager for the Alaska Exploration District of Exxon Company, U.S.A. I appreciate the opportunity to be here today and present the views of my Company concerning the proposed Leasing Policy Bill.

First, let me say that Exxon believes the existing provisions of Section 38.05.180 of the Alaska Statutes are quite satisfactory in administering adequate control over exploratory and development activities on State leases. Therefore, we do not believe these new amendments to the Statutes are needed to protect the public interest. On the contrary, we think the proposed amendments would create unnecessarily involved and cumbersome procedures that will neither foster needed exploration nor benefit the State of Alaska. Although we take exception to almost all features of the proposed amendments, in the interest of time, I intend to discuss only the more troublesome provisions, with particular emphasis on the proposed bidding methods.

Exxon believes that the best method for awarding leases is on a cash bonus basis. This system has several advantages which I would like to review.

- First, the successful bidder sees very strong incentives to explore and develop rapidly and to recover the maximum economic volume of hydrocarbons at the lowest possible cost. This is necessary in order for him to maximize the return on the cash bonus invested.

- o Second, under the cash bonus system, the State bears none of the risk that commercial reserves will not be found. This risk is placed directly on industry where it belongs. This is a particularly critical concept in Alaska which is still essentially a frontier province where very little exploratory drilling has occurred and thus very little is known about the oil and gas potential of most of the State. When one further takes into account the fact that Alaska is a very high cost area due to its remoteness and harsh operating environment, it should be easy to see that the exploration risks and costs are indeed great. The Gulf of Alaska history should prove this point as, thus far, no commercial discovery has been made.

- o Third, under the cash bonus system there is no possible way that the awards will be made in an arbitrary manner since the highest bid is obvious.

- o Finally, the system is simple and inexpensive to administer, and its integrity is unaffected by future events. The State would not have to expand its staff to implement this system.

Now I would like to compare the alternate bidding methods proposed in this legislation to conventional cash bonus bidding with fixed royalty. Basically, the proposed alternative bidding methods fall into one of three categories. The first category involves some form of royalty bidding. The second category uses

some form of net-profit bidding. The third category uses some form of work commitment. All three categories require a cash bonus, either as a bid variable or a fixed amount. Let's first examine the royalty bidding systems.

(1) It is not uncommon for operators to discover reserves of lesser magnitude than anticipated. With high fixed royalty, some of these discoveries could not be developed profitably unless the State agreed to accept a lower royalty than originally bid. Downward adjustment in royalty rate prior to any development would be difficult to administer and could undermine the integrity of this bidding system.

(2) With royalty bidding, the successful bidder does not have a strong incentive for rapid exploration and development since front-end cash investment is small. Speculators could therefore see incentives to acquire leasehold interest, and then wait in hopes that they will be able to cash in on the discoveries made by others. This situation would obviously result in delayed exploration and development activities.

(3) With exclusive royalty bidding, the public bears the major portion of the exploration risk because if the tract doesn't contain commercial hydrocarbon reserves, as the majority will not, the public receives no compensation whatever. As an example, the State received $900 million in bonus for acreage on the North Slope in the September 1969 sale. Under a royalty bidding system the State would have received little income to date. We strongly believe that risk-taking and its associated rewards or losses are more properly the province of private enterprise.

The second royalty bidding system involves a sliding scale royalty system which would be difficult to monitor and, practically speaking, would make it impossible to compare bids unless you know the total reserves, the price at which production would be sold, and the rate of production. Sliding royalty could result in widely differing positions on prudent development. Also, unitization of tracts would be a very complex and difficult job.

With these comments in mind, let's review recent experience with royalty bidding in the Federal sector. A program of experimentation began with the recent sale in the Lower Cook Inlet. Thirty-four percent of the tracts were put up for royalty bidding. Selection of these tracts was in such a manner that they were scattered over the entire sale area. When this type of tract distribution is coupled with a forced unitization lease stipulation, it is not difficult to conclude that the owners of the royalty tracts have no incentive for rapid evaluation. They can just sit back and wait for the owners of cash bonus tracts to do the initial drilling. They can then join the units covering any reservoirs that extend under their tract.

After the Cook Inlet sale, this problem apparently became obvious to the Department of Interior. For the North Atlantic Sale (Sale #42), they attempted to "fix" this problem by grouping the royalty tracts together and having them removed from the cash bonus tracts. They further expanded the experiment by having a group of cash bonus tracts that had a fixed royalty of 40 percent.

Industry comments relating to royalty bidding have apparently begun to create some concerns about this system. In the upcoming South Atlantic Sale (Sale #43), we see another attempt to "fix" difficulties in the previous system. Tracts are being offered by cash bonus bidding with a sliding scale royalty. They have attempted to "fix" the unitization problem by again grouping the sliding scale royalty tracts together. However, they did not address how a group of sliding scale royalty tracts or sliding scale royalty and cash bonus tracts would be unitized.

Now that this experimentation process has begun, we see the continuing creation of new difficulties and complexities as attempts are made to correct previous difficulties and problems. It appears that this process is going to have a "snow-balling" effect and may eventually reduce competition. In this situation, only the companies that can afford to dedicate a large professional staff to the long unitization negotiations and wait long periods for initial production will servive. This certainly does not promote increased competition.

Now let's look at the second bidding category a profit-sharing system, which has most of the same adverse characteristics as royalty bidding, but with four added complications and disadvantages.

(1) Using net profits will be much like selecting a contractor to perform a job. The operating efficiency of the bidder could become an important consideration in determining which of

several bidders had submitted the high bid inasmuch as the gross proceeds to be received by the public would be a direct function of the efficiency of the operator. Thus, the successful bidder would no longer be obvious. Since the relative operating efficiency of companies cannot be determined quantitatively, the Commissioner would be vulnerable to charges that bid awards were being made in an arbitrary or discriminatory manner.

(2) A profit-sharing system would be difficult and costly to administer. A large administrative organization would likely be established to audit and monitor the continuing activities of lessees. Discretionary judgments would be required by the State with regard to what costs were to be included or rejected in the profit base. This system could lead to State control of expenditures.

(3) A profit-sharing system would significantly reduce the incentive for a successful bidder to operate at maximum efficiency. Any prudent operator utilizes a priority system when restraints of either manpower or materials create limitations. When these restraints exist, net-profit tracts will have low priority. The result - reduction of efficiency. It would also reduce the timing and incentive for development of advanced technology currently in progress by industry.

(4) Most important, sharing in net profits would signal the State's entry into the production phase of the oil business. It might be politically and economically difficult for the State not

to be deeply involved in decisions about day-to-day operations and thereby become an operating partner. This step would not be consistent with the maintenance of a strong private enterprise system either within the oil industry or within the State itself.

The third category of biddi system is work commitment which can be combined with any of the other methods. A work commitment bid becomes a form of cash bonus bidding. If an operator has a high interest in a tract, he will bid a work commitment which is equivalent to what he would bid in a cash bonus system. In many instances, this committment would be much larger than required for evaluation. If early exploration results are negative, the operator remains committed to drill more wells than would normally be prudent or necessary.

The provision that the Commissioner can terminate a work commitment further complicates the issue. Termination of a work commitment for one operator would undoubtedly result in inequities because he has received an unfair competitive advantage. Continuation of this practice could result in extremely high work commitments in anticipation of cancellation after performing only a portion of the work.

A work commitment bid will be nothing more than a form of cash bonus. The same result can be ac omplished more easily and efficiently with a cash bonus bid.

Now I would like to discuss a few other provisions which give us concern.

(1) AS38.05.180(v) Right to Purchase - The provision gives the State the right to purchase not more than 16 2/3 percent of the oil and 100 percent of the gas. The most onerous portion of this provision is the right of the State to purchase 100 percent of the gas.

The present and potential supplies of gas within Alaska far exceed reasonably anticipated demands by the State residents. Therefore, to find a market, this gas will have to move into interstate commerce. This requirement, that the State could remove the gas from the market, could severely hamper a producer's ability to market the reserves. Without a reasonable expectation that the developed gas can be marketed, there is greatly reduced incentive to explore.

It would also retard development of natural gas for State residents. The risk that the gas could be diverted would have significant impact on ventures to install gas transportation systems.

In addition to these concerns, it raises other questions such as:

1. Determination of fair market value
2. Use of gas for lease fuel
3. Timing and rate of production - could the State control these to satisfy their own requirements or desires?

(2) AS380.05.180(w) - Exxon is strongly opposed to this proposed section which requires any lessee or permittee conducting exploration for, or development or production of, oil or gas on State land, to provide the Commissioner access to all data obtained from such activity and to provide copies of such specified data, as the Commissioner may request. Access to all data could potentially permit endless intrusions into private business. Much of this data is very costly. In a competitive industry such as ours, a considerable amount of data is proprietary. Disclosure of this type of data could result in the loss of a competitive edge. In none of the other producing states are operators required to provide access to all data. In addition, we feel that any such requirement would, in effect, constitute a "taking" for which compensation by the State would be required. We believe this proposed amendment is unnecessary and should be deleted because the existing regulations provide the State with adequate control over exploration and development activities.

(3) AS38.05.100(1) - We are strongly opposed to the concept of earning production rights only to the depth drilled at the beginning of production from a lease. We are not aware of this language in lease forms for any other producing state.

This language is somewhat similar to that commonly used by a lessee in "farming out" acreage for the purpose of evaluating specific geologic objectives by a third party. In a frontier

province like Alaska it doesn't make any sense to place such restrictions in the lease form. The idea should be to give the lessee maximum flexibility in evaluating his acreage - not to curtail or to require unreasonable and costly actions on his part. We, therefore, strongly suggest that this language be deleted.

We also recommend that reworking be added to the list of actions which will hold a lease in force. In fact, a grace period of 60 days should be allowed between cessation of production and initiation of drilling or reworking operations. This useful and desirable feature is in the present law.

(4) AS38.05.180(j) Lease Term - A five-year primary lease term is very restrictive in Alaska. The remote location of most prospects, rugged terrain, short construction season, and reduced drilling season, either necessary or imposed, make completion of the exploration cycle a difficult and time-consuming process. Once a discovery is made, additional drilling is required before an estimate of the field size can be made. All of the previously mentioned factors affect this drilling too. Once the lengthy process of discovering a field and establishing its commerciality is complete, the long development phase must begin. We strongly recommend that the 10-year lease term be retained.

(5) AS38.05.180(c) Uplands Acreage Limitation - The proposed 200,000-acre limitation on all lands other than tide and submerged lands is very restrictive compared with the current 500,000-acre limitation in a State like Alaska which has so many frontier

interior basins to explore. In a hostile high cost environment such as Alaska, a large block of acreage may be necessary in order to justify exploration. We believe the proposed 200,000-acre limitation would be a strong disincentive of an operator to explore these frontier interior basins and strongly recommend maintenance of the current 500,000-acre limitation.

(6) AS38.05.180(u) Joint Bidding - The provision allowing the Commissioner to restrict joint bidding, if he so desires, could prohibit the involvement of some companies most capable of operating in the Alaskan environment.

A study was performed by the University of Southern California and the USGS to determine the effects of restricting majors from bidding jointly in the OCS. They concluded that on the average, this restriction resulted in more bids per lease by the major oil companies.

(7) Legislative Review - We object to the requirement for submission of the leasing program for annual review by the Legislature because we believe it will result in unnecessary delays in implementing leasing programs.

(8) AS38.05.180(q) Drilling and Development Contracts - The proposed amendment which would allow the State to share in exploration costs is inconsistent with the provisions of the lease agreement, as the State's royalty interest is free of all exploration

and development costs. If this is intended to allow the State to share in working interest, we a - opposed since it would signal entrance of State Government into the oil and gas business.

In closing, I would like to reiterate that Exxon believes the current leasing statutes and the implementing and regulations have served the State and industry well and do not need to be changed.

Passage of this bill will require the State to embark into an experimental program. Because these systems are unknown, many mistakes will be made. New "wrinkles" will be tried in order to correct these mistakes. In fact, the State of Alaska will find itself taking a course which is identical to the course presently being followed by the Federal Government. The end result will be an extremely complex system which may allow only a few companies to survive.

This concludes my prepared testimony, and I will be happy to answer any questions which yo" may have.

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STATE'S RIGHT TO PURCHASE OIL & GAS IN HB 854

The State has the right in HB 854(v) to purchase not more than 16 2/3% of the oil and up to 100% of the gas at the regulated price or fair market value at the point of sale. The right to purchase is needed to protect the "in kind" taking of its royalty by Alaska, a sale of said royalty, and a subsequent reduction of the royalty in the later stages of production (d).

New Mexico, 1973, enacted a law which gives it the right to reserve an option to purchase at any time at the prevailing market price any or all minerals, including oil and gas, produced from State land. Thus, New Mexico may purchase 100% of the oil and gas found on State land.

Whereas the New Mexico Commissioner is authorized to waive the reservation option with respect to any specific mineral, he may not do so for oil or gas.

The Act, Chapter 26 of the Session Laws of 1973, has never been exercised by New Mexico; thus no opportunity has been given to test its constitutionality.

If Alaska were to reserve an option to purchase up to the amount of the royalty, fixed or bid, an equivalent net profit share would have to be determined.

TESTIMONY ON H.B. 854

Mr. Chairman, members of the committee, my name is John Carson, and I appreciate the opportunity to comment on House Bill 854.

I've been a petroleum geologist for 22 years, and I'm presently Division Geologist in Alaska for Chevron U.S.A., the principal domestic oil and gas subsidiary of the Standard Oil Company of California. I've lived and worked in this state, and since 1965, I've been actively involved in all state lease sales and the two OCS sales in the Gulf of Alaska and the Lower Cook Inlet.

Chevron is aware of the amount of preliminary work done by the state administration and the Department of Natural Resources in researching and drafting this legislation.

We commend efforts in drafting legislation that proposes a five-year leasing program for Alaska. We believe the state should be encouraged in its effort to establish and maintain such a long-term program, with appropriate industry participation.

Members of the committee, the petroleum industry--as indicated by its response to your solicitations--clearly desires a realistic plan that can serve as the basis for an effective working relationship between the industry and the state.

Frankly, we believe the proposed legislation will inhibit or prevent orderly development of oil and gas resources in Alaska--to the detriment of the state government, its taxpayers and my own industry.

I will say candidly that this legislation is untenable from our point of view. If enacted into law, H.B. 854 would have a serious and far-reaching impact on my own company, and would give us serious cause to reconsider our exploration activities in the high-cost, high-risk frontier state lands of Alaska.

The situation we face today reminds me of a quote I heard the other day attributed to an executive of Walt Disney Productions, which recently announced that it was abondoning its latest recreation complex because of excessive and oppressive regulation.

The Walt Disney executive blamed the end of the project on, and I quote: "An irresponsible proliferation of delays, the never-ending requests for more irrelevant information and studies, and bureaucratic sidetracking and meanderings into unreasonable alternatives."

I realize this is the first of many hearings on this legislation, but H.B. 854, as now written, would be counter-productive. It actually would be a step backward at the very time our nation desperately needs an effective oil and gas exploration program.

Generally stated, we object to provisions covering: 1) the wide variety of bidding methods to be employed; 2) the Commissioner's access to all the lessee's data, including proprietary data; 3) the state's call on production; 4) short and restrictive lease term and conditions; 5) the need for the Commissioner to submit and defend his lease plan before the legislature; 6) the Commissioner's right to ban joint bidding by major companies; and 7) reduced acreage chargeability on state uplands.

Time does not permit me to discuss in detail each of the provisions, but I will attempt to outline our most significant objections:

First, the wide variety of bidding methods:

In advocating numerous bidding schemes--actually a shift from only cash bonus bidding, a system that has worked well--the administration hopes to maximize its financial return from state lands.

But Chevron believes a move away from the cash bonus method means the perilous abandonment of a proven concept that has brought stability to the state's leasing program. The bonus system would be replaced by an array of untested leasing methods, particularly in the frontier areas.

We believe this provision, if enacted, will transform Alaska into a trial-and-error laboratory in oil and gas leasing. It means replacing orderly development with uncertainty and the unknown. It's not a gamble Chevron feels is worth taking.

Before discussing each bidding system, all concerned parties should be aware that a move away from cash bonus bidding will result in three key developments:

First, it will shift a substantial part of the burden of risk from industry to the taxpayer.

Second, it will serve as a substantial deterrent to exploration and development, and

Third, it will cause the rapid and constant growth of state agencies to administer, evaluate and audit the leases and subsequent production. This places increasing demands on taxpayers to support this bureaucracy.

Chevron believes these are unacceptable consequences which would be intolerable to the taxpayers and leaders of this state.

As you know, cash bonus bidding provides that leases be awarded to the highest cash bonus bidder. This bonus is paid before the lessee can proceed with exploratory drilling on the lease.

The other bid methods provide for bid variables such as royalty, net profit, or work commitment. In these cases, the state receives nothing other than perhaps a small fixed bonus at the time of leasing. Other revenue is not forthcoming under the royalty and net profit schemes unless there is production. Simply stated: No production, no revenue.

In our opinion, cash bonus bidding is the only method that will strongly encourage the petroleum industry to lease and explore the state land.

We further believe that this method will result in the production of the most oil and gas and consequently will provide the most revenue, both to the state and the petroleum industry.

The other methods, employing biddable royalties and net profits, reduce the incentive to explore and produce. These alternatives, particularly in the case of biddable royalties, serve to shorten the economic life of the fields--resulting in less production and, therefore, less revenue.

Cash bonus bidding is particularly advantageous to the lessor in frontier areas of high risk. Most of Alaska's lands are in this category.

Now let's compare other proposed bidding methods with traditional cash bonus bidding. Because of time limitations, I can only touch briefly on these, but I am prepared to go into more detail if questions arise.

The royalty bidding method, although it allows oil and gas companies to acquire land with little cash, is a strong deterrent to early drilling. Very simply, it is easier and cheaper to wait on others to bear the risk and expense of exploratory drilling.

Having spent little capital to acquire the lease, an operator is tempted not to spend a dime to evaluate the lease, hoping an adjacent leaseholder may do it for him. Carried to the extreme, the effect of this would be that no wells would be drilled to evaluate the leases. This same problem is inherent in the net profits system, which I'll talk about shortly. On the other hand, when cash bonus is involved, the winning bidder has a strong incentive for early drilling because his bonus investment is earning him nothing.

In cash bonus bidding the state assumes none of the risk but still receives revenue from leases, whether or not they are productive.

The advantages of this system were clearly demonstrated a few years ago in the sale of federal leases off the coasts to Mississippi, Florida and Louisiana. Successful bidders paid $743 million for several tracts on one structure, the Destin Anticline, and spent over 10 million dollars drilling seven dry holes on the structure--all at no cost to the taxpayer. Under royalty or net profit bidding, the government would have received nothing.

What would government have received if it had sold the Gulf of Alaska on a royalty bid basis? As in the Gulf of Mexico case I previously cited, nothing. Should the taxpayer and the government be forced to suffer the loss of more than one-half billion dollars--when to date, no royalty appears forthcoming?

The NPRA comes to mind as another example of an area adjudged to possess high potential, but which so far is a disappointment. Again, if sold on a royalty bidding method, the lessors would have received nothing to date.

Let me emphasize that in all these cases, the areas were considered extremely attractive to both the industry and government. These are precisely the types of areas in which the state might be enticed to use a royalty or net profit bidding method. Yet none of these has led to any discovery or government revenue.

Proponents of royalty bidding believe it encourages competition among bidders and allows the small company and the independent improved entry into oil and gas lease bidding. Cash bonus bidding usually is blamed for tending to discourage small companies from bidding.

This is not supported by the facts. Small companies gain entry into the sale by joining with a larger company or with several other smaller companies. In the recent Lower Cook Inlet sale, independents and smaller companies bid on royalty and cash bonus tracts with about the same frequency as the majors. Of the 34 companies which bid in the sale, 18 were smaller companies. These 18 made successful cash bonus bids on 26 tracts, of which 13 were sold for more than one million dollars. Moreover, the small companies are represented in half of the top tracts of the sale.

The second proposed bidding method we are concerned about is net profit bidding. This system has most of the disadvantages of royalty bidding plus two more: It requires a huge staff to administer and audit.

For example, each property would require a battery of accountants to audit the companies' production and costs. Just as in the case of royalty bidding, the risks are passed on to the government. Furthermore, net profit bidding discourages cost-effective, efficient development practices.

Work commitment bidding is the least onerous alternative to cash bonus bidding methods and would be beneficial, provided that it is enforceable. We view this method with some caution because of the uncertainty of the conditions under which it might be imposed.

At this point, I would like to summarize why we believe a majority of the industry prefers cash bonus as the best method for both the state and the energy explorers.

First, we believe it is the foundation for all free enterprise contract arrangements;

Second, it is the simplest and easiest to determine and administer by all parties;

Third, it is fair and equitable; by this I mean that all parties travel at their own risk, and finally,

The right to explore is paid for in advance.

In 1977 the Department of Natural Resources completed a report entitled, "A Study of Petroleum Leasing Methods and Possible Alternatives." H.B. 854 apparently is based on this study and its conclusions.

In this study, a great deal of attention is given to the "percentage of acreage option." We assume this is the reason for granting the Commissioner authority to withhold acreage from any sale areas under Section 180 (c) (4) (f). Under this scheme, certain amounts of acreage would be withheld from a sale so that following a discovery the state could collect a windfall on drainage acreage sales. This is a workable approach only if you know which acreage to withhold and on which structures. This is rarely the case, as we saw in the MAFLA, Gulf of Alaska and NPRA. Furthermore, industry cannot bid or drill on only portions of prospects in high risk or high cost areas which predominate in Alaska.

I would like to make a few more comments about the Department of Natural Resources' report. The one overriding conclusion of that study was that a variety of bidding methods, widely employed, would increase the state's return from its commitment of oil and gas properties.

Chevron believes this conclusion is biased against cash bonus bidding, and we feel that the odds are against anyone knowing all they need to know to use the right method at the right time. The state, even if armed with a skilled staff and large amounts of data, can hope to do no better than an individual company in evaluating potential and risks, and these companies are more often wrong than right in their appraisals.

We believe the state's report, and particularly its main bias against cash bonus bidding, is based on a few but major faulty economic assumptions.

First, the authors of the report assume that the industry will make an 18 percent rate of return. Although this is very desirable, and would not be out of line considering the high risk involved, past experience shows that the industry has averaged no more than seven to eight percent from OCS ventures which approximates Alaska lands, according to several exhaustive studies. For example, in May 1977 Prof. Walter J. Mead of U.C. Santa Barbara testified before a U.S. House of Representatives Committee that weighted average rate of return from 184 leases issued in the Gulf of Mexico in 1954-55 amounted to only 7½ percent before taxes. This sale period was selected because these leases have a 20-year production history which provides a comprehensive data base.

Second, no reduction of state income was assumed in royalty cases, but it almost certainly will occur. The economic limit of a field is going to be greatly influenced by the amount of royalty. The higher the royalty, the earlier the economic limit is reached. When an operator can no longer produce oil or gas profitably the result will be oil and gas left in the ground and neither industry, nor the state, will make any money on it.

* * *

Next, I would like to turn to the provision of the bill that would require the lessee or permittee to make available to the Commissioner all data obtained from exploration and production activities on the lease or permit. We believe this provision raises fundamental questions about the appropriateness of the state's entry into the exploration business, and secondly, points to grave problems--from our point of view--about the preservation of confidentiality.

should but
The language in the proposed legislation does not distinguish between, "raw", "processed" and "interpretative" data. We are unalterably opposed to providing the state with the results of the efforts of our interpretative staff. Industry cannot operate under this law. We urge the committee to delete this section.

We are also opposed to giving the state our basic geophysical data. We are not convinced that the state can hold this data confidential because of its large staff and turnover rate. Any leak of this sensitive information to our competitors definitely will have an immediate and adverse impact on our exploration program in this state.

The third provision we object to (Sec. 38.05.180(v)) gives the state the right to purchase up to 16 and two-thirds percent of the lessee's share of the oil and up to 100 percent of the lessee's gas.

We are not opposed to the state's right to take its royalty share of oil or gas in kind, but we oppose any provisions which empowers the state to take any portion of the lessee's share.

In order to justify the risk and expense of exploration and development, and be able to satisfy its contractual commitments, the lessee must retain the right to dispose of all of its share of production. Without this right, the state of Alaska lands become less desirable to explore and develop. We believe this is another step toward the state's entry into the oil and gas business, which should stay with private industry.

It seems inconceivable to Chevron that the state would take a portion of the lessee's share when that is the very incentive for industry to explore in the state initially.

Another provision we oppose is Paragraph Q. Paragraph Q refers to drilling and development contracts and to the authority of the state to share in the cost of exploration.

We're not clear on the meaning and intent of this paragraph. If it means the state intends to become a working interest participant in leases, then we strongly object.

Our next objection concerns the terms and conditions of the lease itself. Because of the remoteness of most of Alaska's land and the seasonal restriction on operations, Chevron prefers a ten-year primary lease term. We feel this length of time is necessary to adequately evaluate a lease under Alaskan conditions.

There is one provision which would allow the Commissioner to grant rights on leases only to the depth drilled at the time p duction begins. Chevron is at a total loss to see how this provision can benefit the state in any way. It will certainly cause waste in time and money for the industry because wells will be drilled far beyond primary objectives--just to ensure earning the rights of a normal lease. In effect, this will delay production and thereby delay revenue to the state.

Considering the geological, legal and practical ramifications of this provision, one must conclude that it is totally unacceptable to the industry and can do the state no good. It should be stricken from the bill.

Our next objection is to any effort to restrict joint bidding between majors or multinational companies. In Alaska, particularly, with its accompanying expensive costs of exploration and production, it is essential for large and small companies to be able to join together to share the risk.

A ban on joint bidding by majors does not necessarily increase state income. In fact, a recent study by the Department of Interior showed that joint bidders tend to bid higher, on the average, than solo bidding competitors. (November 1976 issue of the Journal of Petroleum Technology.)

The next provision we wish to discuss deals with the need for the Commissioner to submit and defend his leasing program to the legislature. We prefer that the various reporting methods set out in this section not be prescribed in law. We believe this review is an administrative function and that public hearings are an adequate and effective vehicle for gathering comments and reactions to the proposed action. Neither the timber leases nor any other types of state lease are submitted to the legislature, and to require this approach in law for the petroleum industry will lead to further delays in development of the state's natural resources. Particularly objectionable to us is the requirement that the Commissioner must defend his previous year's program and explain why he used certain methods. This is certain to toss the entire leasing program into an interminable bureaucratic morass.

And finally we oppose the provision which deals with acreage chargeability. We believe the reduction to 200,000 acre limitation on uplands is arbitrary and unjustified. The 500,000 acre limitation in this state, where there are large areas of state lands potentially available for bid, is not unreasonable. A large acreage position is necessary as an incentive for an operator to explore frontier areas.

In closing, Mr. Chairman, Chevron believes H.B. 854 is an unreasonable, unwise and unworkable piece of legislation that simply is not in the best interest of the citizens of Alaska.

As I said at the outset of my remarks, my own company would be faced with the prospect of seriously reassessing its current and future exploration activities on Alaska state lands if this bill is enacted.

It is our opinion that this legislation will only serve to inhibit or prevent the orderly exploration and development of Alaska's oil and gas properties.

We oppose a shift away from the successful cash bonus bidding system because we believe that the cash bonus ensures a fair and equitable return to the state, as well as ensuring the fair share of any revenue resulting from production.

It is conceivable that Prudhoe Bay may not have been found if royalty or net profits bidding or percentage acreage option had been employed.

Mr. Chairman, members of the committee, we have serious concern that if this legislation becomes law, the ultimate losers will be the citizens of this state, as well as the consumers of oil and gas.

Thank you for giving Chevron this opportunity to comment on this proposed legislation.

* * *

DESCRIPTION OF LEASING METHODS IN HB854

Currently, the State of Alaska's leasing system is a cash bonus bid with a minimum fixed royalty of 12.5 percent. The methods outlined below include the present system with different fixed royalties, sliding scale royalty with bonus bid, sliding scale royalty bid with fixed bonus, net profit share bid with fixed bonus, royalty bid with fixed bonus and exploration work commitment. The basic elements of these methods are summarized below.

(1) Bonus Bid With Fixed Royalty

Bonus bid with fixed royalty is the system currently used by the State of Alaska. In a lease sale, the winning bid for a tract is the one which makes the highest sealed or auctioned cash bonus bid. There is also a minimum royalty of 12.5 percent. An advantage of this system is that government receives revenue regardless if there are economical quantities of oil or gas found and/or produced. To avoid early termination of production, royalties need to be flexible during a field's declining years.

(2) Sliding Scale Royalty With Bonus Bid (or Sliding Scale Bid with Fixed Bonus)

Under this system, the government receives a cash bonus bid and a sliding scale royalty. We used 12.5 percent as a minimum figure and 62.5 percent as a ceiling wherein the rate in any period is dependent upon the production of that period.

The royalty rate is graduated in much the same manner as the federal personal income tax. Table I gives two examples of a sliding scale royalty schedule. The royalty is progressive, that is, the royalty on additional production increases. For example, in the South Central Area, the initial 500 barrels pay a royalty of 12.5 percent, the next 500 barrels pay 25 percent. The royalty rate increases by 12.5 percentage points per 500 barrels until 2000 barrels of output are achieved. All production beyond 2001 barrels pays a royalty of 62.5 percent. Thus, if production reaches 5000 barrels, the average royalty rate is 50 percent. In the limit, the average rate would converge towards 62.5 percent as daily production continues to increase.

As field productivity declines and well production falls, the producer backs down the schedule and royalties decline. In order to optimally exploit the field, the royalties should decline to zero near the end of field life. Actually, final rates of five or six percent would result in minimal early shut down.

TABLE I
TYPICAL SLIDING SCALE ROYALTY SCHEDULES

SOUTH CENTRAL AREA

Daily Average Prod. Rate (Bbls./day)	Incremental Royalty Rate (%)	Royalty For Specific Producing Rates: Producing Rate (Bbls./day)	Royalty Production (Bbls./day)	Average Royalty Rate (%)
-500	12.5	500	62.5	12.50
501-1000	25.0	1000	187.5	18.75
1001-1500	37.5	1500	375.0	25.00
1501-2000	50.0	2000	625.0	31.25
2001-2500	62.5	2500	937.5	37.50
		3500	1562.5	44.64
		4500	2187.5	48.61
		5000	2500.0	50.00

NORTH SLOPE AREA

Daily Average Prod. Rate (Bbls./day)	Incremental Royalty Rate (%)	Royalty For Specific Producing Rates: Producing Rate (Bbls./day)	Royalty Production (Bbls./day)	Average Royalty Rate (%)
-1000	12.5	1000	125	12.50
1001-2000	25.0	2000	375	18.75
2001-3000	37.5	3000	750	25.00
3001-4000	50.0	4000	1250	31.25
4001 and above	62.5	5000	1875	37.50
		7000	3125	44.64
		9000	4375	48.61
		10000	5000	50.00

Note: The Sliding Scale Royalty Schedule for the North Slope area is signifi cantly higher than for the South Central area because the higher North Slope operating costs result in a much higher economic limit.

Hopefully, this illustration clarifies the relationship between production rates and royalty rates.

Greater flexibility in setting the initial rate is the major advantage of this system while not running the risk of an uneconomically (for Industry) high royalty rate. On the other hand, to achieve an overall lower royalty payment, a company might spread out production over a longer period of time. Usually, however, because of the time value of money and increased operating costs, oil companies generally try to accelerate production.

(3) Net Profit Share Bid With Fixed Bonus

A small fixed bonus is required as earnest money. The bonus is low enough to encourage producers to bid a high net profit share while permitting profitable development.

(4) Royalty Bid With Fixed Bonus

This system utilizes the same method to calculate fixed bonus as described for Net Profit Share. The bid parameter is a function of production instead of net profits. Since the bonus is fixed, interested parties bid on the royalty rate that the government is to receive. The advantage of royalty bidding is that little front end money is needed by Industry. However, this could encourage speculation causing an overbid. Royalty bidding should encourage more competition among bidders and may allow the smaller companies a better chance of winning the tract.

(5) Work Commitment With Fixed Bonus, Royalty or Net Profit Share

The government itemizes the performance criteria such as the rate and amount of work to be performed on each tract. The total bid specified in dollar terms and a portion of the bid used for exploration and development activities. This system gives the government some control over the rate and extent of resource development.

SUMMARY OF ACREAGE LIMITATION
CHANGE IN HB 854

The acreage any one State lessee may hold is 500,000 acres upland and 500,000 acres offshore. HB 854 reduces the uplands to 200,000 acres. This is to help increase the number of upland lessees by limiting the holdings of the larger major oil companies. Offshore holdings will be unaffected.

No other state that we are aware of has an acreage limitation. But no other state is Alaska's size nor has any state tens of millions of acres available to lease.

The Federal government has an acreage maximum for its uplands within each state. During Alaska's territorial days the Federal oil and gas acreage limitation in Alaska was 100,000 acres. In other states it was 46,080 acres.

After 1961 the Federal maximum for Alaska rose to 300,000 acres in the Northern district (approximately north of the Yukon River) and 300,000 in the Southern district. These apply today. There is no Federal acreage limitation on the Outer Continental Shelf. Presently, the acreage limitation is 246,080 uplands acres of Federal leases per state, other than Alaska.

HB 854 grants companies five years from the effective date of the act to comply with the 200,000 upland acre maximum.

A list of major leaseholdings as of February, 1978, (showing uplands and offshore holdings of those companies which now exceed 200,000 acres) follows:

ALASKA OIL AND GAS ACREAGE HOLDINGS
(as of March 13, 1978)

COMPANY	ACRES		
ARCO	408,151.21	356,882.86	acres of uplands
		51,268.35	offshore
		408,151.21	total
UNION	287,032.83	233,138.75	uplands
		53,894.08	offshore
		287,032.83	total
PHILLIPS PETROLEUM	243,227.94	80,332.74	uplands
		162,895.20	offshore
		243,227.94	total
EXXON	158,627.73		
TEXACO	156,027.03		
SOHIO PETROLEUM	135,588.28		
BP ALASKA	103,218.99		
CITIES SERVICE	140,071.58		
CHEVRON	126,493.55		
AMOCO	126,134.64		
MOBIL	120,375.19		
MARATHON OIL	71,538.36		
BEARD OIL	71,260.49		
SHELL OIL	40,603.10		
GETTY	29,857.30		
SUN OIL	27,453.87		

31-Q1LH

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU 99801

April 3, 1978

M E M O R A N D U M

TO: Members of the Legislature

FROM: Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

SUBJECT: Release of Audits

In accordance with AS 24.20.311, the following audit report was approved for release to the Legislature and the public on April 3, 1978:

A Review of Alaska Coastal Management Program, Grant No. 04-6-158-50029, Office of the Governor, Division of Policy Development and Planning

A Special Review of The Division of Marine Transportation, Department of Transportation and Public Facilities

Enclosed is a short digest covering the audit for your convenience. Should you desire a copy of the completed report, it is available at the following libraries or through our office (465-3830):

Alaska State Library
Alaska Historical Library
University of Alaska Library, College
University of Alaska Library, Anchorage
Z. J. Loussac Public Library, Anchorage
Fairbanks-North Star Borough Library, Fairbanks
Ketchikan Public Library
Kotzebue Public Library
Bethel Public Library
A. Holmes Johnson Public Library, Kodiak

Enclosure

31-Q1LH

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU 99801

March 3, 1978

SUMMARY OF: A Special Review of the Division of Marine Transportation, Department of Transportation and Public Facilities

PURPOSE OF THE REVIEW

In accordance with your request and Title 24 of the Alaska Statutes, this special report has been prepared on all passenger service aspects of the Division of Marine Transportation, Southeast System. The Steward's Department is responsible for passenger services. The report encompasses:

1. Purchasing and warehousing of supplies used by the Steward's Department.

2. Operating procedures of the Steward's Department on board vessels.

3. Accounting and management control of all passenger services activities.

FINDINGS AND RECOMMENDATIONS

Most of the problem areas noted in our review have been addressed in prior audits, not only by the Division of Legislative Audit (November, 1973 and April, 1976) but also by the Governor's Management and Efficiency Review (May, 1976), the Department of Transportation and Public Facilities' Internal Review (November, 1977), and the Department of Administration's Division of Internal Audit (April, 1966). Each of the previously mentioned reviews emphasized the inadequacy of the Division's accounting and management information system. Yet, management still lacks any effective means of evaluating the Passenger Services Operation.

In addition, all reports noted deficiencies in procedures for purchasing and/or controlling inventory. Our current review again addresses the supply function. Unresolved problems exist in purchasing, receiving, record-keeping,

controlling merchandise transfers, and reconciling physical inventories with accounting records.

The dates of the above audits show that a sufficient period of time for effective action has elapsed since problem areas were initially addressed.

1. DOT-PF should review the total system of providing passenger services for the Marine Transportation Division--including supply, operating, and accounting functions--in order to coordinate efforts and clearly define responsibilities. When the analysis has been completed, procedures should be documented in an operating manual, distributed to appropriate personnel, and regularly updated.

2. The current system of reporting operating results to management is totally inadequate. Management must develop and utilize informational tools to effectively monitor current operations and to make sound long range policy decisions.

3. Material usage should be determined for all retailing operations of the Steward's Department. The usage should be regularly compared to developed usage standards and to sales.

4. Purchases should be planned in advance and based upon realistic usage expectations.

5. The Department should regularly dispose of inventory which exceeds reasonable need. The variety of inventory items should be reduced.

6. The Department's supply section should periodically conduct a complete inventory at all warehousing locations. The accounting section should develop and maintain inventory control accounts for all warehouse locations. These accounts should be reconciled by accounting to its project ledger data as well as to the results of supply's physical counts.

7. The Department's supply section should strengthen warehouse controls in two areas: 1) Receiving goods and 2) accuracy of warehouse records.

8. Accounting for merchandise transfers would be improved by controlling documents.

9. Control over goods and the accuracy of information generated by vessel personnel would be improved by instituting written procedures (see Recommendation

No. 1), training personnel, and improving communications between shore and vessels.

10. Petty cash accounts on vessels should be reduced to minimum amounts necessary for making change and small expenditures.

11. Coin-operated vending machines on vessels should be either owned by the State or covered by a valid contract.

12. Payments to foreign vendors should be made directly to the vendor. When a voucher is prepared the exchange rate should be determined from a local bank and the adjustment in U.S. funds should be recorded on the vendor's invoice.

31-Q1LH

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU 99801

February 3, 1978

SUMMARY OF: A Review of the Alaska Coastal Management Program

PURPOSE OF THE REVIEW

To perform a review of the Alaska Coastal Management Program second year grant (Grant No. 04-6-158-50029). The review included audit determinations in the areas of:

1. Financial Compliance
2. Economy and Efficiency
3. Program Results

FINANCIAL ACTIVITIES

$1,788,169.52 was expended by the Alaska Coastal Management Program during the second grant year. As a result of this audit, we have questioned $548,480.34 of the expenditures.

FINDINGS AND RECOMMENDATIONS

1. Property records maintained by the five departments purchasing equipment with Coastal Zone Management (CZM) funds should identify the source of funds used to acquire the property.

   Twenty-five equipment items purchased with CZM funds were examined. Seven of 25 items were not on the property list. Twelve of the remaining 18 items did not indicate funding source.

2. The Alaska Coastal Management Program should not conduct primary research for purposes of completing an Alaska Coastal Management Plan in accordance with the Coastal Zone Management Act of 1972. (PL 92-583, PL 94-37)

   The Department of Environmental Conservation (DEC) purchased equipment in the amount of $6,376 for use in gathering primary data. These expenditures were not authorized by ACMP.

3. Approved time reports should be submitted for all employees charging time to the grant.

Four departments, Office of the Governor, DEC, Natural Resources and Community and Regional Affairs do not require approved time sheets from their CZM employees. Consequently we were unable to determine if payroll charges were properly charged to CZM.

4. The methods of accounting for CZM Federal and match funds by the grantee and subgrantees need to be improved.

We found several exceptions in auditing the CZM funds which individually are insignificant, but when looked at together indicate weaknesses in the accounting for CZM funds.

5. The Alaska Coastal Management Program should establish policies and procedures for the accounting and reporting of in-kind match contributions.

Two departments, Fish and Game and Natural Resources have commingled CZM State match funds with regular operating funds. Consequently, we were unable to separately identify CZM expenditures.

EFFICIENCY AND ECONOMY OF OPERATIONS AND PROGRAM RESULTS

6. The Office of Coastal Zone Management should establish a work schedule that identifies and assigns priority to work program elements which must be completed and included as part of the federally approved Alaska Coastal Management Plan.

The Policy Base Document, which is the heart of the Coastal Management Program, is several months behind schedule.

7. The Office of Coastal Zone Management should review all work program elements to be sure all sections of the Alaska Coastal Management Act and the Federal Coastal Management Act are complied with.

We noted several program compliance contingencies which may prevent Federal and State approval of the Alaska Coastal Management Plan.

8. The Office of Coastal Zone Management should establish policies and procedures to assure effective use is made of available management and financial aids.

A. ACMP did not timely file required quarterly financial and progress reports.

B. ACMP did not timely process reimbursement requests. This cost the State approximately $100,000 in lost interest income.

9. State departments participating in the Alaska Coastal Management Program should obtain a federally approved indirect cost rate and apply it to eligible Federal reimbursable expenditures.

State departments did not claim indirect costs for reimbursements. This amounted to approximately $50,000.

HB 857

February 17, 1978

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

Dear Mr. Speaker:

Under authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill extensively amending and updating AS 38.05.180, Oil and Gas Leasing.

I am pleased to present for your consideration this major piece of legislation dealing with Alaska's energy future. Not since statehood has the legislature addressed itself to determining how best to lease our petroleum land. Conditions have changed dramatically since then, both for the petroleum industry and the state, and it is time to make such a reappraisal.

The proposed changes will update the leasing law to provid increased public control over exploration, development, and production from state land, obtain a fair return from our non-renewable resources, and, at the same time, provide land from which explorers may find new energy supplies.

How Alaska leases its oil and gas lands will in large part determine our continuing relationship with the oil industry. Many of the problems we now confront in determining the state's fair share of the Prudhoe field could certainly best have been resolved at the time the initial leases were offered by the state. This legislation would make that more likely in the future.

As you are aware, Congress is presently debating a new law covering federal oil and gas leasing on the

Outer Continental Shelf. As you are also aware, much of the attractive OCS land is directly adjacent to Alaska's three-mile offshore land. For this reason, my proposed legislation attempts to be as inclusive as the federal OCS legislation, but more workable, and thus, hopefully, more acceptable to the oil and gas industry.

This legislation is designed to accomplish a number of important state objectives. First, it requires state land to be offered competitively under any of several new leasing methods, including bidding by royalty, sliding royalty net profits and work commitment or a combination of any of these methods. Under certain circumstances, land may be offered on a noncompetitive basis.

Second, it reduces the length of the term of a lease from ten years to five years, to assure that exploration begins promptly once state land is leased. Under certain severe environmental conditions a lease may be for a longer period, but not to exceed ten years.

Third, the legislation increases rentals, including those on shut-in fields, to increase incentives to explore and produce oil and gas fields.

Fourth, the bill grants to the state the right to purchase up to 16 2/3 per cent of the oil and 100 per cent of the natural gas or gas products from the lease, thereby protecting sale commitment of royalty oil and gas in the event the state's royalty is reduced on marginal fields.

Fifth, it reduces the acreage limitation on state uplands so that more companies will have an opportunity to participate in exploring in Alaska and, for the same reason, it allows the state to restrict joint bidding by major or international oil companies.

Finally, the legislation provides that the executive branch will file two reports with the legislature each year. One will outline the state's leasing program for the forthcoming five years. The other will explain the leasing methods used or to be used. I have chosen this method of informing the legislature and the public because I believe there is a need to create as much certainty in leasing policies and procedures as possible. Requiring a five-year state

leasing program to be made public will, I believe, lend stability and predictability to the petroleum exploration business in Alaska and will also raise the level of consciousness of the citizens of Alaska about the workings of the oil business. I can think of no better way to the inform the legislature and the public than to report on a regular basis what land will be made available for oil and gas leasing and by which of several leasing methods the state proposes to offer that land.

The second report will note which leasing methods were used during the preceding year and which methods are proposed to be used in the coming year. Hopefully, enough explanation as to why one method was chosen over another will help educate us all. Although this places an increased burden on those chosen to make these day-to-day decisions, I think it appropriate to use this public accounting procedure for all subsequent state oil and gas lease sales.

Through your leadership, the legislature and my Department of Natural Resources have worked together in an effort to find a solution to Alaska's future leasing policy.

The legislature's action in commissioning Dr. Mason Gaffney's study last year and the subsequent work by the department has paid dividends in developing our understanding of the options available to the state. I wish to thank you for your foresight and cooperation in this most important matter.

Sincerely,

Jay S. Hammond
Governor

DEPARTMENT OF NATURAL RESOURCES

INTRA-DEPARTMENT ROUTE SLIP

TO:
DIV/SEC: _____ LOCATION: _____

ATTN: Hugh Malone

☐ Approval	☐ Note & Return
☒ Signature	☐ Initial & Return
☐ Comment	☐ Return As Requested
☐ Contact Me	☐ Return For Approval
☐ Prepare Reply	☐ Necessary Action
☐ For Your File	☒ Your Information

REMARKS:

APR 26 1978

TB54

FROM:
BY: Jack Roderick DATE: 4/24/78

DIV/SEC: Special Projects DNGM. LOCATION: Anch

STATE
of ALASKA

MEMORANDUM

HB 854

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINERALS AND ENERGY MANAGEMENT

TO: Robert LeResche
Commissioner, DNR

DATE: April 24, 1978

FROM: Jack Roderick JR
Special Projects, DMEM

HB 854 - Alberta's Oil and Gas Incentive Credit regulations.

Having reviewed Alberta's drilling and geophysical incentive credit programs, I think we should familiarize ourselves before Michael Day, or some Alberta official, briefs us as to how the programs are actually administered. (see my 4/18 memo to Boness)

From reading the attached incentive regulations, it appears that the Board of Energy Resources Conservation (5 appointed persons regulating all energy matters in Alberta) decides which wells qualify for incentive credits. The Minister of Energy and Natural Resources (formerly mines and minerals) decides which seismic surveys qualify. In both cases, a certificate is issued to the qualifier when the permit is issued, prior to the actual drilling or shooting.

Credits may be taken against bonuses, rentals, royalties, and taxes for a fixed period of time (until December 31, 1978 under existing law). Please note that neither drilling nor geophysical credits are transferable. However, in the case of geophysical credits, if a licensee can show that he is not a holder of a "mineral right" under Alberta law the Minister may pay him an amount of money equivalent to the amount of credit he has earned. Gas credits are treated differently from oil credits.

For drilling credit purposes, Alberta is divided into 3 drilling and 4 geophysical regions. The intent, obviously, is to make certain areas of the Province more attractive for exploration by increasing (or decreasing) incentive credits in those areas.

The noninterpretive geophysical data collected by the licensee is made available by the licensee to the public for a period of not less than five years after acquisition at a designated percentage cost of the credit allowance. The government, therefore, enforces the law and regulations but the actual transfer of information takes place within the petroleum industry, not the government.

I have attached copies of Alberta's basic incentive credit regulations. I caution that they have been amended several times since their adoption, but in no structural way that I am aware of.

Michael Day, or whomever, can give us the details when and if he comes to Juneau. Milton Lipton, being a consultant to Alberta, will be able to contribute some comments, also.

cc: Green
Dobey
Speaker Hugh Malone
Gregg Erickson

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GOVERNMENT OF THE PROVINCE OF ALBERTA

ALBERTA REGULATION 18/74

(Filed January 31, 1974)

THE MINES AND MINERALS ACT

(O.C. 210/74)

Approved and Ordered,

GRANT MacEWAN,

Lieutenant Governor. Edmonton, January 30, 1974.

Upon the recommendation of the Honourable the Minister of Mines and Minerals, the Lieutenant Governor in Council, pursuant to section 14, clause (h) and sections 31 and 142 of The Mines and Minerals Act, makes the regulations in the Appendix attached hereto, being the "Exploratory Drilling Incentive Regulations, 1974".

PETER LOUGHEED (Chairman)

EXPLORATORY DRILLING INCENTIVE REGULATIONS, 1974

1. In these regulations,

(a) "Board" means the Energy Resources Conservation Board;

(b) "class A footage" and "class B footage" mean the respective intervals of depth that are deemed by the Board to qualify for credit of an incentive exploratory well in accordance with section 6 of these regulations;

(c) "crude oil" means crude oil as defined under The Oil and Gas Conservation Act;

(d) "Department" means the Department of Mines and Minerals;

(e) "gas" means gas as defined under The Oil and Gas Conservation Act;

(f) "incentive exploratory well" means a well certified by the Board on or after January 1, 1974 as an incentive exploratory well;

(g) "licensee" means the person to whom a licence is granted under The Oil and Gas Conservation Act for a well certified as an incentive exploratory well;

(h) "Minister" means the Minister of Mines and Minerals;

(i) "plains area", "northern area" and "foothills area" mean the respective areas of Alberta defined in SCHEDULE C to these regulations.

2. (1) Where a licence is granted on or after January 1, 1974 for the drilling of a well for oil or gas, the Board, on the advice of its Geology Department, shall determine whether or not the well qualifies as an incentive exploratory well.

(2) Where a well qualifies as an incentive exploratory well under subsection (1), the Board shall so certify and attach a copy of the certification to each copy of the well licence.

(3) Within 30 days after the granting of a licence for a well that did not qualify as an incentive exploratory well, the applicant for the licence may request the Board to review the eligibility of the well for certification.

(4) Upon conclusion of the review under subsection (3) the Board shall notify the applicant of its decision and if the well qualifies as an incentive exploratory well the Board shall send two copies of the certification to the licensee.

3. (1) A certification lapses 30 days after the date thereof unless the drilling of the well has been commenced.

(2) Where the drilling of an incentive exploratory well is not being conducted to the satisfaction of the Board until completion or abandonment of the well, the Board shall so notify the licensee and thereupon the certification lapses.

(3) When a certification lapses the Board shall inform the Department.

4. (1) When a certification for an incentive exploratory well lapses the holder of the well licence may, within 30 days after the date on which certification lapsed, apply to the Board for a new certification and if the well qualifies as an incentive exploratory well the Board shall so certify subject to subsections (2) and (3).

(2) If any other well has been licensed and certified in the area influenced by the well for which an application for new certification is made under subsection (1), the Board will determine the amount of qualifying footage for the well as though the existing incentive exploratory well had not been certified, and in the event of more than one well having been licensed and certified, priority for credit will be determined by the date of certification.

(3) For the purpose of determining priority for credit between a well under subsection (1) and a well under subsection (2), the application for new certification under subsection (1) shall be treated by the Board as though it were an initial application for well licence and certification.

(4) Where the well referred to in subsection (1) or (2) is certified as an incentive exploratory well, the Board shall send two copies of the certification to the licensee.

5. The Board shall send a copy of each certification to the Department.

6. (1) After the drilling of an incentive exploratory well is completed and upon receipt by the Board of all relevant information relating to the well the Board shall determine what intervals of depth, if any, of the well qualify as class A footage and class B footage.

(2) Upon conclusion of the determination under subsection (1) the Board shall notify the licensee of its decision.

(3) The licensee may forthwith advise the Board that he accepts the determination indicated under subsection (2).

(4) Within 30 days of the notification made under subsection (2) the licensee may apply to the Board to review the determination and the application shall be accompanied by particulars to substantiate any alternative determination of class A footage or class B footage made by the licensee.

(5) Upon conclusion of the review under subsection (4) the Board shall notify the licensee of its decision.

7. When an incentive exploratory well is completed or abandoned to the satisfaction of the Board, it shall inform the Department

(a) the date that the well was completed or abandoned,

(b) the depth of the well in feet, and

(c) the intervals of depth that qualify as class A footage or class B footage.

8. (1) When an incentive exploratory well has been completed or abandoned to the satisfaction of the Board, a credit shall be determined by the Department in accordance with SCHEDULE A or SCHEDULE B and the licensee shall be notified of the credit as determined.

(2) The licensee, within 30 days after the notification made under subsection (1) shall inform the Department in writing as to the manner of allocation of the credit among the participants including those referred to in subsection (5), and the credit shall be allocated and established accordingly.

(3) If the licensee fails to inform the Department within 30 days of the manner of allocation of credit, the credit as determined in subsection (1) shall be established in the records of the Department in the name of the licensee

(4) If an amendment to a well licence is obtained to deepen an incentive exploratory well beyond the formation originally authorized by the well licence, the credit with respect to the deepened portion of the well shall be established according to subsection (2) or (3) unless within 30 days after being notified under subsection (1) the licensee informs the Department in writing as to the manner of allocation of the credit relating to the deepened portion of the well, and thereupon the credit shall be allocated and established accordingly.

(5) The licensee in allocating credit under subsection (2) or (4) shall not allocate more than 20 per cent of the credit to those participants who do not contribute to the actual cost of drilling the well.

(6) Credit established for an incentive exploratory well may, after its allocation, be revised at the discretion of the Minister if the revision is warranted based on information not previously regarded or correctly processed by the Board or the Department.

(7) Credit established under this section is not transferable

9. A credit shall not be established for any incentive exploratory well the drilling of which is commenced after December 31, 1977.

10. Credit established pursuant to section 8, upon the written request of the holder thereof, and subject to procedures established by the Department, may be applied in satisfaction of

(a) moneys payable by him with respect to any applications and dispositions made under Part 5 of The Mines and Minerals Act,

(b) moneys payable by him pursuant to section 40 of The Mines and Minerals Act, or

(c) taxes levied under The Freehold Mineral Taxation Act,

and becoming due and payable between January 1, 1974 and December 31, 1979.

11. Crude oil production

(a) obtained from the class A or class B footage interval of an incentive exploratory well that was certified after January 1, 1974 and that commenced drilling before December 31, 1977,

(b) obtained from a pool in which no other well within three miles has been exempted from payment of royalty to the Crown either under these regulations or under Alberta Regulation 378/72, and

(c) attributable to the drilling spacing unit of the incentive exploratory well referred to under (a),

shall be exempt from payment of royalty to the Crown for a period terminating five years after the date on which production of the well commences.

12. (1) Gas production

(a) obtained from the class A or class B footage interval of an incentive exploratory well that was certified after January 1, 1974 and that commenced drilling before December 31, 1977,

(b) obtained from a pool in which no other well within three miles has been exempted from payment of royalty to the Crown under these regulations, and

(c) attributable to the drilling spacing unit of the incentive exploratory well referred to under (a),

shall be exempt from payment of royalty to the Crown for a period terminating two years after the date on which production of the well commences.

(2) The exemption in subsection (1) is void at the end of seven years from the original finished drilling date of the incentive exploratory well but may be extended at the discretion of the Minister.

13. Where a drilling spacing unit contains a well that is completed for crude oil production in accordance with clauses (a) and (b) of section 11, it shall be exempt from the payment of tax under The Freehold Mineral Taxation Act with respect to petroleum for a period of five calendar years immediately following the year in which the well was completed.

14. Where a drilling spacing unit contains a well that is completed for gas production in accordance with clauses (a) and (b) of section 12, it shall be exempt from the payment of tax under The Freehold Mineral Taxation Act with respect to natural gas for a period of two calendar years immediately following the year in which the well was completed.

15. A decision of the Board under these regulations is final.

SCHEDULE A

Applicable to Class A Footage

Class A footage shall be determined as being the depth interval of a well that has not been duplicated either by

(i) a drilled and abandoned well within approximately one and one-half miles, or

(ii) a completed well or a well that in the opinion of the Board warrants completion, within approximately three miles

Depth, Feet	*Basis for Credit, Plains Area*		*Basis for Credit, Northern Area*		*Basis for Credit, Foothills Area*	
	Cumulative Dollars	*Incremental $/foot*	*Cumulative Dollars*	*Incremental $/foot*	*Cumulative Dollars*	*Incremental $/foot*
0	0		0		0	
		4.00		6.00		8.00
1,000	4,000		6,000		8,000	
		4.00		6.00		9.00
2,000	8,000		12,000		17,000	
		5.00		7.00		10.00
3,000	13,000		19,000		27,000	
		6.00		8.00		11.00
4,000	19,000		27,000		38,000	
		7.00		9.00		12.00
5,000	26,000		36,000		50,000	
		8.00		11.00		14.00
6,000	34,000		47,000		64,000	
		10.00		13.00		17.00
7,000	44,000		60,000		81,000	
		15.00		19.00		23.00
8,000	59,000		79,000		104,000	
		20.00		23.00		28.00
9,000	79,000		102,000		132,000	
		26.00		30.00		36.00
10,000	105,000		132,000		168,000	
		35.00		40.00		48.00
11,000	140,000		172,000		216,000	
		47.00		50.00		56.00
12,000	187,000		222,000		272,000	
		62.00		66.00		72.00
13,000	249,000		288,000		344,000	
		83.00		85.00		96.00
14,000	332,000		373,000		440,000	
		110.00		107.00		120.00
15,000	442,000		480,000		560,000	
		147.00		148.00		160.00
16,000	589,000		628,000		720,000	
		196.00		184.00		200.00
17,000	785,000		812,000		920,000	
		255.00		228.00		240.00
18,000	1,040,000		1,040,000		1,160,000	
		340.00		316.00		320.00

SCHEDULE B

Applicable to Class B Footage

Class B footage shall be determined as being the depth interval of a well that has been duplicated by the deepest drilled and abandoned well within approximately one and one-half miles, providing that such depth interval has not been duplicated within approximately three miles by a completed well or a well that in the opinion of the Board warrants completion.

Depth, Feet	*Basis for Credit, Plains Area*		*Basis for Credit, Northern Area*		*Basis for Credit, Foothills Area*	
	Cumulative Dollars	*Incremental $/foot*	*Cumulative Dollars*	*Incremental $/foot*	*Cumulative Dollars*	*Incremental $/foot*
0	0		0		0	
		3.00		4.00		6.00
1,000	3,000		4,000		6,000	
		3.00		5.00		7.00
2,000	6,000		9,000		13,000	
		4.00		5.00		8.00
3,000	10,000		14,000		21,000	
		4.00		6.00		8.00
4,000	14,000		20,000		29,000	
		5.00		7.00		9.00
5,000	19,000		27,000		38,000	
		6.00		8.00		11.00
6,000	25,000		35,000		49,000	
		8.00		10.00		13.00
7,000	33,000		45,000		62,000	
		11.00		14.00		16.00
8,000	44,000		59,000		78,000	
		15.00		18.00		21.00
9,000	59,000		77,000		99,000	
		20.00		22.00		27.00
10,000	79,000		99,000		126,000	
		26.00		30.00		36.00
11,000	105,000		129,000		162,000	
		35.00		38.00		42.00
12,000	140,000		167,000		204,000	
		47.00		49.00		54.00
13,000	187,000		216,000		258,000	
		62.00		64.00		72.00
14,000	249,000		280,000		330,000	
		83.00		80.00		90.00
15,000	332,000		360,000		420,000	
		110.00		111.00		120.00
16,000	442,000		471,000		540,000	
		147.00		138.00		150.00
17,000	589,000		609,000		690,000	
		191.00		171.00		180.00
18,000	780,000		780,000		870,000	
		255.00		237.00		240.00

SCHEDULE C

FOOTHILLS AREA

The Foothills Area consists of the lands in Alberta listed below and those lands within Alberta located south and west of the listed lands:

Township 1, Range 24; Township 2, Range 25; Township 3, Range 26; Township 4, Range 27; Township 5, Range 28; and Townships 6 to 11 inclusive, Range 29, all west of the 4th Meridian;

and

Townships 12 and 13, Range 1; Townships 14 to 20 inclusive, Range 2; Townships 21 and 22, Range 3; Townships 23 to 28 inclusive, Range 4; Townships 29 and 30, Range 5; Townships 31 to 34 inclusive, Range 6; Townships 35 and 36, Range 7; Township 37, Range 8; Township 38, Range 9; Townships 39 and 40, Range 10; Township 41, Ranges 11, 12 and 13 inclusive; Township 42, Range 14; Township 43, Ranges 15 and 16; Township 44, Range 17; Townships 45 and 46, Range 18; Townships 47 and 48, Range 19; Township 48, Range 20; Township 49, Ranges 21 and 22; Township 50, Range 23; Townships 51 and 52, Range 24; Townships 53 and 54, Range 25; Township 54, Range 26; Townships 55 and 56, Range 27, all west of the 5th Meridian;

and

Township 56, Range 1; Townships 57 and 58, Range 2; Township 58, Range 3; Townships 59 and 60, Range 4; Township 60, Ranges 5 and 6; Township 61, Ranges 7 and 8; Township 62, Ranges 9, 10 and 11; Townships 63 and 64, Range 12; and Township 65, Ranges 13 and 14, all west of the 6th Meridian.

PLAINS AREA

The Plains Area consists of the lands in Alberta contained within the outer perimeter of the lands listed below:

On the east by Townships 1 to 52 inclusive, Range 1; on the north by Township 52, Ranges 1 to 12 inclusive; on the east by Townships 53 to 58 inclusive, Range 13; and on the north by Township 58, Ranges 13 to 26 inclusive; all west of the 4th Meridian;

and

On the north by Township 58, Ranges 1 to 4 inclusive; on the west by Townships 35 to 58 inclusive, Range 4; all west of the 5th Meridian;

and

On the west from Townships 1 to 34 inclusive, the lands immediately adjacent to the FOOTHILLS AREA.

and

On the south by Township 1, Ranges 1 to 23 inclusive, all west of the 4th Meridian.

NORTHERN AREA

The Northern Area consists of the remaining lands in Alberta not included in the FOOTHILLS AREA or the PLAINS AREA.

(Extract from *The Alberta Gazette*, February 15, 1974)

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GOVERNMENT OF THE PROVINCE OF ALBERTA

ALBERTA REGULATION 35/75

(Filed February 11, 1975)

THE MINES AND MINERALS ACT

(O.C. 219/75)

Approved and Ordered,

RALPH G. STEINHAUER,

Lieutenant Governor. Edmonton, February 10, 1975.

Upon the recommendation of the Honourable the Minister of Mines and Minerals, the Lieutenant Governor in Council, pursuant to section 14, clause (h) of The Mines and Minerals Act, makes regulations in accordance with the Appendix attached hereto, being the Geophysical Incentives Program Regulations.

PETER LOUGHEED (Chairman)

GEOPHYSICAL INCENTIVE PROGRAM REGULATIONS

1. In these regulations,

(a) "Department" means the Department of Mines and Minerals;

(b) "foothills area", "green area", "yellow area" and "plains area" mean the respective areas of Alberta described in Schedule C to these regulations;

(c) "geophysical incentive program" means a seismic survey conducted for the purpose of exploring for petroleum or natural gas or both and certified by the Minister as a geophysical incentive program;

(d) "geophysical information and data" means all field data, field reports and the standard processed sections that are stacked after filtering and correction for statics and normal moveout;

(e) "licence" means a licence issued pursuant to Part 9 of The Mines and Minerals Act;

(f) "licensee" means the holder of a licence;

(g) "minimum subsurface coverage" means the coverage obtained when seismic pulses generated from not less than four different source positions are reflected from a subsurface point;

(h) "Minister" means the Minister of Mines and Minerals;

(i) "seismic survey" means a survey conducted by the use of the geophysical prospecting technique known as the seismic reflection method.

2. These regulations do not apply to a seismic survey the recording of which commenced before January 1, 1975.

3 (1) A licensee may, in accordance with these regulations, apply to the Minister to have a seismic survey certified as a geophysical incentive program.

(2) An application under subsection (1) shall be made

(a) prior to commencing the recording of the seismic survey, or

(b) in a case where the recording of the seismic survey commenced on or after January 1, 1975 and before the coming into force of these regulations, not later than February 28, 1975.

(3) The application shall be in Form 1 of Schedule A to these regulations.

(4) Where a seismic survey initially qualifies as a geophysical incentive program, the Minister shall issue an Interim Certificate in Form 2 of Schedule A to these regulations which shall be attached to the copy of the licence in the records of the Department.

(5) A copy of the Interim Certificate shall be sent to the licensee.

4. (1) An Interim Certificate lapses one year after the date thereof unless the seismic survey to be conducted under the Interim Certificate has been commenced.

(2) An Interim Certificate may be granted for one or more seismic surveys to be conducted thereunder.

5. Where a seismic survey is being conducted under an Interim Certificate, the Minister or any person authorized by him may at any time for the purposes of investigation and inspection have access to all the field data and field reports obtained by the licensee during the course of conducting the seismic survey, and the licensee or his representative shall render to the Minister or the person authorized by him such assistance as may be necessary.

6. (1) Within 90 days of completing a seismic survey or surveys under an Interim Certificate, the licensee shall submit to the Minister a final report in Form 3 of Schedule A to these regulations for each seismic survey so completed.

(2) The final report in subsection (1) shall be executed on behalf of the licensee by a registered member of The Association of Professional Engineers, Geologists and Geophysicists of Alberta under seal.

(3) Upon submitting the final report or reports, the licensee may in writing request the Minister to approve a reduction in the size or extent of a seismic survey, and where the Minister approves the reduction the Interim Certificate shall be amended accordingly and a copy shall be sent to the licensee.

(4) Upon receipt of the final report or reports, the licensee shall, at the request of the Minister, make available to the Department for purposes of investigation and inspection all geophysical information and data obtained from each seismic survey completed under the Interim Certificate.

7. (1) When the seismic survey or surveys under an Interim Certificate are completed to the satisfaction of the Minister, the Minister shall certify the seismic survey or surveys as a geophysical incentive program and a credit shall be determined by the Minister in accordance with Schedule B to these regulations, and the licensee shall be notified of the credit as determined.

(2) The Minister shall not give a certification under subsection (1) where he is satisfied that

(a) the seismic survey fails to meet the minimum subsurface coverage, or

(b) the seismic survey is not conducted in accordance with the standards of good geophysical practices.

(3) The licensee, prior to the recording of a seismic survey that is the subject of an application under section 3, shall inform the Minister

in writing as to the manner of allocation of the credit among the participants who have contributed to the actual cost of conducting the seismic survey.

(4) If the licensee fails to inform the Minister of the manner of allocation of the credit, the credit as determined in subsection (1) shall be established in the records of the Department in the name of the licensee.

(5) A credit established pursuant to this section is not transferable.

8. (1) Subject to subsection (2), a credit established pursuant to section 7 may, upon the written request of the licensee, be applied in satisfaction of

(a) moneys payable by him pursuant to dispositions under Part 5 of The Mines and Minerals Act; or

(b) taxes levied under The Freehold Mineral Taxation Act.

(2) Where a licensee provides the Minister with satisfactory evidence indicating that the licensee is not the registered owner of a mineral right within the meaning of The Freehold Mineral Taxation Act or the holder of an agreement under Part 5 of The Mines and Minerals Act, the Minister may pay to the licensee an amount in money equivalent to the amount of credit established in his name in the records of the Department.

9. (1) Any geophysical information and data obtained pursuant to a certified geophysical incentive program shall be made available by the licensee to any person for a period of not less than five years,

(a) three years after the date upon which the geophysical incentive program was certified under section 7, and

(b) at a cost to that person of not more than 60 per cent of the credit established under section 7 for each mile of minimum subsurface coverage.

(2) If a licensee, within the three-year period referred to in subsection (1),

(a) withdraws from Alberta and ceases carrying on business in Alberta, or

(b) being a corporation, is dissolved or is struck off the register pursuant to The Companies Act

he shall place in trust with a person approved by the Minister all the geophysical information and data obtained pursuant to a certified geophysical incentive program until the three-year period has expired and for an additional period of five years, and any credit held in the name of the licensee in the records of the Department shall be cancelled.

10. (1) Where a seismic survey or surveys conducted under an Interim Certificate are not completed to the satisfaction of the Minister and certification as a geophysical incentive program is not granted, all geophysical information and data obtained from the seismic survey or surveys shall be made available in accordance with section 9.

(2) Where a licensee fails to make available geophysical information and data in accordance with section 9, his licence and any credit established under section 7 shall be cancelled.

11. Any of the powers of the Minister under these regulations may be exercised by any employee of the Department authorized in writing by the Minister for that purpose.

SCHEDULE A

Form 1

(Section 3)

APPLICATION FOR CERTIFICATION OF A GEOPHYSICAL INCENTIVE PROGRAM

DATE: .....

NAME OF LICENSEE: .....

ADDRESS: .....

LICENCE NO. .....

PROGRAM NO. ..... NUMBER OF SURVEYS IN PROGRAM:

PROGRAM COMMENCEMENT DATE:

ANTICIPATED PROGRAM COMPLETION DATE:

LICENSEE REPRESENTATIVE: TELEPHONE NO.

.....

(Note: Complete one survey schedule for each survey indicated in above application.)

SURVEY SCHEDULE

SURVEY NO.

NAME OF PERMITTEE:

ADDRESS:

PERMIT NO. PARTY NO.

SURVEY RECORDING TO COMMENCE:

ANTICIPATED RECORDING COMPLETION DATE:

ENERGY SOURCE:

SOURCE SPACING (FEET):

RECEIVER SPACING (FEET):

NUMBER OF TRACES:

yellow-plains *green* *foothills*

MILES PLANNED (APPROX.):

INCENTIVE ANTICIPATED (APPROX.):

TOTAL INCENTIVE ANTICIPATED:

Licensee

(Note: Application must be accompanied by a map or maps on a scale of not less than 1" = 1 mile.)

Form 2
(Section 3)
INTERIM CERTIFICATE NO.

DATE:

NAME OF LICENSEE:

ADDRESS:

LICENSE NO.

PROGRAM NO. NUMBER OF SURVEYS IN PROGRAM:

Minister of Mines and Minerals

Form 3
(Section 6)
FINAL REPORT

LICENSEE:
LICENSE NO.:
ADDRESS:
INTERIM CERTIFICATE NO.: INTERIM CERTIFICATE DATE
RECORDING COMMENCEMENT DATE
RECORDING COMPLETION DATE
PERMITTEE:
PERMIT NO.:
ADDRESS: PARTY NO.
RECORDING COMMENCEMENT DATE
RECORDING COMPLETION DATE
AMPLIFIER MAKE MODEL NO. OF TRACES
24 48 Other

SOURCE INTERVAL RECEIVER INTERVAL SOURCE TYPE

	yellow-plains	*green*	*foothills*
No. of miles of minimum subsurface coverage. (Accurate to two significant decimals)			
	500 x 1	500 x 2	500 x 3
Credit (in dollars) applied for	= $	= $	= $
			Total $

I, the undersigned, certify that I am qualified to report on this program and have personal knowledge of and attest to the accuracy of the above report.

Name and Seal *APPEGGA Class*

(Note: Must be accompanied by a map or maps on a scale of not less than 1" = 1 mile showing location of data recorded.
A final report must be completed for each seismic survey in a program.)

SCHEDULE B

DETERMINATION OF CREDIT

The credit in dollars for a certified geophysical incentive program shall be calculated in accordance with the following equation:

Credit (in dollars) = 500 KM

where K is the incentive factor for the area of Alberta described in Schedule C in which the geophysical incentive program was conducted,

and

M is the number of miles of minimum subsurface coverage in that area.

Incentive Factors

For the purposes of section 7 and this Schedule, the incentive factors established for the areas of Alberta described in Schedule C are:

(a) 1 for the yellow area and the plains area;

(b) 2 for the green area; and

(c) 3 for the foothills area.

SCHEDULE C

Foothills Area

The foothills area consists of the lands in Alberta listed below and those lands within Alberta located south and west of the listed lands:

Township 1, Range 24; Township 2, Range 25; Township 3, Range 26; Township 4, Range 27; Township 5, Range 28; and Townships 6 to 11 inclusive, Range 29, all west of the 4th Meridian;

and

Townships 12 and 13, Range 1; Townships 14 to 20 inclusive, Range 2; Townships 21 and 22, Range 3; Townships 23 to 28 inclusive, Range 4; Townships 29 and 30, Range 5; Townships 31 to 34 inclusive, Range 6; Townships 35 and 36, Range 7; Township 37, Range 8; Township 38, Range 9; Townships 39 and 40, Range 10; Township 41, Ranges 11, 12 and 13 inclusive; Township 42, Range 14; Township 42, Ranges 15 and 16; Township 41, Range 17; Townships 45 and 46, Range 18; Townships 47 and 48, Range 19; Township 48, Range 20; Township 49, Ranges 21 and 22; Township 50, Range 23; Townships 51 and 52, Range 24; Townships 53 and 54, Range 25; Township 54, Range 26; Townships 55 and 56, Range 27, all west of the 5th Meridian;

and

Township 56, Range 1; Townships 57 and 58, Range 2; Township 58, Range 3; Townships 59 and 60, Range 4; Township 60, Ranges 5 and 6; Township 61, Ranges 7 and 8; Township 62, Ranges 9, 10 and 11; Townships 63 and 64, Range 12; and Township 65, Ranges 13 and 14, all west of the 6th Meridian.

Green Area

The green area consists of that part of Alberta in which public lands are classified a forest land not available for agricultural develop-

ment other than grazing by an order of the Minister of Lands and Forests pursuant to section 12 of The Public Lands Act, but does not include those lands described in this Schedule as the foothills area.

Yellow Area

The yellow area consists of that part of Alberta in which public lands are classified as being adaptable to any kind of disposition by an order of the Minister of Lands and Forests pursuant to section 12 of The Public Lands Act.

Plains Area

The plains area consists of the remaining lands in Alberta not described in the foothills area, the green area or the yellow area.

(Extract from *The Alberta Gazette*, February 28, 1975)

Printed by the QUEEN'S PRINTER for the
Province of Alberta, Edmonton

HB

854

(NOTEBOOK)

SEC. 1

HB 854

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

A STUDY OF STATE

PETROLEUM LEASING METHODS

AND POSSIBLE ALTERNATIVES

A REPORT TO THE STATE OF ALASKA, JAY S. HAMMOND, GOVERNOR,
DEPARTMENT OF NATURAL RESOURCES, GUY MARTIN, COMMISSIONER,
AND TO THE
ALASKA STATE LEGISLATURE, INTERIM COMMITTEE ON OIL AND
GAS TAXATION AND LEASING POLICY, CHANCY CROFT, CHAIRMAN

FEBRUARY 1977

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER, 11TH FLOOR, STATE OFFICE BLDG.
POUCH M – JUNEAU 99811

February 17, 1977

The Honorable Jay S. Hammond
Governor of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Hammond:

The following report regarding State oil and gas leasing has been prepared by the Department of Natural Resources as a part of a joint Administration-Legislature effort to evaluate the present leasing system and to explore alternatives for the future. The overall study effort, for which I served as Project Director, also includes other Department documents, the reports of independent consultants and miscellaneous other information.

The information in this report, and the entire study, is intended to serve as basic background material to illuminate alternative State objectives and leasing methods which may be desirable for the future. Although some conclusions are reached in parts of the various studies, no final comprehensive conclusions or positions have been reached, pending further analysis of the results of the study project and discussion thereof.

The complexity and importance of the oil and gas leasing issue for the future of the State has thus far sustained an ideal level of constructive cooperation between the Administration and Legislature, and I am hopeful that this report will contribute to an informed outcome on this matter.

Very truly yours,

Guy R Martin

Guy R. Martin
Commissioner

Acknowledgements

This study was prepared in sections by different people in the Department of Natural Resources. Staff members active in the preparation of the specific sections include:

For the Sensitivity of State Petroleum Income to Various Leasing Methods

Patrick Dobey — Blair Wondzell

Beverly Thompson — Kristina O'Connor

Karen Gibson — Kelly Duncan

Victoria Burgess

For the Variation of Petroleum Leasing Criteria with Geographic Location

Patrick Dobey — Victoria Burgess

For the History of Leasing in Alaska

Pedro Denton — Pete Nelson

Judy Rhodes — Duke Lung

Linda Gardner

For the Staff and Budgeting Needs of Some Leasing Methods Considered

Jack Roderick — Ted Fons

Foreword, Statutory, and Administrative

O. K. Gilbreth, Jr.

In addition, Michael Scott of the Institute of Social and Economic Research and Frank McMordie and David Cook of Garrett Computing Services provided invaluable consulting services.

FOREWORD

This report has been prepared in response to Departmental and Legislative interest in the methods and policies of competitive leasing of state lands for oil and gas purposes. A fairly complete history has been compiled showing pertinent information on past practices of the State. Summaries of all lease sales, bonuses, rentals, receipts and results of drilling and royalty awards are discussed. As a result of this report, it can be concluded that some types of bidding will theoretically yield greater income to the State under specific circumstances than other types will. From strictly a monetary point of view, this study reveals that four major factors will determine which method of bidding would be most advisable for the State to follow. The amount of income to be derived by the State will be determined by the level of risk, the size of the reservoir, the cost of exploration and development, and the value of the oil at the wellhead.

This report has revealed some areas that require further study and this will be done in the coming months. For example, the study reveals that with current economic, royalty, and tax conditions, the minimum size field that an oil and gas operator can afford to look for in Alaska must exceed 55 million barrels in close in areas such as Cook Inlet and could be 100 million barrels or more in remote areas. Also since special cases arise from marginal fields, more detail analysis should be made of effects of reducing royalties to encourage production in sub-economic fields.

Since the purpose of this report is to show variations that can result from various types of bidding most of the emphasis is on types of bidding

other than the cash bonus system. It should not be construed however, as condemning cash bonus bidding nor recommending any alternate type of bidding. The analyses are presented merely to show relative income under specific sets of assumed conditions. A change in some of the input factors can give substantial changes in results.

Risk is the most significant of the variables which would affect income to the State. In unknown, undrilled, untested areas, where the information level is low the risk will be extremely high and these analyses indicate that the cash bonus bidding method would yield greater income to the State. As more information becomes available and as the risk decreases, the method which yields the greatest monetary return revolves around some type of royalty bidding. After a discovery is made, any open acreage on the structure in essence becomes drainage acreage, risk will be low and royalty or some other type of bidding may yield a far greater income to the State than the cash bonus type of bidding. Somewhere then between the extremes of no information and maximum information the method yielding the greatest income probably will switch from cash bonus bidding to some other type of bidding. A significant result of this study indicates that state income can be increased for all leasing methods studied by using a percentage acreage option which is withholding a portion of the structure for later leasing. Other types of bidding are discussed to accomplish other purposes.

There are increasing pressures on government to secure more information about state lands and to know more about the possibilities of petroleum occurrences before the lands are leased. These analyses have been made on the assumption that more information will be available to the State

and if those conditions exist we feel that the values shown give reliable indications of benefits to be derived from one method as compared to another method of bidding.

Risk is dependent on the amount of information available to industry and income to the State is dependent on the knowledge industry has in an area. This study assumes that geological and geophysical information is available to the State at a level above that which it now has. Obtaining this additional information will require expenditure of larger sums of money than in the past. The reader is cautioned not to use the values shown as indicative of all conditions, because as mentioned above, significantly different results are obtained as input factors change. The uncertainty of crude oil prices in remote areas could cause input parameters to change significantly with corresponding changes in analysis results. Therefore, the information presented is to compare one method of bidding versus another method of bidding for a specific set of circumstances.

Administrative costs and number of personnel can vary greatly depending on the leasing method used. An ad valorem type of leasing could cost up to $240,000 more per year to administer where a net profits system might add $500,000 with the same number of operators and leases as we now have. In Alberta it is pointed out that 100 people administer 50,000 lease agreements and 60 people are involved with auditing in a cost sharing leasing system.

From an administrative cost standpoint, the present method of operation results in the lowest total operating cost at about $1.1 million per year. Depending on the level of data acquisition and analysis, costs will increase

from the present quarter million dollars per year. To obtain adequate seismic data for managing an area of 100 miles by 15 miles will cost from $70,000 to over $1,500,000. The present budget contains $110,000 for the purpose in FY 78.

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SECTION I - GENERAL

STATUTORY PROVISIONS

Leasing of public lands for oil and gas is carried out under provisions of AS 38. Section 38.05.180(a) states as follows:

> "All tide and submerged lands, mental health lands, school lands, and university lands shall be leased by competitive bidding, and whenever oil or gas is discovered in commercial quantities the Commissioner shall determine the extent of the area of lands in addition to the tide, submerged, mental health lands, school, or university lands in the same general area of the discovery well which, by reason of the discovery, the Commissioner reasonably believes to be capable of producing oil or gas, and the additional lands shall be leased to the highest responsible qualified bidder, by competitive bidding under general regulations, in units not exceeding 2,560 acres (except that tide and submerged lands shall be leased in units of not exceeding 5,760 acres), which shall be as nearly compact in form as possible, upon the payment by the lessee of such bonus as may be accepted by the Commissioner and of such royalty as may be fixed in the lease which shall not be less than 12.5% in amount or value of the production removed or sold from the lease. All lands other than those above provided to be leased by competitive bidding may be leased competitively or non-competitively as determined by the Commissioner to be

in the best interest of the State. Non-competitive leases shall be issued in units not exceeding 2,650 acres in any one lease. Non-competitive leases shall be conditioned upon the payment by the lessee of a royalty of 12.5% in amount or value of the production removed or sold from the lease." (Our emphasis added).

Section 38.05.335(c) states, "The Commissioner shall require each bidder for the competitive leasing of oil and gas lands to submit with his bid a deposit of money equal to 20% of the amount bid."

It is therefore apparent that the present statute provides that when oil and gas leases are to be sold competitively they must be sold by cash bonus bidding and a deposit of money is required to accompany the bid. Because 38.05.335(c) provides that a deposit of money equal to 20% of the amount bid, it is not possible to bid by other methods without determining the total monetary value of the bid at the time of bidding. Accordingly, it is not possible to make bids based on any other basis than cash bonus. There is no other provision which will permit disposal or leasing of the lands for oil and gas in any other fashion at this time. In the event it is felt necessary to change the statute to permit leeway for the Commissioner to accept other types of bidding.

ADMINISTRATIVE

At this time all of the responsibility for the management of the leasing program in the State has been delegated to the Division of Minerals and

Energy Management. This division works under the provisions of AS 38 and makes recommendations on mineral leasing policies and procedures. Within the division there is a leasing section and a petroleum section. In the leasing section there is a Minerals Leasing Manager, who supervises the section and seven other employees. The budget for this section approximates $212,000 per year. It should be pointed out, however, that during past times when the State was active in leasing lands, this section had 13 employees. The decline in leasing activity has necessitated the transfer of five employees to other segments of the Division of Lands, leaving current personnel at eight. With anticipated increases in leasing activity in the future, it will be necessary to replace some of the personnel and enlarge the staff. The current staff is involved in servicing and maintenance of existing oil and gas, coal and mining claims and leases.

In the petroleum section there is a Petroleum Manager, who supervises the section which includes eight other permanent positions. At present we have not been able to fill all professional positions and two temporary employees are assisting in the petroleum work. This section is responsible for analysis and evaluation of oil and gas problems and making recommendations on future policies regarding lease sales. The current budget of this section approximates $316,000 per year including approximately $40,000 for acquisition of subsurface data. Request for next fiscal year includes funding of present positions and $223,000 for acquisition of subsurface data.

PROCEDURES

In the past decision to lease has been based upon interest of the industry and needs of the State. In at least one instance, Governor William Egan

interrupted a lease sale to announce to the audience that the State had received enough money from the bids up to that point to run the State government on through that fiscal year and that there would be no need to have additional lease sales until sometime next year. This is indicative of the interest and need which the State had in leasing its land. To follow through on the lease sale, after it had been decided that one would be held, the Department of Natural Resources solicited nominations from the industry on prospective areas that they would like to see put up in a lease sale. The interest was gaged, based on the nominations of the various companies, and the area to be included in a lease sale was pared down to a manageable area, approximating 200,000 to 300,000 acres.

Various members of the Department concerned with oil and gas matters were advised that consideration was being given to a lease sale and appropriate representatives of Departments of Fish and Game and Environmental Conservation were contacted. After many meetings, basic leasing criteria and stipulations were agreed upon and approximately 60 days before the lease sale, this information was published and made available to the industry along with the area to be included in the lease sale. All lease sales have been held for bonus type bidding. Prior to 1969, a statutory provision included an award for the first discovery on a structure of 7½ percent of all royalties paid for the first ten years of production.

Actual holding of the lease sale has been the responsibility of the Division of Lands and upon receipt of the bids, the Commissioner of Natural Resources with the aid of his staff, has determined if the bids were responsive to the advertisement and if an adequate price was received for the bids considering the information available at that time. The

Commissioner has had available all geological and engineering information on wells drilled in the State up to that time, however he has had very little geophysical information. In most of the lease sales, some bids have been rejected as being too low or non-responsive. Upon acceptance by the Commissioner money has been paid by the successful bidders into the General Fund and the leases executed by the State.

Upon issuance of the lease, the minerals leasing section, has established records and procedures to ensure that rentals are received in a timely fashion and that development occurs according to the terms of the lease. Close liaison is required with the Attorney General's office in interpreting the terms of the lease and in pursuing administrative actions to cancel leases in the event that rentals are not timely paid.

With the formation of the Division of Minerals and Energy Management we anticipate closer scrutiny of the performance of the operators and performance of the properties themselves, if production is obtained. By doing this, we hope to ensure that timely development is carried out and operations will provide the greatest recovery for the benefit of the State.

SEC. 2

SECTION II

OIL AND GAS LEASING HISTORY - ALASKA STATE LANDS

Introduction and Background

Purpose

The primary purpose of this report is to trace the history of oil and gas leasing in Alaska with primary emphasis on state lands and the legal, regulatory and practical framework under which it has developed. Special emphasis will be given to the background under which this system has been operated, so that its effect can be better understood.

Background

The history of oil in Alaska goes back to at least 1867 when the first oil claims were staked at Katalla and Yakataga. The first wildcat well was drilled in 1898 near Iniskian on the Alaska Peninsula, closely followed by the first test in the Katalla area, at Controller Bay in 1901. However, it was not until the second Controller Bay well was drilled in 1902, that the first successful oil producer in Alaska was found, a one foot sand at 250 feet. During the next 50 years, activity was sporadic with very little success. Oil wells were drilled in the Katalla-Yakataga area on the Alaska Peninsula and the Upper Cook Inlet Basin, and the North Slope. The North Slope drilling was to explore the Petroleum Reserve which was set aside by Congress in 1923. Only minor finds of oil and gas were discovered in this effort.[1]

In the early 1950's, industry interest in Alaska was revived and with the discovery of the Swanson River Field by Richfield Oil Company in 1957, the oil industry in Alaska was established. In 1956, the year before the discovery at Swanson River, there was a little over 2.8

1. Edmondson, Cameron A., A History of Alaskan Oil, Alaska Petroleum and Industrial Directory 1970-71, Pgs. 11-13

million acres under oil and gas lease in Alaska. At the time of Statehood at the end of 1958, the total had grown to 19.5 million acres, and in 1960 almost 35 million acres were under lease.

The Swanson River discovery was just one of the many dramatic events that greatly affected the future of the oil and gas industry in Alaska. With Statehood, the State of Alaska acquired large blocks of land with oil potential and immediately began leasing them. This led to major important discoveries in Upper Cook Inlet, and there was no longer any question that Alaska had a viable oil industry. The State also acquired a large block of land on the Arctic Slope in the mid 60's which it immediately leased. After several years of drilling with very discouraging results, the Prudhoe Bay discovery was made in 1968, an event which attracted attention to Alaska as no other single event since Statehood had done. Closely paralleling in time the State's North Slope activity, was the Alaska Native Land Claims issue and the land withdrawals that the Secretary of the Interior imposed as a result. These withdrawals ultimately and completely shut down federal oil and gas leasing in Alaska. There has been no significant federal uplands leasing since 1966.

Federal Leasing System It is apparent that the origin of the State of Alaska's leasing system is closely tied to federal mineral leasing laws in effect at the time Alaska became a state. There was a deliberate attempt to conform Alaska's laws to federal laws as much as possible. This is apparent in the following quote from a memo from William E. Dyer, of the Division of Lands, to Phil Holdsworth, Commissioner, Department of Natural Resources on May, 5, 1959, regarding early drafts of the oil

and gas regulations:

> "In as much as the State's statute is similar to the Federal procedures, we wonder whether or not it is too risky to introduce a program which is different from the Federal. First, state lands and federal lands will lie side by side. Two different systems might result in confusion to the public. Second, the personnel which the State will undoubtedly hire to administer the regulations will be from BLM. Such persons are already familiar with the Federal system. They would not have to be retrained in new methods. Third, the Federal regulations are long and laborious. They are long and laborious because, for one thing, they have over a period of years been developed to block as many loopholes as possible. The State might wish to take advantage of the Federal experience in that regard by using much of the phraseology contained in the Federal regulations. Fourth, there are considerable number of judicial and administrative decisions concerning the Federal regulations. These decisions would be helpful for those charged with the administration of the State regulations provided that the State regulations follow the Federal."

Mr. Dyer further noted, that Senate Bill #77, which is the basic origin of the 1959 Land Act, "might best be termed a little brother to the Federal system". In a paper prepared by Mr. Holdsworth, then the Commissioner of the Department of Natural Resources, and presented at the Fifth Annual Mining, Minerals, and Petroleum Conference, in College, Alaska in 1960, it is equally apparent that the basic State system is similar to the Federal system. The concern for making this system com-

patible with the Federal system can be easily understood when one realizes that many of the areas the State would eventually select under the Statehood Act would be under federal oil and gas leases and the leases, (under the terms of the Statehood Act), would be transferred to the State for administration. Even today, state noncompetitive lease areas are often interspersed with federally issued leases which must be administered under their terms under Federal law.

The comparison of federal and state oil and gas leasing provisions contained in the previously cited paper by Commissioner Holdsworth, Table 1, gives some of the basic provisions of the Federal leasing system in effect in 1960. For practical purposes, it is generally acknowledged that the Federal system, as it was applied in Alaska, was essentially a noncompetitive leasing system. Only two competitive sales have been held, both in the Arctic area with a total revenue of less than $430,000 dollars. The reason for the lack of competitive activity is that the Mineral Leasing Act only provides for competitive leasing when the lands are in a known geologic structure. Since essentially all the lands in the State were open for leasing at the time of the revival of interest in Alaska in the early 50's, and because terminated leases were immediately released noncompetitively on the structures that have been proven were under lease at the time the known geologic structure was established.

Thus, at the time of statehood, most Alaska lands were available for federal noncompetitive oil and gas leasing, on a first come, first served basis, for a $10 filing fee and the filing of the first year's rental.

Rental was $.50 an acre for each lease year. A lease was issued for a five year primary term with the right to one five year extension. Royalty on production was set at 12.5% by law. The basic lease statistics on federal leasing are included in Table 3, and the statistics on revenue are shown in Table 4.

It is easy to understand how leasing flourished in the late 50's and early 60's on federal lands in Alaska as a result of the success of Swanson River and the attention being given Alaska by the major U.S. oil companies. The peak in leasing of 16, 547 leases, totalling nearly 35 million acres was reached in 1960. The 1960 total included leases in the North Slope, Bethel, Yukon Koyukuk, Bristol, Middle Tanana, Copper River, Yukon Kandik, Gulf of Alaska and Cook Inlet Basins. Most of the wells drilled during that year were in the Cook Inlet Basin, primarily on the Kenai Peninsula. However, wells were also spudded in the Katalla - Yakataga area and the Bethel Basin. The previous year, wells had been also drilled in the Nenana area and on the Alaska Peninsula.2

As can be seen from Table 3, federal leasing activity peaked in 1960 and began to drop off at a rate of several million acres per year. This can be explained in part by the widespread activity throughout the State in 1959 and the success of activity on the Kenai Peninsula. This activity had generated an excessive amount of leasing which, coupled with the fact that the initial wildcats in the other basins were unsuccessful, probably account for the major drop in leasing activity. However, a contributing factor may have also been a shift in emphasis to state lands. With Statehood, the State immediately set out with an agressive

2. History of Drilling in Alaska Between 1953 and 1966, Alaska Petroleum Directory, 1966-67 Edition, Pgs. 97-119.

leasing program, primarily in Upper Cook Inlet Basin, which attracted considerable industry interest at the time.

State Leasing System

Even though the State leasing system is very similar to the Federal system, they have operated in essentially the same environment with drastically different results. As with the Federal system, the State laws have always provided for both a competitive and non competitive system.

The most significant difference in the systems, and the one that has had the most effect on revenue, is the ability of the State to classify lands as competitive. The initial Land Act, Chapter 169, SLA, 1959, provided, "all tide and submerged lands shall be leased by competitive bidding and whenever oil or gas is di covered in any well on Alaska land in commercial quantities the Commissioner shall determine the extent of the area of any lands in addition to tide and submerged lands in the same general area of the discovery which by reason of such discovery, the Commissioner reasonably believes to be capable of producing oil or gas and such additional lands shall be leased by competitive bidding." The Act was amended, Chapter 61, SLA, 1960, to include mental health lands, school lands, and university lands, in the category to be leased by competitive bidding. However, it still limited other uplands to competitive bidding only where the lands were in the vicinity of a commercial discovery, a concept very similar to the known geologic structure concept under the Federal rules. As is evidenced by the following quote, in a letter dated January 3, 1972, from Roscoe E. Bell, Director, Division of Lands, to Jalmar Kerttula, of the Alaska House of

Representatives, the State early recognized the limitations of the Federal system:

> If the wording, "whenever oil or gas is discovered in commercial quantities, "were amended to add," or where sufficient geological or geophysical data were available to provide evidence of a favorable geological structure," there would be an opportunity for the State to encourage oil and gas exploration, to shorten the lapsed time between leasing and exploration, and to materially advance the financial well being of the State by leasing competitively areas that now must be leased noncompetitively.

This letter is also a good indicator of the Department thinking on noncompetitive vs. competitive leasing at the time and a copy is included with this report under Table 2. The law was amended in 1964 to the present language which provides that the Commissioner may lease [illegible] lands competitively when he determines it to be, "in the best interest of the State."

The State was faced with a unique problem. Most people agreed that oil revenue was one of the best hopes of meeting the rising state needs. Even though the State would receive 90% of the Federal revenue from oil and gas leasing, much of the Federal revenue would be delayed because it would come in the form of future royalties. There was no significant bonus or rental monies associated with Federal leasing. With many well known potential petroleum areas throughout the State open to lease on a first come, first served basis, unique measures were necessary to attract

interest from the Federal lands to State lands. The geologic potential of the harsh offshore waters of Cook Inlet offered the most obvious potential to attract immediate development on state lands. Most of the other lands that the State had or could select immediately were under lease and would be tied up for several years in title transfer. The other offshore areas had not yet attracted much attention.

Therefore, they immediately proceeded with the leasing of Upper Cook Inlet under terms to encourage development as soon as possible and at the same time, earn revenue from the leasing. Major factors in accomplishing these objectives were the discovery royalty incentive on large lease tracts, a short lease term (5 years) and a favorable government attitude towards the industry. The first large sale in Cook Inlet, (#7 in 1961) earned nearly 15 million dollars in bonuses, and the second large sale, (#9 in 1962) earned over 15 million dollars in bonuses. As can be seen from the statistics attached to this report, these two sales alone grossed more than federal payments to the State for all of their leasing activity up to that time.

Of more significance than the lease revenue to the State's future economic wellbeing however, was that the industry immediately proceeded to explore and develop the leased areas. This activity resulted in discovery of the Cook Inlet oil and gas fields, which are the source of the present oil and gas royalty income from state lands. Four of the five oil fields in the Cook Inlet Basin, Middle Ground Shoal, Granite Point, Trading Bay, and McArthur River fields were discovered on leases issued at these sales. It was the discovery and development of these fields

along with the Swanson River field that firmly established Alaska as one of the important oil producing areas in the world.

Thus, the State system operating in essentially the same environment was able to produce considerably more royalty and lease revenue in a much shorter time and with less acreage than the Federal system. The statistics included with this report show the results of the two systems. State revenue from leasing alone through 1975, i.e., bonuses and rental, amounts to $1,066,079,564. Through 1975 nearly $210,000,000 have been paid in production royalties. This compares to federal receipts from 1959 through 1975 of nearly $5[illegible],000,000 in oil and gas rentals and nearly $66,000,000 in oil and gas royalty payments.

Description of Present System

Statutory provisions for Alaska oil and gas leasing are contained in AS 38.05 primarily in sections 38.05.130 through 38.05.180. The regulations are contained in Title 11 of the Alaska Administrative Code, under Chapters 82, 83, and 88. Under these provisions a lease may be issued either competitively or noncompetitively.

The regulations, 11 ACC 82.105, provide that all lands not required by law to be leased competitively or not classified competitive by order of the Commissioner are noncompetitive for mineral leasing purposes. Before lands are available for noncompetitive leasing they must be opened by publishing a notice declaring the lands open for lease. A notice of opening must provide a 30 day filing period. During this time any applications that are filed are considered filed simultaneously and the

top priority for the noncompetitive lease is determined by public drawing. Similarly, after lands are leased and the lease terminates the lands are again made available, unless classified competitive, through a 30 day simultaneous filing period with the winner again being determined by public drawing. Any lands that are not leased through both of these procedures become available, after the end of the 30 day filing period.

The statutes (AS 38.05.180) provide that noncompetitive leases will be for a primary term of five years and can be extended for two years if the lands are in a competitive classification at the time of expiration of the primary term or five years if noncompetitive. The statute further provides that the royalty rate shall be 12.5% in amount or value of the production and that the maximum size of the lease shall not exceed 2,560 acres. The lease shall continue until the end of its primary term or its extension and so long thereafter as oil or gas is produced in paying quantities. The annual rental rate is set at $.50 an acre and is payable in advance or the lease automatically terminates under its terms and conditions.

Noncompetitive lease terms and regulations have remained essentially unchanged since statehood, except for the classification provisions which are discussed later in this report.

The statute requires that all tide and submerged lands, mental health lands, school lands, and university lands be leased competitively. It also provides that any lands which the Commissioner determines are capable of producing oil or gas as the result of a discovery in an area

must be leased competitively. In addition, the Commissioner may classify any lands competitive where he believes it is in the best interest of the State. Competitive leases are issued under the procedures of 11 AAC 82.400. The regulations provide that the method of bidding shall be either by public auction or by sealed bids. It is generally agreed that the provisions of the regulations and AS 38.05.335 require that the high bidder be determined on the basis of the highest cash bonus submitted at the sale.

Competitive leases are issued for a primary term of ten years except in the Cook Inlet sedimentary basin where the law provides that the leases shall be for a primary term of not more than ten years and not less than five years at the discretion of the Commissioner, and continue so long thereafter as oil or gas is produced in paying quantities. The royalty rate may not be less than 12.5% in amount or value of production. The maximum lease size is 2,560 acres for uplands and 5,760 for tide and submerged lands. The statute provides a rental rate of $1 an acre, which by the terms of the lease and the regulations must be payable in advance. Some of the basic provisions under the competitive system have changed since statehood. These are discussed in detail later in this report.

Both noncompetitive and competitive leases provide that leases will be extended if drilling has commenced on or before the expiration date until the well has been completed and so long thereafter as oil or gas is produced in paying quantities. They both provide that leases proven capable of production may be extended by shutin production. Provisions for unitization and extension of leases included within a unit are also

standard to both procedures. Acreage that may be held at any one time may not exceed 500,000 acres on tide and submerged lands and 500,000 on all other lands. Producing lands in an approved unit agreement and lands operated under an approved drilling or development contract are excluded for acreage limitation purposes.

Land Availability

With the advent of the modern oil and gas industry in Alaska in the early 1950's, almost all lands in Alaska were open to oil and gas leasing except on the North Slope.

The lands on the North Slope had been closed by executive order to mineral leasing for many years. They were not restored until April 18, 1958, when all of the lands except Petroleum Reserve #4 were opened for mineral leasing. The Secretary of Interiors' opening order provided for leasing through a noncompetitive lease offering in a simultaneous filing period. This was done in a series of six offerings by the Federal Bureau of Land Management beginning in 1958 and ending in 1966. A total of 22,300,000 acres were offered with a little over 5,000,000 acres being issued as leases. See Table 12 included with this report.[3]

The next significant effect on availability of lands for oil and gas leasing was the creation of the Arctic Wildlife Range, totalling about 8.9 million acres and the Clarence Rhodes Wildlife Range, totalling about 3.1 million acres in 1960. Following this was the so called "land freeze". As a result of protests from the Alaska Natives, the Secretary

3. Jones, Daniel A., Oil and Gas Leasing On The North Slope Alaska; Paper presented at Seventh Annual Mining, Mineral and Petroleum Conference, College, Alaska, March 20, 1964. Pg. 6

of the Interior suspended issuance of oil and gas leases in 1966. Applications would be accepted but leases would not be issued. The Secretary continued accepting applications until January 17, 1969, when Public Land Order 4582 was issued withdrawing all Alaska lands from oil and gas lease applications. During the period from 1966 until the "super land freeze" in 1969, oil and gas lease applications were filed on approximately 21 million acres.[4]

The Federal land freeze did not affect state lands except that new lands could not be transferred to the State which might be made available for leasing. In addition to the tide and submerged lands that were acquired with statehood, the State acquired the right to select approximately 103 million acres. It proceeded to select petroleum lands immediately, primarily in the Cook Inlet Basin and along the fringes of the Gulf of Alaska. The North Slope lands were selected in 1964 and 1969. The 1964 block totalled approximately 1.75 million acres and the 1969 block totalled nearly 3 million acres. Most of the lands selected in 1964 were tentatively approved by the Federal government in 1964 and were thus available for leasing. Petroleum lands along the Alaska Peninsula on the Bristol Bay side were also selected in 1969, however, approval of these lands was not received until recently.

The State immediately proceeded with making newly acquired lands available for oil and gas lease, as can be seen from the sale statistics included with this report. Sales were held frequently throughout the State. The apparent policy was to lease acreage wherever significant industry

4. Simasko, Donald L., Native Land Claims and Their Effect on Leasing in Alaska, Paper Presented at 1971 National Institute For Petroleum Landmen, Pgs. 153-191

interest occured. Most observers agree that this policy continued pretty much until the large Prudhoe Bay sale in 1969. This attracted considerable attention to the importance of leasing as a revenue earner for the State and leasing decisions became increasingly more involved. Since the Prudhoe Bay sale, the only leasing activity has been in the Cook Inlet Basin primarily in areas of previous leasing.

Noncompetitive lands were immediately opened for leasing upon receipt of title to the lands from the federal government. The early opening orders made all lands available for leasing to which the State had received title up to the date of the opening order. Except for procedural changes, this practice continued up until the State noncompetitive activity was discontinued late in 1975.

Competitive Classifications

As previously noted, the statute presently provides that the Commissioner may classify any lands competitive for purposes of oil and gas leasing, when he determines that it is the best interest of the State to do so. Prior to the amendment in 1964, the statute provided only for competitive leasing of certain types of lands and lands in the vicinity of a discovery. The letter from Roscoe E. Bell, then Director of the Division of Lands, to Representative Kertulla, previously cited in this report and included herewith, is a good indicator of the thinking on this point at that time. The first classification order effective January 8, 1963, was for lands primarily in the Beluga area in the Cook Inlet Basin, as a

result of the discovery of the Beluga Gas field. Since that date, there has been a total of 23 classifications. Most of them are in the Cook Inlet Basin. All of the lands selected by the State on the North Slope have been classified as competitive and most of the lands in the Cook Inlet Basin were classified competitive as company interest developed in the areas. The classification problem was somewhat simplified in the Cook Inlet Basin because many of the areas were interspersed with lands which were competitive by law and the classifications were based largely on the desire to provide only one leasing system in the area.

Comparison Between Competitive and Noncompetitive Leasing

As a consequence of the state's policy of classifying lands competitive where significant interest was indicated (see Roscoe Bell's letter to Jalmar Kertulla), comparisons of the activity and revenue generated by the two systems probably have little meaning, except from a historical viewpoint. From a total of 183 exploratory wells drilled on state issued leases, only 12 were drilled on noncompetitive leases. None of the 12 resulted in oil and gas in paying quantities. For a complete breakdown of wells drilled, see Table 10.

Revenue statistics are equally overbalanced. Approximately $10,392,730 of the total $37,826,590 rentals through 1975 were received from noncompetitive leasing. In addition, approximately $2,647,760 have been received in filing fees from applications in simultaneous filing periods. All the bonus and royalty income has been from competitive leases with exception of minor royalty income from transferred federal leases.

In 1972, an area on the Kenai Peninsula which had previously been under

competitive classification was reclassified to noncompetitive. Competitive interest had been low in the area for several years, and even when areas were leased, bonus was not high. One of the highest interest areas when they were opened to application after the reclassification was Township I North, Range 12 West, Seward Meridian. Nine tracts in this township earned from $1.13 per acre to $11.00 per acre in filing fees. In comparison, the most recent competitive sales in that township drew bids of high bonus from $2.00 to $3.34 per acre.

A similar comparison can be made for areas on the lower Kenai Peninsula, which have always been noncompetitive except for interspersed lands which are competitive by law, i.e., school, university and mental health. Results on Township 3 South, Range 14 West, Seward Meridian, one of the more active filing areas, noncompetitive leasing earned from $.75 to $20.00 per acre in filing fees with most recent competitive sales in the township earning from $3.15 to $7.67 per acre in bonus.

It is also interesting to note that lands had been available for competitive leasing in both of these townships in previous sales but had not been nominated for lease, or had not been leased after being offered. The failure to lease through the competitive system would be higher in areas of less interest. This offers support to one of the common arguments for noncompetitive leasing that considerable revenue can be earned from lands that would not otherwise be leased.

Discovery Royalty

The original state land act provided for reduction of the royalty rate

to 5 per cent for the entire lease for ten years following the date of the discovery, for the first discovery of oil or gas in commercial quantities in any geologic structure. This provision was deleted from the law in 1969. To date, only 8 leases have been certified for discovery royalty; however, there may eventually be additional certifications since there are still active leases which were issued before the 1969 law change. See Table 9 for a listing of the certifications.

At the time of statehood, the federal law provided a 5% discovery royalty incentive for federal leases in Alaska issued prior to May 3, 1958. Many federal leases, especially in the Cook Inlet basin, were subject to the discovery royalty provision at the time of statehood. Thus, it was necessary for the state leases to carry a similar provision to be comparable. Most observers agree that the discovery royalty incentive in Cook Inlet on large lease tracts was a very significant factor in the early drilling and development of that area. The 10 year period for all of the leases certified in Cook Inlet has now expired. The total difference between actual payments on discovery leases and the 12½% rate amounts to $8,754,000 for the 5 offshore leases involved. The total would have been much greater except that the first discovery on the Trading Bay structure was on one of the low quantity producing leases on that structure.

The reduced royalty rate for the discovery lease in the Prudhoe Bay field expires on December 31, 1977. Since production is not scheduled to commence until mid 1977, it is apparent that very little discovery benefits will accrue to this lease.

Bidding Methods

All state sales have been by sealed bid with the bidding variable being the highest cash bonus offered for the lease.

The original land act provided that competitive bidding would be "under general regulations" adopted by the commissioner. A statutory provision was adopted in 1966 to specifically "require each bidder for the competitive leasing of oil and gas lands to submit with his bid a deposit of money equal to 20 per cent of the amount bid", AS 38.05.335(c) (emphasis added). Thus, prior to the 1966 statutory change, the regulations controlled the bidding procedure, but after the law change it was apparent that a system very similar to the cash bonus bidding system was dictated.

The original oil and gas leasing regulations provided that the method of bidding be by sealed bids or at public auction by cash bonus, that the lease shall be awarded to the responsible qualified bidder offering the highest cash bonus, and that the bids must be accompanied by cashier's or certified checks, money orders or cash of at least 20% of the amount bid. These regulations were interpreted to only allow a bidding system where the only bidding variable was cash bonus. The regulations remained essentially unchanged in this regard until the 1974 revision, the last revision. The present regulations are much more general in bidding procedures, but the statutory limitations still apply.

The only alternative bidding method the record indicates has been considered is alternate or slide bidding. At a hearing held in Anchorage on June

30, 1969, the department asked for public input on the possibility of using a system similar to the "alternate" or "slide" bid system used in Canada for the 1969 Prudhoe Bay sale. Under the proposal, bidders who were unsuccessful on a tract would have been allowed to "slide" their bid to another tract. This method was explored as a possilbe method of allowing each bidder to use all his available money for the sale to his best advantage. The theory being that significant bidders might not have enough money to bid as high as they would like on all tracts. With the ability of "sliding" bids to alternate tracts, the possibility of pyramiding money on a few tracts was a possible benefit of the Canadian system. The availability of money did not prove to be as big a factor as originally anticipated. It was felt that the major bidders would be able to secure enough money to make their best bid on the major tracts in which they were interested and that the system would therefore not result in higher bonus revenue. The system was not adopted for this and other problems with the system, such as complicated mechanics of bidding and sale administration, the difficulty of public understanding and the possiblity of charges of collusion between the bidders and the state. The oil industry was also almost unaminously opposed to it.

Royalty

Royalty on noncompetitive leases has always been set by law at 12½%. Competitive leases may be issued with higher royalty rates since the statute has always only provided the minimum royalty rate of 12½ %. The first sale that utilized a higher rate was sale #28 in the Cook Inlet

basin. The rate used in this sale and in the last sale in this area was 16 2/3%.

Tract Sizes

The original land act provided a maximum tract size of 5760 acres for tide and submerged lands and 640 acres for all other lands. The law was revised in 1964 to increase the maximum size of upland tracts to 2560 acres.

The trend in the early offshore sales was to large tracts. Tract size in sale numbers 7 and 9, the first large Cook Inlet offshore sales, averaged 3760 and 3546 acres, respectively. There were many tracts over 5000 acres in size in these sales. The standard changed soon after this, however, to a four section block concept (about 2560 acres) when existing land patterns would allow.

Minimum Bid

Minimum bids have not been prescribed for any of the lease sales, except that most sales have provided that a bid of less than one dollar per acre will not be considered, primarily for the purpose of preventing nuisance bids. This provision was dropped in the 23rd sale (the 1969 Prudhoe Bay sale) and several insignificant nuisance type bids were received which caused considerable administrative expense, primarily legal, to resolve.

The regulations have always provided that the state may reject all bids on a tract when determined to be in the best interest of the state. Bids have been rejected in five of the sales under this provision. One high bid was rejected in the 8th sale, 8 rejected in the 9th sale, 3 rejected in the 14th sale, 33 rejected in the 21st sale and 15 bids rejected in the 23rd sale.

Conditional Leases

To avoid a long delay in development, the Statehood Act provided that upon receipt of tentative approval from the Federal government, the State could issue conditional leases on the land. There is often a long period between the determination of availability of the lands for state acquisition and the actual issuance of patent, primarily because of the survey problems.

A law was passed in 1960 to provide for extension of a conditional lease for a period equal to the period during which the lease was conditional. Almost all the Prudhoe Bay development was during the conditional period of the leases. The first leases were issued effective early 1965, but the first patents were not received until 1974. Thus, many of the leases in this area were extended for nearly ten years. Because of this development it was apparent that a conditional lease was not a deterrent to exploration and development and the extension provision was deleted from the law in 1969.

Lease Forms

The basic provisions of both of the lease forms have remained essentially the same. There have been several updates to conform to statutory changes and to correct errors. The original competitive lease form, DL1, was adopted late in 1959 and was revised April 1961, October 1963, April 1971, May 1973 and September 1974. The 1961 and 1963 revisions were apparently to correct typographical errors in the original form. The 1971 revision deleted the reference to water use in the granting clause to be consistent with the Water Use Act, AS 46.15; deleted the clause granting a conditional lease extension to be consistent with deletion of the provision from the statute; deleted the discovery royalty clause for the same reason and added a directional drilling clause and an employment clause regarding hire of Alaska residents.

The noncompetitive lease form, DL2, was first used in 1960 and was revised April 1961, May 1962, and May 1966. The changes in the non-competitive form were comparable to the changes in the competitive form.

Environmental Controls

When Alaska started its oil and gas leasing program, there were essentially no controls on oil and gas lease operators, except for controls on actual well drilling practices by the U.S. Geological Survey and under the Alaska Oil and Gas Conservation Commission. An operator could explore and develop on federal and early state leases without any approvals from other state or federal regulatory agencies. Operation on federal wildlife ranges such as the Kenai Moose Range were an exception. Very stringent surface use requirements were applied in these areas. When the state

started leasing offshore, however, as a result of concern by fishermen in Cook Inlet, they realized the need for more controls for tide and submerged land locations. A standard wildlife stipulation was adopted in August 1962 for inclusion in all offshore oil and gas leases. This stipulation required the written approval of the Department of Natural Resources "for the location and type of each structure before it is erected on tide and submerged lands". The stipulation was similar to the one that is presently used in all leases. Since 1968, a similar stipulation has been included in all leases issued, including both competitive and noncompetitive. In 1970, all lessees were ordered to obtain approval in accordance with the standard stipulation, even if the stipulation had not been included at the time the lease was issued. All operators have complied with this order.

There was also no control over seismic operations at the time of statehood. Neither the state or federal governments required permits or provided operating guidelines. except in wildlife ranges and park lands There was considerable public concern expressed in the late 1960's over damage done by seismic and other geophysical operations, and in 1968, the State Senate adopted a joint resolution requesting the department to adopt regulations. The primary concern was over excessive clearing of trails, damage done during trail construction, debris, damage from repeated use of the same trails, particularly in Arctic areas during the summer months, and disturbance and damage to fish and game resources.

Regulations requiring permits for all seismic operations were adopted

late in 1969. Since then, the major concerns have been taken care of by requiring operators to operate only during periods which will prevent or minimize disturbance, utilize existing trails when possible, remove all debris, utilize equipment which will do the least damage in cross country travel, avoid critical fish and game areas and rehabilitate any disturbed areas. In addition, the operators have gone back and cleaned up some of the debris left over from the past operations.

The state regulations are primarily for environmental control and operators are not required to file survey results. They are required, however, to file the location of trails, camps and seismic lines to facilitate field inspection.

Administration

The Minerals Section in the Division of Lands was the agency primarily responsible for the administration of the state's oil and gas leasing program until October 1976. The program received technical support and direction from the Division of Oil and Gas, and, to a lesser extent, the Division of Geological and Geophysical Surveys. Field surveillance support was also provided by the Division of Lands' District offices. The activity was consolidated with all the land owner mineral functions in a new division the Division of Minerals and Energy Management in October 1976.

The original Minerals Section had responsibility for all coal and locatable mineral activities on state lands, in addition to oil and gas.

They reached a peak of 13 employees in 1962, which gradually decreased to the total of 9 authorized positions at the time of consolidation into the Division of Minerals and Energy Management. There are no exact figures on the number of positions involved with the state leasing program in the other divisions, but it probably has not exceeded four, based on the number of positions transferred in the consolidation. In addition, less than two positions have been directly involved in the two mineral active district offices.

The administration of the present system is simple because of a well understood, highly predictable, and to a large extent, self executing legal and policy framework. The past administration of the present system placed considerable dependence on the "market place" to insure a fair return to the state for its oil and gas resources, thereby requiring a minimum of administrative expense and discretion.

TABLE NO. 1

COMPARISON OF FEDERAL AND STATE OIL AND GAS LEASING PROVISIONS*

Provision	Existing Law (Federal Lands)	HR 10455 (Federal lands)	State Law (State Lands)
(1) Maximum allowable acreage under oil and gas leases and options held by any one person or corporation (excluding leased acreage committed to cooperative or unit plan of development).	100,000 acres under lease and 200,000 acres under option	300,000 acres under lease & option, but not more than 200,000 acres under option, in each of 2 leasing districts.	500,000 acres on tide & submerged lands, plus 500,000 acres on uplds., without regard to lease or option status.
(2) Term of noncompetitive oil and gas leases.	5-year primary term with right to one 5-year extension	10-year primary term-no extension	5-year primary term with right to 1 5-year ext.
(3) Extension of lease term if actual drilling is underway at expiration date.	None provided	2-year extension	Extension until 90 days after such drilling has ceased
(4) Annual rental noncompetitive leases	50 cents per acre first year; 2nd and 3rd years waived; 25 cents per acre for 4th and 5th years; 50 cents per acre for 6th thru 10th years	50 cents per acre per year	50 cents per acre per yr.
(5) Royalties - (Minimum royalty of $1/per acre in lieu of rental after discovery of oil or gas).	Noncompetitive 12½% Competitive Not less than 12½%	Noncompetitive 12½% Competitive Not less than 12½%	Noncompetitive 12½% except that royalty shall be 5% on production from lease containing discovery well on new geologic structure for 10 years following discovery date. Competitive Not less than 12½%, except that royalty shall be 5% on production from lease containing discovery well on new geologic structure for 10 years following discovery date.

*Taken from a paper presented at the Fifth Annual Mining, Minerals and Petroleum Conference by Phil R. Holdsworth, Commissioner, Dept. of Natural Resources, April, 1960

TABLE NO. 2*

January 3, 1962

Mr. Jalmar Kerttula
Alaska House of Representatives
Star Route
Palmer, Alaska

Dear Mr. Kerttula:

This is in response to the question raised by you in my office as to what changes in law would be required to give the Commissioner of Natural Resources more authority to declare lands competitive for oil and gas leasing. The law now provides, Section I, Article 8, Chapter 169, SLA 1959, "As hereinafter provided, lands may be withheld from lease application on a first-come, first-served basis, and offered only on a competitive bid basis when determined by the Commissioner to be in the best interests of Alaska." Thus, the Commissioner now has the authority to open the land for competitive bidding, but as provided in Section I, Article 8, (7)a, "All tide and submerged lands, mental health lands, school lands, and university lands shall be leased by competitive bidding---------- and whenever oil or gas is discovered in any well in commercial quantities, the Commissioner shall determine the extent of the area of any lands in addition to tide, submerged, mental health lands, school or university lands in the same general area of the discovery well, which by reason of such discovery the Commissioner reasonably believes to be capable of producing oil or gas, and such additional lands shall be leased by competitive bidding."

If the wording, "whenever oil or gas is discovered in commercial quantities," were amended to add, "or where sufficient geological or geophysical data are available to provide evidence of a favorable geological structure," there would be an opportunity for the State to encourage oil and gas exploration, to shorten the lapsed time between leasing and exploration, and to materially advance the financial well being of the State by leasing competitively areas that now must be leased noncompetitively. At the same time it would not eliminate noncompetitive leasing in wildcat areas where geological or geophysical exploration has not been conducted.

Perhaps it would be worthwhile to review what has recently happened in the last noncompetitive area in the Tyonek. Because there were no producing wells in the area, and because the land was acquired under the general grant provision of the law, we could not offer to lease competitively even though intense interest was expressed by oil companies and suggestions were made by some company representatives that they would consider providing the State with geological and geophysical data if the land could be leased competitively.

We offered 82 tracts of approximately 2560 acres each during a 30 day simultaneous filing period. Following are the results of the opening, as compared with what might have been expected under the above legislative language:

	As Held Under Present Law and Regulations	Probable - If Legislation Were Amended
Total number of leasing tracts,	82 of 2560 acres each	Approximately 320 of 640 acres each
Number of applications or bids per tract	15 - 703	0 - 10
Number of applications or bids from oil companies	1 - 30	0 - 10
Number of tracts leased noncompetitively to date	80	Probably 220
Number of tracts leased competitively	None	Probably 100
Application fees Received	$267,640	$100,000
Cost of Processing	$ 50,000	$ 20,000
Rentals, noncompetitive @ 50¢/acre	$ 96,087	$ 64,087
Rentals, competitive @ $1.00/acre	None	$ 64,000
Bonus Bids	None	$7,990,000
Total State Revenue	$313,727	$8,198,087

The bonus bids were estimated at the same average per acre rate as those received from the nearby Tyonek mental health sale, or $124.85 per acre. It is believed the past experience in the mental health area might be somewhat comparable, although this cannot be verified. At least for discussion purposes it may be assumed that the mental health sale is a fair indication of the value of the land in the nearby noncompetitive area, providing you applied these values to lands considered to be sufficiently valuable by operating companies that they would nominate

them for competitive bidding and back up the nomination with sufficient geological or geophysical data to convince the Commissioner of their oil and gas potential.

It is a known fact that leases actually have been assigned at three to seven dollars per acre with a three to seven per cent overriding royalty. As long as only three of the 82 leases were drawn by and issued to operating oil companies, it may be assumed that most of the leases will be assigned, in fact, 25 leases totaling 63,026 acres have already been assigned.

It can hardly be said that this so-called "noncompetitive lease openint" was in any sense actually noncompetitive. The tabulation below demonstrates that it was highly competitive since one to thirty (or an average of twelve) oil companies filed on each tract along with the hundreds of other persons who filed:

Tract #	Oil Com. App.	App. Filed	Tract #	Oil Com. App.	App. Filed
S-13-4-1	7	67	S-13-5-1	19	309
2	8	54	2	20	204
3	7	73	3	10	173
4	8	83	4	16	86
5	11	100	5	8	70
6	10	97	6	7	39
7	9	78	7	6	36
8	7	89	8	10	91
9	9	90	9	18	157
10	11	83	10	24	165
11	10	52	11	25	311
12	6	41	12	25	417
13	7	37	13	21	572
14	3	29	14	20	316
15	4	30	15	24	250
16	5	28	16	21	172
17	3	22	17	15	97
18	5	32	18	8	40
19	4	39	19	2	21
20	2	22	20	3	23
21	5	42	21	7	31
22	4	45	22	9	55
23	12	102	23	16	112
24	16	124	24	23	191
25	16	117	25	27	451
26	17	151	26	27	533
27	16	145	27	30	716
28	11	106	28	24	689
29	8	56	29	26	679
30	2	24	30	26	504
31	2	19	31	19	215
32	1	15	32	15	139
33	5	29	33	8	77
34	7	65	34	4	52
35	16	103	35	4	36
36	15	141	36	2	34
37	20	198	37	3	38

Tract S-13-5-38	2	63
39	4	64
40	7	83
41	7	150
42	19	273
43	23	586
44	26	632
45	29	703

From suggestions made by industry representatives, and from the number of applications filed by oil companies, it may be fairly assumed that sufficient geophysical or geological information was available to have justified substantial competitive bidding on at least one third of the tracts, if it had been possible for the State to offer selected lands competitively.

It should be noted also that competitive bidding, especially where bids are high, results in immediate action in exploration; witness the road building and drilling which has occurred in the Tyonek during the seven months immediately following the sale. On the other hand, the period immediately following noncompetitive leasing is occupied with negotiation of assignments to put together a large enough "package" (twenty to thirty thousand acres), to justify geological or geophysical exploration prior to drilling. If there were the possibility of self protection by competitive bidding, exploratory work would be carried out prior to leasing so that the company could properly evaluate bidding levels.

Any proposal for extension of competitive leasing will be objected to by some companies and many independents because it represents a change and because the "small man" cannot compete with the large companies in seismic exploration, or in dollars paid at the sale, thus, he must depend upon chance and skillful negotiation to block up acreage.

In strictly noncompetitive wildcat areas noncompetitive leasing and independent activity to "package" acreage may serve to promote exploration and ultimate development, thus, there is much to be said for preserving the noncompetitive system. The limited authority provided to the Commissioner by the above suggested legislative language would result in much land being left open to noncompetitive bidding, and probably would adequately protect the "small man". At the same time, the "undue enrichment" of a few individuals who contribute little or nothing to development could be replaced by substantial additional revenues for the State, without necessarily increasing the cost to the oil companies because, as I have pointed out above, the companies compete to buy individual assignments after a noncompetitive opening. The prices may be substantial on individual tracts - in the last sale amounting to more than $20,000 per tract. In addition, the landman for the company may have to expend a great amount of time and travel to different parts of the United States to complete the negotiations for a block of land.

I trust these thoughts will be of value to you. All that I have said above supports your expressed belief that it would be in the State's interest to increase the authority of the Commissioner to classify lands as competitive.

I shall be glad to discuss the subject further when you are in Anchorage. So that Commissioner Holdsworth will know of your interest, I am sending him a copy of this letter.

Very sincerely yours,

Roscoe E. Bell
Director

REB:dfo
cc: Phil R. Holdsworth, Commissioner

*This letter was retyped from a copy for reproduction purposes

TABLE NO. 3*
ALASKA OIL AND GAS LEASE STATISTICS
FEDERAL AND STATE LANDS

	NO. LEASES		ACREAGE IN EFFECT		RENTAL		ROYALTY		BONUS	
FY	FED.	STATE	FEDERAL	STATE	FEDERAL	STATE	FEDERAL	STATE	FED.	STATE
1950	9		19,014		3,680					
51	35		77,805		6,850					
52	139		182,379		22,818					
53	783		1,370,783		317,114					
54	1020		1,832,780		138,485					
55	1696		2,519,846		220,016					
56	1901		2,814,742		468,616					
57	3385		6,516,746		839,278					
58	9191		19,552,999		3,643,748					
59	15,083	77	32,100,429	104,917	5,702,639	84,123			223,795	4,020,342
60	16,547	305	34,908,143	306,419	3,006,228	264,297			206,027	7,885,059
61	13,109	567	26,813,368	1,352,561	3,358,582	493,941	499,165			14,978,818
62	10,655	889	21,188,109	1,608,279	5,412,241	1,113,789	2,478,178			19,850,338
63	7713	1122	15,035,988	1,712,559	5,477,454	1,299,258	3,806,851			3,042,681
64	6186	1534	11,006,461	2,251,613	6,150,363	1,924,237	3,749,559	120,475		5,537,101
65	5496	2151	10,046,833	3,196,401	3,805,992	2,664,554	3,629,330	2,606,398		10,819,817
66	5456	2799	9,777,022	3,546,432	4,760,014	2,888,509	3,789,513	2,654,854		8,655,937
67	4285	3420	7,940,751	3,732,036	4,730,585	3,067,195	3,710,258	2,829,571		21,766,565
68	3943	3784	6,902,966	3,939,602	3,215,878	3,123,346	5,505,108	3,444,597		1,042,220
69	4234	3787	6,909,121	4,328,463	3,256,870	3,454,160	5,765,477	3,161,993		900,041,605
70	3995	3379	6,528,138	4,0[illegible],249	3,171,575	3,199,772	5,995,666	2,875,755		455,641
71	3132	3282	5,574,400	3,936,600	2,722,038	3,073,624	6,120,799	3,047,279		
72	2794	3545	5,010,526	4,322,914	2,312,025	3,444,048	5,741,175	2,984,076		4,012,847
73	2443	3573	4,509,978	4,316,816	2,171,032	3,404,169	4,940,573	3,336,761		24,819,190
74	2223	3742	4,314,719	4,853,538	1,947,810	3,711,937	7,915,996	3,605,389		1,040,910
75	1955	3264	3,695,933	4,272,785	908,733	3,365,380	8,591,579	3,424,164		

*Based on d[illegible] from BLM Public Land Statistics and State of Al[illegible]a, Division of Lands', Monthly Mineral's Section [illegible]eports

Calendar Year	FED. REVENUE O&G PYMTS. Rental	Royalty	MINERAL INCOME FROM STATE LAND O&G Rental	Oil Royalty	Gas Royalty	O&G Bonus
1959-64	$23,383,432	$11,483,598	$ 3,855,753	$ 120,475	$	$ 51,578,686
1965	3,425,393	3,266,397	2,606,398	96,233		14,889,797
1966	4,092,165	3,600,774	2,654,854	941,562		7,153,332
1967	3,526,398	4,070,551	2,829,571	3,517,136		20,256,124
1968	2,894,533	4,954,597	3,444,597	14,232,822	241,309	4,045,493
1969	2,931,183	5,188,929	3,161,993	17,395,223	391,048	900,046,372
1970	2,854,418	5,396,099	2,875,755	22,146,497	755,861	
1971	2,449,835	5,508,719	3,047,279	23,730,460	897,074	455,641
1972	2,055,751	4,755,461	2,984,076	24,539,420	961,821	1,620,146
1973	1,857,677	3,784,078	3,336,761	22,013,132	1,053,821	7,313,700
1974	1,756,831	5,951,182	3,605,389	35,193,392	1,235,014	20,891,159
1975	858,031	7,830,937	3,424,164	37,234,774	3,028,140	2,524
Totals	$52,085,647	$65,791,322	$37,826,590	$201,161,126	$8,564,088	$1,028,252,974

*Based on data in Division of Lands' Annual Report, 1975

TABLE NO. 5

COMPETITIVE OIL AND GAS LEASING OF STATE LANDS

Sale No. and Date	Acres Offered	Percent Leased	Acres Leased	$/Acre	Tracts Offered	Tracts Leased	Bonus Received
1. Dec. 10, 1959	88,055.00	87.66	77,191.00	$ 52.08	37	31	$ 4,020,342.43
2. July 13, 1960	17,567.51	93.96	16,505.57	24.70	27	26	407,654.54
3. Dec. 7, 1960	73,047.70	31.30	22,866.70	1.54	26	9	35,325.31
4. Jan. 25, 1961	400.00	100.00	400.00	679.04	3	3	271,614.40
5. May 23, 1961	97,876.00	98.06	95,980.00	74.71	102	99	7,170,464.88
6. Aug. 4, 1961	13,257.00	100.00	13,257.00	8.35	6	6	110,671.55
7. Dec. 19, 1961	255,708.44	73.14	187,025.40	79.47	68	53	14,863,049.33
8. April 24, 1962	1,061.70	100.00	1,061.70	4.81	8	8	5,097.00
9. July 11, 1962	315,668.93	87.77	264,437.13	59.42	89	76	15,714,112.60
10. May 8, 1963	167,583.06	84.43	141,490.51	29.23	200	158	4,136,224.92
11. C A N C E L L E D BECAUSE OF U.S. PROTEST ON YAKUTAT BAY AREA							
12. Dec. 11, 1963	346,782.40	71.25	247,089.00	12.31	308	207	3,042,680.74
13. Dec. 9, 1964	1,194,373.00	60.51	722,659.00	7.66	610	341	5,537,100.94
14. July 14, 1965	754,033.00	53.45	403,000.00	15.25	297	159	6,145,472.59
15. Sept. 28, 1965	403,042.06	74.87	301,751.28	15.49	293	216	4,674,343.74
16. July 19, 1966	184,410.05	72.66	133,987.29	52.55	205	153	7,040,880.17
17. Nov. 22, 1966	19,229.70	96.67	18,589.70	7.33	36	35	136,279.67
18. Jan. 24, 1967	47,729.00	88.82	42,397.00	34.87	23	19	1,478,777.23
19. Mar. 28, 1967	2,560.00	R E J E C T E D 12-9-74					
20. July 25, 1967	311,249.89	82.39	256,447.31	73.14	295	220	18,757,340.88
21. Mar. 26, 1968	346,623.00	47.59	164,961.00	18.24	308	147	3,009,224.00
22. Oct. 29, 1968	111,199.48	54.20	60,272.15	17.29	230	125	1,042,219.90
23. Sept. 10, 1969	450,858.47	91.50	412,548.47	2,181.66	179	164	900,041,605.34
24. May 12, 1971	196,635.07	47.10	92,617.97	4.87	244	106	455,640.57
25. Sept. 26, 1972	325,401.42	54.78	178,244.71	7.43	259	152	1,324,673.40
26. Dec. 11, 1972	399,920.96	44.50	177,972.56	8.75	218	105	1,557,848.84
27. May 9, 1973	308,400.81	36.93	113,891.71	9.93	210	96	1,130,324.51
28. Dec. 13, 1973	166,648.04	58.69	97,803.69	253.77	98	62	24,819,189.91
29. Oct. 23, 1974	278,269.43	50.00	127,119.65	8.19	164	82	1,040,909.98
	6,877,591.12	63.57	4,371,567.50	$ 235.09	4,544	2,858	$1,027,969,069.37

STATE COMPETITIVE SALE AREAS

Sale#	Area
1.	Wide Bay; offsh. Kenai to Ninilchik; Kachemak Bay
2.	Kenai Penin; West Forelands; Nushagak Bay
3.	Katalla;Kalifonsky Beach; Herenden Bay;offsh.Kodiak
4.	Uplds. Ninilchik
5.	Tyonek;Controller Bay;Pavlov Bay
6.	Controller Bay
7.	Icy,Yakutat,Kachemak Bays; So.Kenai Penin;No.CookInlet
8.	Big Lake
9.	Tyonek;W.Forelands;KnikArm; KalginIsld;ChisikIsld;South KenaiPenin;Wide Bay
10.	Tyonek;Kenai offsh.&uplds.
11.	YakutatBay(Cancelled)
12.	BelowForelands;Knik&Turn-againArms;UpperCookInlet; KenaiPenin.;Tyonek toKatunu River
13.	Fire Island;W.Forelands; TrinityIslds; Prudhoe west
14.	Prudhoe west to Canning River
15.	FireIsld & N.Cook Inlet; Kalgin Isld & Redoubt Bay; Knik; So.Kenai Penin.
16.	Kenai Penin & Knik; Middleton Isld; Fire Isld;RedoubtBay; Kalgin Isld;Illiamna Mt; No.Cook Inlet
17.	Big Lake; Kenai
18.	Katalla; Prudhoe
19.	Lower Cook Inlet
20.	Big Lake;Knik;Illiamna Mt; Beluga;N.CookInlet;Kalgin Isld; Ninilchik
21.	Port Heiden & Port Moller
22.	Big Lake;Knik; Beluga; West Forelands; Ninilchik;Kachemak& Kenai
23.	Colville to Canning River
24.	Big Lake; Knik; Kenai; West Forelands
25.	Big Lake; Knik; Beluga; North Cook Inlet
26.	Cook Inlet (between Forelands and Turnagain Arm)
27.	Tuxedni; Ninilchik; Kenai; Kalgin
28.	Ninilchik; Kachemak Bay; Beluga
29.	Kalgin & West Forelands; Chisik; Ninilchik; N.CookInlet; Turnagain; Big Lake

COOK INLET OFFSHORE - COMPETITIVE LEASE SALES

Sale #	Acres Offered	Acres Leased	% Leased	Bonus Paid	$/PerAcre
1	31,165.00	25,621.00	82.21	$ 2,976,542.43	116.18
2	9,497.00	8,435.00	88.82	68,788.79	8.16
3	1,851.70	1,851.70	100.00	10,026.25	5.41
7	203,466.00	146,126.00	71.82	14,411,099.13	98.62
9	310,310.46	264,437.13	83.74	15,626,116.56	59.24
10	81,767.00	75,669.00	92.54	1,058,658.96	14.00
12	268,330.00	184,248.00	68.66	2,623,661.46	14.24
13	184,413.00	149,089.00	84.47	1,055,868.09	7.08
15	386,350.36	287,383.36	74.38	4,581,240.94	15.94
16	119,182.32	76,393.61	64.10	1,241,432.01	16.25
19	2,560.00	2,560.00	100.00	2,585.60	1.01
20	189,256.89	175,836.00	92.85	18,124,003.52	103.13
22	1,342.55	894.85	66.65	6,015.72	6.72
24	326.28	198.58	60.86	617.73	3.11
25	74,999.96	12,979.71	17.00	81,489.22	1.59
26	345,174.26	130,273.03	38.00	1,144,060.16	11.38
27	258,545.29	75,340.91	29.00	747,664.34	9.89
28	149,567.15	80,722.80	53.97	24,819,189.91	306.43
29	275,528.66	123,598.88	44.85	933,934.01	7.00
Total	2,893,633.88	1,897,573.56	65.57	39,512,994.83	47.17

TABLE 5-C

NORTH SLOPE COMPETITIVE LEASE SALES

Sale #	Acres Offered	Acres Leased	% Leased	Bonus Paid	$/PerAcre
13	624,457.00	466,180.00	74.65	$ 4,376,523.30	9.39
14	754,033.00	403,000.00	53.44	6,145,472.59	15.25
18	37,662.00	37,662.00	100.00	1,469,645.39	13.11
23	450,858.47	412,548.47	91.50	900,041,605.30	2,181.66
Total	1,867,010.47	1,319,390.47	70.67	$912,033,246.58	691.25

TABLE 5-D

GULF OF ALASKA COMPETITIVE LEASE SALES

Sale #	Acres Offered	Acres Leased	% Leased	Bonus Paid	$/PerAcre
3	12,275.00	5,257.00	42.83	$ 5,777.81	1.10
5	23,508.00	23,508.00	100.00	66,203.88	2.82
6	13,257.00	13,257.00	100.00	110,671.55	7.67
7	50,457.00	39,207.00	77.70	269,390.20	6.87
12	6,635.70	0	0	0	0
16	30,969.00	27,152.00	87.67	4,457,131.30	1.64
18	10,067.00	4,735.00	47.03	9,131.84	1.92
Total	147,168.70	113,116.00	76.86	$4,918,306.58	4.35

TABLE 5-E

WIDE BAY AND KODIAK COMPETITIVE LEASE SALES

Sale #	Acres Offered	Acres Leased	% Leased	Bonus Paid	$/Per Acre
1	56,890.00	51,570.00	90.65	$1,043,800.00	20.24
9 (Uni.)	678.47	678.47	100.00	87,996.04	129.70
9 (Offsh.)	4,680.00	0	0	0	0
13 (Kodiak)	385,503.00	107,390.00	27.85	104,709.55	97.50
Total	447,751.47	159,638.47	35.65	$1,236,505.59	77.46

TABLE 5-F

BRISTOL BAY COMPETITIVE LEASE SALES

Sale #	Acres Offered	Acres Leased	% Leased	Bonus Paid	$/Per Acre
2	4,341.00	4,341.00	100.00	$ 11,937.75	27.50
3	58,921.00	15,758.00	26.74	19,521.25	1.24
5	16,093.00	16,093.00	100.00	65,727.62	4.08
21	346,623.00	164,961.00	47.59	3,009,224.00	18.24
Total	425.978.00	201,153.00	47.22	$3,106,410.62	15.44

TABLE NO. 6*

COMPETITIVE LEASES & ACREAGE BY YEAR

Year	No. Lses. Iss.	Acreage	Cumulative Acreage
1960	54	88,639	88,639
1961	117	132,388	217,970
1962	61	188,085	367,447
1963	161	143,354	487,530
1964	219	279,092	671,095
1965	699	1,387,351	2,035,648
1966	187	154,498	2,007,064
1967	242	300,764	2,103,709
1968	272	225,306	2,170,626
1969	163	410,025	2,415,783
1970	1	2,523	2,128,070
1971	106	92,616	2,063,396
1972	145	169,365	2,073,691
1973	211	301,714	2,291,295
1974	146	225,709	2,476,388
1975	0	0	2,470,013

*Data compiled from Division of Lands, Mineral's Section Monthly Reports

TABLE NO. 7*

NONCOMPETITIVE SIMULTANEOUS FILINGS BY YEAR

INCLUDING 1ST YEAR RENTAL & FILING FEE REVENUE

Year	No. Aplns.	Filing Fees Received	Acreage Leased	1st Year Rentals
1961	13,383	$ 267,660	192,174	$ 96,087
1962	13,966	279,320	462,466	231,233
1963	5,187	103,740	230,539	115,270
1964	1,336	26,720	116,971	58,486
1965	2,448	48,960	205,692	102,846
1966	5,585	111,700	203,880	101,940
1967	18,503	370,060	317,071	158,536
1968	13,162	263,240	334,073	167,037
1969	13,963	279,260	409,217	204,609
1970	5,456	109,120	458,400	229,200
1971	6,973	139,460	287,020	143,510
1972	9,420	188,400	391,477	195,739
1973	8,679	173,580	295,923	147,961
1974	6,531	130,620	233,130	116,565
1975	7,796	155,920	189,301	94,651
Totals	132,388	$2,647,760	4,327,334	$2,163,670

*Data compiled from Division of Lands, Mineral's Section Monthly Reports

TABLE NO. 8*[1]

NONCOMPETITIVE ISSUED LEASES AND ACREAGE BY YEAR*[2]

INCLUDING CUMULATIVE ACREAGE & RENTAL

Year	#Lses. Issued	Acreage Issued	Cumulative Acreage	Cumulative Rental*[3]
1960	72	51,519	51,519	$ 25,760
1961	132	229,831	280,891	140,446
1962	248	489,654	748,934	374,467
1963	172	328,054	870,352	435,176
1964	124	125,375	782,399	391,200
1965	210	222,212	747,582	373,791
1966	446	559,383	1,192,871	596,436
1967	481	350,241	1,357,678	678,839
1968	273	341,265	1,559,605	779,803
1969	311	419,700	1,806,513	903,257
1970	306	461,487	1,794,434	897,217
1971	227	287,060	1,653,478	826,739
1972	337	391,477	1,666,241	833,121
1973	237	295,923	1,797,146	898,573
1974	423	764,535	2,373,324	1,186,662
1975	243	395,500	2,102,485	1,051,243
Totals	4242	5,713,216	20,785,452	$10,392,730

*[1]Data compiled from Division of Lands, Mineral's Section Monthly Reports
*[2]Including Transferred Federal Leases & Offers
*[3]Calculated at 50¢ per acre

TABLE NO. 9

OIL AND GAS DISCOVERY ROYALTY CERTIFICATIONS

Well Name	ADL#	Acres	Structure	Lessee	Discovery Date
Falls Creek Unit#1	00590	3660	Falls Creek	Socal, etal	5/1/61
MGS #1	17595	5106	MGS	Amoco, etal	7/1/62
Cook Inlet State#1A	17589	5002	Cook Inlet	Amoco, etal	9/1/62
Beluga River Unit#1	17599	5001	Beluga River	Socal, etal	1/1/63
Granite Pt. #1	18761	5089	Granite Point	Mobil	6/1/65
Trading Bay #1A	18731	3840	Trading Bay	Union, etal	6/1/65
Nicolai Creek State #1-A	17598	3023	Stedatna Creek	Texaco, etal	5/1/66
Prudhoe Bay State #1	28303	2560	ARCO, etal	Prudhoe Bay	1/1/68

EXPLORATORY WELLS ON STATE LEASES

Lease ADL#	Type*	Well Name	Geographical Area	Discovered Oil/Gas in Paying Quantities
00590	C	Falls Creek Unit 1	Cook Inlet Basin	Yes
00591	"	" " " 2	" " "	No
00592	"	Ninilchik 1	" " "	"
00608	"	Wide Bay Unit 1	Alaska Peninsula	"
01804	"	W. Foreland Unit 2	Cook Inlet Basin	"
03174	"	Chuit State 2	" " "	"
03178	"	" " 1	" " "	"
03193	"	Chuitna River State 1	" " "	"
03197	"	Stedatna Creek 1	" " "	"
03264	"	Three Mile Creek State 1	" " "	"
08878	N	Cottonwood State 1	" " "	"
17786	"	Kustatan River	" " "	"
17579	C	North Redoubt State 1	" " "	Yes
17580	"	State 17580 1	" " "	No
17582	"	SRS State 2	" " "	"
17582	"	SRS State 1	" " "	"
17582	"	Tyonek State 17586 2	" " "	"
17585	"	Nicolai Creek Unit 4	" " "	"
17587	"	Tyonek State 1	" " "	"
17587	"	Tyonek State 17587 2	" " "	"
17588	"	Tyonek State 17588 1	" " "	"
17589	"	Cook Inlet State 17589 1-A	" " "	Yes
17589	"	" " " " 1	" " "	No
17591	"	" " " 17591 1	" " "	"
17594	"	Grayling 1-A	" " "	Yes
17594	"	Grayling 1	" " "	No
17595	"	MGS State 17595 3	" " "	"
17595	"	MGS State 17595 2	" " "	"
17595	"	MGS State 1	" " "	Yes
17596	"	E. Trading Bay State 1	" " "	No
17597	"	Trading Bay State 1	" " "	Yes
17597	"	Trading Bay 2	" " "	No
17598	"	Nicolai Creek State 1	" " "	"
17598	"	" " " 1-A	" " "	Yes
17600	"	Ivan River Unit 23-12	" " "	No

*C=Competitive N=Noncompetitive

Lease ADL#	Type	Well Name	Geographical Area	Discovered Oil/Gas in Paying Quantities
17601	C	W. Foreland Unit 1	Cook Inlet Basin	No
17612	"	Coal Bay State 1	" " "	"
17797	N	Johnson Slough 1	" " "	"
17802	N	Bachatna Creek Unit 7	" " "	"
18716	C	Foreland Channel State 1-A	" " "	"
18716	"	" " " 1	" " "	"
18719	"	Oldman's Bay Street	" " "	"
18729	"	Kustatan 1-A	" " "	Yes
18729	"	" 1	" " "	No
18731	"	W. Trading Bay State 1	" " "	"
18731	"	Trading Bay 3	" " "	"
18731	"	" " 1-A	" " "	Yes
18731	"	" " 1	" " "	No
18731	"	Trading Bay State A-3	" " "	"
18740	"	Cook Inlet State 18740 1	" " "	Yes
18741	"	" " " 18741 1	" " "	No
18741	"	" " " 18741 2	" " "	Yes
18742	"	Tyonek State 18742 1	" " "	Yes
18745	"	N. MGS State 18745 2	" " "	No
18745	"	" " " " 1-A	" " "	"
18745	"	" " " " 1	" " "	"
18746	"	MGS State 18746 1	" " "	Yes
18751	"	E. MGS State 18751 1	" " "	No
18754	'	SRS MGS State 1	" " "	Yes
18755	"	N. Cook Inlet State 1	" " "	No
18758	"	W. Foreland Unit 4	" " "	"
18761	"	Granite Pt. 1	" " "	Yes
18763	"	Knik Arm State 1	" " "	No
18765	"	Tower 2	" " "	"
18765	"	" 1	" " "	"
18772	"	McArthur State 1	" " "	Yes
18774	"	N. Trading Bay 23-7	" " "	No
18775	"	Middle River State 95 1	" " "	"
18777	"	West Foreland Unit 3	" " "	Yes
18777	"	Middle River State 2	" " "	No
18788	"	Starichkof State Unit 1	" " "	"
18790	"	Starichkof State 1	" " "	Suspended
18791	"	Kalgin Island State 1	" " "	No
18775	"	Middle River State Unit 1	" " "	"
20424	N	Campbell Point 1	" " "	"
21067	C	Middle River State Unit 2	" " "	"

Lease ADL#	Type	Well Name	Geographical Area	Discovered Oil/Gas in Paying Quantities
21094	C	Kasilof Unit 2	Cook Inlet Basin	No
21095	"	" " 1	" " "	"
21095	"	Kasilof State 1	" " "	"
21136	"	Susitna State Unit 1	" " "	"
21154	"	Lorraine State 1	" " "	"
21184	"	Middle Lake Unit 1	" " "	"
21095	"	Kasilof State 2	" " "	"
22008	"	Turnagain Arm Unit 1	" " "	"
22064	"	Redoubt Shoal State 22064 1	" " "	"
22106	"	Kustatan Ridge 1	" " "	"
22119	"	Middle River State 1	" " "	"
22170	"	W. Tyonek 1	" " "	"
23601	N	Beaver Lakes State 1-B	" " "	"
25425	C	Kustatan River Unit 43-30	" " "	"
25514	"	Simpson Lagoon 32-14A	North Slope	Yes
25514	"	" " 32-14	" "	No
25518	"	Kavearak Point 32-25	" "	Yes
25532	"	Kalubik Creek 1	" "	No
25551	"	Colville 1	" "	"
25575	"	Kookpuk	" "	"
25633	"	Ugnu	" "	Yes
25635	"	East Ugnu	" "	"
25651	"	W. Sak River State 2	" "	"
25651	"	W. Sak River State 2	" "	Yes
25658	"	" " " 3	" "	Suspended
25662	"	" " " 5	" "	"
28239	"	N.W. Eileen State 2	" "	No
28239	"	" " " 1	" "	Yes
28241	"	W. Kuparuk State 03-11-11	" "	"
28248	"	W. Sak River State 6	" "	Suspended
28252	"	Hemi State 03-09-11	" "	No
28255	"	Beechey Point State 1	" "	"
28257	"	N. Kuparuk State 26-12-12	" "	Yes
28263	"	Kuparuk State 1	" "	"
28264	"	S.E. Eileen State 1	" "	No
28264	"	S.E. Eileen State 2	" "	Yes
28275	"	Kup River State 1	" "	Suspended
28281	"	Put River J-1	" "	"
28287	"	" " 33-11-13	" "	"
28289	"	Hurl State 05-10-13	" "	Yes

Lease ADL#	Type	Well Name	Geographical Area	Discovered Oil/Gas in Paying Quantities
28301	C	West Beach State 2	North Slope	Suspended
28303	"	Prudhoe Bay State 1	" "	Yes
28309	"	Put River	" "	Suspended
28313	"	Put River State 1	" "	"
28315	"	Put River 24-10-14	" "	"
28316	"	Socal 31-25	" "	"
28328	"	Sag River State 1	" "	Yes
28332	"	Lake State 1	" "	"
28343	"	Sag Delta 31-11-16	" "	Suspended
28344	"	Delta State 1	" "	"
28349	"	Sag Delta 31-10-16	" "	"
28350	"	Kadler State 15-09-16	" "	No
28367	"	E. Mikkelsen Bay State 1	" "	"
28377	"	West Staines State 2	" "	"
28380	"	W. Staines State 18-09-23	" "	"
29690	"	Redoubt Shoal Unit 2	Cook Inlet Basin	Yes
29690	"	" " State 1	" " "	No
29691	"	Forelands State Unit 1	" " "	"
29715	"	Clam Gulch	" " "	"
29723	"	Drift River State 1	" " "	"
30021	N	Red Shirt Lake 1	" " "	"
33098	C	Horseshoe Lake State 1	" " "	"
33108	"	Long Lake Unit 1	" " "	"
33238	"	Middleton Island State 1	Gulf of Alaska	"
34101	"	Cohoe Unit 1	Cook Inlet Basin	"
34623	"	Point Storkersen 1	North Slope	Yes
34624	"	N. Prudhoe Bay State 1	" "	"
34625	"	Niakuk 2	" "	Suspended
34625	"	" 1	" "	No
34626	"	Gull Island State 1	" "	Suspended
34627	"	West Beach State 3	" "	"
34628	"	West Beach State 1	" "	"
34630	"	Niakuk 1-A	" "	"
34631	"	East Bay State 1	" "	Yes
34634	"	Sag Delta 33-12-16	" "	Suspended
34638	"	Katalla State 1	Gulf of Alaska	No
35225	"	Trading Bay State 2	Cook Inlet Basin	"
35323	"	West Foreland Unit 5-A	" " "	"

Lease ADL#	Type	Well Name	Geographical Area	Discovered Oil/Gas in Paying Quantities
35323	C	West Foreland Unit 5	Cook Inlet Basin	No
35431	"	Trading Bay State 1	" " "	Yes
35704	N	S. Caribou Hill Unit 1	" " "	No
36448	C	Bachatna Creek State 1	" " "	"
36465	"	State 36465 1	" " "	"
38314	C	Port Heiden Unit 1	Bristol Bay	"
41217	"	Ninilchik 1	Cook Inlet Basin	"
45592	N	Am. Quasar Big Lake 1	" " "	"
46938	"	Bachatna Creek Unit 1	" " "	"
47417	C	Colville Delta State 1	North Slope	"
47433	"	Milne Point 18-1	" "	Yes
47465	"	Gwydyr Bay State A 1	" "	No
47468	"	" " South 1	" "	Yes
47470	"	Delta State 2	" "	Suspended
47488	"	West Channel 1-3	" "	No
47506	"	Foggy Island Bay Unit 1	" "	Suspended
47542	"	Mikkelsen Bay State 13-09-19	" "	No
47556	"	Alaska State A 1	" "	Suspended
47440	"	Plaghm Beechey Pt. 1	" "	No
52638	N	Pretty Creek State 1	Cook Inlet Basin	No
53078	"	Bachatna Creek Unit 3	" " "	"
54195	C	Figure Eight Unit 1	" " "	"
54273	"	West Foreland State A 1	" " "	"
58761	"	Isla Grande 1	" " "	"
58784	"	E. Lewis River 1	" " "	"
58801	"	Lewis River 1	" " "	Yes
58838	"	N. Tyonek State 1	" " "	No
59313	"	West McArthur River 1	" " "	"
60579	"	Cape Kasilof 1	" " "	"

COMPARISON OF NONCOMPETITIVE VS COMPETITIVE LEASING
(EXAMPLE OF TWO HIGH INTEREST NONCOMPETITIVE AREAS)

T. 1 N., R. 12 W., S.M.

COMPETITIVE

Date	ADL #	#Bids	Acres	$/PerAcre
7/67	36540	1	641	2.68
"	41	"	"	"
"	46	"	640	2.15
"	47	"	720	2.68
"	49	"	640	2.15
"	50	"	640	2.15
"	51	"	640	2.15
"	55	"	640	2.15
5/73	60611	2	160	3.34
"	60612	1	1040	2.00
"	13	1	160	2.00
"	14	1	476	2.00

NONCOMPETITIVE

Date	ADL #	#Aplns.	Acres	$/PerAcre in Filing Fees
3/72	56985	71	641	2.22
"	86	169	558	6.05
"	87	72	1280	1.13
"	88	88	838	2.10
"	89	85	680	2.50
"	90	68	639	2.13
12/72	59609	207	640	6.47
"	59610	175	320	11.00
6/75	68140	135	1880	1.44

T. 3 S., R. 14 W., S.M.

COMPETITIVE

Date	ADL #	#Bids	Acres	$/PerAcre
12/63	22089	1	80	3.15
10/68	41226	1	800	7.67
"	41227	1	389	7.67

NONCOMPETITIVE

Date	ADL #	#Aplns.	Acres	$/PerAcre in Filing Fees
2/65	26329	3	80	.75
12/65	31447	190	800	4.75
1/67	34888	550	2560	4.30
"	34891	170	480	7.08
"	34892	499	1600	6.24
"	34894	877	2440	7.19
"	34895	571	2440	4.68
"	34899	91	640	2.84
3/67	35700	54	80	13.50
4/67	36011	71	120	11.83
8/68	40832	240	360	13.33
9/68	41880	180	240	15.00
12/68	43691	606	1280	9.47
"	43697	596	1560	7.64
6/69	47020	1085	1280	16.95
12/69	50171	93	120	15.50
12/71	56379	79	360	4.39
2/72	56591	200	677	5.90
12/72	59628	51	200	5.10
9/73	62677	40	40	20.00
3/7[illegible]	63845	183	320	11.44
7/7[illegible]	68[illegible]	[illegible]2	48[illegible]	[illegible]2

TABLE NO. 12

NORTH SLOPE

FEDERAL LEASING HISTORY*1

PLO 1621 restored PLO 82 to mineral leasing on April 18, 1958. This order provided for leasing through noncompetitive lease offering in a simultaneous filing period. This was done in the following order:

Drawing Date	Acreage Offered	Tracts Offered	Tracts Rec'd Offers	Offers Received	Acres Leased*2
1958	3,400,000	1364	608	-	1,520,000
6/11/64	3,600,000	1440	1000	14,725	2,500,000
5/13/65	4,000,000	1558	268	31,431	670,000
11/19/65	"	1960	148	1397	370,000
1966	3,000,000	1247	7	8	17,500
12/30/66	4,300,000	1817	215	500	537,500*3
Total	22,300,000				5,615,000

*1 Adapted from August 21, 1968 Alaska Scouting Service Report

*2 Estimated on basis of 2500 acres per parcel

*3 Leases not issued because of "land freeze"

Alaska State Legislature

House of Representatives

Committee on Resources

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

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4a. Transcript of Milton Lipton's comments to the joint Senate/ House Resources Committees on State leasing policy (January 25, 1978).
 b. Prepared testimony/comments on HB 854.

5. "Oil and Gas Leasing Policy, Alternatives for Alaska in 1977", by Dr. Mason Gaffney, February 1, 1977.

SEC. 3

THE SENSITIVITY OF STATE PETROLEUM INCO
TO VARIOUS LEASING METHODS

SECTION III

SUMMARY

Four leasing methods and one option were analyzed in detail. Economic analyses were run on a computer for each of the studied leasing methods. Model field sizes used, ranged from 100 million to 5 billion barrels of recoverable oil. An analytical comparison shows that state income (immediate, long range, and discounted) varied considerably depending on the leasing method. However, different leasing methods have other advantages and disadvantages to the State such as to encourage or discourage investment capital, exploration, field development, production rates, economic field life, and competition at leasing auctions. The results of this study clearly indicate there is no "one-best-method" of leasing. The data does show that knowledge of the potential petroleum structure is essential and that leasing methods need to be tailored to the structures being leased and to the State's needs.

Bonus bidding maximizes immediate income to the State and is discussed on page II - 20. Sliding scale royalty with cash bonus bidding provides lesser immediate income to the State than does bonus bidding, but provides greater total income to the State as can be seen on Figure II - 10, page II - 22. Royalty bidding and Net Profits Bidding (both with fixed cash bonus) are similar as far as the income stream provided to the State; they generally provide the least immediate income but greatest amount of total income to the State of Alaska - this is shown on Figure II - 12, page II - 25. (Royalty Bid and Net Profits Bid provide increased state income by reducing Federal income tax and by reducing the amount of Oil Company Investment on which a rate of return is to be made.)

A significant result of this study is that State income can be increased for all leasing methods studied by using a percent of acreage option. This option consists of acquiring sufficient knowledge to intelligently withhold some of a structure when leasing.

As is shown in Tables II - 1 and II - 2 pages II - 27C and 27B, bonus income to the State was increased from 48.1 to 174.9 million dollars for our field model with 600 million barrels recoverable oil. This is an increase of 131.1 million dollars.

INTRODUCTION TO THE SENSITIVITY ANALYSIS

Petroleum Development and Past Leasing Policy. In the 74 years that have elapsed since the first commercial oil was found in Alaska at Katalla, the State has seen wave after wave of explosive development crash upon its shores, followed by the inevitable receding wave of bust and recession. After petroleum was found at Swanson River in 1957 (a major oil field of 218 million barrels of recoverable reserves), Alaska was catapulted into the petroleum era and the resulting series of petroleum lease sales have changed Alaska's economic emphasis from hard minerals to oil.

As Alaska moved into the petroleum scene, it found itself in the unique position of being the late comer to the party and winning the door prize. Alaska found that it possessed a great wealth of petroleum at a time when the other states and the Federal government were closing the curtain on the final act of their petroleum resources. The nation has managed to use the majority of its oil and gas resources in seventy years and now finds production falling with demand increasing - a grim situation, to say the least.

Alaska is therefore in a crucial position concerning the national and world energy crisis. The State has over 50% of the nation's remaining potential reserves, and the majority of these reserves lie on Alaska's Continental Shelves and uplands of the State. The nation is now moving to the OCS to develop the last oil resources, and Alaska with 560,000 square miles of shelf has more oil potential area (70%) than all of the other OCS areas

combined. This means that world and Federal actions, native development and state needs will be key factors in the State's future petroleum policies.

Political, economic, environmental and social requirements are now being considered as part of the State's needs, a much more complicated situation than earlier years and certainly more controversial. This report will concentrate on various methods of leasing petroleum lands. The decision of whether to lease or not, and when to lease, are basic policy decisions beyond this report. HOW to lease in light of the changes of recent years is a difficult and complex problem. This study will attempt to analyze some options and insight into this aspect of our natural resource management.

The present state leasing system was initiated in an earlier era when the major leasing consideration was in maximizing the current revenues to the State. Petroleum was leased upon a single variable - the initial cash bonus. In general, this system was effective and workable. It provided the State with the necessary revenue to move from dependence upon the Federal government to true statehood and provided impetus to establish an oil industry in Alaska.

With the 1969 Prudhoe Bay lease sale, the construction of the Alyeska Pipeline, and other changing economic and social circumstances, the public is becoming more interested in future leasing methods.

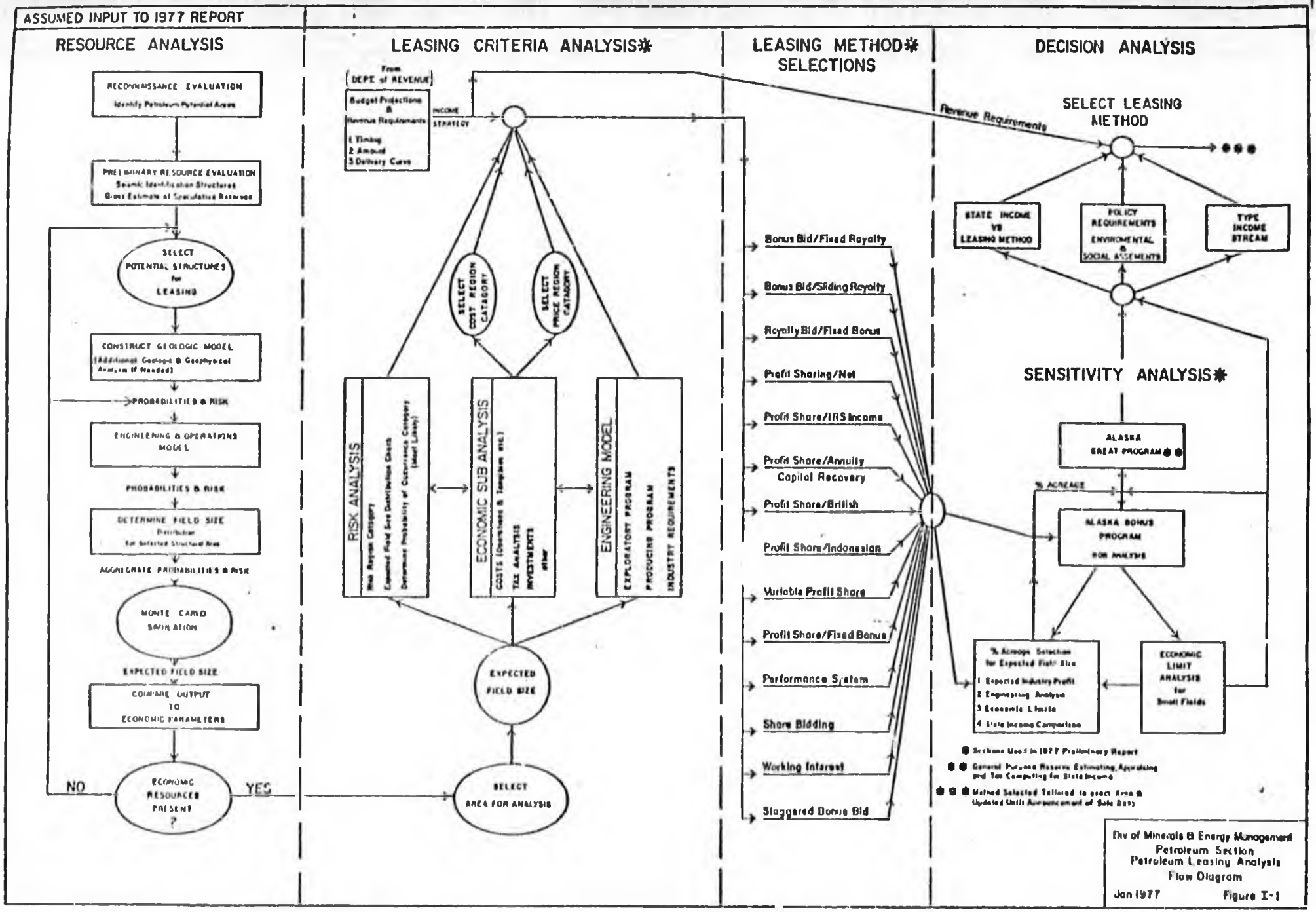
Management implies benefits, but it requires knowledge, and it assumes risks. This leasing study indicates that the State may achieve greater economic benefits and the ability to take these benefits when the State needs them if we undertake a managed leasing system. But what is a managed leasing system? If we ACQUIRE KNOWLEDGE of the key factors needed for leasing, ESTIMATE THE RISK in making a decision based on this knowledge, then MAKE THE DECISION THAT WILL GIVE US THE BEST CHANCE OF ULTIMATE GAIN we are "managing".

In our specific case of leasing petroleum we have found that we will need, (1) knowledge of the resource (gained from geologic, engineering and economic research), (2) Understanding of the risk of finding oil and of finding a certain amount of oil, and (3) the ability to choose the best method for capitalizing on knowledge and risk (right time, area and method to lease; in other words a flexible leasing method).

Our Leasing Analysis has shown that income to the State is extremely dependent upon risk and the type of risk we're dealing with is partially a function of knowledge. We have found that if we can quantify the risk, we will be able to lease to our advantage and a leasing program can be tailored to accomplish this.

Leasing Policy Problem. We have approached the leasing problem in the following manner. KNOWING where the potential petroleum may be located and estimating the amount of petroleum is fundamental to the determination of risk. This information is also essential for long range planning, economic projections, budgeting, and many other natural resource development issues. The Resource Analysis section of Figure I-1 indicates the steps involved in obtaining the resource knowledge needed for a State Resource Management analysis.

THE ALASKA RESOURCE EVALUATION & LEASING SYSTEM



The resource analysis steps shown, comprise a broad based statistical - analytical approach. The amount of exploration information used would be kept to a minimum. Only enough data would be gathered to determine the distribution of the large potential oil and gas fields, the gross expected value reserves of the fields and to ascertain the probabilities of finding petroleum.

The Division of Minerals and Energy Management is tasked with the "Resource Analysis" and would provide the "Expected Field Size" needed for a Resource Management Analysis. This study begins with an expected field size and assumes that adequate knowledge is available for the basic pre-leasing management decisions.

Since we cannot manage without knowledge, our only other option is to lease by an open bidding system that permits anyone to bid at competitive auction and establish a true value between the parties on that day. In retrospect this may prove to be either beneficial or detrimental to the best interests of the State.

Determination of Risk. The need to recognize the effects of uncertainty associated with oil and gas leasing, exploration, and production, especially in frontier areas, lead to the use of expected value as the method of accounting for risk and uncertainty. The probabilities of finding a certain amount of petroleum are determined using modern computer technology. This "Risk" oil field is then fed into a RISK determination analysis that accounts for the uncertainties that affect income such as costs and prices. Finally Risk is again considered in the economic computer program, so that the final output is the EXPECTED dollar income to the State from a chosen leasing procedure.

Decision Analysis. The final step in a resource management analysis would be to compare the economic results of the resource analysis with budgetary requirements, environmental and service needs, and policy guidelines. A decision on when, how, where, and how much of the resource to lease would then be made.

With the formation of the Division of Minerals and Energy Management, the State now has the technical ability to undertake a resource management analysis.

The Leasing Sensitivity Study. The questions naturally arise, should we manage? Is it worth it? To find the answers we have used models to determine the sensitivity of state income to various leasing factors. Since the leasing method is the factor over which the state government can have the greatest possible control, we have compared various leasing methods against the key income variables of RISK, FIELD SIZE, COST, AMOUNT OF ACREAGE and PRICE OF OIL.

Five potential oil field sizes, small, medium, large, subgiant, and giant, were selected as being representative of the range of potential hydrocarbon fields remaining in Alaska. Cost regions and price regions were selected as were various probabilities of success. (Details of these key factors are given in Appendix A, C & D).

Each combination of oil field size, cost region, and probability of success was analyzed using an appropriate computer model. Likely bid variables (bonus, royalty or profit share) were estimated by performing a discounted cash flow analysis of the exploration, development, and production of a field

from an oil company's point of view. Sensitivity analysis procedures were used to determine a profile of bid variable versus expected rate-of-return. Using the value for the bid variable which yields the target rate-of-return, the cash flow to the State was projected via computer simulation for various size fields, cost regions, risk conditions and State income. All of these variables fluctuate with each bidding method. Bidding methods are described in Section VI. Special versions of GREAT, a widely used petroleum economics system developed and supported by Garrett Computing Systems, Inc. of Dallas, Texas, were prepared to fit the specific needs of the State.

Natural Gas Fields. The exploration and discovery of natural gas fields has been considered and our decision was to evaluate the sensitivity of natural gas fields to leasing at a later date. The uncertainties at this time of prices, markets, transportation systems and many other factors would have called for a risk analysis -- sensitivity study even greater than the one we have used for oil.

If we are to have flexibility in leasing, the oil sensitivity analysis has plainly demonstrated a need. The evidence being what it is for chance, we prefer to undertake the gas study as a direct consequence of our lease planning system and will begin work on this project in the near future.

The results of the oil field sensitivity study are very conclusive. Proper management in leasing will lead to higher income for the State at the risk we assumed. If the probability of occurrence is higher than we have assumed the resulting income to the State in all cases will be higher. If it turns out to be lower than we have assumed, the income will be lower in all cases.

Since evaluation of the produced gas depends on several variables the effects of solution gas are not handled separate from oil in this analysis. The effects on the study are in the order of less than 1%.

SENSITIVITY ANALYSIS OF SELECTED LEASING METHODS

Various specific parameters are important to an analytical study of income from various leasing methods. These parameters are discussed in the following sections and are briefly identified here.

A sensitivity analysis of leasing methods must include all income to the State from the leasing and production of petroleum properties. These include bonuses, royalties, various production and property taxes and state income tax. These income sources are explained more completely in the section titled "State Petroleur Income Sources".

A discussion of leasing methods must include an analysis of the oil field models used in the study. As was done in this study, the models used should be based on existing Alaska oil fields. Parameters of field size (reserves), investments, operating costs and production rates were based on actual Alaska fields. The models used in this study are described in the section "Expected Petroleum Field Models".

The Chance of Finding The Expected Field Size (a following section) is important to the validity of any study which is based on analytical comparisons. National field discovery statistics, modified by Alaska data, is used to develop field sizes and probability of finding the expected size field.

Income from any venture is dependent on the risks involved. State petroleum income varies directly with the risks involved. The concepts of risk and how it affects income is discussed in the following sections titled "The Risk Factor" and "Importance of the Risk Factor".

STATE PETROLEUM INCOME SOURCES

Since statehood, at the present, and for the forseeable future, petroleum revenues have constituted a major portion of the State's income. These revenues accrue from leasing bonuses, royalty interest, severance tax, conservation tax, advalorem tax rentals, and from State income tax.

The State has been leasing potential petroleum lands at 12.5% royalty by soliciting sealed cash bonus bids (the State's last lease sale was at 16 2/3% royalty but that sale in "Katchemak Bay" sale has been environmentally questioned, and the State is now negotiating a buy-back of the leases. The royalty represents the State's retained interest in the oil and gas. The bonus constitutes the amount of money a bidder is willing to pay for the privilege of exploring for petroleum and for the privilege of developing and producing the oil and gas which may be found.

The State commonly collects four different types of taxes from the oil companies which are actively engaged in the production of oil and gas in Alaska. The severance tax is based on gross value of production, the conservation tax is based on the amount of oil and gas produced, the advalorem tax is based on the value of oil and gas property, and the state income tax is based on taxable income.

Tax rates are set by the legislature, therefore, State income from the severance tax, conservation tax and the advalorem tax is essentially fixed, dependent on the amount and value of production and the valuation of the producing properties. The State income tax is based on taxable income

of the particular company. The company is able to manipulate taxable income and therefore the amount of State income tax actually paid. As will be discussed later in this report, the State also has the capability of influencing the taxable income of companies producing oil and gas from State lands. The royalty represents the State's ownership of the oil and gas. Therefore, the State has the perogative of specifying the ownership percent, or utilizing it as a bid parameter. That is, the amount of ownership the State would have in its resources could be a bid item.

Of course, the size of the bonuses bid are determined by the oil companies. From an engineering and geologic model, they determine the probable size of the oil field and the probability of occurrence. The cost of development, cost of production, expected value of the production and required return on investment are input into a computer program which calculates the return of investment at different discount rates. From these data, the oil company determines the maximum bonus it would be willing to pay to acquire the right to explore and to develop and produce the oil and gas property. The final selection of the bonus is based on what the company believes it will have to bid to acquire the property. That is, if only one company is interested in a lease, their actual bonus bid would be less than the maximum they would be willing to pay. On the other hand in a highly competitive bidding case, one of the bidders will overbid.

EXPECTED PETROLEUM FIELD MODELS

As shown on the Resource Evaluation and Leasing System flow sheet (Figure I-1), the input to our leasing criteria and Sensitivity Analysis is the EXPECTED PETROLEUM FIELD SIZE. In order to show the sensitivity of various leasing methods to State income, we have modeled five expected field sizes. A detailed discussion of the field models is given in Appendix A. The models range from a small field with an expected value of 50 million barrels of oil recoverable (Mercury) to a super giant field with an expected value of 5 billion barrels of oil recoverable (Jupiter). These models are assumed in each case to be the expected recoverable quantities resulting from an analysis of the field size distribution considered. The expected value concept will only briefly be covered since this approach has been discussed in other papers and is used in our study as a routine application of the probability theory.

Figure II-2 taken from the Cornell University study shows the field size distribution of all the oil fields discovered in the United States between 1943 and 1968. It is important to note the rapid decrease in field size as the number of fields discovered increases. The field size distribution for each petroleum province, although log normal in nature, would differ from this aggregated United States field size distribution, but some important observations can be used for concentrating our attention on optimum leasing strategies. Because field sizes within a province follow a log normal distribution, it is important to know the approximate location on this curve of the state owned fields. Since it

THE ALASKA RESOURCE EVALUATION & LEASING SYSTEM

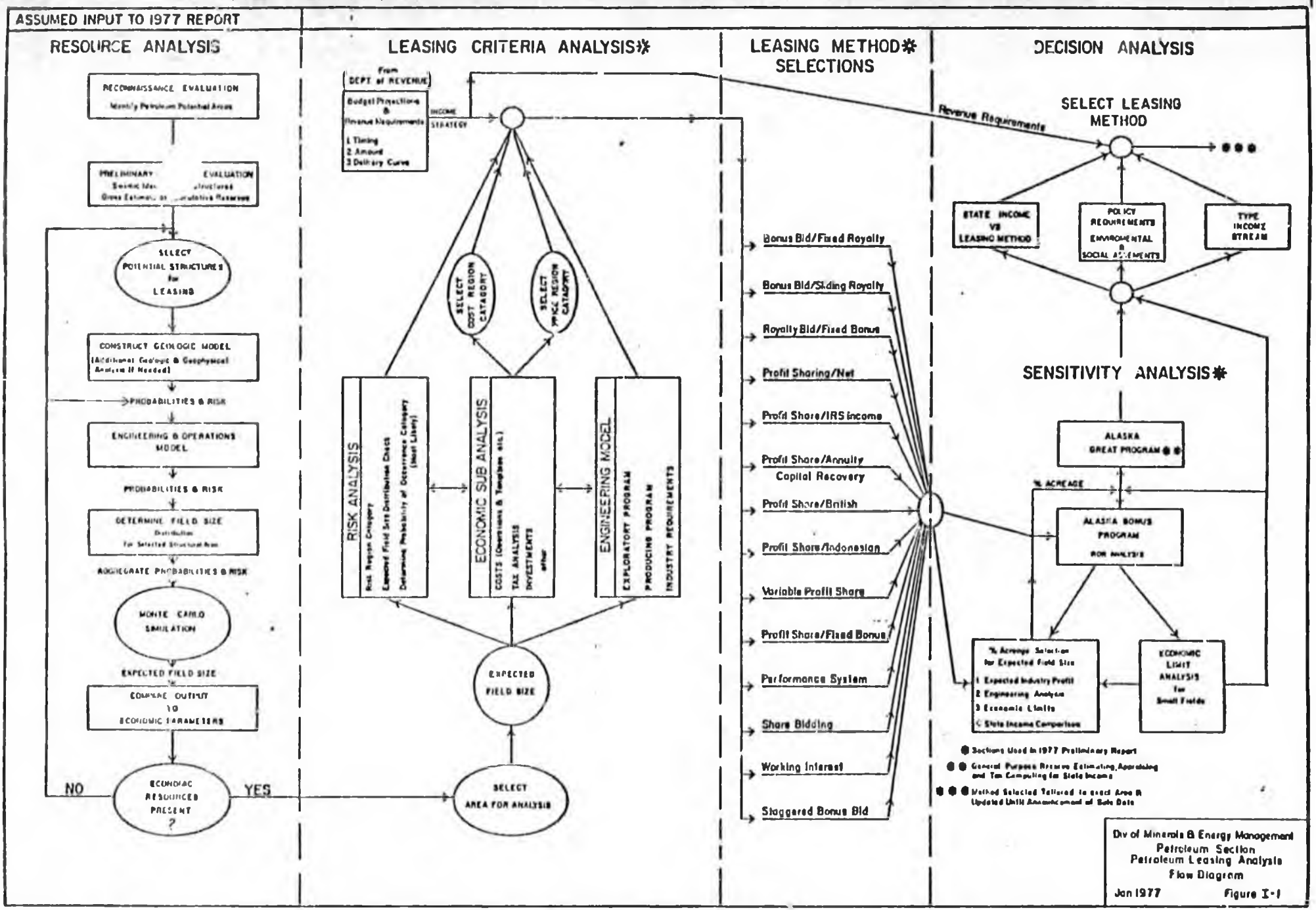
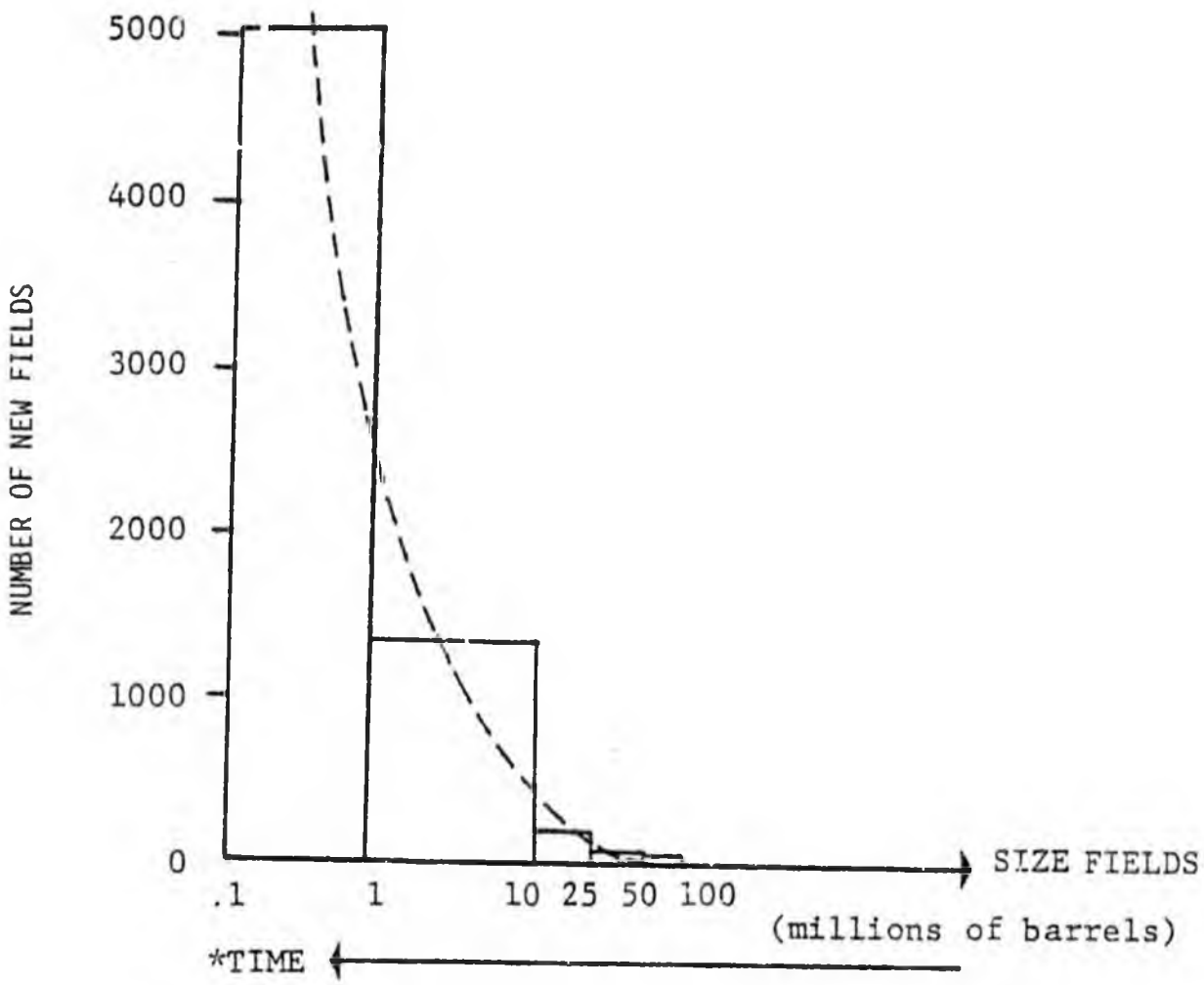


Figure II-1

--NUMBERS OF NEW OIL FIELD DISCOVERIES OF VARIOUS SIZES (1946-1968)

Modified from Alternative Leasing Strategies and Schedules for the Outer Continental Shelf Kalter, Tyner & Hughes



*Since larger fields are statistically found first, the size of new fields found will generally decrease with time.

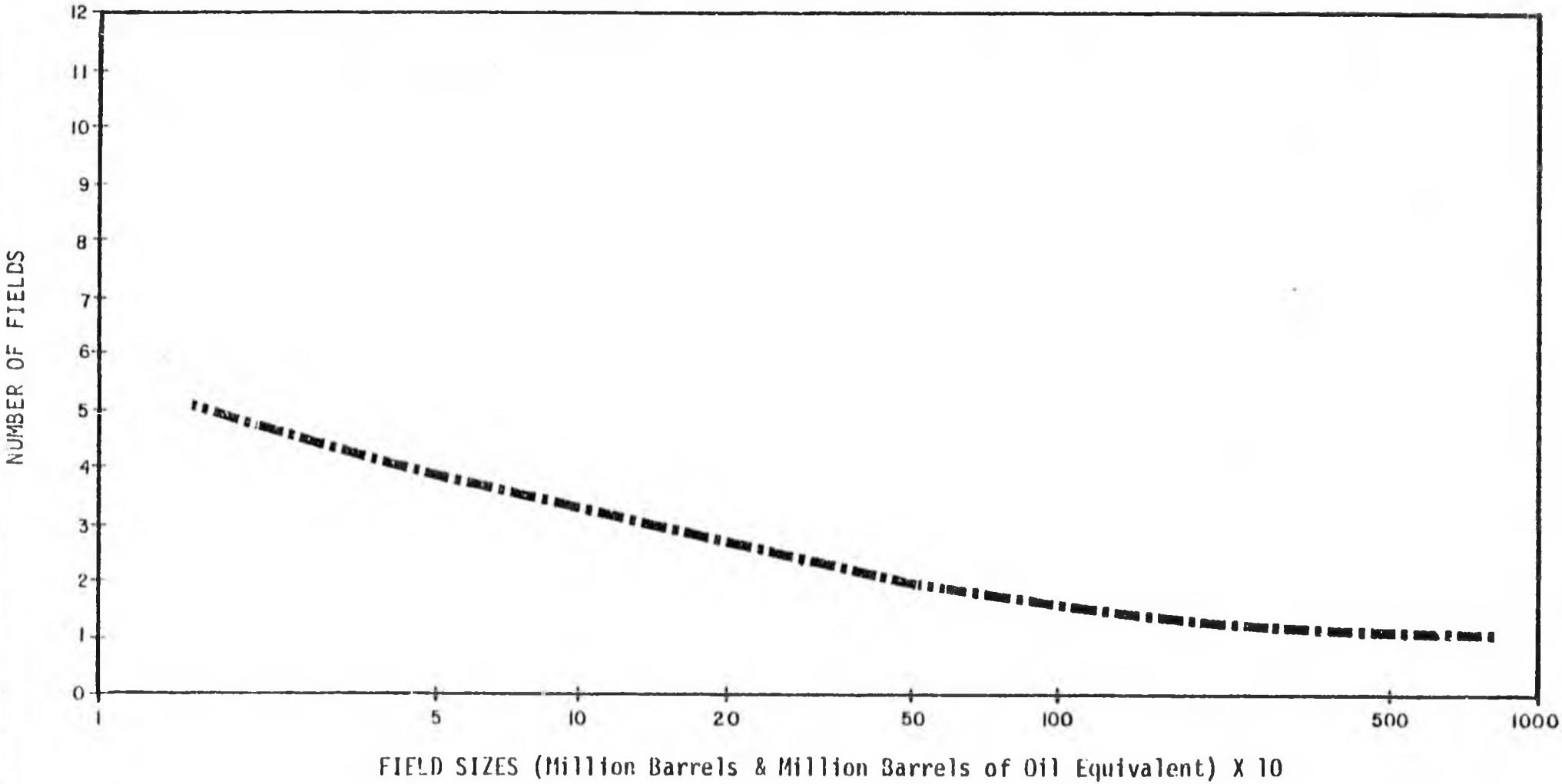
Figure II-2

is expected that large fields generally will be discovered early in the exploration time horizon (Cornell Study). Figure II-2 can also be used as a rough time versus discovery plot.

As expected, when Alaskan fields are plotted on a semilog graph (Figure II-3) the field distribution is on the flat far right portion of the United States (province) log normal distribution curve. This is illustrated on Figure II-4 which shows that Alaska's petroleum development stage is in the early time distribution zone and the expected value field distribution is on the flat or larger field portion of the curve.

What is the significance of this to the State? It means that with fairly inexpensive geologic/geophysical analysis and the use of probability theory we should be able to determine the expected risk field sizes to be found before a sale. It will be important for us to understand that as provinces in the State change in maturity, we will see the expected field sizes decrease with time and move along the distribution curve. A flexible leasing system will be necessary to take advantage of this knowledge.

*APPROXIMATE ALASKA FIELD SIZE DISTRIBUTION TO 1977

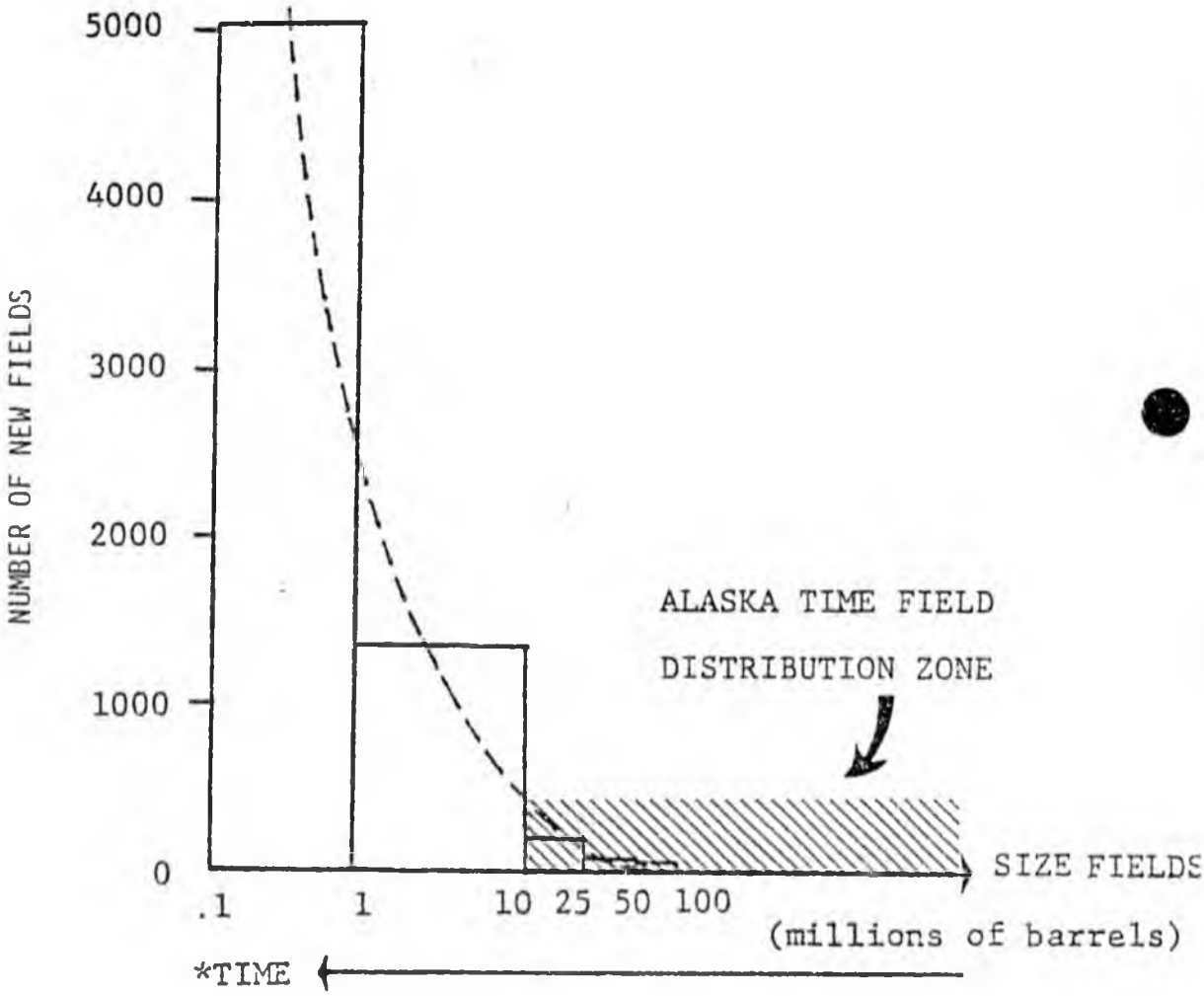


*Because of the immaturity of Alaskan development, field discoveries are larger and, as expected, the distribution curve resembles the flat portion or early time zone of the national curve.

FIGURE II-3

--NUMBERS OF NEW OIL FIELD DISCOVERIES OF VARIOUS SIZES (1946-1968)

Modified from Alternative Leasing Strategies and Schedules for the Outer Continental Shelf Kalter, Tyner & Hughes



*Since larger fields are statistically found first, the size of new fields found will generally decrease with time.

Figure II-4

CHANCES OF FINDING THE EXPECTED FIELD

A discussion of the risk factor follows this section but before defining risk with relation to income, we must understand the relationship of expected field size to possible discovery.

Once we have determined through analysis what the expected field size will be, the chances of finding that amount of oil or gas in the structure will follow the normal rules of probability for the structure. In other words, the chances of finding more or less petroleum than expected are a function of the accuracy of information available and the assumptions made for THE SIZE STRUCTURE WE ARE CONSIDERING FOR LEASE. For this study we have assumed a normal distribution for the expected reserves in the structure. Based on this distribution, the odds are equal that we will have more oil in the structures rather than less oil. Therefore, whether we find any petroleum or not will be the significant variable and that will be a function of the risk parameters of discovery.

THE RISK FACTOR

The risk factor used in our sensitivity analysis for petroleum leasing is the percent chance of discovering the expected field in question. This percent chance can range from around 90% (a drainage situation) to 10%, the rough average used for wildcat ventures.

In general, to lease acreage when the risk would be below 10% would be unwise for government and in some cases uneconomical for Industry. This follows from the general rule that risk is a function of knowledge. For example, to lease acreage with a 1,000 to one chance of finding the expected field size would probably result in uneconomic overbids by Industry on small fields and very low bids for the State on large fields.

We have shown in our sensitivity analysis that income to the State increases as the uncertainty of finding petroleum decreases. It is better therefore for the State to ensure that as much knowledge as possible is available to the public and Industry before leasing.

What are some examples of chance of finding, or risk? In 1976 the success rate of new field wildcats finding oil or gas in the United States was 18% (Petroleum Information Corporation, reported in January 1977 Alaska Report). In Alaska on the North Slope after the initial discoveries, the expected chance of finding oil on the remaining Prudhoe Bay structure tracts was reflected by the high price bid in the 1969 lease sale.

IMPORTANCE OF THE RISK FACTOR

Income from oil and gas fields on State land is distributed as follows: for repayment of investment, for operating costs; to the State for royalty and various taxes, to the Federal government for income tax, and to the oil company as profit, (a distribution is shown on Figure II-8).

Income to the State is shown on Figure II-6 for a typical, medium size Alaskan oil field with an expected recovery of 600 million barrels. Income is for a bonus bid at 12.5% royalty case and is based on the expected field size, and the estimated parameters of cost, price, and recovery (the computer input parameters are explained in Appendix B). As shown on Figure II-6, at a risk factor of 10% (10% chance of finding the expected field) expected income to the State would be 0.34 billion dollars; at a risk factor of 90% (90% probability of occurrence) the State would expect to receive 3.0 billion dollars.

As the confidence level increase from 10% to 90%, income to the State increases. Most of the income at 10% risk results from non-bid sources of royalty and taxes. However, the cash bonus bid, at a risk factor of 10%, is 48.2 million dollars while at a risk factor of 90%, the cash bonus bid would be 377.5 million dollars. This is nearly an 8-fold increase.

It becomes immediately obvious that the State can increase it's income from petroleum properties by influencing the acquisition of data so that probability of success is increased. This is also concluded by Richard Norgaard on page 2 of his report titled "Uncertainty, Competition and Leasing Policy" prepared for the Department of Natural Resources.

GROSS INCOME FROM PRODUCTION VERSUS RISK

(Based on Expected Values)

Medium Expected Oil Field
(600 Million Barrels Recoverable)

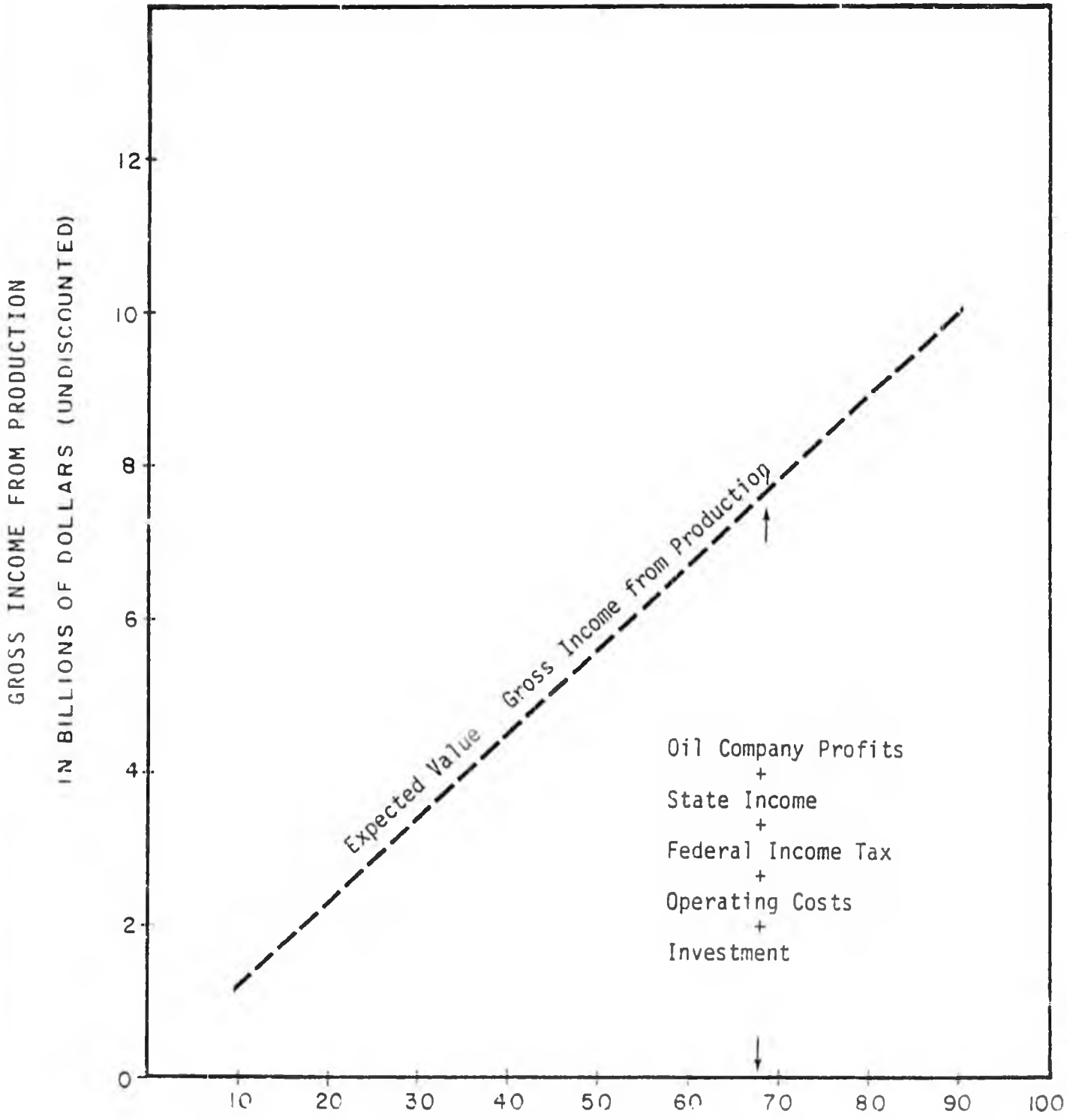


FIGURE II-5

STATE INCOME VERSUS RISK

(Based on Expected Values &
Current Leasing Method)

Medium Expected Oil Field
(600 Million Barrels Recoverable)

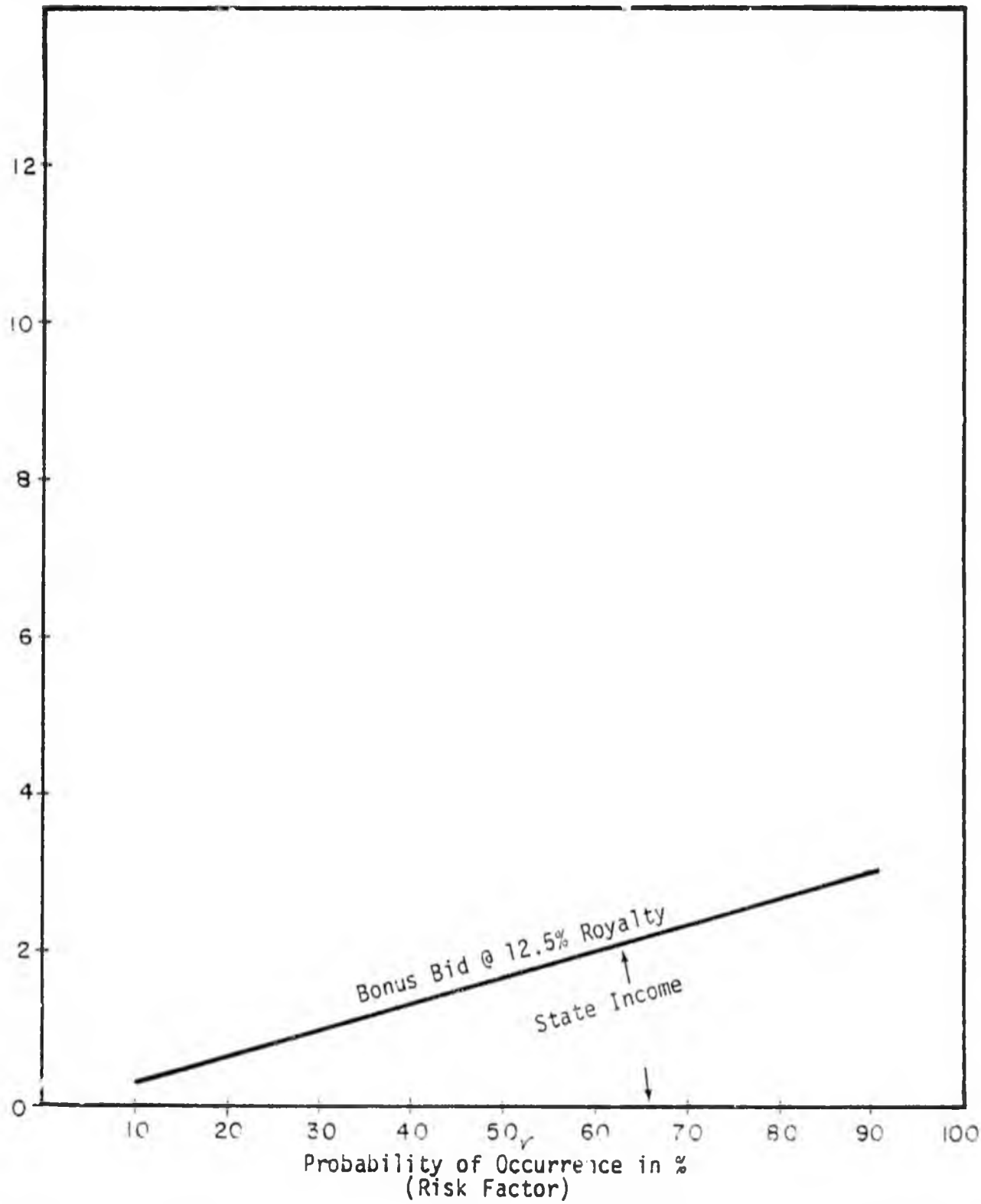


FIGURE II- 6

EXPECTED VALUE CONCEPT

Direct (and total) state income from leasing will increase as the probability of occurrence increases because the expected value of the leased structure also increases. It is the "expected value" amount of oil or gas in a structure upon which oil companies calculate their bids. The expected value is a direct function of probability of occurrence.

The expected value is the mean (or average) value of the dry structures plus the producing structures. For example, if 9 dry structures are drilled per each discovery, then the probability of a discovery for any specific structure is 1 in 10, or 10%. This means that the average oil recovery for each of the 10 structures drilled is 10% of the productive structure. If the field size is 600 million barrels of recoverable oil, the average amount per structure expected is 60 million barrels.

As additional information is obtained, it's possible that only 4 structures will be drilled for each discovery (some structures will not be drilled because of the extremely low probability of an economical field). With 4 dry structures drilled for each discovery drilled, the expected value (average amount) of recoverable oil for each structure will increase to 120 million barrels. Therefore, for each field leased, the income to the State should be increased. This increase should be in direct proportion to the increased probability of the expected event occurring, in this case a discovery.

The expected value of gross income from production also increases as the probability of occurrence (a discovery) increases. For the medium size expected oil field (600 million barrels of recoverable oil), as the probability of occurrence increases from 10% to 90%, the expected value of gross income increases from 1.1 billion dollars to 9.9 billion dollars--this is shown graphically on Figure 11-7.

STATE INCOME VERSUS GROSS INCOME

RISK SENSITIVE

(Based on Expected Values &
Current Leasing Method)

Medium Expected Oil Field
(600 Million Barrels Recoverable)

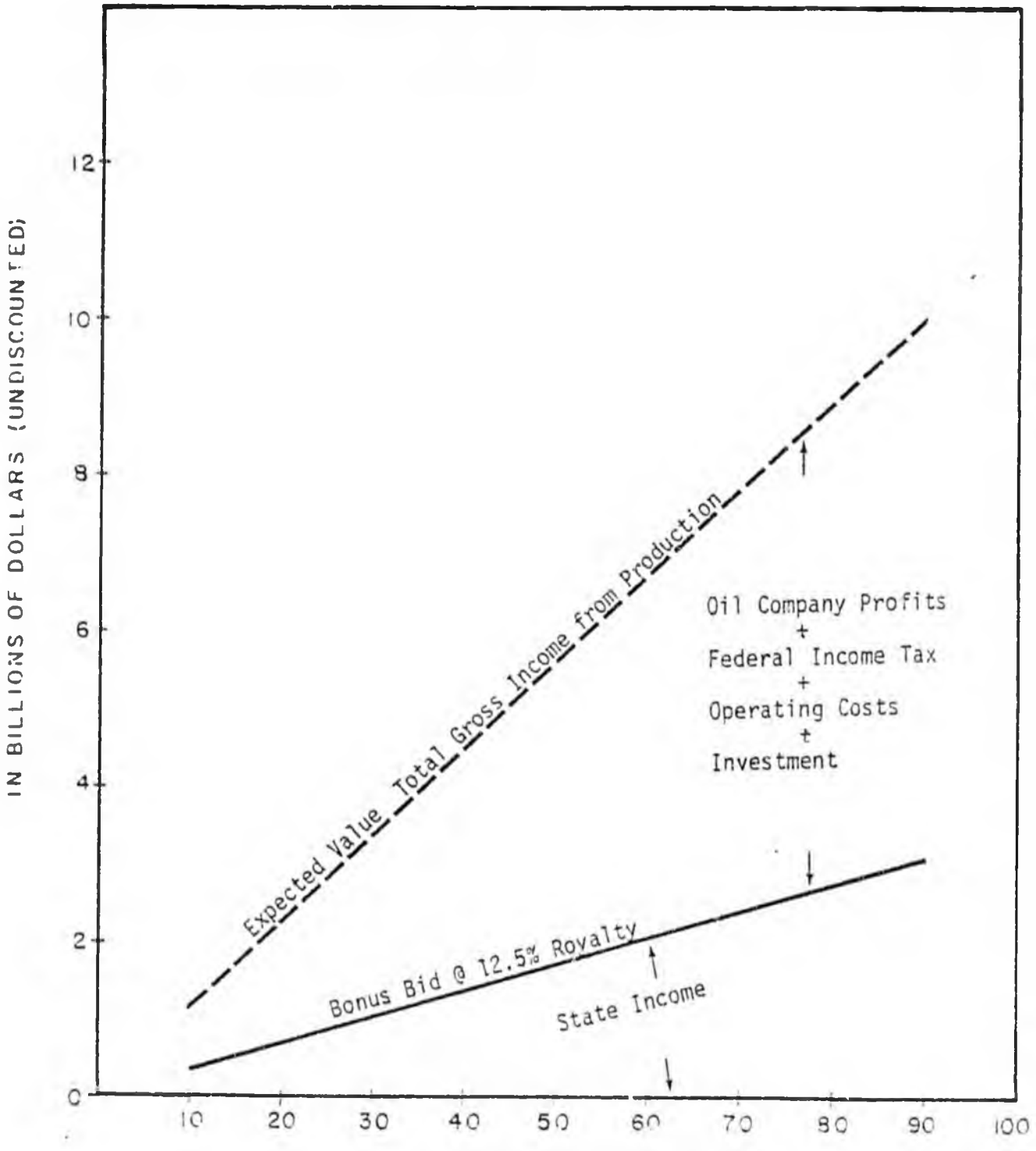


FIGURE II-7

THE SENSITIVITY OF STATE PETROLEUM INCOME TO VARIOUS LEASING METHODS

ANALYTICAL COMPARISON OF ALTERNATE LEASING METHODS

ANALYTICAL COMPARISON OF LEASING METHODS

There are a large number of possible leasing criteria. Some involve how much of the structure is leased at different times. Others involve which parameter of royalty or cash bonus are fixed by the owners and which ones are bid items. Five leasing methods based on different bidding parameters versus probability of occurrence at 1%, 10%, 50% and 90% are analyzed in this study. The method currently used by the State, cash bonus bid at 12.5% fixed royalty, is compared to 4 alternate methods: 1) cash bonus bid at 25% royalty; 2) cash bonus bid at sliding scale royalty; and 3) royalty bid at fixed cash bonus; 4) net profits bid at fixed bonus; and 5) percent of acreage.

State income from various leasing methods was determined by an economic analysis utilizing a special adaptation of a Garrett computer program. This program is explained in Appendix B. Input data included bonus payment, dry hole costs, investment schedules, production schedules, operating costs and crude oil prices. Output data combine the following sources for total state income: bonus, severance tax, royalty, conservation and advalorem tax, and state income tax. The output also includes operating costs and schedules for depreciation of investment and for amortization of the bonus. Total State income is given at various discount factors. The oil company income is discounted at 10%.

Gross income from production is distributed as follows: for repayment of investment; operating costs, State income such as cash bonus, royalty, income tax, and other state taxes, Federal income tax, and as oil company profit. For the cash bonus bid at 12.5% royalty leasing method, the percent distribution of the gross income is approximately the same at a risk factor of 10% as it is at a risk factor of 90%

DISTRIBUTION OF GROSS INCOME

Based on Current Method of Leasing
(Bonus Bid @ 12.5% Royalty)

Medium Expected Oil Field
(600 Million Barrels Recoverable)

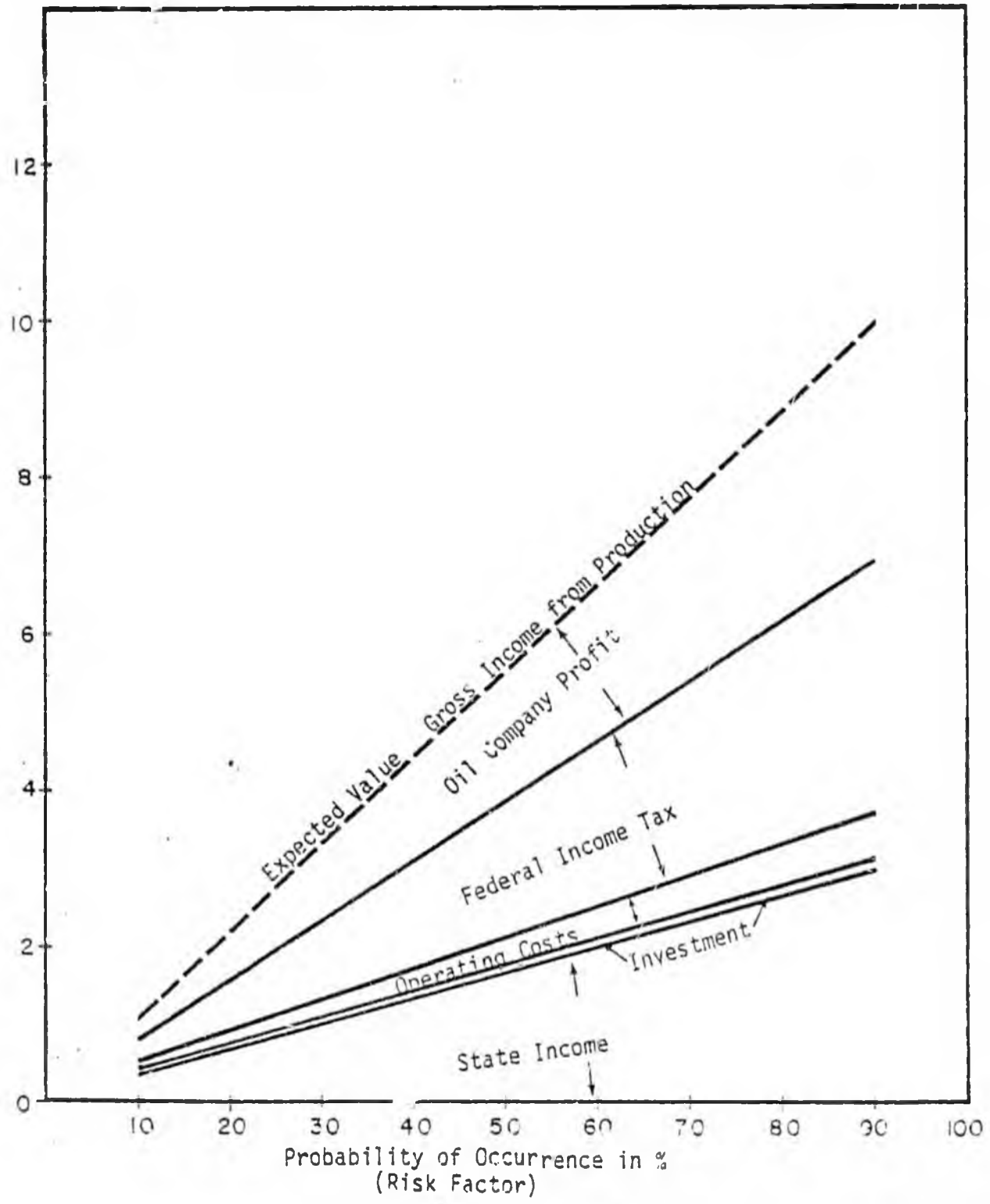


FIGURE II-8

(Figure II-8). Averages are as follows:

Operating cost and investment - 6%

State income - 31%

Federal income tax - 32%

Oil company profit - 31%

Note that State income, Federal income and oil company profits are about evenly divided. While the income distribution percentages remain approximately constant at probability of occurrence of 10% and 90%, the total income for distribution increases from 1.1 billion at 10% probability to 9.9 billion dollars at 90% probability.

Bonus Bid at 12.5% Royalty. This is the method currently used by the State. (All recent competitive leases have been issued with a 16-2/3% royalty requirement.) If there is little available knowledge about a structure, assumed probability of occurrence is low. At a low probability of occurrence, there is little difference between the various leasing or bidding methods. This can be seen in Figure II-9 at the 10% probability of occurrence where the plotted curves tend to converge.

In the past, not much has been known about the structures in Alaska prior to bidding, therefore cash bonus bids at 12.5% or 16.67% royalty were not too bad a method. For small field size (100 million barrels recoverable) with a 10% probability of success, income to the State is not significantly affected by the bidding methods. However, as can be seen from an inspection of Figure II-10, as the probability of occurrence increases there are methods of leasing which provide much higher income to the State. The percent probability of occurrence can be improved (some of the risk removed) by obtaining and analyzing specific structures.

COMPARISION OF STATE INCOME

Resulting From Various Leasing Methods

Shows Risk Sensitivity of All Methods

Medium Expected Oil Field
(600 Million Barrels Recoverable)

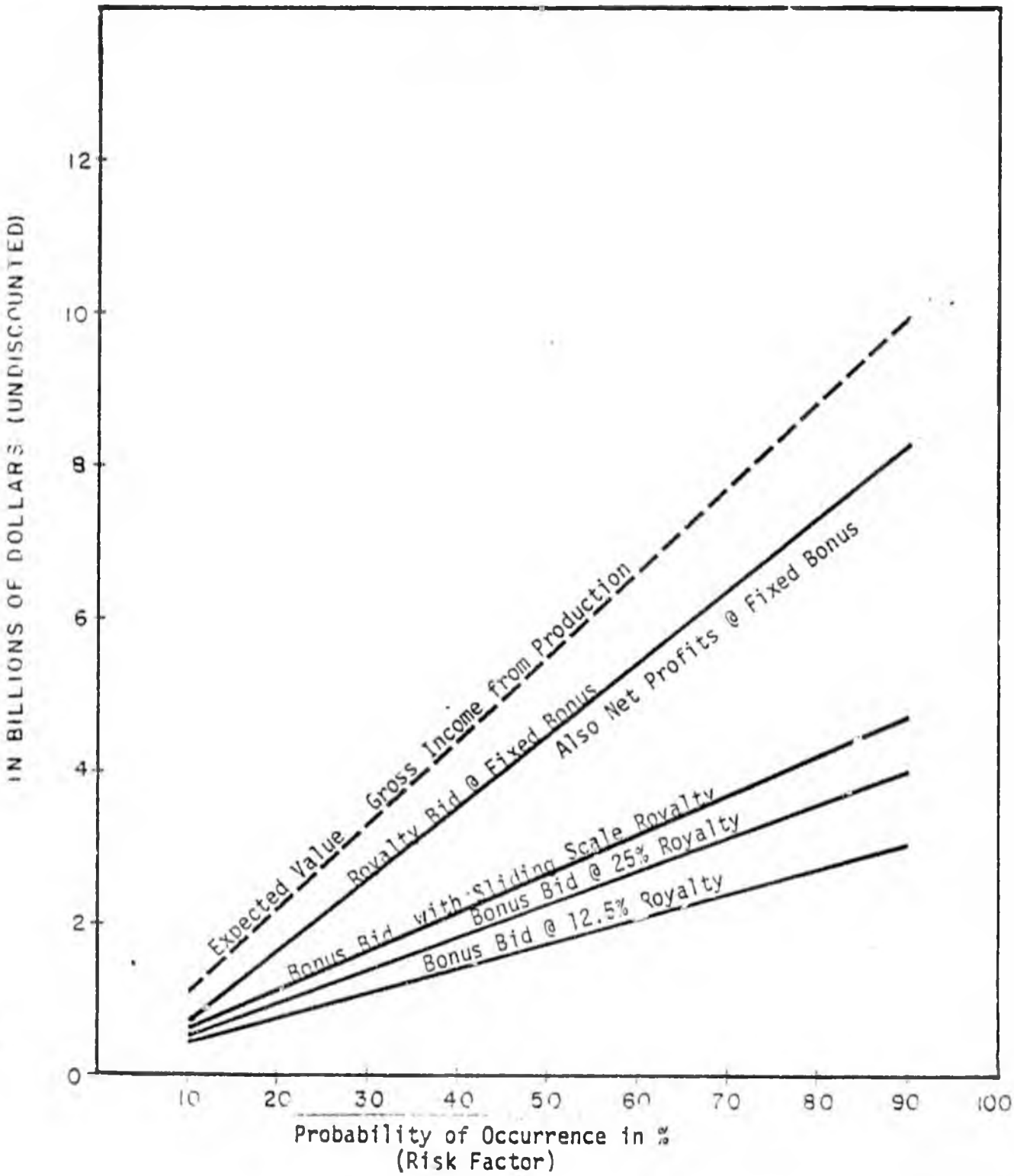
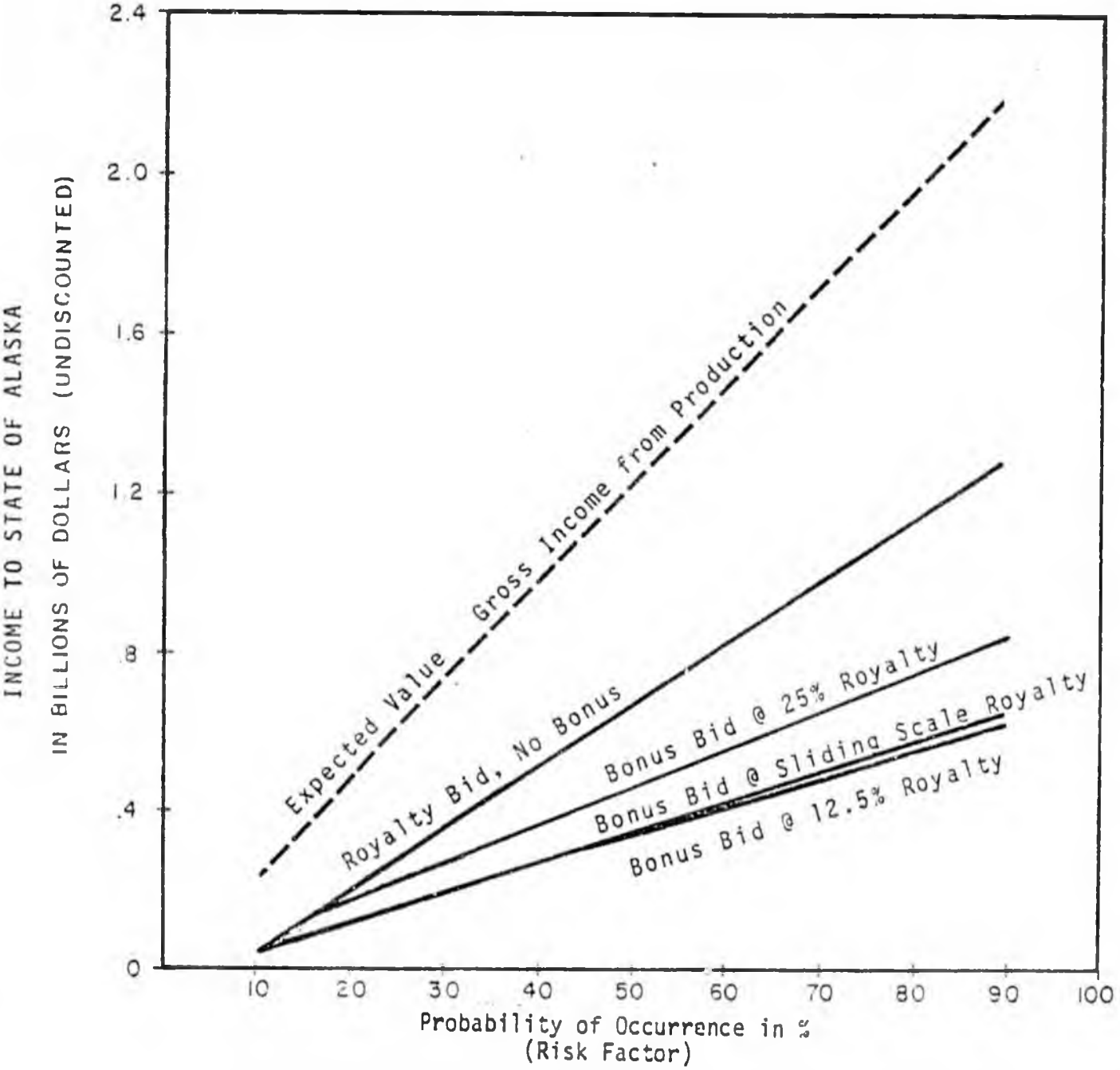


FIGURE II-9

COMPARISON OF STATE INCOME RESULTING FROM VARIOUS BIDDING METHODS

Shows Risk Sensitivity Of All Methods

Small Expected Oil Field
(100 Million Barrels Recoverable)



NOTE: For each bid case, the difference between Gross Income and state income includes
Operating Costs
Investment
Federal Income Tax
Oil Company Profit

FIGURE II-10

Bonus Bid @ 25% Royalty. This bid method does provide greater income to the State than does a bonus bid at 12.5% royalty. The bonus is approximately 25% less than at 12.5% royalty, but total income is approximately 25% to 30% greater, depending on the specific cases being compared - this is shown on Figure II-9 and II-10. At discount rates of 6% and 10% (Figures II-19 and II-20 bonus bid at 25% royalty provides more present worth income to the State than does the current leasing method (bonus bid at 12.5% royalty).

Sliding scale royalty with bonus bid. The royalty scale is set by the State prior to advertising leases for bid. When leasing small fields with low production rates, this method provides the same income to the State as does the cash bonus bid at 12.5% royalty. As field size increases, production rates increase and State income from a bonus bid with sliding scale royalty increases considerably over the income provided by a cash bonus bid with a fixed 12.5% royalty. Figure II-11 gives the income distribution in the sliding royalty case for a medium sized oil field. This leasing method allows the State to participate in the operators good fortune, if the operator finds a large field, the State's royalty increases. If the operator finds a field of lesser size than he expected, he is not burdened with a high royalty such as he would be with a royalty bid.

Another important aspect is that as a good field declines, the royalty percent will also decline, thus extending the economic life of the field. Of course, as the economic life of the field is extended, the ultimate recovery increases and the amount of oil left in the reservoir decreases. The aspect of encouraging more ultimate recovery so the oil or gas left in the reservoir is decreased is good for the conservation of a depletable natural resource.

DISTRIBUTION OF GROSS INCOME
FOR AN ALTERNATE LEASING METHOD

Sliding Scale Royalty With Bonus Bid

Medium Expected Oil Field
(600 Million Barrels Recoverable)

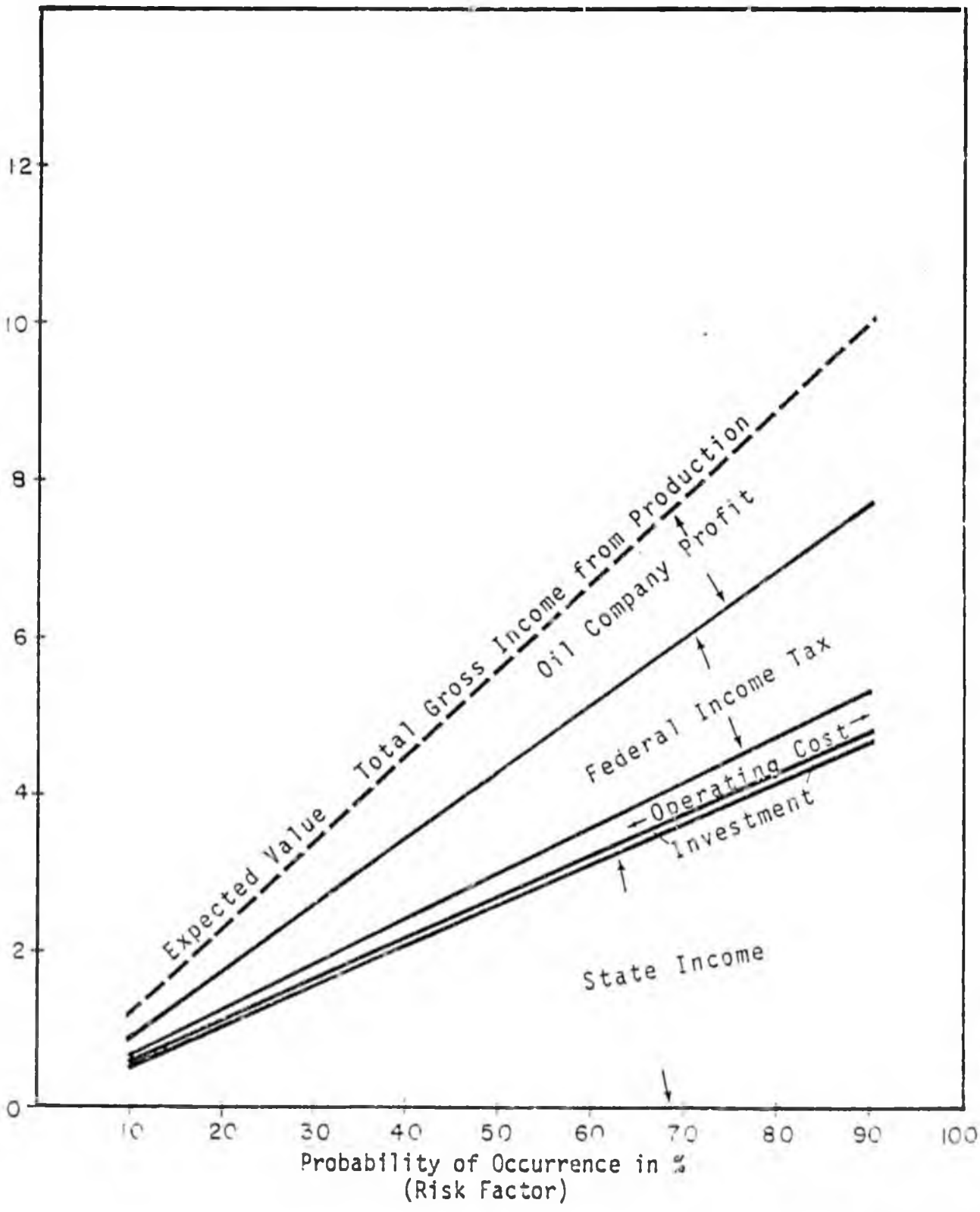


FIGURE II-11

Royalty Bid at a Fixed Cash Bonus. The fixed cash bonus is utilized to encourage only earnest bidders and is calculated at 2.5 cents per expected volume of recoverable oil. As with all of the leasing methods, the main data was based on the operator (oil company) earning an 18% rate-of-return. As is shown on Figure II-9, the royalty bid (and net profits bid) provide more income to the State than do any of the other analyzed methods except at small field sizes. At an oil field size of 100 million barrels recoverable oil, (Figure II-10), income to the State from the royalty bid (65.8 million) was essentially the same as for the cash bonus bid at 12.5% royalty (61.2 million) at 10% risk.

In our models the major economic advantage to the State from royalty bidding over the bonus bid case is from a reallocation of Federal income taxes. Figure II-12 showing the income distribution for an expected field size of 600 MM/bbls in the royalty bidding case should be compared with Figure II-8 in the bonus bid case (an overlay of the Federal income tax revenues from Figure II-8 has been provided for easy reference). As can be seen by the comparison, the State takes a much larger income in the royalty case at the expense of the Federal government. The absence of a large front end investment, the bonus, allows a company to have a smaller profit profile in the royalty case but still make the same rate-of-return on investment as the bonus bid case, 18%. The "Tax Break" illustrated here is an incentive for seeking higher royalties whenever, or however possible.

DISTRIBUTION OF GROSS INCOME

Based on an Alternate Leasing Method
(Royalty Bid at Fixed Bonus)

Medium Expected Oil Field
(600 Million Barrels Recoverable)

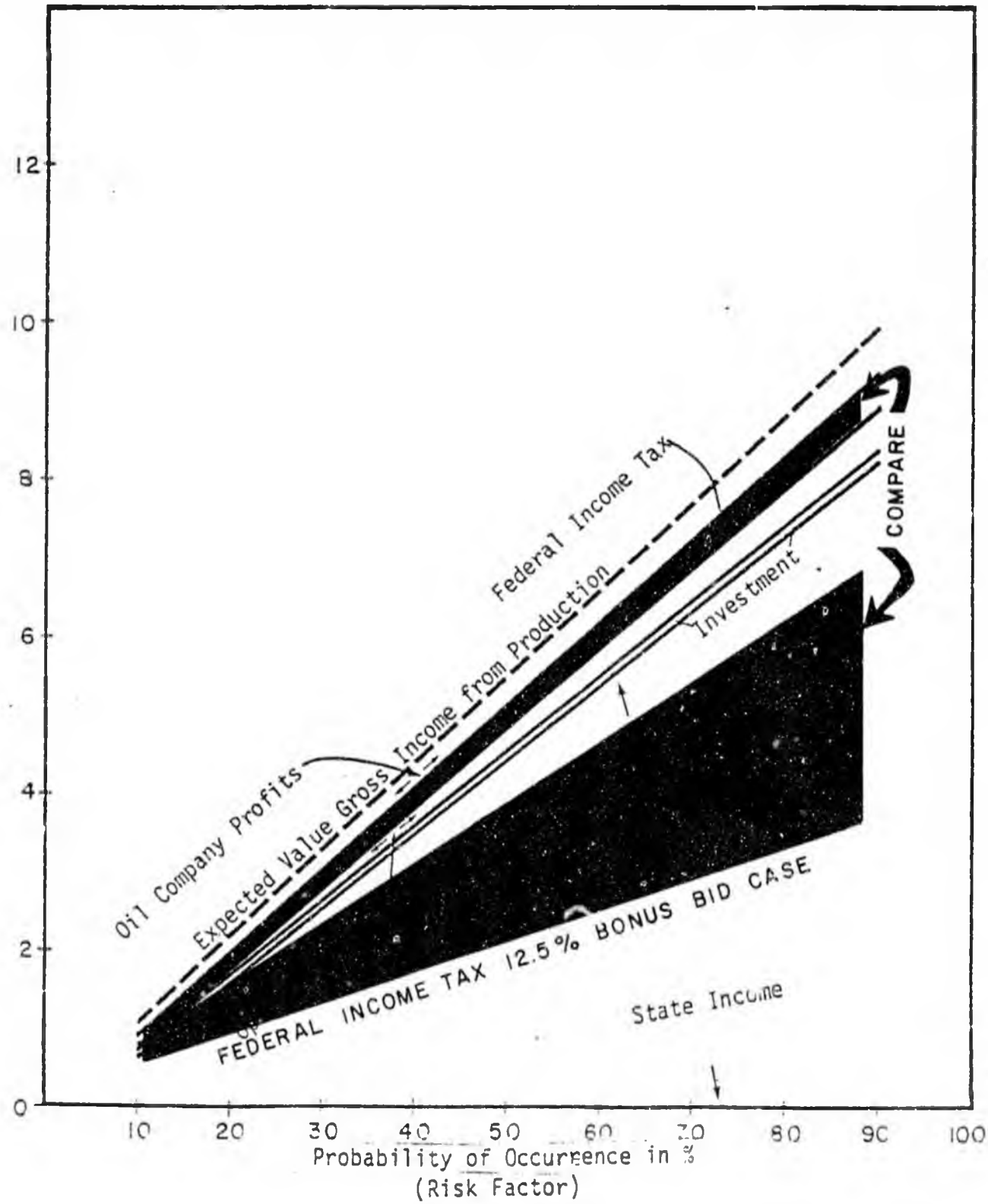


FIGURE II-12

Net Profits at a Fixed Cash Bonus. For this leasing method, a small fixed bonus is required as earnest money. The companies then bid on the percent of net profits they will return to the State after they have recovered their investment. Income to the State for the net profit cases is essentially similar to the income from royalty bidding, (Figures II-9 and II-10). For those examples where the two cases diverged, the net profit data is shown separately.

Listing of Leasing Model Results. The data listed in Tables II-1 and II-2 (pages 27b and 27c) constitute the major portion of the results of this leasing study. This data is the computer calculated results of the economic models for the leasing methods consedered. Most of the graphs in Section II of this report were plotted from data contained in these tables.

Data on Tables II-1 and II-2 show that at risk factors of 10% and 90% (% probability of finding the expected field size), the bonus bid at 12.5% royalty method provides the least expected value income to the State of all the methods analyzed in this report. The net profits bid method provides the largest expected value income to the State, being only slightly higher than the royalty bid method. The sliding scale royalty with bonus bid method provides an income stream which is between the net profits bid method and the bonus bid method. Section III of this report contains additional factors which must be considered when selecting a leasing method.

RESULTS OF LEASING MODEL SIMULATIONS @ 10% RISK AND LOW COST REGION

LEASING METHOD	OIL REC MM/BBLS	OIL CO. PROFIT		EXPECTED VALUE STATE INCOME STATE INCOME				
						BONUS, ROYALTY & TAXES		
		*TOTAL	*PW @ 10%	*BONUS	ROYALTY	*TOTAL	*PW @ 6%	*PW @ 10%
BONUS 12 1/2%								
Mercury								
Mars	137.6	72.6	14.7	.5	27.6	61.2	24.9	14.6
Venus	633.8	376.3	93.2	48.1	127.0	338.9	171.6	118.7
Neptune								
Jupiter	5238.1	3189.1	697.2	385.3	1048.1	2807.0	1347.8	917.1
BONUS 12 1/2%								
Acreage Withheld (initial sale)								
Mars								
Venus 40%	633.8	1524.8	289.9	179.9	533.5	1408.3	711.0	490.4
Neptune								
Jupiter 60%	5238.1	17905.3	2950.6	1780.0	6079.1	15900.8	7510.1	5035.4
BONUS 25%								
Mercury								
Mars	uneconomic							
Venus	633.6	316.9	77.9	38.5	292.5	445.1	214.3	141.8
Neptune								
Jupiter	5236.9	2698.2	582.8	316.3	2095.7	3693.4	1681.2	1091.1
SLIDING ROYALTY								
Mercury								
Mars	137.6	71.1	14.2	.1	31.0	63.9	26.2	15.4
Venus	633.9	274.6	64.7	30.0	344.8	519.8	249.0	161.3
Neptune								
Jupiter	5238.5	1388.6	265.1	117.1	4891.8	6046.5	2591.7	1568.3
ROYALTY								
Mercury								
Mars	137.5	70.0	14.1	0.0	33.1	65.7	26.6	15.5
Venus	632.6	178.9	42.4	15.0	547.9	688.9	311.4	193.4
Neptune								
Jupiter	5230.1	1400.5	281.0	125.0	4861.2	6024.1	2555.6	1544.1
NET PROFITS								
Mercury								
Mars								
Venus	634.0	169.8	40.4	15.0	567.0	705.6	318.6	197.1
Jupiter								

* In millions of dollars

Table II-

RESULTS OF LEASING MODEL SIMULATIONS @ 90% RISK AND LOW COST REGION

EXPECTED VALUE STATE INCOME

LEASING METHOD	OIL REC MM/BBLS	OIL CO. PROFIT		STATE INCOME				
						BONUS, ROYALTY & TAXES		
		*TOTAL	*PW @ 10%	*BONUS	ROYALTY	*TOTAL	*PW @ 6%	*PW @ 10%
BONUS 12 1/2%								
Mercury								
Mars	137.6	635.0	98.6	44.5	249.0	603.4	275.2	180.8
Venus	633.8	3247.7	585.0	377.5	1143.3	3012.2	1520.2	1048.0
Neptune								
Jupiter	5238.1	27716.2	4452.9	2709.9	9433.1	24630.1	11618.3	7780.9
BONUS 16 2/3%								
Mercury								
Mars								
Venus	633.7							
Neptune								
Jupiter								
BONUS 25%								
Mercury								
Mars	137.4	523.1	79.2	30.6	49.7	815.5	358.0	226.8
Venus	633.6	2737.5	492.6	308 9	2285.9	3984.8	1917.6	1267.6
Neptune								
Jupiter	5236.9	23473.1	3745.7	2228.6	18861.8	32734.2	14723.2	9443.5
SLIDING ROYALTY								
Mercury								
Mars	137.6	622.1	95.5	42.1	279.0	628 4	287.2	188.1
Venus	633.9	2376.0	407.6	256.1	3103.4	4678.2	2249.0	1461.2
Neptune								
Jupiter	5238.5	12200.0	1832.0	820.6	44026.2	54260.4	23201.8	14001.0
ROYALTY								
Mercury								
Mars	136.8	308.4	42.9	2.5	972.7	1219.5	516.4	314.2
Venus	629.2	495.3	80.5	15.0	7261.1	8216.0	3665.7	2238.2
Neptune								
Jupiter	5216.7	5666.5	836.4	125.0	58312.9	66525.9	27704.6	16370.0
NET PROFITS								
Mercury								
Mars	137.7	271.6	38.6	2.5	1054.8	1295.5	538.8	323.7
Venus	634.0	433.8	71.6	15.0	7419.0	8369.7	3712.6	2255.9
Neptune								
Jupiter								

* In Millions of Dollars

TABLE II-3

RESULTS OF SIMULATIONS ON AN EXPECTED 600 MILLION BARREL OIL FIELD

HIGH RISK

LEASING METHOD (18% rate of return for industry)	UNDISCOUNTED EXPECTED STATE INCOME (MILLION DOLLARS)
Bonus + 12 1/2%	338.9
Bonus + 25%	445.1
Sliding Royalty	519.8
Royalty Bid	688.9
Net Profits	706.6
% Acreage	1408.3

LOW RISK

LEASING METHOD (18% rate of return for industry)	UNDISCOUNTED EXPECTED STATE INCOME (MILLION DOLLARS)
Bonus + 12 1/2%	3012.2
Bonus + 25%	3984.8
Sliding Royalty	4678.2
Royalty Bid	8216.0
Net Profits	8369.7

EXTREME HIGH RISK CASE

(1% Chance of Success)

LEASING METHOD (16% rate of return for industry)	UNDISCOUNTED EXPECTED STATE INCOME (MILLION DOLLARS)
Bonus Bid 12 1/2%	71.7
Royalty Bid	79.7
	DISCOUNTED 6%
Royalty Bid	41.5
Bonus Bid 12 1/2%	53.2

1E PERCENT OF ACREAGE OPTION

This option has the capability of significantly increasing State income from petroleum leases. The main elements of this option are that only a part of the structure is leased initially; the remaining acreage is leased after a discovery has been made. The remaining acreage leased will be "probable reserves," and will therefore bring a much higher price than will wildcat acreage. Leasing of the Prudhoe Bay structure is a good example of the percent of acreage option. The initial leases were auctioned off for about 12 million dollars. After oil was discovered the remaining acreage (generally marginal tracts near the oil water contract) were leased in 1969 for 900 million dollars.

For comparison purposes, the income to the State from leasing a whole structure at the initial auction was compared to leasing only 60% of the structure at the initial auction (See Figure II-13). Bidding method for both cases is the "Cash Bonus Bid at 12.5% Royalty" method. Comparisons were made for a medium size field; calculations for both cases were at 10% and at 90% probability of success.

For the base case at 10% probability, each of the ten structures (9 dry and 1 productive) were leased in total at the auction, but all of the structures were not necessarily leased at the same auction. For the percent of acreage option, only 60% of each tract was leased initially; out of 10 structures leased in this manner, statistically, 9 would be barren and the remaining 40% of the structure acreage could not be leased. However, after discovering oil in the one good structure, the remaining 40% of the acreage in that

structure could be leased with an expected confidence level of 90% probability of success. The remaining 40% of the acreage in the discovery structure was leased as before - 12.5% royalty, cash bonus bid. Since the expected probability is now 90%, the cash bonus bid would be increased, resulting in increased income to the State.

At a risk factor of 10%; expected value income from the base method was 0.34 billion dollars versus 1.4 billion dollars from the percent of acreage option. (Some of the increased expected value is due to taxes which would also be received by the base method; however, there is an actual increase due to the difference in the bonuses). The bonus for the base method was 48.2 million dollars as compared to 179.9 million dollars for the percent of acreage option, this represents an actual value increase of 131.7 million dollars.

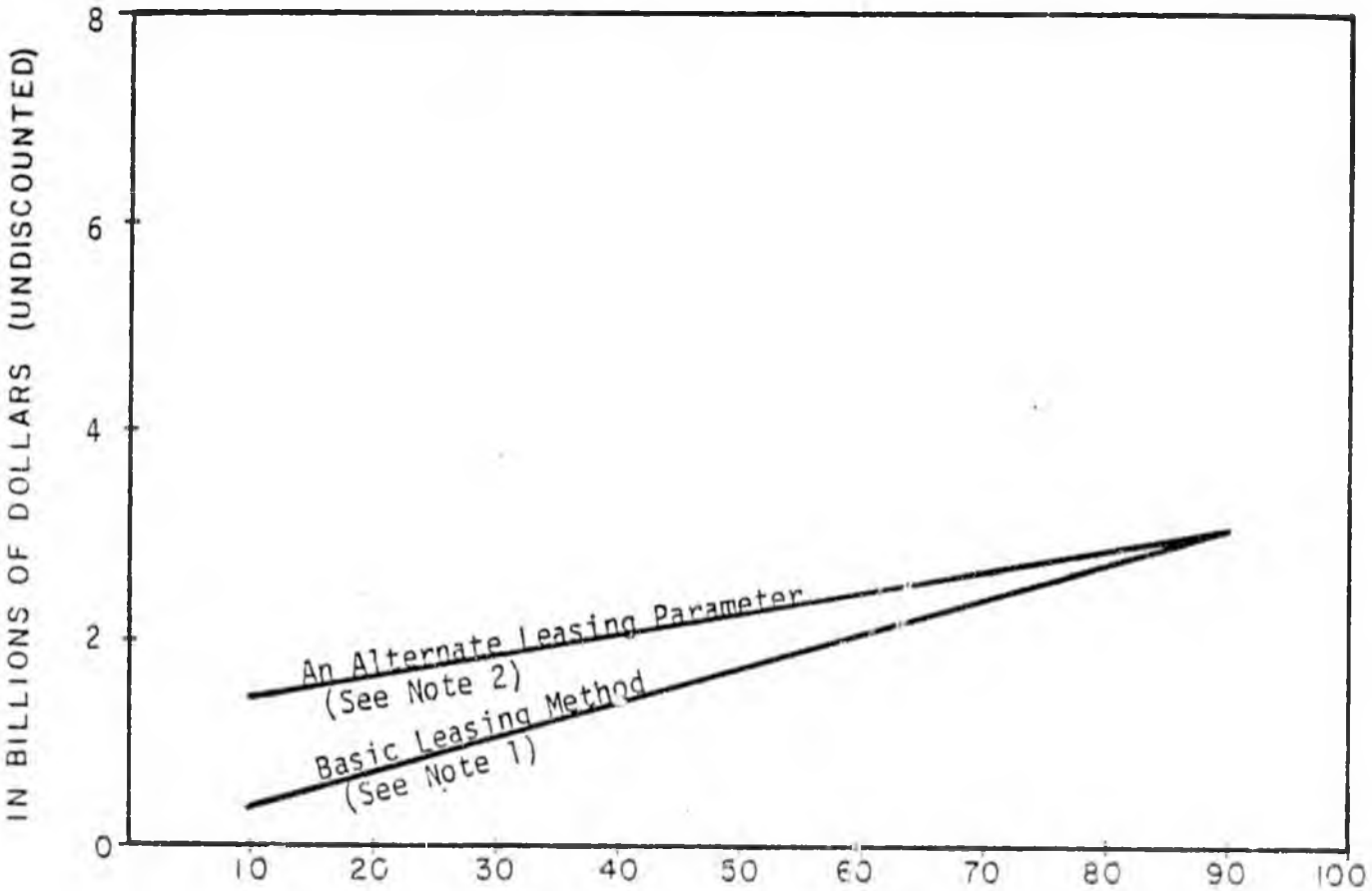
If at the time of initial leasing, enough data is available so that the bidders consider the probability of occurrence to be 90%, then there is no gain in state income by withholding acreage, this is shown on Figure II-13. However, it would be very rare for any group to consider any undrilled structure as having a 90% probability of occurrence (90% chance the expected amount of oil is present).

While for this example, the calculations and discussions were based on an oil field having an expected recovery value of 600 million barrels, income to the State can also be increased for other field sizes. Figure II-14 shows a similar comparison for a giant field where 60% of the acreage was held back. However, as the field size decreases, there becomes a size whereby it's not feasible to have the oil companies bid on only a part of the field. Since this is a somewhat subjective factor, calculations

INCOME TO STATE OF ALASKA

Comparison of an Alternate Leasing Parameter

Medium Expected Oil Field
(600 Million Barrels Recoverable)



NOTE 1: Basic Leasing Method
All Acreage Leased at the Same Time
Bonus Bid @ 12.5% Royalty

NOTE 2: Percent of Acreage - An Alternate Parameter
60% Leased Initially by Bonus Bid @ 12.5% Royalty
Expected Value Based on Risk: 10%
40% Leased 2 Years Later by Bonus Bid @ 12.5%
Expected Value Based on Risk: 90%

FIGURE II-13

and analysis as used on larger structures will not necessarily delineate the minimum size structure on which acreage can be withheld at the time of initial leasing. However, it will be possible for the DMEM to determine, depending on location and other conditions, the minimum field size on which acreage can be advantageously withheld.

For this comparison, the data for both the base case and the percent of acreage option were obtained from a bonus bid at 12.5% royalty method. If other methods considered in this report were used with the percent of acreage option, (royalty bid, net profits, or sliding scale royalty) equivalent or even greater income gains would be realized.

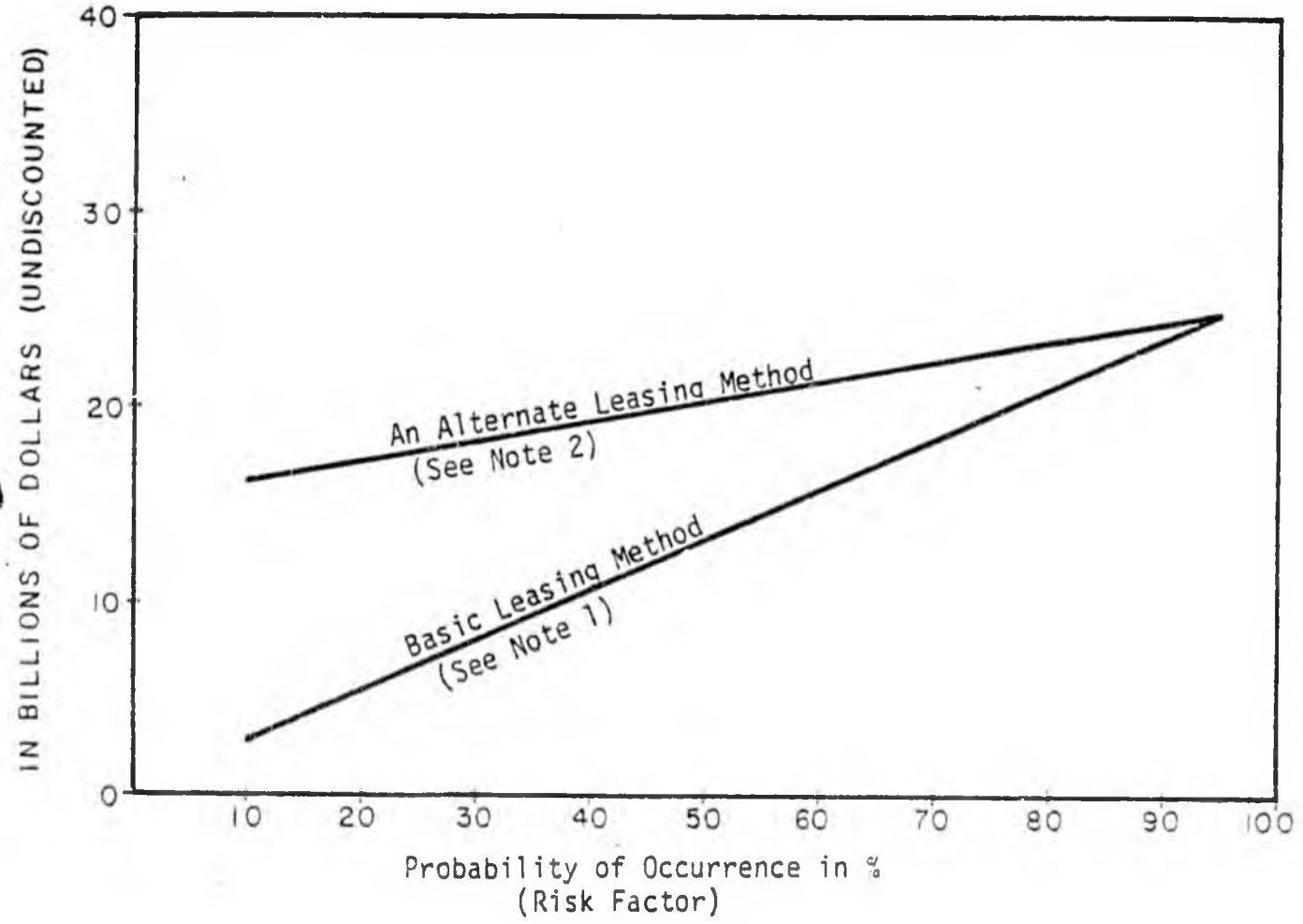
Of course, there are other possibilities under the percent of acreage option. For example, after oil has been discovered in the portion initially leased, the remaining acreage need not be leased but could be held by the resource owner (State of Alaska) for direct participation in the unit. The value of this alternative or any alternate depends on the State's income needs and their willingness to share risks.

This model study indicates that State income can be greatly increased over the long run by mapping structures, analyzing the potential petroleum reserves and then on the basis of resource econometric calculations, finding the optimum percent of acreage to lease.

INCOME TO STATE OF ALASKA

Comparison of an Alternate Leasing Method

Giant Expected Oil Field
(5 Billion Barrels Recoverable)



NOTE 1: Basic Leasing Method
All Acreage Leased at the Same Time
Bonus Bid @ 12.5% Royalty

NOTE 2: Percent of Acreage - An Alternate Method
40% Lease Initially by Bonus Bid @ 12.5% Royalty
Expected Value Based on Risk: 10%
60% Leased 2 Years Later by Bonus Bid @ 12.5%
Expected Value Based on Risk: 90%

FIGURE II-14

MARGINAL FIELDS REQUIRE FLEXIBILITY IN LEASING

Minimum economical field size in Alaska is much larger than in the lower 48 states. Considering the Cook Inlet area where development and production costs are high, the minimum field size is very dependent on the price of crude oil. As shown by Figures II-15 and II-16, for 12.5% royalty and 18% rate-of-return, at a crude oil price of $10.50/Bbl, the minimum field size is about 54.8 million barrels recoverable. However, at an average crude price of $17.40/Bbl the minimum field size (reserves) is only about 13 million barrels recoverable.

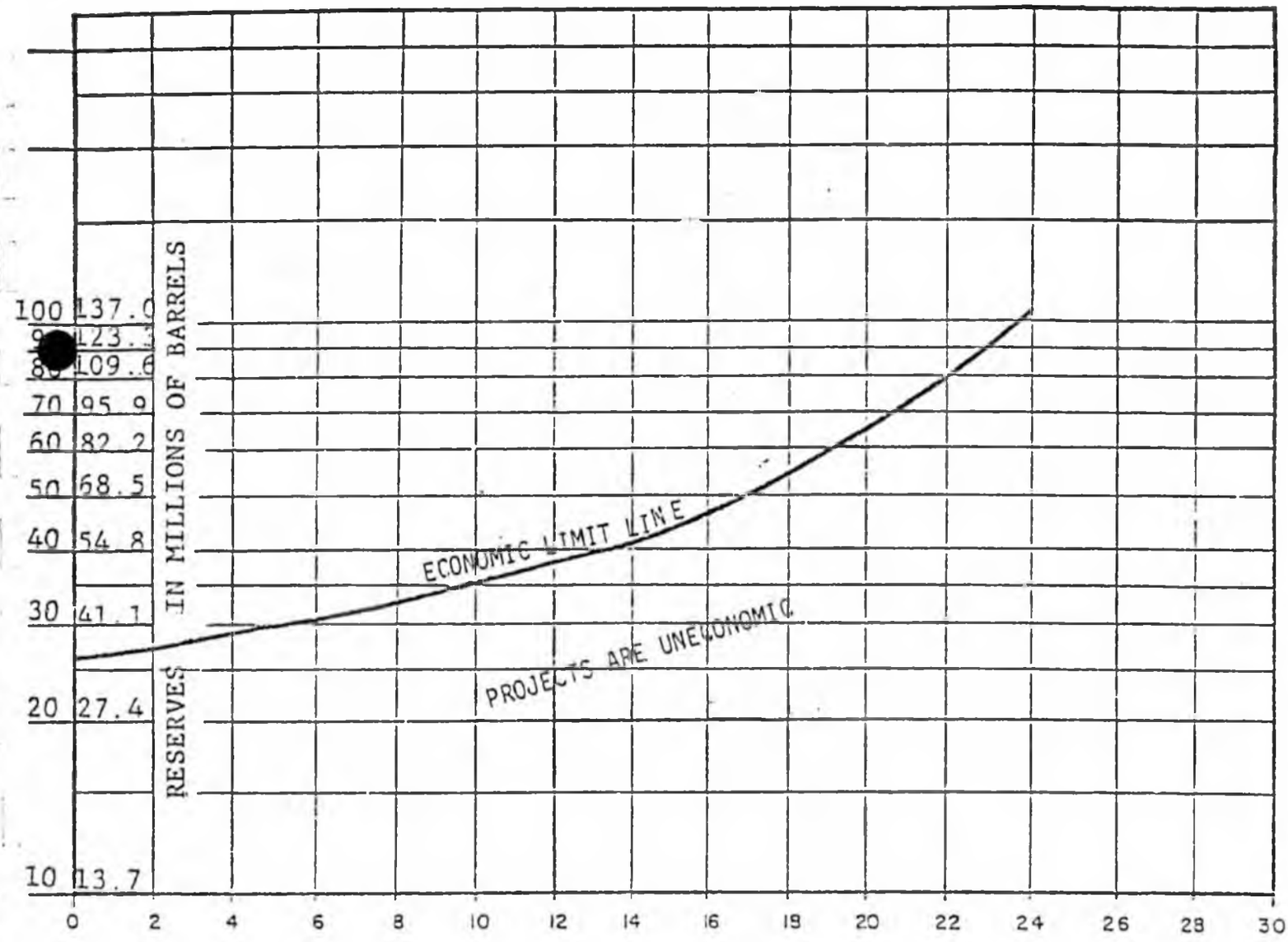
Small fields which are uneconomic at specific values of crude oil price, royalty, and rate-of-return can be made economical if any one or a combination of these three factors are appropriately changed. The preceding paragraph explained that as crude oil prices increase, the minimum field size decreases. The same Figures (II-15 and II-16), also show that for a given oil price and a fixed rate-of-return, as the royalty is decreased, minimum economical field size is also decreased. This means that small fields which would not be economical to produce at a 12.5% royalty, could be economical if the royalty percent was decreased.

Minimum economical field size can also be decreased if industry is willing to accept rate-of-returns lower than the 18% used in this report. This is unlikely however, because the anticipated rate-of-return from a high risk venture must be much higher than for a low risk venture. Where one would be willing to buy secure bonds at a 10% rate-of-return, he would not be willing to invest in a risk venture if the best possible rate-of-return was only 10%. In business, as the amount of risk increases, the anticipated rate-of-return from a successful

ECONOMIC LIMIT DEFINED BY

ROYALTY VERSUS RISK
FOR OIL WITH AVERAGE VALUE OF 10.5 DOLLARS/BARREL

Also Shows Royalty Versus Reserves
At The Economic Limit



Probability of Occurrence in %
(Risk Factor)

ECONOMIC LIMIT DEFINED BY ROYALTY VERSUS RISK

For Oil With Average Value
Of 17.40 Dollars/Barrel

Also Shows Royalty Versus Reserves at Economic Limit

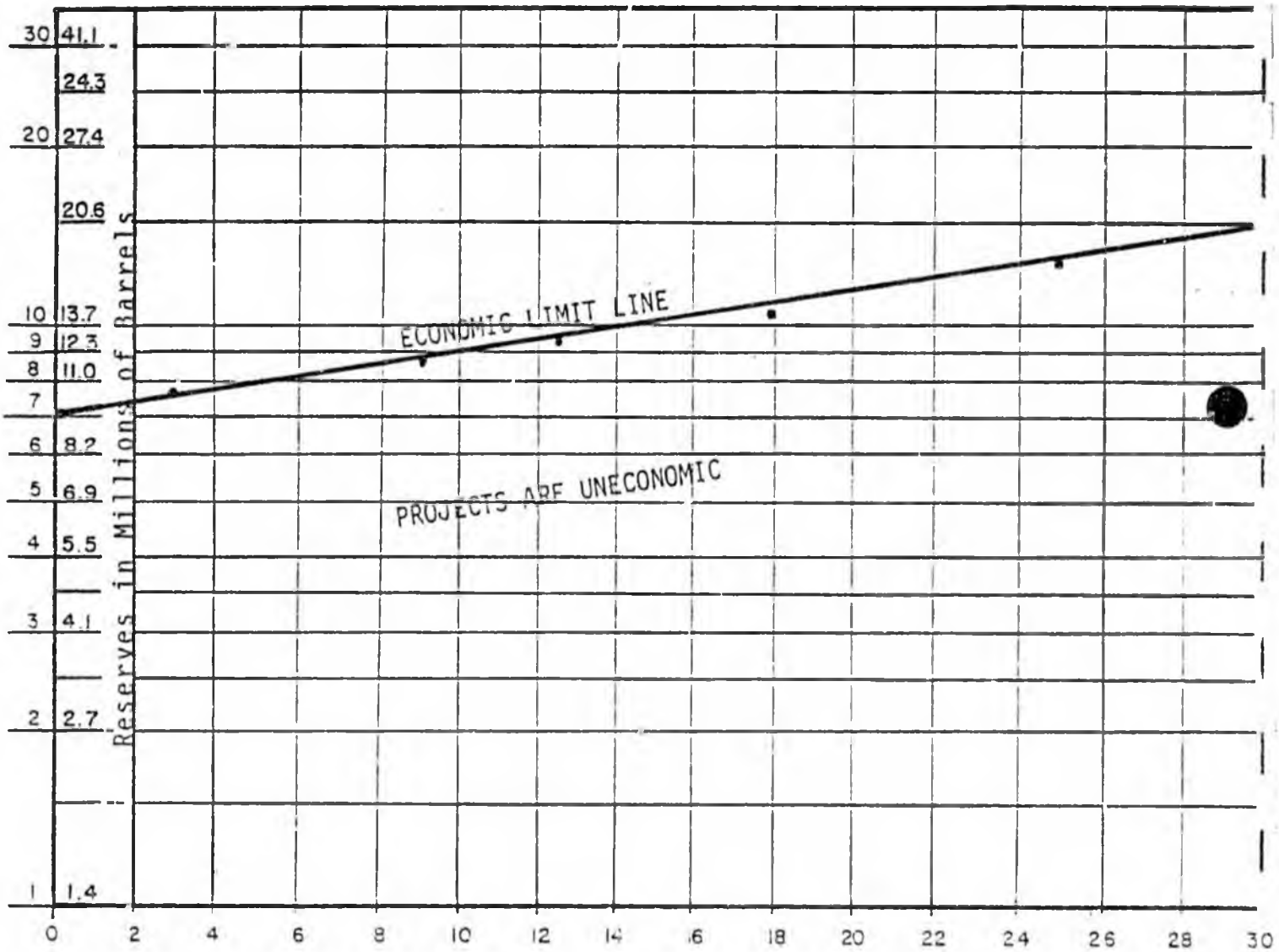


FIGURE II-16

venture must also increase to compensate for the losses from the unsuccessful ventures. Because of the high risks involved with finding and developing an oil field, it is entirely probable that the 18% rate-of-return used in this repor[illegible] low, depending on the specific structures being leased and on the bid[illegible]hods being used to auction off the leases.

The State [illegible]he capability, and perhaps the obligation to influence the timely develo[illegible]nt and production of small fields. Of the three parameters which most influence the minimum economical field size, the State has the capability of adjusting only one of the parameters - the royalty percent. Even if the royalty were reduced to zero, the State would realize income from severance tax, conservation tax, advalorem tax and from income tax. These tax revenues would not be realized unless the field were produced. The oil company makes some profit and derives benefits from supplying refineries with feed stock. The nation benefits from an increased supply of crude oil.

Marginal fields must be developed and produced on a timely basis. For a specific set of conditions of field size, oil price, royalty, and rate-of-return, the location and development timing are related and are critical. For example, any oil field which is near already producing fields is more economical to develop and to produce than if it is remotely located. This is because the facilities, equipment and personnel required for the operating field can be utilized in the operation of a small, nearby field. While some additional direct labor may be required, the repair crews and supervisors could cover both fields; in other words, the fixed operating costs would not significantly increase. Thus, it is critical that the marginal fields be developed and produced while there are large producing fields in the area.

The State has the capability of encouraging the development of marginal fields. The State benefits [illegible] development as does industry and the nation. Therefore, if the [illegible] to encourage this development, a flexible leasing program will be necessary so the leasing system can be tailored to existing conditions.

SENSITIVITY OF THIS ANALYSIS TO CHANGES IN VARIOUS PARAMETERS

Extremely High Risk Cases. Two leasing methods were analyzed at a 1% probability of success to determine if the results obtained from this study would be valid for extremely high risk situations. The bonus bid @ 12.5% royalty case and the royalty bid at fixed bonus case were run at extremely high risk.

The major elements of these extremely high risk cases were that 100 bonuses would be received and 100 structures would be drilled. The bonuses were appropriately factored to reflect the 1% probability assigned to this venture. Since our study assumes 3 wells are drilled per structure, there were a total of 297 dry holes drilled - 300 exploratory wells total. The cost of drilling these wells was included in both cases as dry hole exploratory costs. For a dry structure, the bonus and the well cost were expensed at significant tax loss to the State; as a matter of fact, the tax loss constitutes 42.3% of the bonus received.

The rate-of-return from high risk ventures must be adequate to compensate for the statistical losses. The bonus bid method requires relatively larger bonuses than does the royalty bid methods. The bonus is a leasehold investment item while royalty operates like a cost of production. Therefore, the investment risked on a bonus bid case is significantly higher than the investment risked on a royalty bid case.

In recognition of the relative risks, the bonus bid case was run at a higher rate-of-return than was the royalty bid case. A rate-of-return of 22.5% was deemed reasonable for the bonus bid case. From the oil company's viewpoint, the royalty bid case is much more secure; therefore, we assumed a 10.5% rate-of-return for this case. The results of the economic calculations are shown graphically on Figure II-17. For these conditions at all discount rates from 0% to 10%, the royalty bid method provides significantly more income to the State than does the bonus bid method.

Next, the cases were compared at equal rates-of-return (16%). At this rate-of-return, undiscounted income from the royalty bid case is higher than for the bonus bid case. But at a discount rate of 2%, the present worth income from both cases is equal - at discount rates above 2%, the bonus bid case provides more income to the State than does the royalty bid case.

Changes in Crude Oil Prices. Crude oil prices used in this report are the Tier II prices for Cook Inlet. These prices are then escalated at a rate of 5% per year to a maximum value of $18.00 per barrel. The maximum value of $18.00 per barrel is reached in the twelfth year after the lease sale, 7 years after production starts. The average price per barrel for the cases studied is $17.40 per barrel. The initial price is $10.86/Bbl.

The possibility exists that the Federal government will set crude oil prices for newly discovered fields. Therefore, we reran the computer programs, changing only the crude oil prices. The comparative effects on the selected leasing methods is shown in Figure II-18. This figure shows state

STATE INCOME VERSUS DISCOUNT RATE

FOR BONUS BID AND ROYALTY BID CASES

AT DIFFERENT INDUSTRY RATES OF RETURN

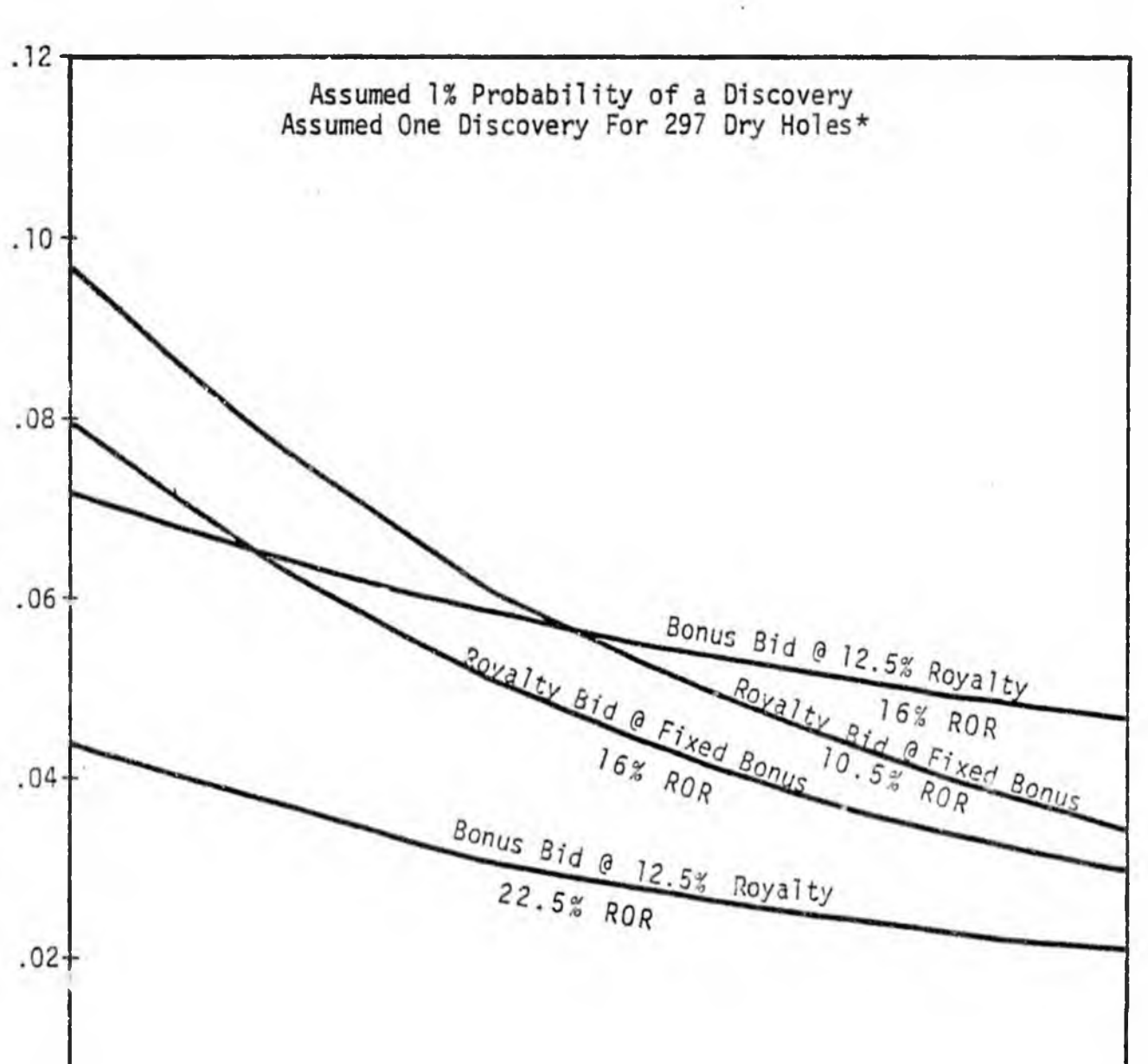


FIGURE II-17

DISCOUNTED STATE INCOME VERSUS RISK

Based On

Expected Value Oil Field, 600 Million Barrels Recoverable.

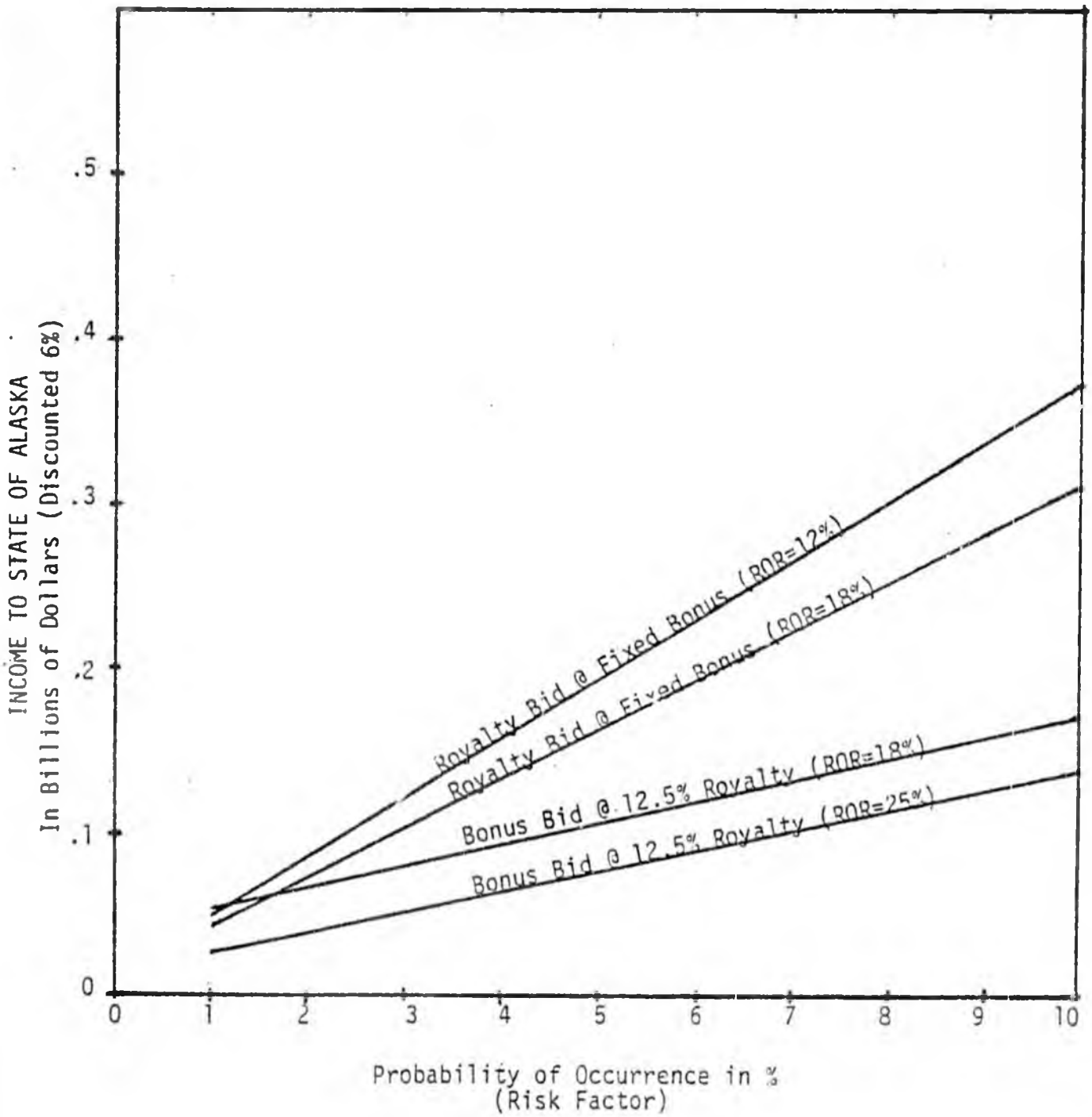


Figure II - 18

DISCOUNTED STATE INCOME VERSUS
CRUDE OIL PRICES
FOR VARIOUS BIDDING METHODS

Venus Field
(600 Million Barrel Recoverable)
All Cases At Risk Factor = 10%

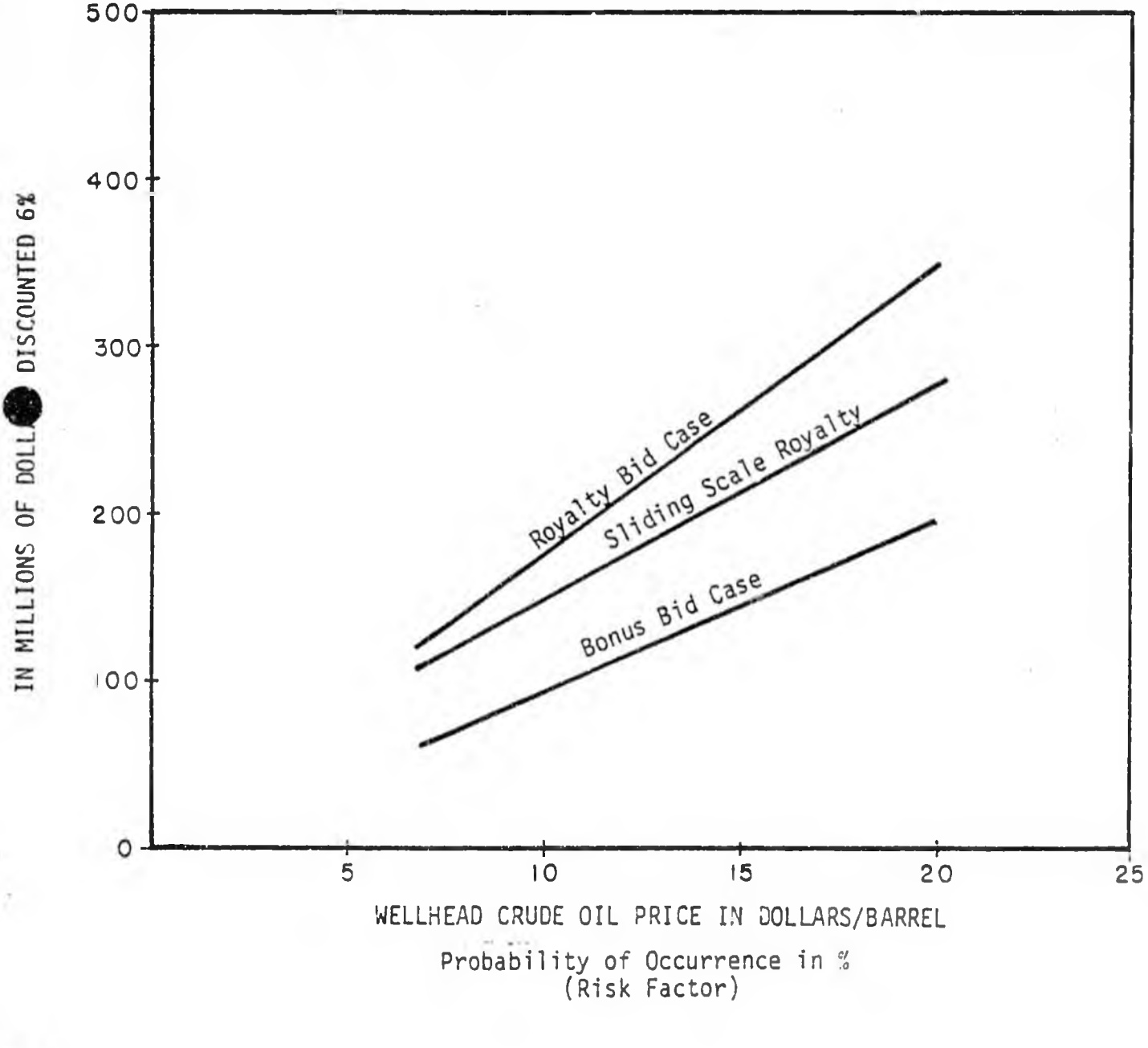


FIGURE II-19

income (discounted 6%) versus wellhead crude oil price.

For the range in crude oil values studied, the comparative relationship of the selected bidding methods did not significantly change. The range of crude oil prices considered was $7.00 to $20.00 per barrel. Over this range, the discounted income curves for the bonus bid case was always lowest, the royalty bid case the highest, and the sliding scale royalty case was in between; a net profit bid case would be similar to the royalty bid case. Thus a change of crude oil prices from a low of $7.00 per barrel to a high of $20.00 per barrel does not change the comparative results of this study.

Effects of Produced Gas. Wellhead gas production was considered in this study. There are many unknowns which effect the value of gas removed from oil. Some of these unknowns are:

1. First, how much gas is produced - what is the producing gas/oil ratio?

2. Next, how much of this gas will be required for lease fuel - fuel usage depends on the field location, availability of commercial electricity, gravity of the oil, water content, emulsion condition, temperature of the production, and distances from the gathering centers to the cleaning facilities and sale point.

3. Third, marketability of the gas - some Cook Inlet gas is handled at a loss, some is sold at various values from about 16¢/MCF to 64¢/MCF.

4. Lastly, what is the present worth of profits (PWP) resulting from reinjection of the produced gas?

Since evaluation of the produced gas depends on several variables the effects of solution gas are not handled separate from oil in this analysis. The effects on the study are in the order of less than 1%.

Government and Discount Rates. What discount rate should governments use? Discount rates are used by businesses to compare alternative investments. The Net Present Value (NPV) of future cash flows that would result from alternate investments is a uniform comparison base; it's about the only one available to business (governments use a "cost to benefit ratio").

Goals of businesses differ from those of governments. A business's only goal is to make money for their stockholders. A government's goal is to provide those services for the populace which they cannot provide for themselves. A business wants to continue making profit to pay monetary dividends in perpetuity while a government needs money to supply services in perpetuity. A business uses Present Worth of Profits (PWP) to compare investments; to be consistent, a government should use Present Worth of Services (PWS) to compare various options. PWP is not compable to PWS. Since a Discounted Cash Flow (DCF) is used to determine PWP, it cannot also be used to determine PWS, therefore, it may be wrong for governments to utilize a (DCF) as does business.

A government has a requirement for a sustained income in perpetuity. Money in a bank provides no services to the populace - at best, the interest earned is useful for future services. Since the value of oil and gas is increasing with time (a recent USGS prediction indicates crude oil prices of $80.00 per barrel by the year 2,000, if that's accurate or even 50% accurate), more State income may be gained by leaving it in the ground to mature than by "banking it" or spending it frivolously. Indeed, if the price escalation of crude oil is greater than the bank interest, a loss will result from early removal of crude oil. At this point in time, this is a real possibility. Perhaps current income over and above current requirements should be discounted to appropriately reflect the price loss resulting from early removal of crude oil.

While it is uncertain that governments should utilize discount rates to evaluate future cash flows, data is presented for discount rates of 6% and 10%. Shown on Figure II-19 and II-20 is discounted income to the State for the leasing methods analyzed. At these discount rates, (6% and 10%), the relative positions of the income curves for the various leasing methods do not change, they only shift downward.

DISCOUNTED INCOME TO STATE OF ALASKA

Risk Versus Income

Medium Expected Value Oil Field
(600 Million Barrels Recoverable)

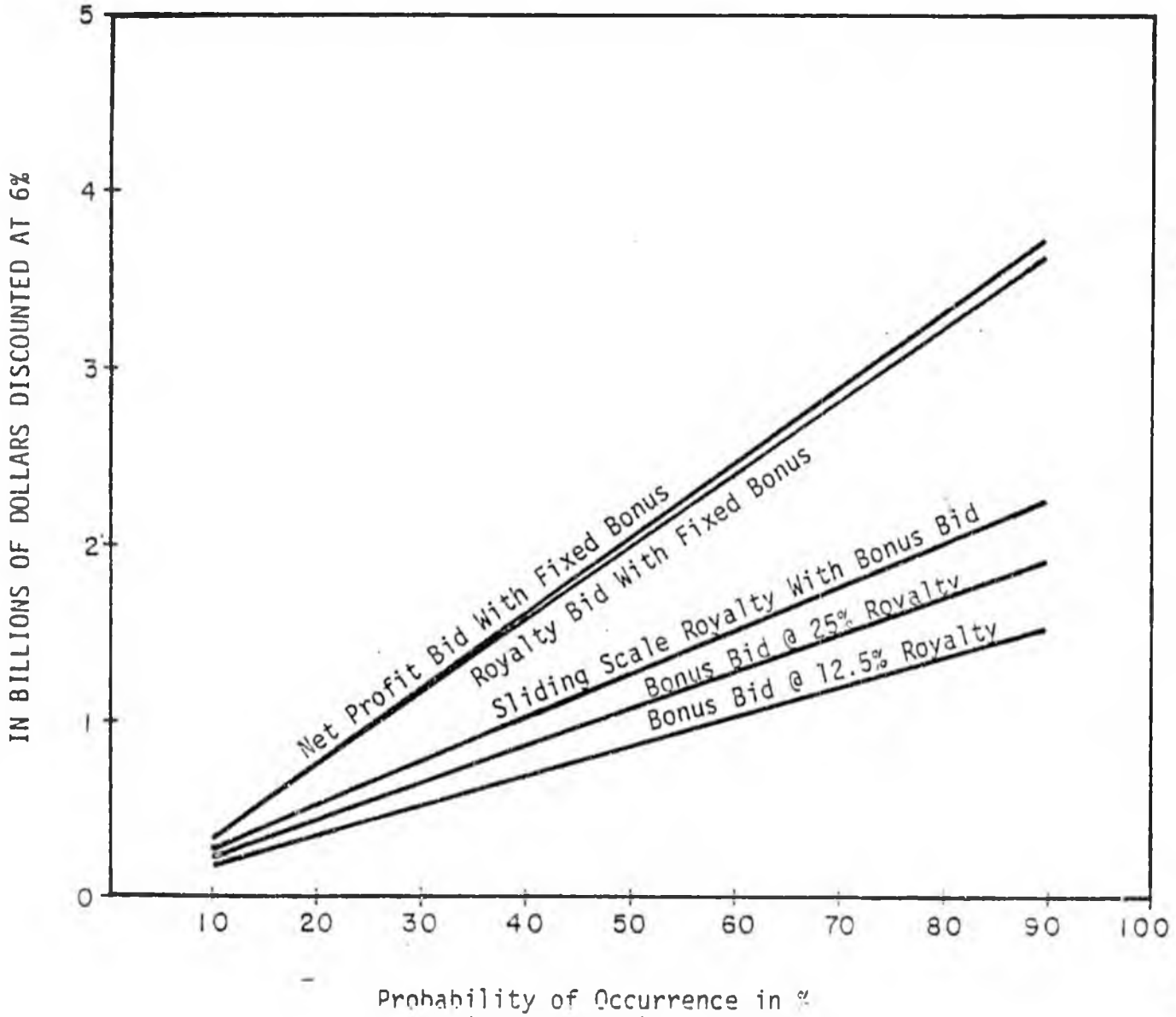


FIGURE II-20

DISCOUNTED INCOME TO STATE
VERSUS PERCENT RISK

For Various Leasing Methods

Medium Expected Oil Field
(600 Million Barrels Recoverable)

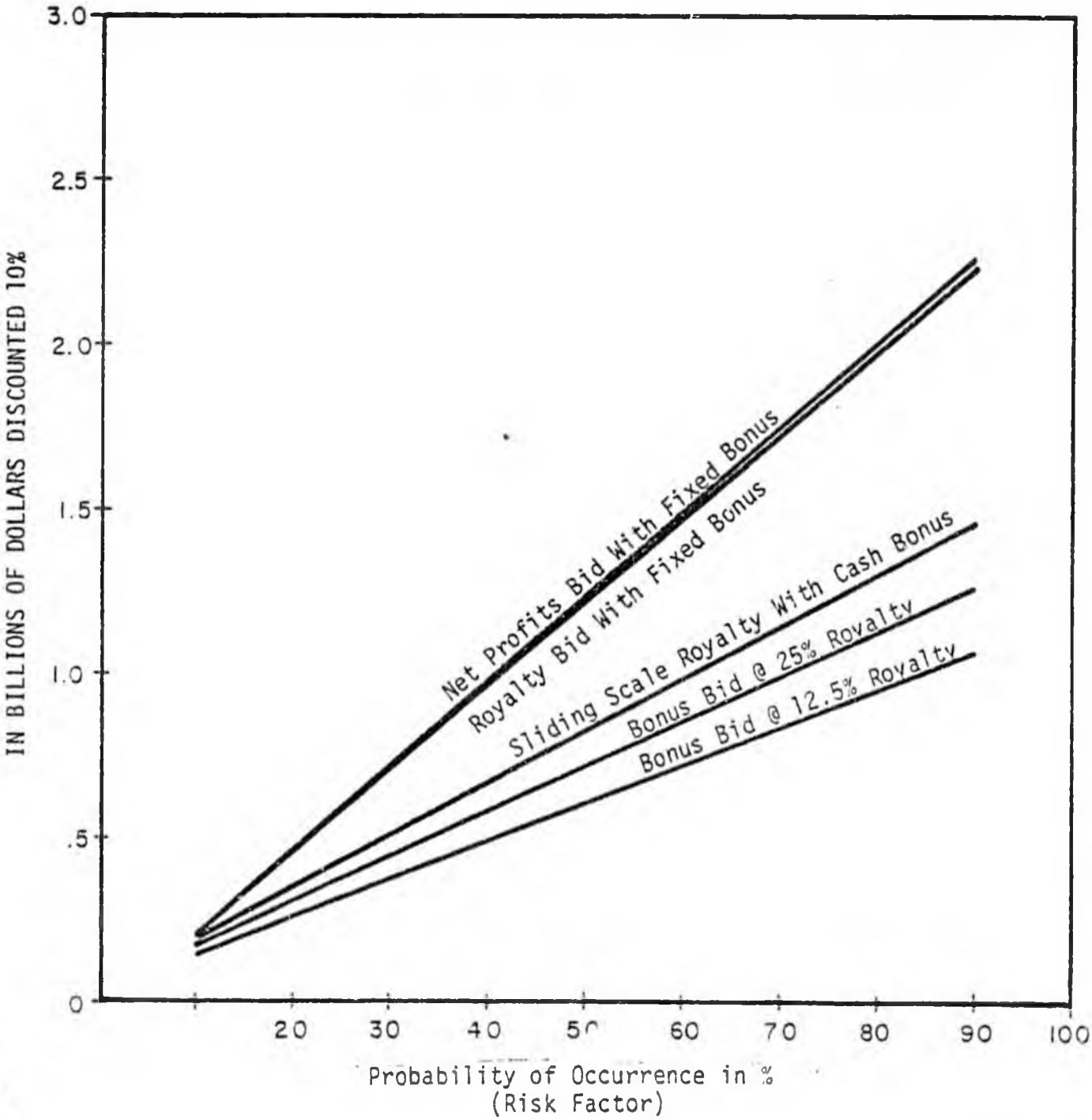


FIGURE II-21

EFFECTS OF VARIOUS LEASING METHODS

To obtain the amount of bonus to be bid under a cash bonus bid system, the interested companies make geological and engineering models of the field. This data is put into a computer program along with the rate-of-return the company requires. The computer output lists the present worth of profits at various rates-of-return and the bonus which can be paid for each complement of discount rate and rate-of-return. Company management then selects the bonus based on the historical success of the company in obtaining the reserves calculated by the engineers and geologists.

To determine the amount to be bid under the Royalty Bid system, the Net Profit system or the Bonus Bid for Sliding Scale Royalty system, input variables are changed to reflect the required output data. In all cases, the bid parameter is listed in the output for various rates-of-return at the company's discount rate of money. This data is frequently displayed on a normal distribution curve so management can readily perceive the bid value versus risk.

The geological and engineering risks are incorporated into the respective models. However, the final risk applied to the bid quote is done by top management based on the statistical success of the company in obtaining the reserves calculated by the geologists and the engineers.

Bonus Bid Method. This is the method currently used by the State of Alaska, the Federal government and various other state governments. The advantage to the State is that immediate income is maximized. The cash bonus can be utilized by the resource owner before any production is obtained. In the likely event of a dry structure, the resource owner still has obtained the bonus; the

implications of a resource owner obtaining large revenues for nothing is beyond the scope of this report. However, it does seem wasteful of capital resources. It should also be noted that tax deductions taken by industry in the unsuccessful ventures result in a reduction of the net bonus to the State of Alaska.

The State of Alaska's income needs have been great while the sources of income have been few. Generally, the cash bonus has been spent before the field is developed, and in many instances, the bonus has been spent even before a discovery has actually been made.

Compared to cash bonus bidding there is no other leasing method which maximizes the immediate income to the State of Alaska.

The disadvantages of the bonus bid, from the State's position, is that considerable future income may be sacrificed to obtain immediate cash income. The best example of this is that for all the State's petroleum leases on the North Slope bonus bids totaled 912 million dollars. Estimated reserves of the Prudhoe Bay Field are 9.6 billion barrels. Total State bonuses collected from all North Slope leases to date amount to only 9.5 cents per barrel of oil for the Prudhoe Bay Field. As additional reserves are developed on the already-leased North Slope acreage, the bonus value will drop below this 9.5 cents per barrel figure. Bonus wise, the State of Alaska virtually gave away the Prudhoe Bay oil.

In addition to the above considerations, the amount available for the bonus bid is based on the cost/price assumptions made at the time of bidding. If the costs or prices change after a lease has been awarded, the comparative value of the bonus changes. If costs decrease, the bonus was too low; if costs

increase, the bonus was too high. Similarly, if crude oil prices decrease, the bonus was comparatively high; however, in the more probable event that crude oil prices increase, the bonus would then be too low. The 1969 Prudhoe Bay lease sale occurred when Cook Inlet prices averaged 2.63 $/bbl.

From the producing companies consideration, they are making a considerable investment several years before they can possibly get any return for that investment. The cash bonus is wasted if the structures are dry. It has not purchased anything of value and does not assist in the exploration or development of resources. For small companies, this cash bonus or "Front End Money" imposes a large problem. For even large companies bidding on large structures, an equitable bid may be a significant part of the very high costs needed to bring the field to production. Here again the Prudhoe Bay Field is a good example. When the $0.9 billion bonus is added to the $8-10 billion for pipeline cost plus the field development costs of $5-6 billion, the aggregate cost strains the financial markets of even a group of large companies such as ARCO, BP, EXXON, and SOHIO.

In anticipation of the ability to finance a venture (bonus + development + transportation), a company would reduce their bonus bid based on the availability of capital and especially on the basis of their ability to obtain the needed capital.

Royalty Bid Method. On the other end of the bidding spectrum is the royalty bid. This is the bidding method most frequently compared to bonus bidding. Generally, a small fixed cash bonus is required to reduce speculation by those who have no intentions of exploring the leases. The winning bidder is the company which bids the highest fractional royalty to the resource owner.

The royalty bid is a means by which the resource owner can share in the benefits of a large field such as the Prudhoe Bay Field. However, the resource owner

must also share the risks in the dry structures, from which he would get nothing except the small fixed bonus.

Based on the same geologic, engineering and economic models, an operator would be more willing to promise large future payments contingent on the success of the exploration and development than he would be willing to pay an equivilent amount as a lump sum cash bonus at the lease sale when the first income from production is 4-6 or more years away; and when income from the investment may never be realized.

From the resource owner's consideration, a disadvantage of royalty bidding is that the owner shares the risk with the operator. For a dry structure, the owner would realize only the small fixed bonus whereas under the bonus bid, the owner would normally have received a larger bonus.

Royalty income to the State can be influenced by the crude oil prices set by the Federal government. The income gain to the State from royalty bidding as opposed to bonus bidding results in part from a reduction in Federal income tax (Figure III-1&2). This occurs because the royalty oil is not income to the operating company, therefore, it is not subject to Federal income tax. Since the Federal government through the FEA sets crude oil prices, they have the capacity to affect the royalty income to the State of Alaska. Decreased crude oil prices would not necessarily decrease income to the Federal government because they can make up the lost taxes downstream of the refinery. Any consideration of royalty bidding should include the possibility of the FEA setting crude oil prices which would affect income to the State.

Another disadvantage from the owner's viewpoint is that the royalty is a cost of

DISTRIBUTION OF GROSS INCOME

Based on Current Method of Leasing
(Bonus Bid @ 12.5% Royalty)

Medium Expected Oil Field
(600 Million Barrels Recoverable)

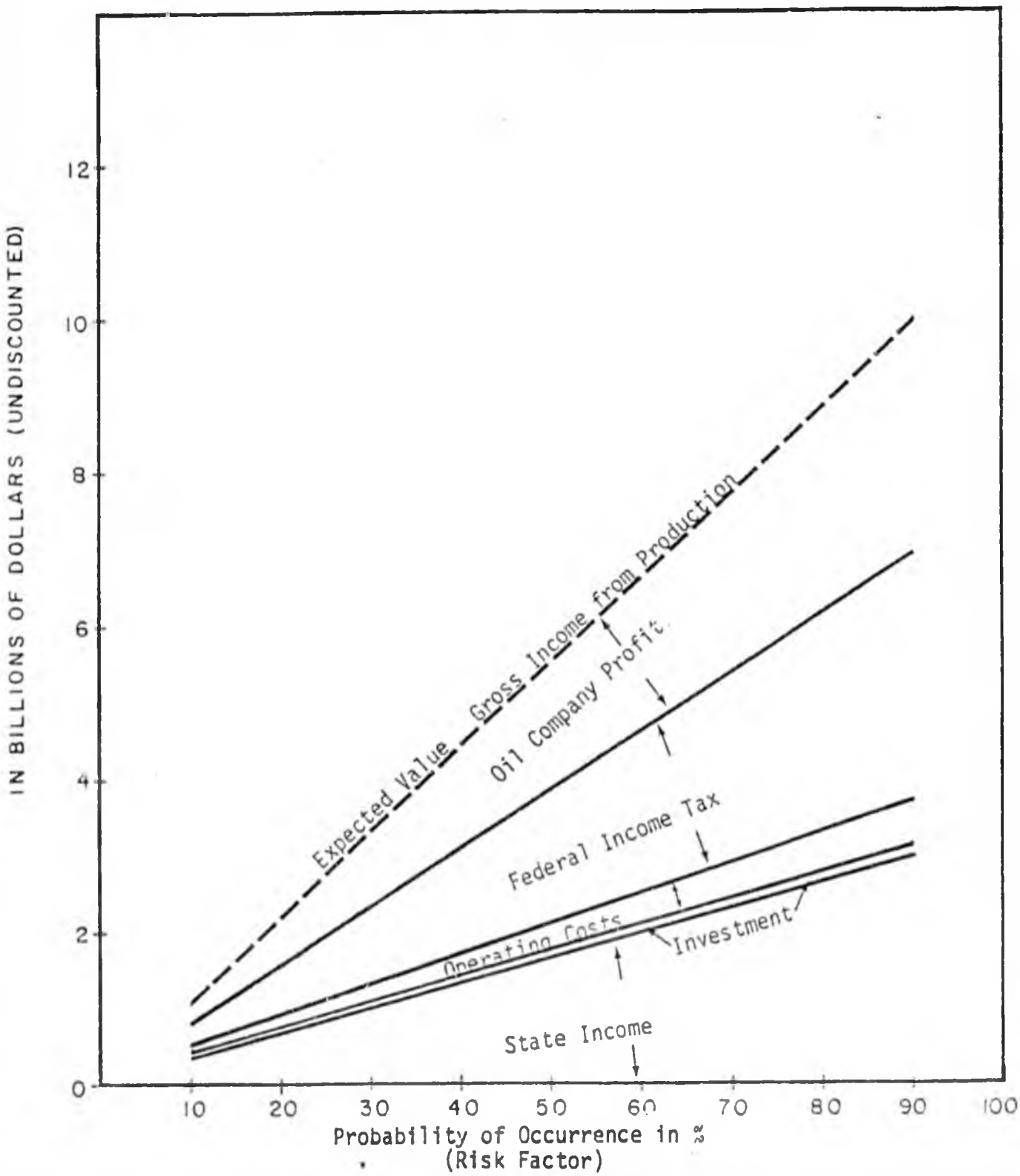


FIGURE III-1

DISTRIBUTION OF GROSS INCOME

Based on an Alternate Leasing Method
(Royalty Bid at Fixed Bonus)

Medium Expected Oil Field
(600 Million Barrels Recoverable)

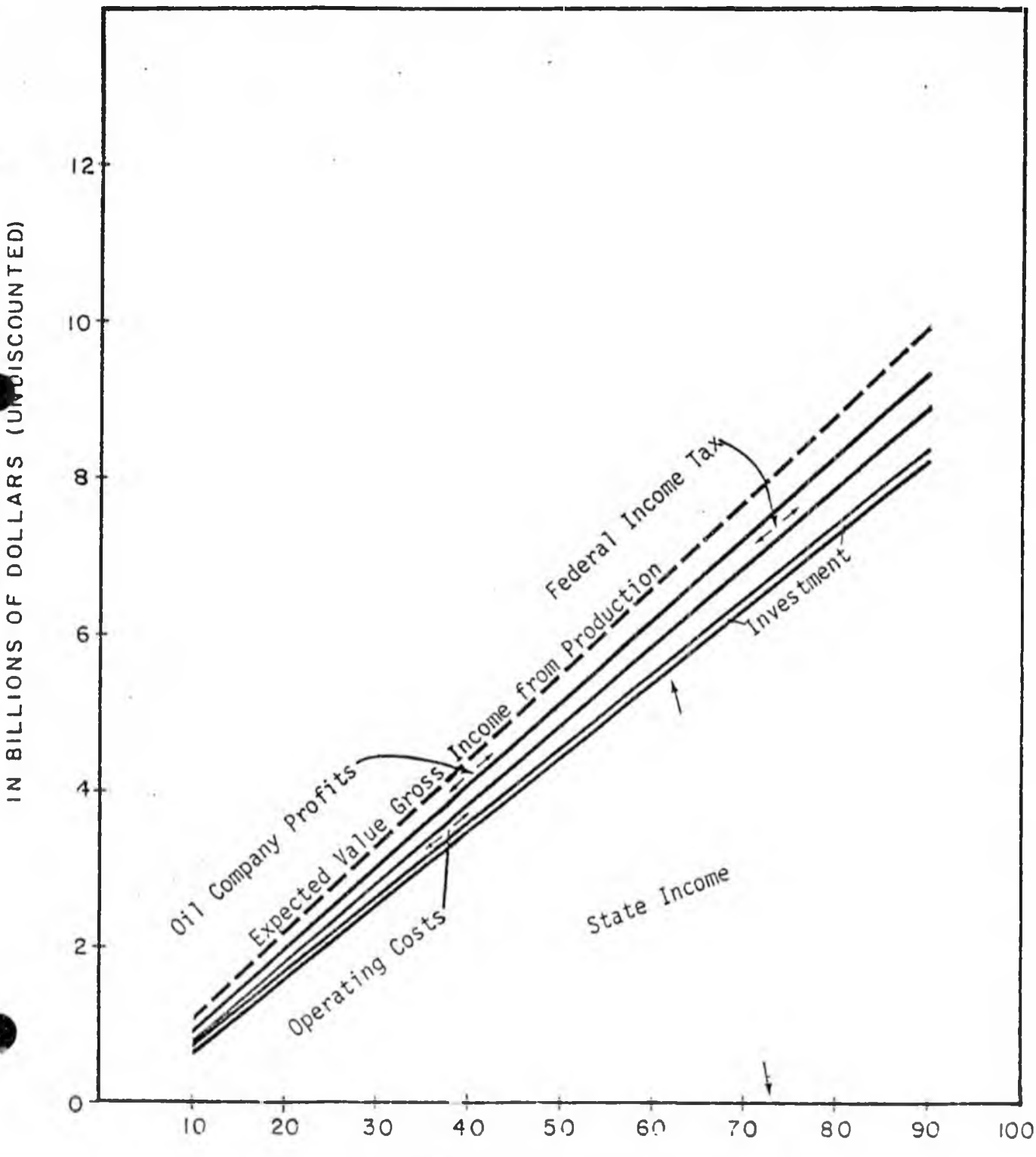


FIGURE III-2

production and, economically speaking, acts like a production expense. As the cost of production increases, the minimum economic production rate is increased. This means that the economic limit is reached sooner in terms of cumulative production as well as in years of field life. When the economic limit is reached at a lesser cumulative production, the amount of the resource left in the ground is increased, thus wasting a valuable resource. Reaching the economic limit sooner in years also reduces the number of Alaska jobs available. This problem could be resolved by having the royalty decrease as production declines in the field's old age period.

Royalty bidding should entice more competition in the leasing auctions. During OCS lease sale No. 36 in the Gulf of Mexico, some tracts were put up for royalty bid plus fixed cash bonus while other tracts were offered at a cash bonus bid plus 16.67% royalty. The tracts leased on the royalty basis averaged 7.1 bids per tract as compared to only 2.2 bids per tract for those leased by bonus bid.

From industry's viewpont, royalty bidding takes much of the uncertainty out of bidding. The majority of their committment is based on the contingency of production. If they develop production, they pay. If no production is developed, they don't pay. This aspect increases competition for the leases and allows the allocation of more capital for exploration; however, it also makes it much easier to walk away from poor prospects. By keeping the front end investment low, industry's capital financing is much easier to obtain. Indeed, if the capital market is weak, they may have a difficult time financing the entire project, e.g. the TransAlaska Pipeline.

Since royalty is based on production, it has the effect of increasing the minimum production costs and therefore, the minimum production rate for an economic

operation. Theoretically, as the minimum economic rate is increased, the economic life of the field is shortened; therefore, the company may discontinue production of a field at a lesser percent recoverable under royalty bid than would occur under bonus bidding. This is speculative reasoning because an integrated oil company may operate a field at a loss because refinery feed stock is needed and because operating losses can be made up downstream. In actual practice, very few fields have been abandoned. They may be shut in or production suspended awaiting recompletion, stimulation, or secondary recovery, but they are seldom abandoned to the extent of recovering the equipment, plugging the well bore and cutting off the casing below ground level.

Net Profit Bid Method. Under this system, industry bids on the percent of net profits (after capital recovery but before taxes) which will be returned to the resource owner. Profits which are to be split are those obtained after the lessee has recovered all of this invested capital plus a nominal interest value. Also, at the time of leasing, a small fixed cash bonus is required as earnest money. In this study, the fixed bonus was based on expected reserves within the leased acreage.

Economically, this system is very similar to the royalty bid system. That is, the front end money required is low. The majority of return to the resource owner is predicated on the profitable production of the resource. Similar to royalty bidding, the resource owner shares the risk of not obtaining profitable production. If profits are not made, the resource owner's only income is the small fixed bonus paid at the time of leasing.

Some of the financial advantages of this system are very similar to those of royalty bidding. Since the front end money is low, financing exploration and

development costs is much easier for the company than under the current bonus bid system. The lessee should be willing to bid more money contingent on future profits then he would be willing to bid for a lump sum cash bonus bid.

Similar to the royalty bid system, the net profit system operates as an increased cost of production. That is, it raises the minimum economic value of production. As this minimum economic value of production is increased, the economic life of the field is reached at a lesser cumulative production and at a shorter time in years. However, as was discussed under royalty bidding, the economic limit is not necessarily the cut-off point as far as the company's willingness to produce a field. This is because the company may need the feed stocks to operate their refinery; and because profits lost from operation can be made up downstream of the refinery. Also, marginal on-shore fields are generally kept in operation pending some remedial work, stimulation, secondary recovery plans or pending significant crude oil price increases.

A disadvantage of the net profit system is that since the resource owner's income is based on the net profits of the company, the resource owner will want to know what the actual profits are. To ensure that only applicable costs are deducted from income, it would be necessary that the resource owner do extensive auditing of the books of all of the companies which were producing from leases obtained under the net profits system of bidding. Also, there could be a good deal of controversy regarding the need for and the chargeable costs of some investment items.

Another disadvantage could be that the companies would attempt to consolidate

profitable ventures with losing ventures (this is sometimes called cross subsidy). This is possible within the same lease or field as when a profitable option is coordinated with an unprofitable one - for example; field extensions, pool extensions, secondary recovery projects, production acceleration projects, facilities expansion and others.

Sliding Scale Royalty Method. For this leasing method, royalty rates which increase with production rates are set by the resource owner; bids are awarded to the bidder who offers the highest cash bonus.

This method of leasing combines the good points of the cash bonus bid at fixed royalty system with the good points of the royalty bid system. In effect, it's a compromise between the two systems.

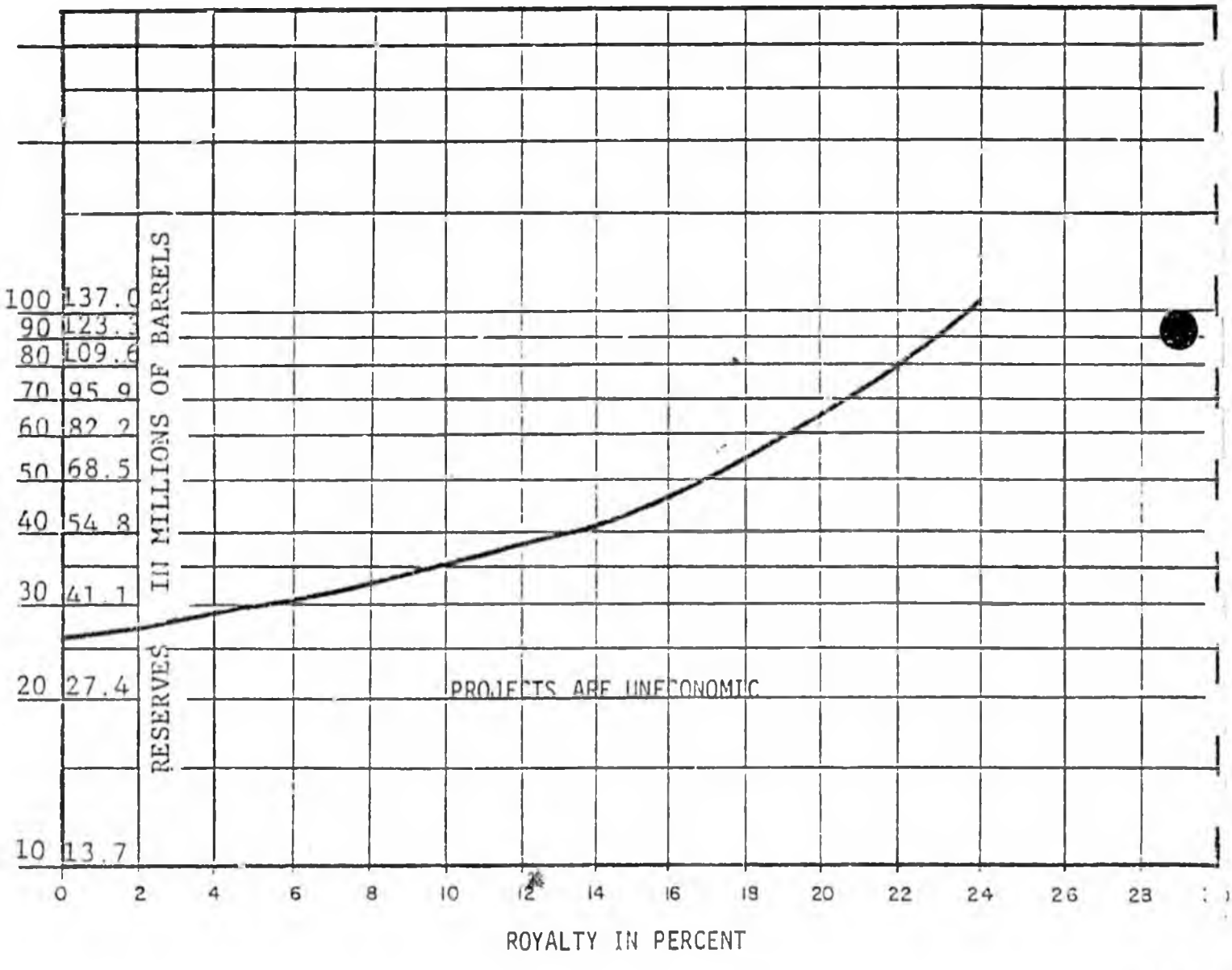
The sliding scale royalty system has the advantage of allowing the resource owner to realize some immediate income from lease sales and still allows some participation in the profits should a large field be discovered - for example, Prudhoe Bay. The cash bonus received would be less than under bonus bidding at fixed royalty, but would be more than the bonus required for either the royalty bid or the net profit systems. The royalty received would be greater than for bonus bidding and less than under the royalty bid or the net profit bid systems.

Under this method of leasing, prior to the sales, the State sets a predetermined sliding scale royalty rate which can be based on a variety of parameters. A very common one is production rate of the wells, individually or based on the average well production rate for the month. The interested bidders then bid on the

ECONOMIC LIMIT DEFINED BY

ROYALTY VERSUS RISK
FOR OIL WITH AVERAGE VALUE OF 10.5 DOLLARS/BARREL

Also Shows Royalty Versus Reserves
At The Economic Limit



amount of a fixed cash bonus which they will give to the resource owner for the privilege of exploring, developing, and hopefully producing from the leased tract.

The sliding scale royalty method is a very convenient tool which the State can utilize to prolong field life and increase ultimate recovery. As normally used, sliding scale royalty increases the percent royalty above a base percent (usually 12.5% or 16.67%) depending on production rate. However, for very small fields (and as large fields decline), the royalty percent could be decreased. Figure III-3 shows that for a crude oil price of $10.50/Bbl, and a rate-of-return of 18%, a field of 30 million barrels recoverable is only economic if the State is willing to accept about 6% royalty. It could also be economic if industry was willing to accept lower rates-of-return; however, for high risk ventures, a reasonable rate-of-return would probably be nearer to 25% than the 18% used in this report.

Percent of Acreage Option. Withholding a percent of the acreage is a leasing option which has resulted in increased income to resource owners. The elements of this option are that only 40 to 60 percent of the acreage is leased at the initial auction; the balance of the acreage is leased after a discovery is made. If only dry structures are found, the remaining acreage would not be leased.

At the initial leasing, all bids will be discounted for the risks involved. After exploratory wells have been drilled, either reserves will be found or the structure will be dry. If dry structures are found, the remaining acreage will not be leased. If reserves are found, the remaining acreage can be leased as proven reserves and will thus bring in premium bids.

This of course is what happened with the Prudhoe Bay oil field. Prior to discovering oil in 1969, Arctic Slope competitive bid bonuses totaled only 12 million dollars. After oil was discovered, competitive bonuses for the remaining acreage totaled 900 million dollars - most of this acreage straddled the oil/water contact and was definitely inferior to previously leased tracts.

Withholding acreage can increase income to the resource owner because irrespective of the risks initially applied, after a discovery is made the remaining acreage may be considered as probable reserves by the bidders. Thus, the increased income is due to a decrease in risk, not because of the bidding method utilized. In fact, any bidding method could be used in conjunction with the percent of acreage option.

There are some dangers in withholding acreage. In areas where a great deal of uncertainty exists, if too little of the structure or basin is offered at the initial auction, there may be few bidders. If too much of the basin is offered at the initial auction, it may turn out that the productive acreage is entirely within the leased tracts. Therefore, the bidding methods should be as carefully tailored to the particular structure or basin being leased as if the whole would be leased at the first auction.

The percent of acreage leasing option is a technique of withholding a part or a block of the leaseable acreage; it should not be confused with "checker boarding". Checker boarding is a leasing option whereby only alternate sections are leased initially. In the lower 48 states where fields are small, cost are relatively low, and well spacing may be as close as one to each 5 or 10 acres, checker boarding may be equitable to the operator. However, in

Alaska where well spacing is 1 well for each 160 acres and cost are high, fields must be large to encourage economic development. Checker boarding alternate sections in Alaska would be uneconomic to leasees and would probably result in the tracts not being leased. In the percent of acreage option, we are considering that only 40-60% of the structure is leased initially - that is, a few large blocks would be withheld.

OTHER CONSIDERATIONS

The purpose of an auction is to allow the bidders to set the fair market value of the commodity being sold. The fair market value can only be obtained when there is a sufficient number of bidders to insure actual competition. Anything that increases the number of bidders increases the competition and therefore increases the probability of the seller obtaining the true market value for his goods. On the other hand, anything that decreases the competition decreases the probability that the sale price will be the fair market value.

For a variety of reasons, the large oil companies tend to combine in partnership groups and make joint bids. This practice tends to spread their risks, but it also tends to reduce competition in bidding. In an attempt to encourage competition, the Federal government has prohibited the 9 largest oil companies from bidding together - the companies are listed in the Federal Register Announcement dated September 27, 1976. This is an option that Alaska ought to consider emulating in all future lease sales.

Also, the State should consider allowing industry to pay their cash bonus bids on an installment basis. This would spread out the income to the State and would ease financing problems for the companies. In Alaska where bonus bids, and exploration and development costs tend to be high, small companies are virtually excluded from competing. If they could pay their cash bonus bids on an installment basis, they could possibly compete in the bidding, (a bond should be required to insure payment of the balance). As discussed earlier, the winning bid at an auction is more apt to approach the fair market value when there are a large number of participants.

This report has presented analytical comparisons and discussions of four bidding methods and of one leasing option. Model fields were constructed based on existing Alaska fields. Income to the State was computer calculated for each of the analyzed bidding methods. The advantages and disadvantages of each of the four bidding methods was discussed, one method at a time. The major advantages and disadvantages which should be considered are summarized in the following paragraphs.

Proper selection of a bidding method can optimize benefits to the State in various ways:

1. Increase immediate income
2. Sustained yearly income
3. Increased total income
4. Encourage exploration activity
5. Prolong field life
6. Encourage development of marginal fields.
7. Increase the number of bidders.

There is no "one" best method which can maximize all of the above possible advantages to the State. To select a bidding method for a particular lease sale, the selector must know the relative importance of the above criteria at that point in time.

For each of the analyzed leasing methods, there are relative disadvantages as well as the advantages. The methods which have the most distinct advantage in one criteria will have a distinct disadvantage in another criteria. Some

of the more obvious disadvantages of the various leasing systems analyzed are:

1. Reduction in total state income
2. Reduction in immediate income
3. Decreased exploration activities
4. Shortened economic field life
5. Discourage development of marginal fields
6. Require strict State surveillance of oil industry accounting
7. Decrease the number of bidders.
8. Varying degrees of risk assumed by the State

These disadvantages are a compilation of the disadvantages of the various leasing systems analyzed. They are not all attributable to any one system.

Selection of the leasing method to be used for selling resources in a specific structure must include consideration of the disadvantages to be minimized as well as the advantages to be maximized or at least optimized. A flexible leasing system based on analytical research will allow not only the selection of the "best" method but the combination of various methods to produce a product that will maximize the benefits listed and minimize the disadvantages.

There is no single leasing method which is the best in all situations. The selection of a leasing method for a particular lease is dependent on the structures being leased and on the State's income requirements at the time of leasing. Analytical data has been presented which show some methods maximize immediate income while others maximize total income. All of the methods discussed in this report have advantages and disadvantages relative to the other methods. Only by understanding the atmosphere in the State and requirements of the State at the time of leasing can the "best method" be selected: e.g. the one which has advantages we want to maximize along with disadvantages we can tolerate.

PETROLEUM FIELD MODELS

APPENDIX A

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PETROLEUM FIELD MODELS

This study concerns the effect of different leasing methods on the income received by the State of Alaska from the development of its petroleum resources. Therefore, the study team chose known Alaskan fields as the foundation on which to build five oil field models. Each of the leasing methods was tested on the models, and the income to the State and to industry was measured, thereby enabling evaluation of the leasing methods. The discussion of the Engineering/Geologic models follows:

Proven Alaskan oil fields range in size from less than 80 million to about 8 billion barrels of recoverable oil. Five model fields which range from 50 million to 5 billion barrels of recoverable oil were chosen as representative of the sizes of oil fields which may be found in Alaska in the future. The smallest of the model fields, Mercury, contains approximately 50 million barrels. Mars 110 million, Venus 600 million, Neptune 1 billion and Jupiter 5 billion barrels. These fields are ranked as marginal, small, medium large and giant (as compared with Alaskan oil fields).

The 50 million barrel field is smaller than the smallest currently producing Alaskan field, but using this size of field reflects the future of development in a pioneer area such as Alaska. In the normal course of petroleum development in an area, the largest fields are discovered and produced first. As time passes, better technology and economics allow the discovery and development of smaller fields which were previously unknown and would have been uneconomic. Alaska may be entering this second stage of development in areas such as the Upper Cook Inlet.

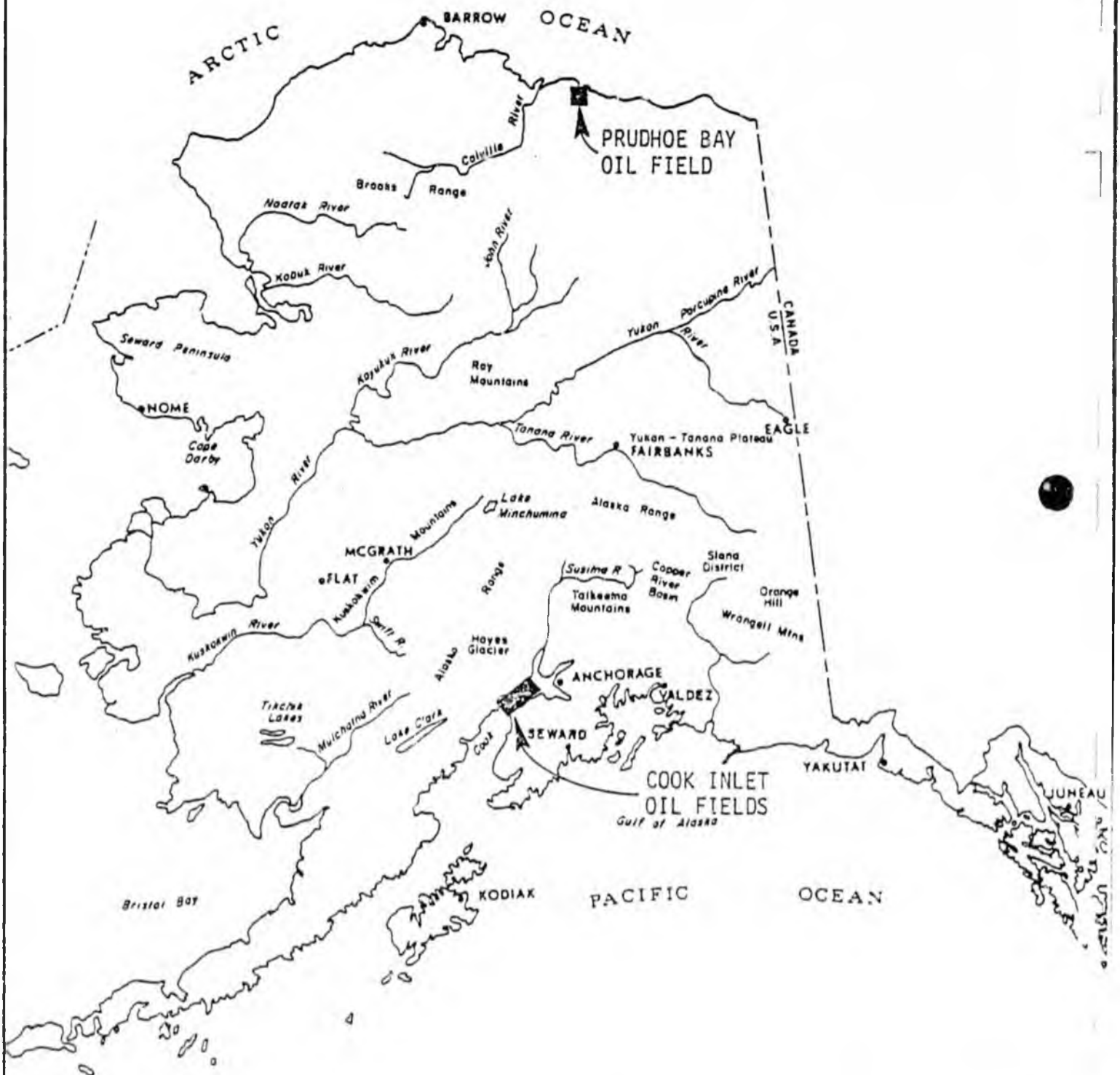
There is no such thing as a "typical" oil field, but certain physical characteristics and development activities are common to all fields in a geographic region such as Alaska. The model oil fields used in this study are based on Trading Bay, Granite Point and McArthur River Oil Fields in Cook Inlet and Prudhoe Bay on the North Slope. Table K-1 lists all of the physical characteristics of the model fields. Note that reserves are listed as recoverable reserves. In actuality, the oil in place (i.e. in the ground) can be as much as three times greater than the recoverable oil. This study assumes an average recovery rate of 30% using secondary recovery techniques. Thus, Mercury Oil Field with recoverable reserves of 50 million barrels actually may have 166.67 million barrels of oil in the ground. The largest model field, Jupiter, has recoverable reserves of five billion barrels and may have oil-in-place of 16.67 billion barrels.

The physical parameters, such as the feet of pay, acres occupied, porosites and permeabilities, for each model field are all adapted from the corresponding real field as are the gas-oil ratios, oil gravities, and sulfur contents. In some cases, the acres occupied by a model field are scaled down from the real fields to reflect the differences in amounts of reserves.

Although most of the real Alaskan fields are producing oil from several pools, the leasing study fields are modeled using one producing pool. Consultation with petroleum engineers of the Division of Oil and Gas Conservation committee indicated that this assumption will not appreciably affect the computer results, or the validity of the conclusions.

COOK INLET AND PRUDHOE BAY OIL FIELDS

STATE OF ALASKA



COOK INLET AND PRUDHOE BAY OIL FIELDS

The Sensitivity of State Petroleum Income to Various Leasing Methods

January 1977

Figure K-1

PHYSICAL PARAMETERS
OF THE MODEL FIELDS

FIELD		RECOVERABLE RESERVES (MILLION BARRELS)	FEET OF PAY (FEET)	AREA (ACRES)	AVERAGE POROSITY (%)	AVERAGE PERMEABILITY (MD.)	NUMBER OF POOLS	DEPTH TO POOL (FEET)	GAS/OIL RATIO (AVERAGE OVER FIELD LIFE) (SCF/STB)	AVERAGE GRAVITY (API°)	SULFUR CONTENT OF CRUDE (WT. %)
NAME	CLASSIFICATION										
MERCURY[1]	MARGINAL	50±	100-300	1,400	16.1	130	1	7,500	300	32.8	.08
MARS[2]	SMALL	110±	250-600	3,200	14	10	1	7,750	400	42.5	.02
VENUS[3]	MEDIUM	600±	0-450	12,400	14.8	73.3	1	9,100	400	34.6	.11
NEPTUNE[4]	LARGE	1000±	0-444	19,000	22	265	1	8,200	730	28	1.12
JUPITER[4]	GIANT	5000±	0-444	94,000	22	265	1	8,200	730	28	1.12

[1]Based on Trading Bay Field - Recoverable reserves of 75 million barrels (MMB)

[2]Based on Granite Point Field - Recoverable reserves of 110 million barrels

[3]Based on McArthur River Field - Recoverable reserves of 503 million barrels

[4]Based on Prudhoe Bay Field - Recoverable reserves of 8 billion barrels

PHYSICAL PARAMETERS OF THE MODEL FIELDS
The Sensitivity of State Petroleum Income to Various Leasing Methods
January 1977 Table K-1

Figure K-2 illustrates the development history of Northern Cook Inlet oil fields upon which the model fields development histories are based. For the purpose of this study, time zero is the lease sale date. All development takes place in relation to that date. It can be seen on Table K-2 that the average length of time from lease sale to production in the Cook Inlet has been approximately five years; therefore, the study uses that time span, also.

Table K-3 is a compilation of the production histories of the model fields. Based on the accepted historical average, each model field requires three exploratory wells. Mercury, Mars and Venus are located offshore and Neptune and Jupiter are situated onshore. Mercury uses two offshore production platforms while Mars and Venus require three. The number of production wells ranges from 32 to 240 with the average initial production rates ranging from 12,500 to 9,120,000 barrels per month. Eight to eleven years elapse between the lease sale date and the date when the fields reach peak production. Peak production rates range from 400,000 to 29,000,000 barrels per month and lasts from five to seven years, depending on the particular model field.

Based on the history of Alaskan oil development, it is also assumed that all of the model fields require water injection for secondary recovery pressure maintenance, which begins from eight to twelve years after the lease sale. The number of injection wells range from 13 to 30.

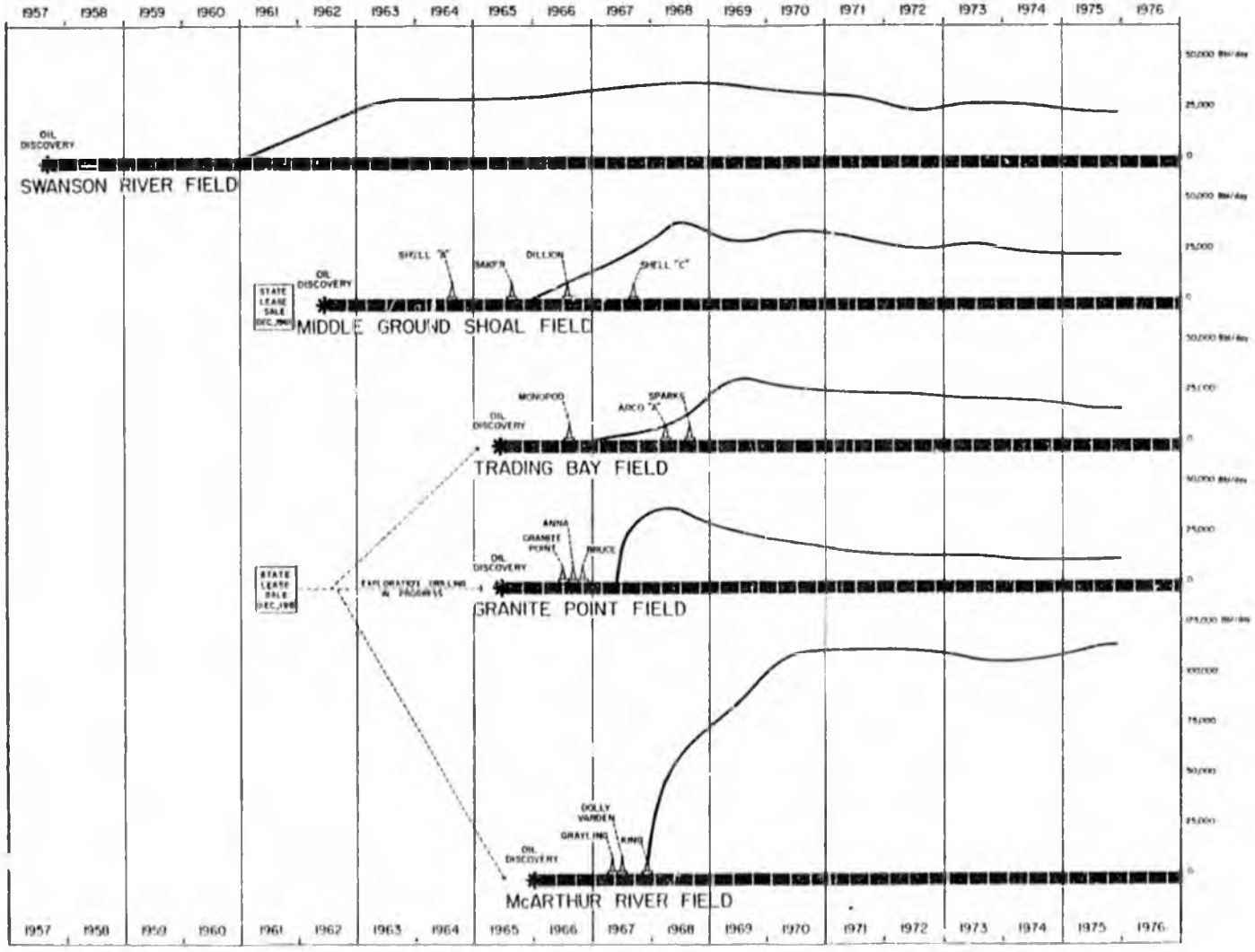
Production of the various fields begins to decline from 12 to 16 years after the lease sale. Decline rates vary from 10 to 20 percent, and the production rate at the end of the economic life of the fields range from 25,000 to 330,000

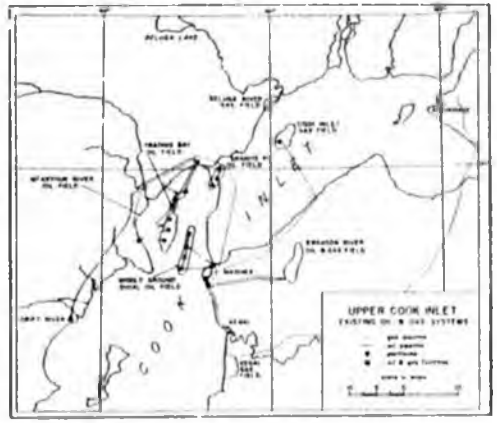
barrels per month.

Figures K-3 through K-7 illustrate the production histories of their model fields. Mercury oil fields' economic life (years of production) is estimated to be 27 years. All of the other larger fields may produce for 30 years. These are based on accepted historic averages. The length of any fields' economic life is very difficult to predict because of the uncertainties involved in changing technology and economics. It is possible that improved secondary recovery techniques and higher oil prices may extend production years far beyond the above mentioned estimations. Economic life also varies with the type of leasing method employed. Some of the computer analyses did run the economic lives beyond 30 years, but the amount of oil produced during that time is very insignificant when compared to the total production.

In the actual analysis for a future lease sale, engineering/geologic models of the potential risk oil fields to be leased will be modeled in the same manner as presented here. The expertise and knowledge gained through this modelling program will be invaluable for assessing the cost benefits of developing Alaska's energy and mineral resources.

NORTH COOK INLET OIL FIELD DEVELOPMENT HISTORY





NORTH COOK INLET
OIL FIELD DEVELOPMENT HISTORY

State of Alaska
Department of Natural Resources

October, 1976 by Edward Cole

Figure K2

UPPER COOK INLET OIL FIELD STATISTICS

FIELD	SALE DATES	DISCOVERY	TIME TO DISCOVERY	FIRST PRODUCTION	TIME TO PRODUCTION
Middle Ground Shoal	12/19/61	6/10/62	.5 years	12/65	4.0 years
McArthur River	12/19/61 7/11/62	10/24/65	4.0 "	11/67	5.9 "
Trading Bay	12/19/61 7/11/62	6/01/65	3.5 "	1/67	5.[illegible] "
Granite Point	7/19/61 7/11/62	6/09/65	4.0 "	3/67	5.[illegible] "
Swanson River	Federal non-competitive leases	8/24/57		8/61	20.[illegible] "
				Average	5.2 "

Table K-2

PRODUCTION HISTORIES OF MODEL FIELDS

Fields Name	Class.	Exploratory Wells No. of Wells	Exploratory Wells Yrs. to Compl.	Number of Plat-forms	Number of Prod. Wells	Initial[5] Prod. Rate	Water Inject. No. of Wells	Water Inject. W. I. starts	Prod. Decline Decline starts	Prod. Decline Decline Rate	At Assumed Economic Limit Final Prod. Rate	At Assumed Economic Limit Field Life*
		(No.)	(Yrs.)	(No.)	(No.)	(BBL/MO.)	(No.)	(Yr.)	(%)	(Yr.)	(BBL/MO.)	(Yr.)
Mercury[1]	Marginal	3	1,2,2,5	2	32	12,500	13	9	15	13	25,000	27
Mars[2]	Small	3	1,2,2,5	3	40	127,700	16	9	11	12	70,000	30
Venus[3]	Medium	3	1,2,2,5	3	63	760,000	22	8	15 @ 4 yrs. 20 @ 13 yrs.	16	85,000	30
Neptune[4]	Large	3	1,2,2,5	N/A	95	3,040,000	20	11	10 @ 3 yrs. 15 @ 5 yrs. 20 @ 13 yrs.	15	100,000	30
Jupiter[4]	Giant	3	1,2,2,5	N/A	240	9,120,000	30	12	10 @ 5 yrs. 15 @ 5 yrs. 20 @ 9 yrs.	16	330,000	34

*This data may vary with the use of different leasing methods.

[1]Based on Trading Bay Field - Recoverable reserves of 75 million barrels (MMB)
[2]Based on Granite Point Field - Recoverable reserves of 110 million barrels.
[3]Based on McArthur River Field - Recoverable reserves of 503 million barrels.
[4]Based on Prudhoe Bay Field - Recoverable reserves of 8 billion barrels.
[5]For all cases, production starts 5 years after the lease sale.

PRODUCTION HISTORIES OF MODEL FIELDS

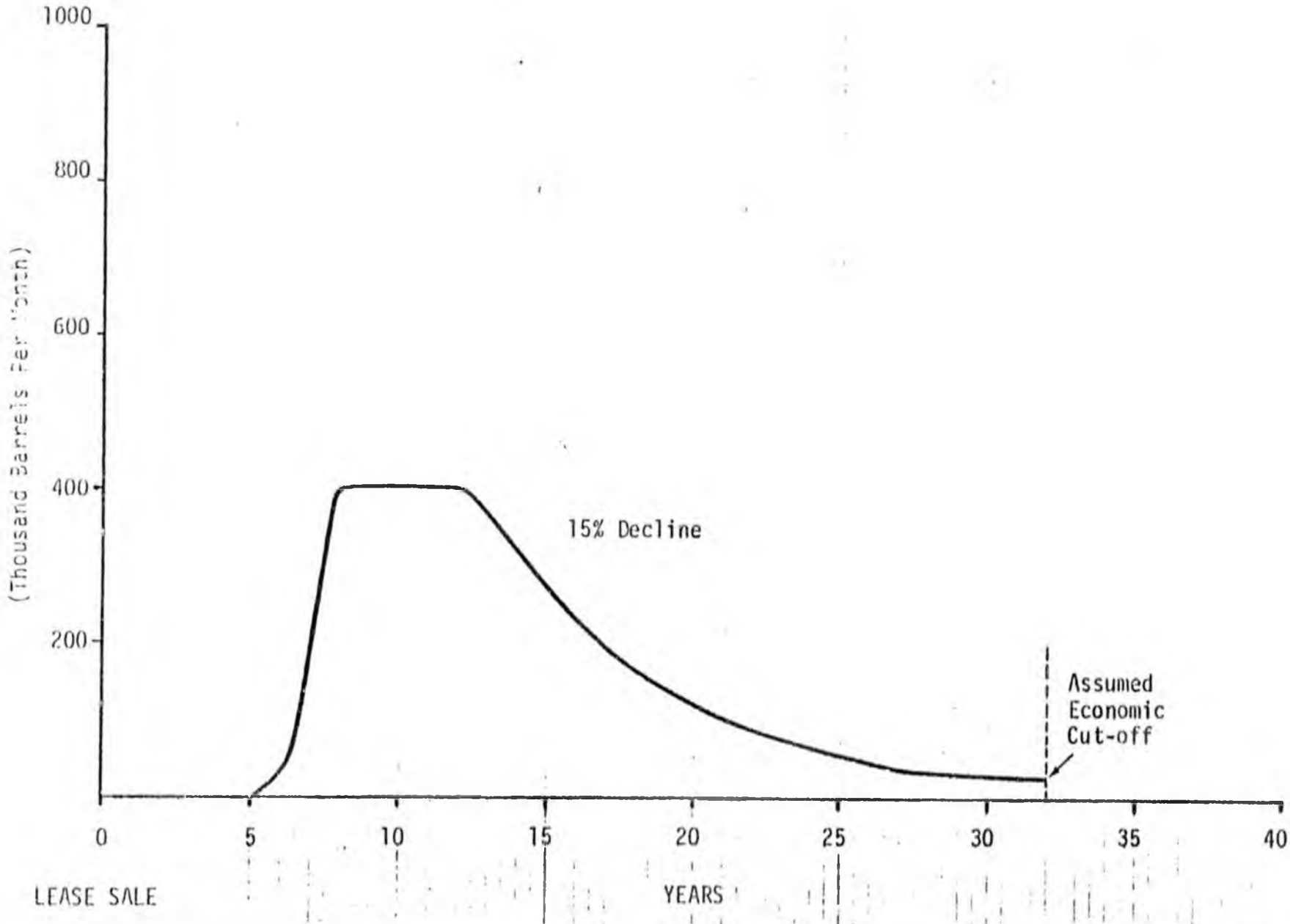
The Sensitivity of State Petroleum Income to Various Leasing Methods

January, 1977 Table K-3

Table K-3

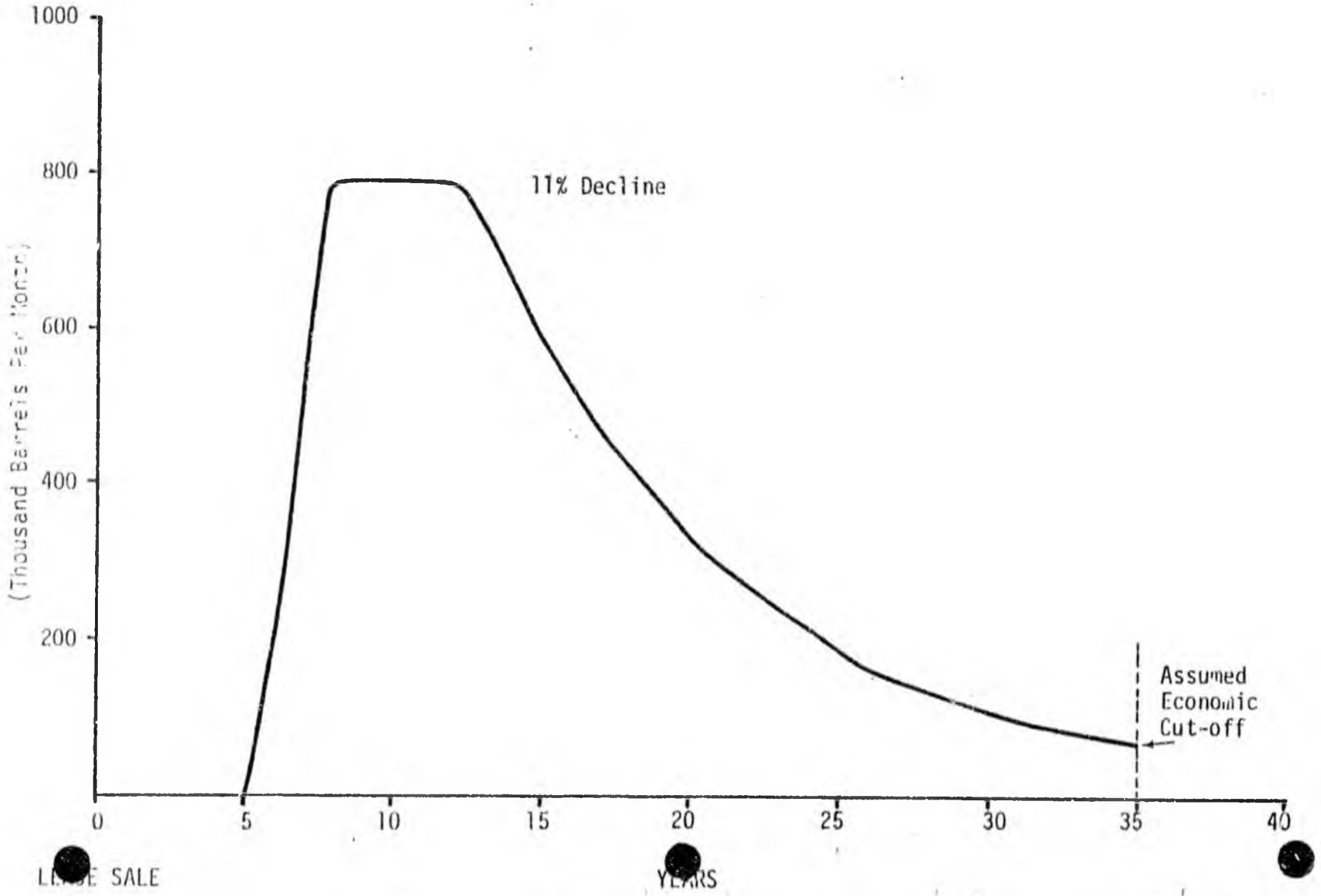
PRODUCTION HISTORY OF MERCURY OIL FIELD

(Recoverable Reserves 50± Million Barrels)



PRODUCTION HISTORY OF MARS OIL FIELD

(Recoverable Reserves 110± Million Barrels)



PRODUCTION HISTORY OF VENUS OIL FIELD

(Recoverable Reserves 600± Million Barrels)

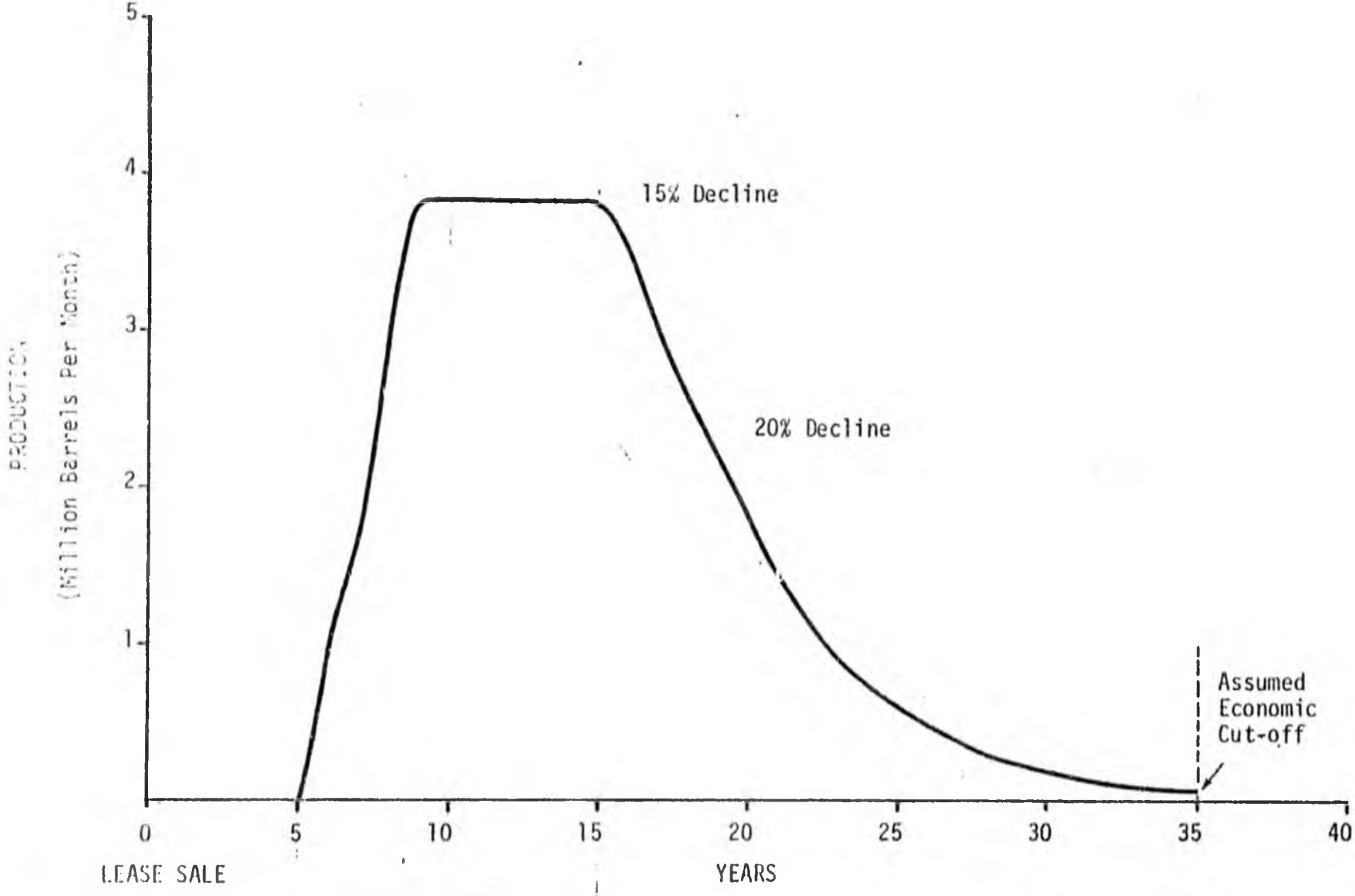


Figure V-5

PRODUCTION HISTORY OF NEPTUNE OIL FIELD

(Recoverable Reserves 1¼ Billion Barrels)

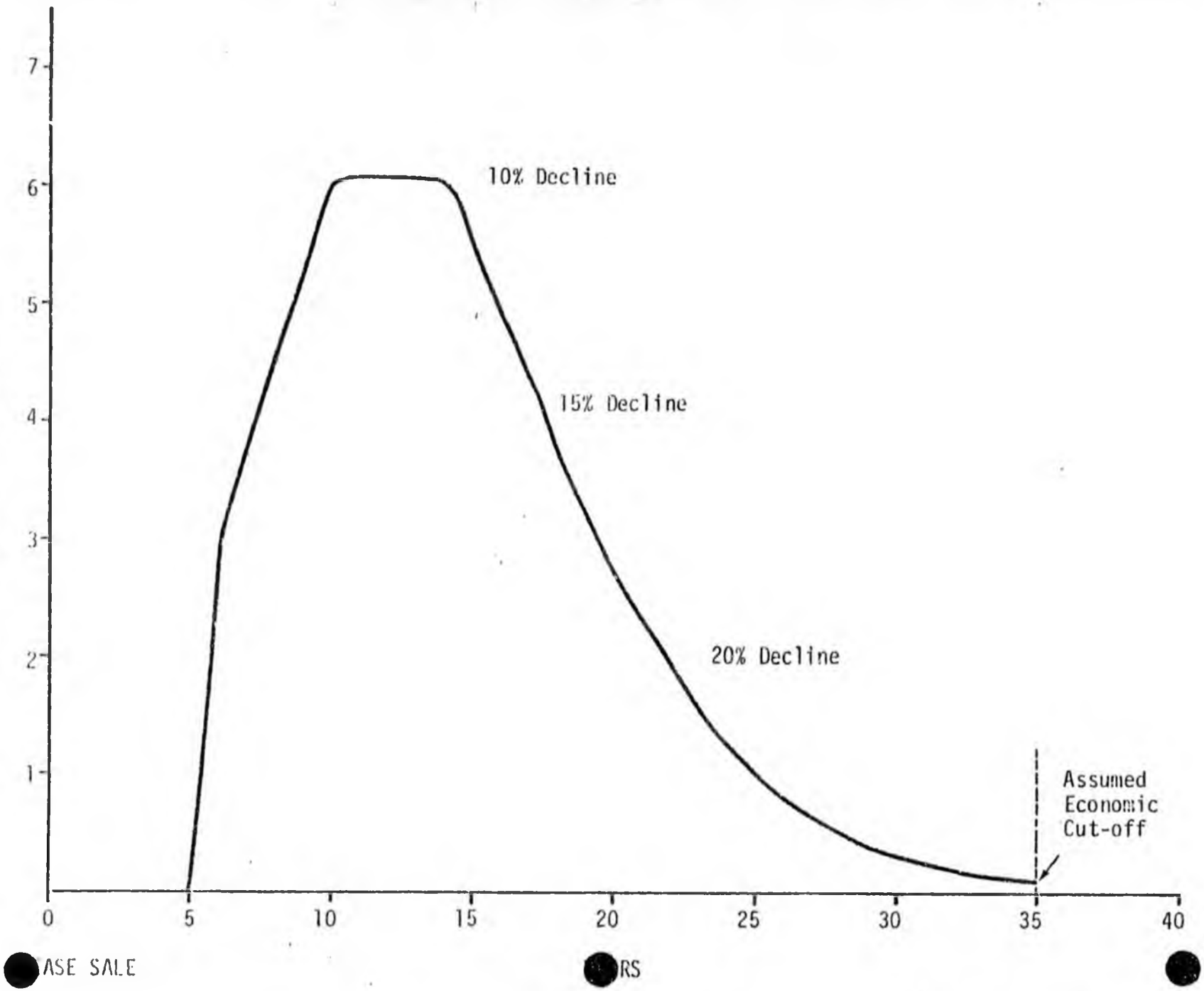


Figure K-6

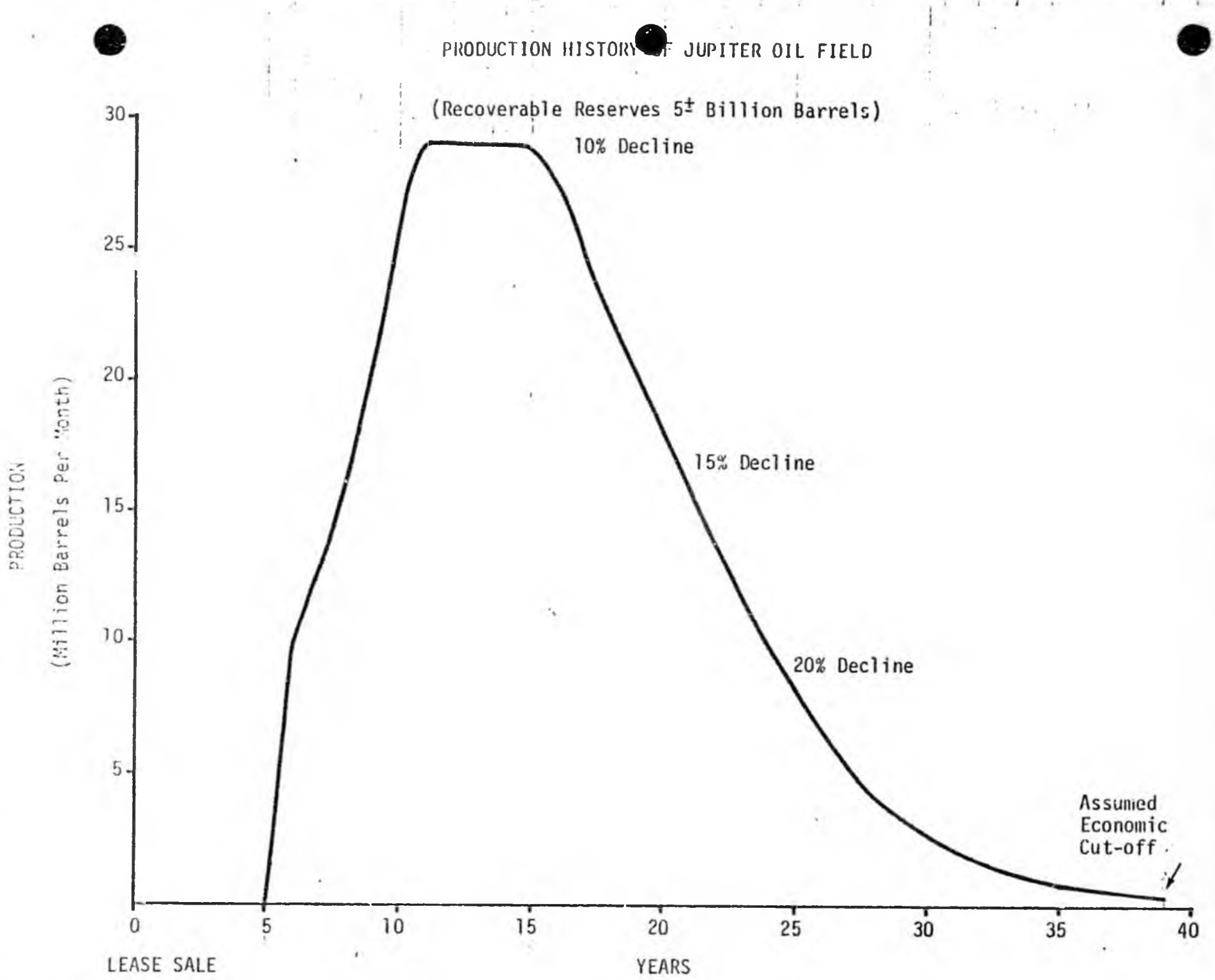
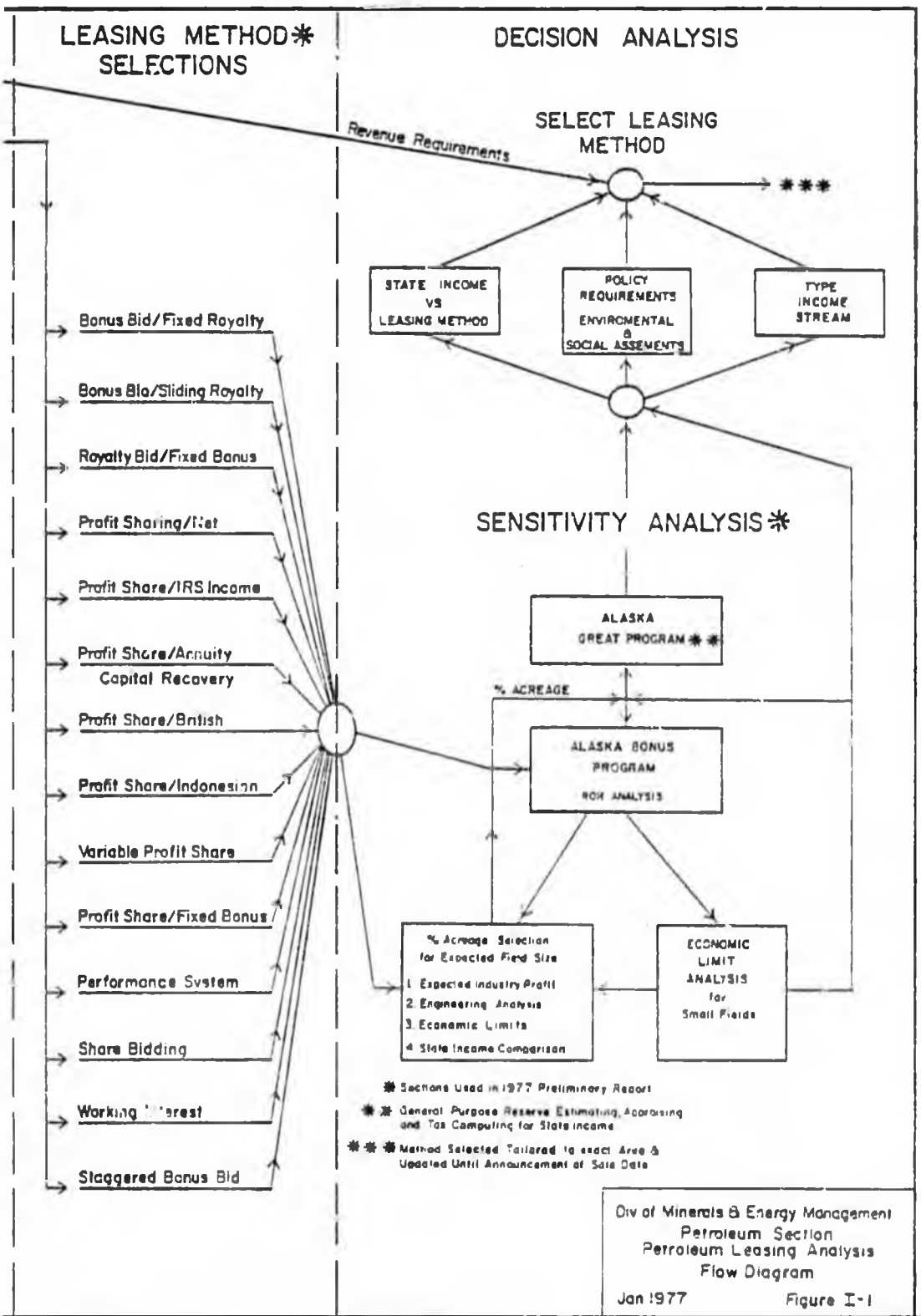

PRODUCTION HISTORY OF JUPITER OIL FIELD
(Recoverable Reserves 5± Billion Barrels)
10% Decline
15% Decline
20% Decline
Assumed
Economic
Cut-off
PRODUCTION
(Million Barrels Per Month)
30
25
20
15
10
5
0
5
10
15
20
25
30
35
40
LEASE SALE
YEARS

Figure K-7

The section of the Alaska Resource Evaluation and Leasing System that covers the sensitivity of the State's income to the leasing method utilized is described in this appendix. The following chart displays that portion of the general flow diagram that will be covered.



The computer model system employed uses a modern econometric approach designed for an industrial cash flow analysis for a potential venture. Since it is assumed that the State already owns the entire potential field it can approach the problem from a combined average position. In other words, the State will receive income from all the various bidders and can therefore model the entire oil field dealing with only one composite oil company cash flow. The econometric model uses this composite oil company as the test case to determine what incomes and rates of return will result from winning the leases in the sale, then exploring and developing the field.

Because of the unique circumstances surrounding the oil and gas leasing situation in the State of Alaska, it was necessary to have a computer model system developed to fit its needs. Garrett Computing Systems, Inc. of Dallas, Texas refurbished its GREAT system (Generalized Reserve Estimating, Appraising and Tax Computing) to suit these necessary variations and to provide the kind of output the State needed for use in its study of the sensitivity of oil and gas leasing methods.

Two program variations were developed. These programs, the ALASKA BONUS program and the ALASKA GREAT program, are combined into a system which provides an Income to the State of Alaska report as a final product. Figure V-1 shows how the various inputs are incorporated into the ALASKA BONUS program, with the resulting outputs to be used in the ALASKA GREAT program to produce the final report.

Following through this flow diagram in detail, the first decision to be

SENSITIVITY ANALYSIS
COMPUTER MODEL SYSTEM

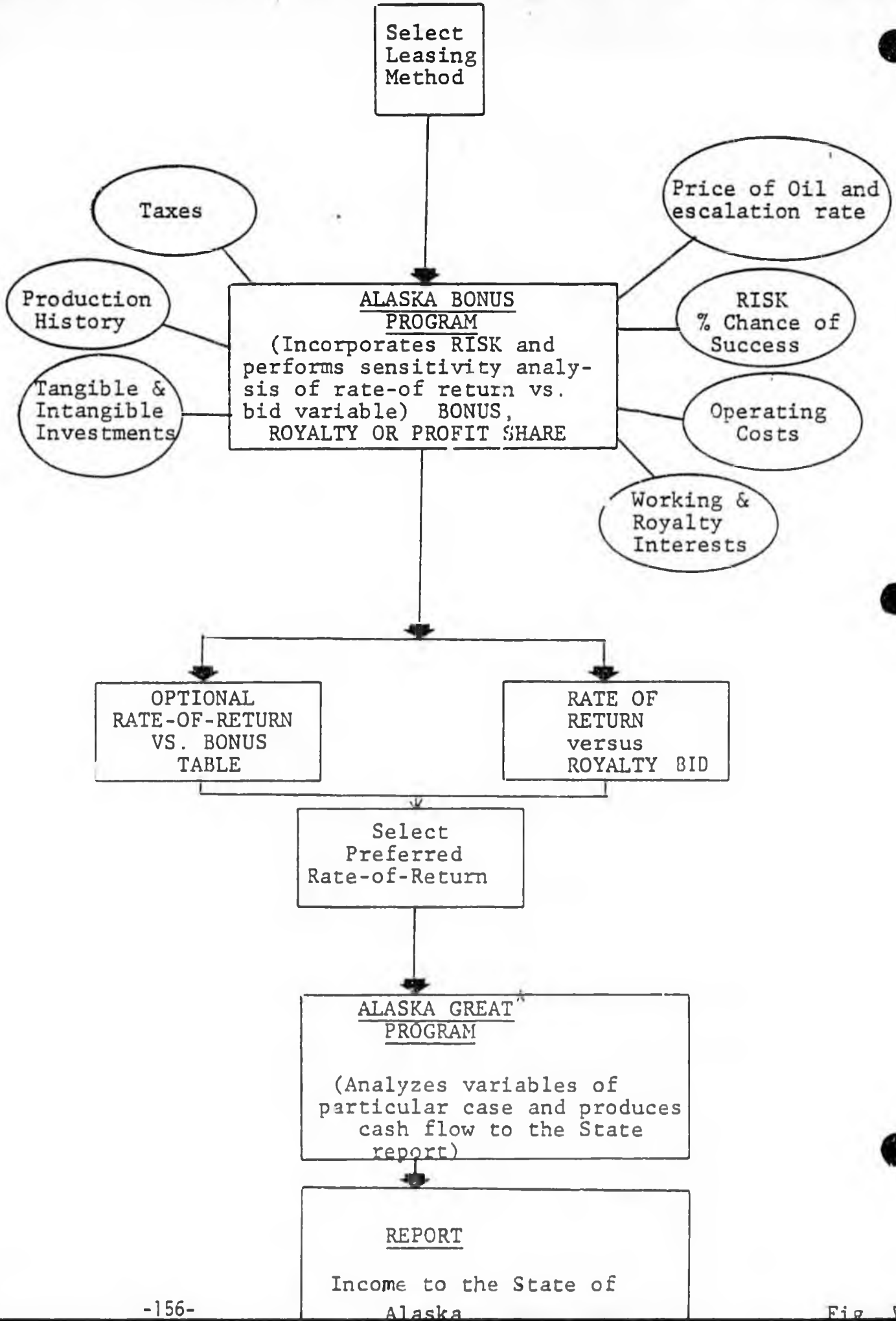


Fig. V-1

made is the choice of a leasing method. The resultant bonuses and/or royalties are used as inputs to the BONUS program along with the other input parameters specified, including taxes, production history, operating costs, price of oil, etc. The ALASKA BONUS program incorporates RISK and performs a sensitivity analysis producing a table of rates of return versus the bonus bid variables. The predetermined rate of return is taken from the table along with its corresponding bonus bid. This bonus bid is used as input to the ALASKA GREAT program which analyzes all of the inputs and produces the finalized report of the Income to the State of Alaska.

ALASKA BONUS PROGRAM

The ALASKA BONUS program is a special computer model used to analyze the cash flow from a lease to the company winning the bid and developing the field. It incorporates risk, entered as the percent chance of success, and performs sensitivity analyses of rate of return versus the bid variable (bonus, royalty, or profit share).

The basic input data to the computer is composed of the investments, expenses, production, prices, etc. of a lease. The investments are designated by type - for example, bonus payment, intangible, exploratory cost, tangible well cost, etc., and by the timing of the investment. Production, expenses and product prices are scheduled for the life of the field. The prices and expenses may be escalated if so desired.

A risk factor is entered into the BONUS program as a percent chance of

success. These adjustments for risk are handled as follows:

1) The dry hole/success ratio is calculated as the probability of a success. For a 10 percent chance of success this ratio is 9 (.9/.1), for a 50/50 chance the ratio is 1, etc.

2) Investments such as BONUS and EXPLORATORY are made whether or not the project is a success, and so are equal to the dry hole cost.

3) BONUS type investments are used for the lease bonus. For tax purposes, a bonus is capitalized when made and amortized over the life of production on a units of production basis. If the lease is determined to be non-commercial, the bonus may be written off as a lump sum at that time.

4) EXPL type investments are used for both tangible and intangible exploratory investments. Intangibles are written off when they are made and tangibles are capitalized and depreciated if a success or written off as a lump sum if non-commercial.

5) All other investment types are for those investments made only if the lease is productive.

6) The BONUS version multiplies each BONUS and EXPL type investment by the dry hole/success ratio to arrive at the dry hole cost associated with each success. These costs are then handled as described in 3-4 above.

7) A discounted cash flow analysis is then performed on the composite of the dry hole case with its associated tax treatment and the successful case with its associated tax treatment.

8) If so desired, this model will automatically perform a sensitivity analysis by varying the BONUS and producing a BONUS versus rate of return profile. A plot of a typical BONUS versus rate of return profile is included at the end of this report.

9) Other sensitivity analysis features are available to produce royalty or profit share versus rate of return tables.

THE ALASKA GREAT PROGRAM

The ALASKA version of GREAT is the computer model written by Garrett for the State to analyze the income to be received by the State of Alaska in the form of taxes, royalties, bonuses, profit shares, etc., from the various leasing alternatives. After the BONUS version has been used to determine a likely bid variable (bonus, royalty, or profit share), the case is analyzed by the ALASKA version to produce the cash flow to the State.

The options available allow the analyst to see the cash flow to the State under a variety of corditions such as assuming a success, assuming a dry hole, expected value combining success and failure, etc.

The reports show income to the State by year for each of the following

categories:

-Bonus

-Royalties and/or Profit Shares

-Severance Taxes

-Conservation and Ad Valorem Taxes

-State Income Taxes

-Total Income to State

In addition, it shows total gross production, life of production, and the present worth of the cash flow discounted at eight rates from 2 percent to 20 percent. Figure V-2 is an example of the Alaska Great output for an expected value oil field of 600 Million Barrels at 10 percent risk.

INPUTS FOR VARIOUS LEASING METHODS

Several leasing alternatives were explored in this sensitivity analysis, but fewer than had been anticipated due to time constraints. Those methods explored were:

1) Bonus Bid with Fixed Royalty

2) Fixed Bonus with a Royalty Bid

3) Fixed Bonus with Net Profit Share

4) Bonus Bid with Sliding Scale Royalty

5) Percentage of Acreage Withheld Option

Each method had to be dealt with differently within the constraints of the system of programs. In the bonus bid with fixed royalty method, the royalty rate (either 12.5 or 25 percent) is input into the ALASKA BONUS program, which produces the rate of return versus bonus bid table.

VENUS
SOUTH REGION
ONE POT CHANCE OF SUCCESS
PRICE = $10.66 + 5% TO $18.00
BONUS BID + 12.5% ROYALTY

DATE: 02/02/77
TIME: 12:16CST
FILE: AVENHI

INCOME TO THE STATE OF ALASKA

AS OF DATE: 12/31/1976

YEAR	NON-TAX REVENUE M$	GROSS TAX SEVERANCE M$	CONSERVE+ ADVAL TAX M$	STATE INC. TAX M$	TOTAL INC TO STATE M$
BONUS	173030.				
2	173030.	0.	0.	-4580.	168450.
3	0.	0.	0.	-345.	-345.
4	0.	0.	0.	-26247.	-26247.
5	0.	0.	0.	0.	0.
6	0.	0.	0.	-969.	-969.
7	1922.	1319.	141.	1095.	4477.
8	3450.	2368.	241.	1700.	7759.
9	6230.	4276.	415.	3740.	14670.
10	8490.	5826.	539.	5162.	20017.
11	8914.	6117.	539.	5192.	20762.
5 TOT	202036.	19904.	1876.	-15242.	208575.
AFTER	98038.	67275.	5556.	57334.	228203.
TOTAL	300074.	87179.	7432	42092.	436777.

PEAK INCOME
SINGLE PERIOD 2.
5 YRS W/BONUS 2.- 5.
5 YRS NO/BONUS 13.- 17.
LIFE (YEARS) 34.8

GROSS PRODUCTION
OIL (MBBL) 63386.13
GAS (MMCF) 0.
OTHER (MUNITS) 0.

DISC%	PW - M$	DISC%	PW - M$
2.00	362149.032	10.00	210138.872
4.00	307083.700	12.00	191110.736
6.00	265511.910	15.00	169530.964
8.00	234-02.472	20.00	145315.032

Figure V.2

A step by step analysis of how the bonus bid with 12.5 percent royalty method is input into the computer follows:

Lines 100 - 107 contain the information for the heading of the report.

```
101 VENUS
102 SOUTH REGION
103 10 PCT CHANCE OF SUCCESS
104 PRICE = $10.86 + 5% TO $18.00
105 BONUS BID + 12.5% ROYALTY
107 BONCOM 10
```

Lines 210 and 220 include the basic information dealing with working interests, royalties, operation costs, initial rates, prices and the chance of success.

```
210 100 12.5 340000 0 0 12 31 1976
220 0 0 0 17.88275 7.9 1
```

Lines 300 through 304 designate a stream of operating costs based on cost per development well per year for the life of the field.

```
300 STREAM -33
301 0 0 0 0 0 0 12150000 15795000
302 18225000 19440000 20655000 21870000 23085000 24300000 25515000 25515000
303 25515000 25515000 25515000 25515000 25515000 25515000 25515000 22680000
304 19845000 16200000 19440000 12150000 8100000 8100000 8100000 4050000
```

Lines 410 through 415 deal with projections of the future reserves and rates of production. The rates of production can be increased or decreased over a fixed period of time based on real production histories.

```
410 CRP 0 0 B/M 5 YRS
411 SET 0 760000 B/M 0 0
412 CPD 0 3830000 B/M 8 YRS
413 CRP 0 3830000 B/M 15 YRS
414 CPD 15 0 B/M 19 YRS
415 CPD 20 0 ELC 0 0
```

The 600 and 700 series is used to modify any data previously entered into the program as constants; such as royalties, operating costs, taxes, increases in oil prices, etc. These values are modified by

overlays which replace data originally there; or are escalated, which increments the value of the data entries during a specified period of time.

```
609 10.86 $/B 0 NPT
610 5 PCC 18.00 $
650 0.11725 $/B 0 NPT
710 0 NPI 151285 M$NWI
711 63.438 NPI 0 NPT
```

The 800 series outlines the investment section of the program, scheduling tangible, intangible and salvage values. These investments include exploratory costs, the bonus lease payment, drilling, platform costs, etc.

```
801 BONUS 0 YRS G 0 48186 0
802 EXPL 1 YRS G 1135 4505 0
803 EXPL  2.5 YRS G 2270 9010 0
804 PLATFRM 4.35 YRS G 78546 67427 0
```

The BONUS program reads the input data, makes the necessary adjustments for the risk, and performs an after-tax discounted cash flow analysis. The single output from this program is a bonus versus rate-of-return table.

```
WHEN BONUS IS        0. M$, ROR =   38.7 PCT.
WHEN BONUS IS     7667. M$, ROR =   29.8 PCT.
WHEN BONUS IS    17667. M$, ROR =   24.5 PCT.
WHEN BONUS IS    35334. M$, ROR =   19.8 PCT.
WHEN BONUS IS    53001. M$, ROR =   17.3 PCT.
WHEN BONUS IS    70668. M$, ROR =   15.0 PCT.
WHEN BONUS IS   141336. M$, ROR =   10.3 PCT.
WHEN BONUS IS   247338. M$, ROR =    5.9 PCT.
WHEN BONUS IS   353340. M$, ROR =    4.4 PCT.
WHEN BONUS IS   459343. M$, ROR =    3.0 PCT.
WHEN BONUS IS   565345. M$, ROR =    1.8 PCT.
WHEN BONUS IS   706681. M$, ROR =    0.  PCT.
```

The bonus bid which corresponds to the desired pre-determined rate of return can then be selected. This bonus bid is input to the ALASKA GREAT program producing the Income to the State of Alaska report.

In the second leasing method, The Fixed Bonus with a Royalty Bid, the fixed bonus is determined as follows.

Fixed Bonus = 2.5 cents per barrel of expected recoverable oil

The royalty bid is then determined by running a TRACE ROR (rate-of-return) on the BONUS program, which contains a first guess at the royalty percentage. By trial and error, and by using the TRACE ROR, two points can be obtained above and below the desired 18 percent rate-of-return. By interpolation the exact royalty percentage can be found.

The Fixed Bonus with a Net Profit Share method produces the most problems with the computer input. It was first determined that the company must be allowed to recapture the amount of its tangible investment plus 4 percent interest, to give the company some return on its investment. After this amount has been calculated, a TRACE ROR is run to compute the Net Profit Interest at an 18 percent rate of return to the oil company. (This trace is done within the BONUS program).

Next, a TRACE A is run on the ALASKA GREAT program to trace line 44 or the "Net Profit Stream." A list is provided of thirty-two values which tell at what time the investment plus 4 percent interest will be recaptured and when the state will begin to get its percentage of profit share. It is necessary to put a "0" in the royalty slot on line 210.

The net profit stream from the TRACE A is input on lines 305 through 309 into the ALASKA GREAT program, producing the income to the state of Alaska. Of course, the fixed bonus in this method is determined in the same way as it is paired with the Royalty Bid.

The fourth leasing alternative, the Bonus Bid with a sliding scale royalty is handled in a slightly different manner. It was determined that approximately five percent increments gave an adequate representation of a sliding scale royalty. These royalty increments are input on line 183. Lines 181 and 182 denote barrels of available oil, and barrels to be added to each step of the royalty up the scale. For example, a 20 percent royalty of production over 1,000,000 barrels added to a base figure of 200,000 Bbls would be the royalty in this case. Therefore the royalty is a function of the production of the oil field.

The final leasing method dealt with is the Percentage of Acreage Withheld Option. In this method, the entire area under consideration is divided into tracts with 40 percent withheld for sale at a later date. Sixty percent of the tracts are sold at a 10 percent risk, and are input to the computer as such. The remaining tracts are sold two years later, so all of the time limits of production and investments must be increased by two years. Also a 90 percent risk factor is used at this later date. The resultant incomes from these two runs are added together to give the total income to the State of Alaska.

The major economic factors are calculated by the ALASKA BONUS program and the ALASKA GREAT program in this fashion:

Production*= Field Size x Risk Factor

$$\text{Total Bonus Amount} = \frac{\text{Bonus per Structure}}{\text{Risk Factor}}$$

$$\text{Total Dry Hole Cost} = \frac{\text{Dry hole costs per Structure}}{\text{Risk Factor}}$$

Gross Revenue = Expected Production x Crude Oil Price

Severance Tax = Gross Revenue x .079

Royalty Value = (Gross Revenue - Severance Tax) x Royalty Fraction

Revenue to Oil Company = Gross Revenue - Severance Tax

Conservation and Advalorem Tax = Gross Production x .1175¢/Barrel

Operating Cost = Wells per year x Fixed value depending on Field Size

State Income Tax = (Oil Co. Revenue - Operating Cost - Depreciated Tangible Investment - Amortized Bonus - C & A Tax) x .094

Fed Income Tax less Investment Tax Credit = (Oil Co. Rev - Operating Cost - Depreciate tangible Investment - Amortized Bonus - C & A Tax - State Income Tax x .48

Profit = Oil Co. Revenue - Bonus - Investment - Operating Cost - C& A Tax - State Income Tax - FIT

State Income = Bonus + Severance Tax + Royalty + C & A Tax + State Income Tax

*In this study production is called "Expected Value Production."

APPENDIX C

COST, PRICE AND EXPECTED VALUE

The approach used in this report is to approximate actual conditions expected wherever possible. To accomplish this a considerable effort was used to determine what the possible future prices of oil could be and what operating costs might occur on State lands. We have selected only one price method for our sensitivity study although we realize that there may be considerable uncertainty in future Alaskan prices and costs. In an actual resource management analysis we will be using a probabilistic input for costs and prices and a Monte Carlo sampling technique for the economic calculations to account for this uncertainty. The price and cost approach we have used appears to be quite adequate for showing the sensitivity of income to leasing methods.

PRICE

A great deal of uncertainty surrounds FEA pricing of new oil. Therefore, for purposes of this study, the price used in the low price case has been either the current upper tier price in Cook Inlet, or the expected price to be received at Prudhoe Bay as published in the Oil and Gas Journal. In the high price case the world price of OPEC oil adjusted for transportation costs was used. These prices were escalated by 5% per year to a maximum of $18.00 per barrel with the expectation that the OPEC countries will raise the real price of oil each year by at least this percentage and that the FEA will allow the real price of oil to rise at this rate. This price approach is probably conservative since real price increases in the value of petroleum in the next thirty years may be spectacular.

COST

Because very little has been published on costs of petroleum production or investment costs in the State of Alaska, the costs used in this study were predicted on the best estimate available. To assist in this estimate, cost parameters from the Cornell University study (Alternative Energy Leasing Strategies and Schedules for the Outer Continental Shelf), and from special studies published by the American Petroleum Institute were used, among others.

In addition to the costs of operating a field and its associated investment costs for platforms, production facilities, exploratory and development wells; a rate for Federal and state income tax, Alaska severance tax, ad valorem tax, and conservation tax was included.

Due to the inconsistency of income received from Alaska corporation income tax due to the provision for apportionment, the scenarios are based on the operations of a domestic oil company. By using this approach all companies are placed on the same tax basis.

Ad valorem tax and conservation tax is computed on a per barrel basis. The study "Analysis of the Profitability of Operations in the Cook Inlet Basin by the Oil and Gas Industry, Taken as a Whole" prepared by the Department of Revenue, was used to estimate ad valorem tax on a per barrel basis.

Operating costs were based on a cost per well since operating costs follow closely increased development, and decline with well shut ins. Operating costs include lifting costs and remedial well work.

The most commonly used method of computing depreciation of equipment on producing oil properties is the "unit-of-production" method, and this method was used in this study. The distinguishing feature of this method is that depreciation per unit is obtained by dividing the estimated units of hydrocarbon reserve into the investment in equipment. The number of barrels produced in a given period is multiplied by the depreciation per unit to obtain the amount of depreciation for the period.

So far as this study is concerned, the situation in which the operator has the full working interest and there are no other outstanding interests except the basic royalty or net profit interest was the only one considered.

For purposes of computing Federal income tax, the oil company was allowed a 10% investment tax credit, which is in line with current tax procedure.

All costs, such as geological and geophysical costs, are considered "sunk" at the time of lease sale, and are given no consideration in investment costs of the project. Sunk costs and the costs of borrowing money are considered, though, when choosing a rate-of-return equitable to the oil company. The Cornell study also considered prior costs to be "sunk" at the time of lease sale. Price and cost regions (Figure C1) are discussed in Section IV of the report.

Expected Value

The expected value concept was used throughout this study as a method of uniting uncertainty and economic factors into a meaningful decision criterion. For any course of action there are at least one and often many possible outcomes.

COST REGIONS

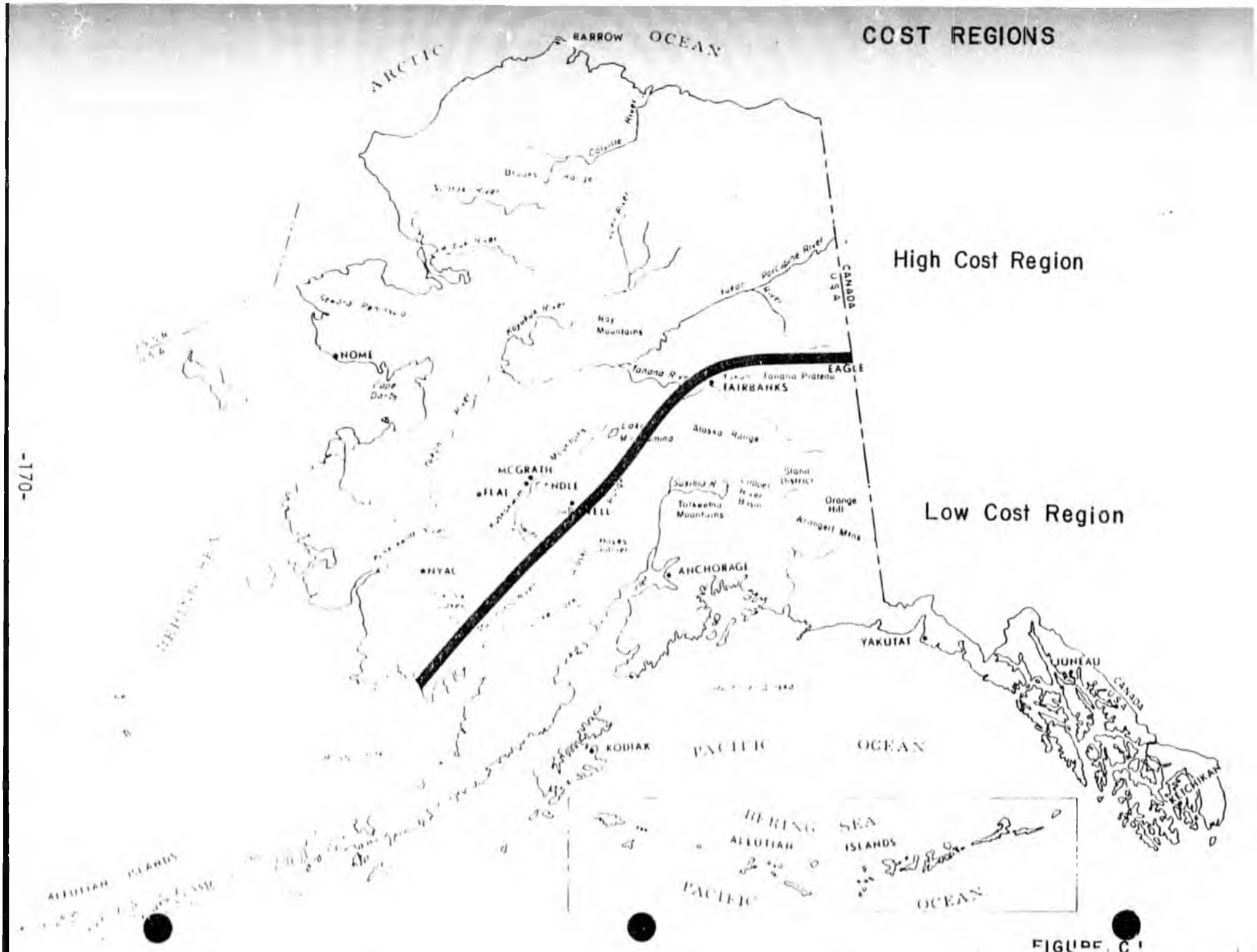


FIGURE C1

The probabilities of each of these possible outcomes, each expressed as a fraction from 0 to 1.0, must sum to 1.0. If an event has a certain outcome then that outcome has a probability of 1.0 If an event has multiple possible outcomes, such as the flip of a fair coin, the sum of the probabilities of occurrence must equal 1.0, e.g. probability of heads (0.5) plus probability of tails (0.5) equals 1.0.

The expected value of an outcome is defined as the value received if that outcome occurs times the likelihood of its occurrence. The expected value of a course of action is the sum of the expected values of its possible outcome. For example, if nine dry structures are drilled for each discovery drilled, the probability of a discovery for any specific structure is one in ten or 10%. This then means that the average oil recovery for each of the ten structures drilled is 10 percent of the productive structure. Suppose additional information on the field was obtained, causing some structures not to be drilled because of low probability of an economical size field. It would then be likely that the probability of occurrence would increase (due to better information) as would the expected value. Let's say that with the new information, only four dry structures are drilled for each discovery drilled. This results in the expected value of recoverable oil to increase from 10 percent to 20 percent. Therefore, based on this information, for each field leased, the cash bonus bid to the State should be increased in direct proportion to the increase in the probability of the expected event occurring.

In business and economic decision making, a major decision criterion is often expected monetary value or EMV. For instance, assume that the president of the company has two alternative courses of action for a proposed investment. The first alternative has a 50/50 chance of either losing $100,000 or making

$1,000,000 thus its EMV = (.5)(-100,000)+(.5)(1,000,000)= -50,000 + 500,000 = $450,000. Alternative two has a 30 percent chance of losing $100,000 and a 70 percent chance of making $700,000, with an EMV of (.3)(-100,000) + (.7)(700,000) = -30,000 + 490,000 = $460,000. Therefore, if the company president based his decision on EMV, he would select alternative number two. Of course, there may be other overriding considerations but strictly from the standpoint of maximizing EMV, alternative two is superior.

In this analysis, the monetary value was most often represented by cash flows and their discounted values rather than simple lump sum values.

APPENDIX D

Currently, the State of Alaska's leasing system is a cash bonus bid with a minimum fixed royalty of 12.5 percent. The methods analyzed in this report include the present system with different fixed royalties, sliding scale royalty with bonus bid, net profit share bid with fixed bonus, royalty bid with fixed bonus and percentage of acreage withheld. This limited number of methods were chosen for analysis from a great number of possible methods due to time limitation factors. In the future The Division of Minerals and Energy Management plans to analyze a number of other methods possibly including fixed bonus with oil payment bidding, performance system, share bidding, working interest system, staggered bonus bidding, profit share with an IRS income base, annuity capital recovery profit share, British-type profit share, Indonesian production sharing, variable profit share, fixed bonus with profit share bidding. The basic elements of these methods are summarized below after a discussion of the methods utilized in this study. If a more detailed description of these methods is desired, please refer to Federal Leasing of Petroleum on the Outer Continental Shelf or Alternative Energy Leasing Strategies and Schedules for the Outer Continental Shelf (see bibliography).

EXAMINATION OF METHODS USED IN THIS STUDY

(1) Bonus Bid With Fixed Royalty

Bonus bid with fixed royalty is the system currently used by the State of Alaska. In a lease sale, the winning bid for a tract is the one which makes the highest sealed cash bonus bid. There is also a minimum royalty of 12.5 percent. An advantage of this system is that government receives revenue regardless if there are economical quantities of oil or gas found and/or produced. However, bonus bids are depressed to account for risk. An inherent difficulty is that royalty affects income but not cost. For evaluation purposes, we have used two

different fixed royalty rates: our current rate of 12.5% and an increased rate of 25%. To avoid early termination of production, royalties need to be flexible during a field's declining years.

(2) Sliding Scale Royalty With Bonus Bid

Under this system, the government receives a cash bonus bid and a sliding scale royalty. We used 12.5% as a minimum figure and 60% as a ceiling wherein the rate in any period is dependent upon the production of that period. If the production rate is high, then a higher royalty rate is applied. This encourages production to continue in order to extend the field's economic limit. The royalty rate falls as production declines. Greater flexibility in setting the initial rate is the major advantage of this system while not running the risk of an uneconomically (for Industry) high royalty rate. On the other hand, to achieve an overall lower royalty payment, a company might spread out production over a longer period of time. Usually, however, because of the time value of money and increased operating costs, oil companies generally try to accelerate production.

(3) Net Profit Share Bid With Fixed Bonus

The fixed bonus in this report was calculated by multiplying 2.5 cents per barrel times estimated recoverable reserves. This small fixed bonus is required as earnest money. The bonus is low enough to encourage producers to bid a high net profit share while permitting profitable development. In this system, the operator recovers all of the capital investment plus 4% nominal interest per year before the government takes its share of the profit.

(4) Royalty Bid With Fixed Bonus

This system utilizes the same method to calculate fixed bonus as described for Net Profit Share. The bid parameter is a function of production instead of net

profits. Since the bonus is fixed, interested parties bid on the royalty rate that the government is to receive. The advantage of royalty bidding is that little front end money is needed by Industry. However, this would encourage speculation causing an overbid. Royalty bidding should encourage more conpetition among bidders and may allow the smaller companies a better chance of winning the tract.

(5) Percentage of Acreage Withheld Option

This option should be considered for use in any high risk bidding situation, except for small fields. As its title implies, a percentage of the acreage is withheld from the initial lease sale situation. Analysis has shown that the lessor can derive significantly higher incomes by withholding a percentage of a petroleum structure for a deferred sale. The percentage to be withheld would be determined from geologic/geophysical data and economic analysis on the prospective structure.

Refer to the analysis section for further discussion of these methods.

POSSIBLE METHODS FOR FUTURE ANALYSIS

(1) Fixed Bonus With Oil Payment Bidding

A fixed bonus is specified in dollars whereas the oil payment can be designated as a percent of production or as a set number or barrels to be paid for each year of the lease. The primary advantage is that both government and private industry share the market price risk of petroleum. However, if the oil payment percentage of production, then this method is actually royalty bidding. Moreover, if the payment is in terms of barrels paid per year, then the system is actually a rental system. Both royalty and rental systems have their advantages and disadvantages so there is not a unique advantage to having an oil payment bidding system.

(2) Performance System

This system, which has been used by Canada and Great Britain, replaces the competitive market place with administrative evaluations. The government, as the authorized leasing agent, itemizes the performance criteria such as the rate and amount of work to be performed on each tract, and the amount of capital expenditures. The performance system provides government with the authority to specify the exact rate and extent of resource development. This allows for stringent control over the use of the resources. Another advantage of this system is that it may give small operators greater access to the resources.

(3) Share Bidding or Phillips Plan

The entire structure is leased in this system. Bonus bids are entered for the entire field instead of for a specific tract. Based on their equity in the field, each company receives a percent of the profits or losses with a maximum of 20 percent participation by any one company. The companies form a corporation with each company having the same percentage of control as they have equity. One operator is responsible for exploration and development. Bonus bids held in escrow may be used for field development costs. The advantage of this system is that the bonus bids are used as working capital to explore and develop the field. However, the administrative complexity of such a plan necessitates close government monitoring of the corporations' activities. This monitoring increases administrative costs to the government, but in return the government acquires detailed knowledge of operation economics.

(4) Working Interest

In this system, the companies bid for working interest shares of the structure rather than for a specific tract. The winning bidders are those whose bids

sum to the largest total bid for the entire area. The lessor selects an operator to undertake exploration and development of the area after the lease sale. The economics of this system are similar to the profit share or royalty systems. The difference is that this system allows for more than one owner of the structure since it is likely that there will be several winning bidders.

(5) Staggered Bonus Bidding

The bonus is not paid in one lump sum, but in several stages. For instance, paying at the time of sale, when petroleum is found and when production begins. The primary advantage of this system is that there is less capital expended at the front end, thereby allowing more funds for exploration and development.

(6) Profit Share Systems

Profit share systems consist of a variable cash bonus bid plus profit sharing taken on net income. Since there are a number of ways to define net income, there are also a number of profit sharing systems. In these profit sharing systems there is no allowance for loss sharing if no development occurs. The remainder of the leasing methods will be some variation of profit sharing.

(A) Profit Share System With an IRS Income Base

The IRS income base is defined as gross revenue minus operating costs and depreciation. This definition is essentially net operating revenue in each year allowing for the depreciation of capital investment. One advantage of this system is that since costs are deducted before the profit share is taken, it reduces the possibility of early termination of production.

(B) Annuity Capital Recovery Profit Share System

The annuity, with a pre-specified interest rate and length of capital recovery period, is derived from all of the capital investment plus interest to the time production begins. To obtain the profit share base, the amount of the annuity is subtracted from net operating profits. After the investment capital has been recovered, the government profit share is taken from the net operating profit. The profit share rate can generally be set high since the profit share base approximates a true economic share. The problem of no development occurring because the profit share rate was set too high has been alleviated by this system.

(C) British Type Profit Share System

In this system, the government does not take its profit share until after some factor times the total capital investment is recovered from net profits. Otherwise, the economics are the same as the annuity capital recovery system except that the investment capital is recovered sooner and over a shorter time interval.

(D) Indonesian Production Sharing System

All capital equipment becomes government property in this system. However, a rental rate of up to 10% per year is allowed to be added to operating costs. Each year operating cost can be deducted from forty percent of production. If operating costs exceed forty percent, they can be carried forward to the following year. The profit share is then taken from the remaining sixty percent. This system is more appropriately called a constrained profit system, since total recoverable costs cannot exceed forty percent of the value of production. There is no provision in this system for return on initial investment capital in the profit share basis.

(E) Variable Profit Share System

Variable profit share is similar to the sliding scale royalty system with the exception that the variation in profit share rate is expressed in terms of annual net profits rather than annual production. This system could be used with any of the profit share systems described thus far. There is the advantage in this system of more flexibility in setting the rate before reserves and costs are known than in fixed rate system. Production may be spread over a longer time period to achieve a lower profit sharing rate.

(F) Fixed Bonus With Profit Share Bidding System

The bonus is fixed in this system and interested parties bid on the profit share that the government is to receive. This system encourages speculation, however, and to what degree, can only be evaluated in conjunction with the type of profit share base being used.

COMBINATIONS

Of the leasing methods just discussed, it is apparent that some of the methods can be combined to give a large possible number of leasing alternatives. Combinations will not be examined individually because inferences can be drawn from the basic alternatives previously described.

SECTION IV

THE VARIATION OF PETROLEUM LEASING CRITERIA WITH GEOGRAPHIC LOCATION

SUMMARY

Limited data was available for this study and many subjective decisions were used during the analysis. Even within the limited scope of this work it is apparent that areas of the state can be divided into different leasing classifications for oil and gas. An on-going resource/economic analysis of resource areas by the Division of Minerals and Energy Management will insure refinement of this classification system and an optimum cost/benefit leasing program.

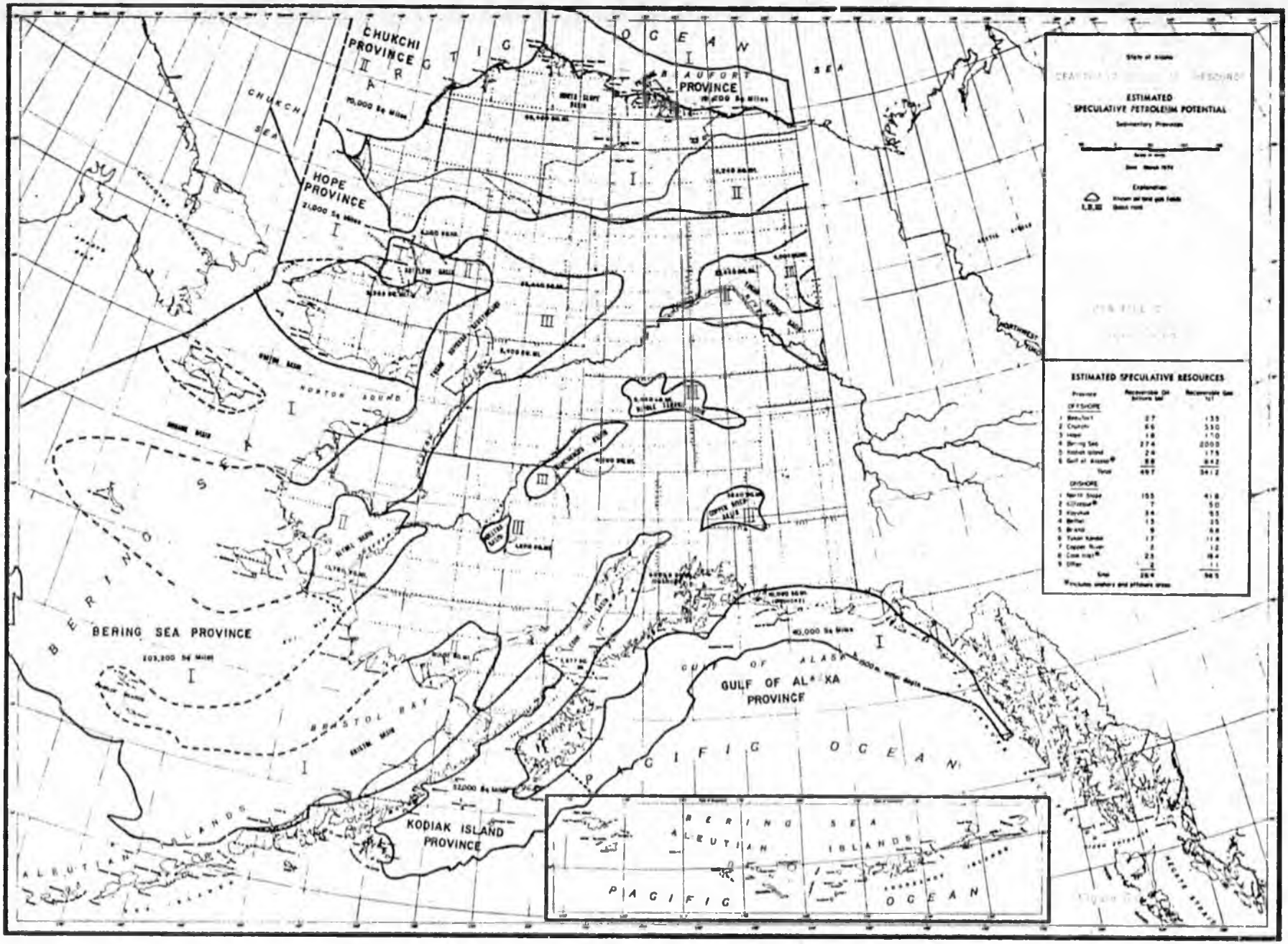
The lessons learned here and the technical abilities developed can be used for determining the cost/benefit of leasing other Energy and Minerals. Coal and Uranium would both fall easily into this type of analysis. Uranium is leased everywhere in the United States but Alaska on a royalty per pound basis. Up to now no economic/cost benefit attempt has been made to establish what the optimum price would be for leasing coal and uranium. Some coal leases have been let for 10¢ a ton on twenty year contracts. The application of an analysis similar to the one used for petroleum to other resources would be the first step to ENERGY Resource Management.

SECTION IV

The State of Alaska is unique in its position as a potential national source of petroleum and its derivatives. The vast area to be developed along with the explorative immaturity of the state provides many variables which can change with time. In this report, these variables will be examined and some conclusions will be drawn as to the potentials of oil and gas resources on state lands in Alaska, and the possibility of state leasing sales to be held in the future.

The analysis "Sensitivity of State Income to Various Leasing Methods" revealed four key variables with respect to oil and gas leasing. (1) The amount of the expected petroleum resources, (2) the risk of finding these reserves, (3) cost of operations and (4) the price of petroleum. This study indicates that all four of these variables are dependent upon their geographic locations in Alaska. Since income to the State from oil and gas development is therefore dependent upon a knowledge of the resource and regional characteristics, flexible leasing methods will be necessary if income to the state is to be maximized.

We have found that the state can be divided into regions based on the key leasing criteria. These Resource/Risk/Cost/Price provinces can be used when considering leasing methods and would establish the type of input variables for economic resource analysis before leasing.


CHUKCHI PROVINCE
HOPE PROVINCE
BEAUFORT PROVINCE
BERING SEA PROVINCE
KODIAK ISLAND PROVINCE
GULF OF ALASKA PROVINCE
CHUKCHI SEA
BEAUFORT SEA
BERING SEA
NORTON SOUND
BRISTOL BAY
ALEUTIAN ISLANDS
PACIFIC OCEAN
ESTIMATED SPECULATIVE PETROLEUM POTENTIAL
ESTIMATED SPECULATIVE RESOURCES

Potential Oil & Gas Regions on State Lands

The potential of the state oil and gas lands has been calculated from the Division of Geological and Geophysical Survey's Open File Report 50 (Figure G-1) which outlines basin by basin estimates of recoverable oil and gas resources in Alaska. As this report states, these state land calculations are subject to a high degree of error, given the lack of information and exploration data in some of these areas. The information available to the state at this time for evaluation of petroleum resource 's limited but the Division of Minerals and Energy Management in its long range analysis of petroleum potential for leasing will acquire seismic and other data in the future to adequately evaluate each state province. There is a possibility of large oil fields in some of the more promising sedimentary basins which might make these estimates too low, but there is also the possibility of no fields or very small fields in some of the state held areas which could make the estimates too high.

As previously stated, Alaska's sedimentary basins are relatively unexplored. The variability in the amount of explorative data is great, ranging from the exhaustively explored areas of the Upper Cook Inlet and Prudhoe Bay to the Western Chukchi and Norton Sound Provinces which have never been drilled. The amount of hydrocarbons in these areas is a highly speculative question, and future information will surely modify the resource picture of the State of Alaska.

Both patented and tentatively approved state lands lie within the onshore oil basins in Alaska (Figure G-2). The onshore lands are generally not too

high in petroleum potential, with the exception of those on the North Slope and in Bristol Basin. Generally, interior areas have a greater potential for gas than oil.

The State owns or has tentative approval on a large amount of promising land in the Bristol Bay - Alaska Peninsula region, the North Slope, and on the Kenai peninsula in Lower Cook Inlet. At this time, these lands appear to have potential for both oil and gas and would be relatively low in cost of production, owing to existing transportation systems.

In addition to its onshore lands, the State owns coastal waters to a limit of three miles from state shorelines (Figure G-2) The three mile limit submerged lands provide the state with some good petroleum potential areas notably in the Gulf of Alaska, Cook Inlet, Bristol Bay and Beaufort Sea regions. As Federal OCS leasing progresses and offshore discoveries are made, the three mile limit submerged lands will need to be seriously considered for leasing.

In this section we have outlined the potential recoverable oil and gas reserves on state lands including those within Alaska's three mile limit. Their potential will be discussed in the light that future exploration data will change these estimates.

Because of this degree of variability, it is necessary to look at the State in different sections, or leasing provinces. Each leasing province contains different risk and cost parameters, as well as more or less potential for oil reserves. Figure G-1 has shown the location of these provinces,

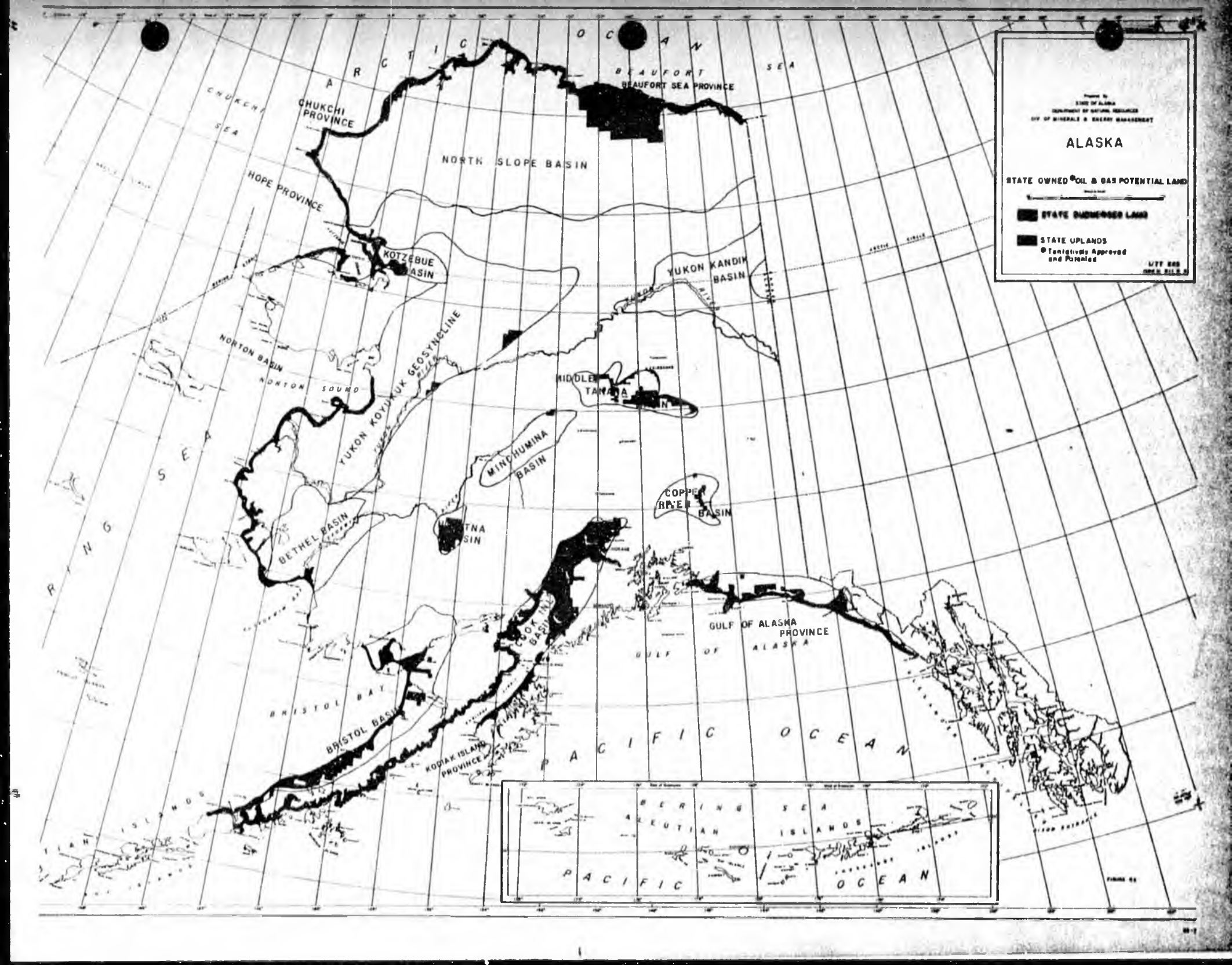

ALASKA
STATE OWNED OIL & GAS POTENTIAL LAND
STATE SUBMERGED LAND
STATE UPLANDS
Tentatively Approved and Patented
ARCTIC OCEAN
BEAUFORT SEA
BEAUFORT SEA PROVINCE
CHUKCHI SEA
CHUKCHI PROVINCE
NORTH SLOPE BASIN
HOPE PROVINCE
KOTZEBUE BASIN
YUKON KANDIK BASIN
NORTON BASIN
NORTON SOUND
YUKON KOYUKUK GEOSYNCLINE
MIDDLE TANANA BASIN
MINCHUMINA BASIN
COPPER RIVER BASIN
BETHEL BASIN
BERING SEA
COOK INLET BASIN
GULF OF ALASKA PROVINCE
GULF OF ALASKA
BRISTOL BAY
BRISTOL BASIN
KODIAK ISLAND PROVINCE
PACIFIC OCEAN
ALEUTIAN ISLANDS
BERING SEA
PACIFIC OCEAN

Table G-1 gives an estimate of their geographic size and a speculative assessment of the possible oil & gas reserves to be expected. A province by province discussion is given in Appendix A.

Table G-1
PETROLEUM POTENTIAL AREAS AND
ESTIMATED QUANTITIES ON STATE LANDS

GEOLOGIC BASIN OR PROVINCE	SQ. MILES ONSHORE	SQ. MILES OFFSHORE	OIL POTENTIAL	AMOUNT OF OIL		O-G RATIO	AMOUNT OF GAS		PERCENT RELIABILITY
				LOW (MMB)	HIGH (MMB)		LOW (TCF)	HIGH (TCF)	
Gulf of Alaska	630	3,308	I	0	354.4	6.1	0	2,161.84	30
Cook Inlet	1,116	1,188	I	163.0	325.0	6.1	992	1,983.0	30
Bristol Basin & Ak Peninsula	2,088	3,132	I	323.5	647.9	6.1	1,976.1	3,952.19	30
Bering Sea			I	0	Unknown*		0	Unknown*	
(Norton Basin)		972							
(Bethel Offshore)		506							
(Yukon-Koyukuk)		612							
Hope Basin		468	I	0	Marginal		0	Marginal	
North Slope Uplands	6,624		I	<1,260.0	>1,260.0	2.7	<3,402.0	>3,402.0	50
Beaufort Sea		2,160	I	300.0	Unknown**		1,500.0	Unknown**	
Chukchi Sea		1,440	I	0	Unknown*		0	Unknown*	
Kotzebue Province		864	II	30.1	115.0	6.1	187.0	716.0	30
Kodiak Island		800	III	0	Marginal		0	Unknown*	
Hollitna Basin	1,260		III	0	Marginal		0	Marginal	
Minchumina	144		III	0	Unknown*		0	Unknown*	
Copper River	342		III	0	Marginal	6.1	0	146.1	25
Middle Tanana	1,980		III	0	Unknown*		0	Unknown*	
Yukon-Koyukuk (Onshore)	540		III	0	Marginal		0	Unknown*	
Total State Land	14,724	14,110							

*Not enough explorative information is available in this region to make an estimate of potential resource quantities.
**Large reserves possible, but not enough explorative information available.

LEASING CRITERIA

Price

Well head price difference within the State for new Alaskan petroleum is primarily a function of the cost of transporting the crude to market. In this initial study we have simply chosen price regions based on the availability and cost of transportation. These regions were chosen subjectively and will be refined when our studies on transportation and development costs are completed. Figure G-3 show a rough Price-Cost region breakdown for the State. Three pricing criteria that can be used are:

1. Low Well Head Price: High pipeline cost, difficult tanker movement, long distances.
2. Medium Well Head Price: Less than number 1.
3. High Well Head Price: Ice free areas, near Coast, cheaper pipelines, shorter distances.

Cost

In this report, the State of Alaska has been divided into three cost regions (Figure G-3). These cost determinations have been based on location, existing transportation, (pipelines, etc.), navigability of adjacent waters (ice free ports all year or not), cost and availability of labor, materials, and location near population centers. What all of these factors have in common is location. The more remote the petroleum potential area, the higher the cost. These cost parameters are outlined below:

1. Low Cost: Near to existing transportation system, close to population center, lower labor and material cost, southern location.
2. Medium Cost: Middle-Alaska location, possible extensions to existing pipeline systems, feasibility of roadways, etc.

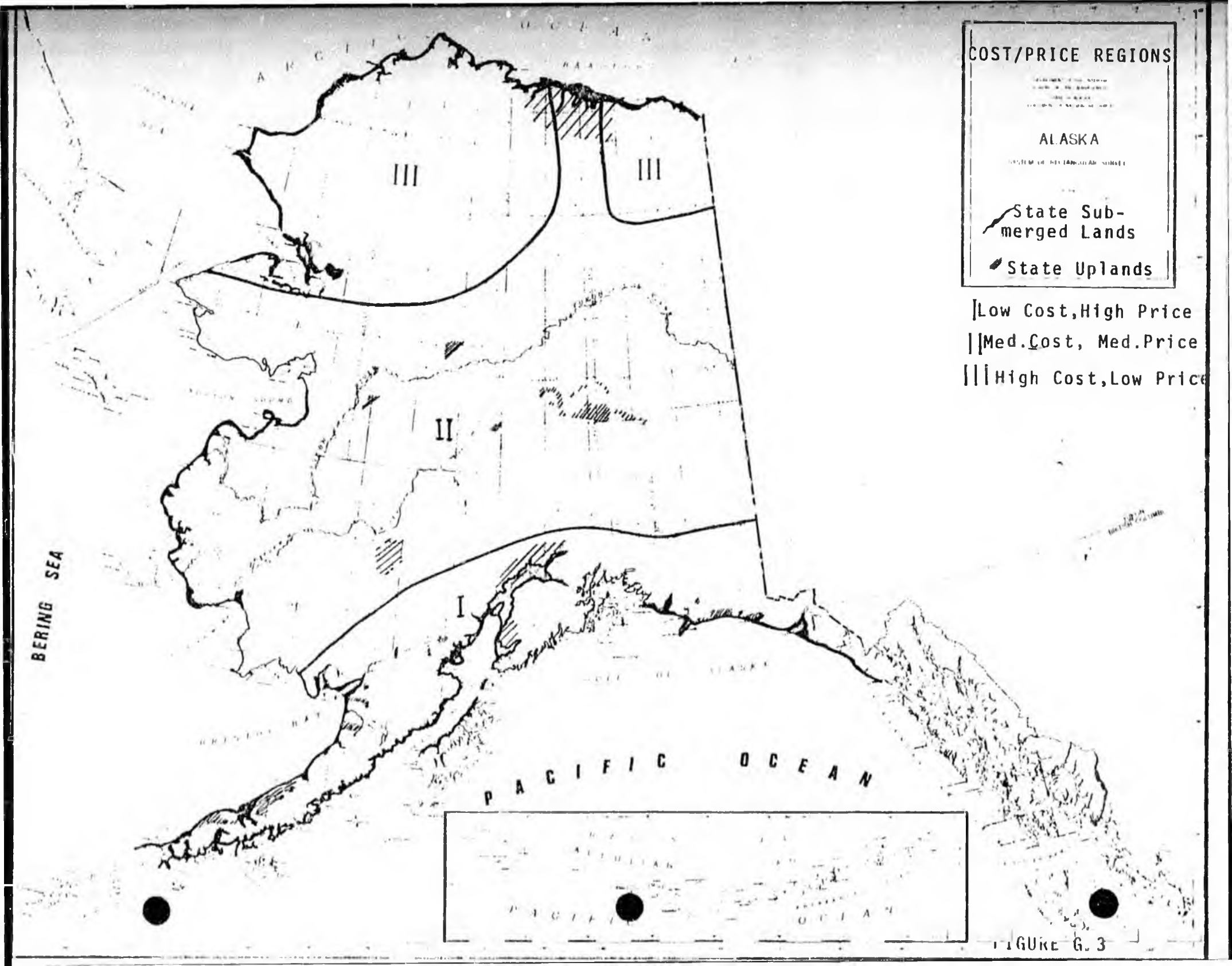

COST/PRICE REGIONS
ALASKA
State Sub-merged Lands
State Uplands
I Low Cost, High Price
II Med. Cost, Med. Price
III High Cost, Low Price
III
III
II
I
BERING SEA
PACIFIC OCEAN

FIGURE G.3

3. High Cost: Remote, northern location. Difficult transportation (no ice-free ports or existing pipeline systems), high labor and material costs, no existing social infrastructure.

Risk

For our purposes, risk is a function of the exploration maturity of a petroleum potential area, and the degree of confidence that oil or gas will be discovered. In general, the less exploratory information available in a petroleum region, the higher the risk factor. To outline the leasing criteria in this study, we have estimated the level of public knowledge, as well as the overall potential for oil and gas resources within an area. When selecting a leasing method for a particular sale, the degree of confidence factor would be a major consideration.

1. Low Risk: Good potential for either oil or gas, previous discoveries within the region under discussion, a high level of exploration maturity.
2. Medium Risk: Medium to good potential for oil or gas, no previous discoveries in the area, and/or moderate knowledge level of the region through explorative methods. (Seismic work, etc.)
3. High Risk: Poor oil or gas potential, exploration maturity level is low, and no previous oil or gas discoveries in area or closely located regions.

Table G-3 groups the geographic petroleum provinces by exploration maturity (Risk) and cost region. The largest number of provinces lie in the high risk category and this is indicative of the lack of exploratory information available in the central and northern provinces of the state. Only the Upper Cook Inlet and Prudhoe Bay areas can be classified as mature enough to assign a Low Risk type leasing method analysis. Ideally, areas should not be selected for leasing in a high risk category. Since this will not always be possible because of

outside influences such as OCS development, lack of drilling date, etc., analysis for leasing procedure will have to be done using arbitrary decisions and tables such as these.

The important factor to recognize is that the various petroleum potential areas of the state are each different with respect to the key leasing parameters. Each province must be approached on an individual basis and leased with a method that fits its unique status. Once the decision has been reached to consider leasing, a detailed risk analysis of the expected value petroleum features would need to be undertaken. As shown in the economic analysis of leasing methods, it is to the advantage of the state to always attempt to decrease the risk before actual leasing, and a decrease in risk can be achieved by insuring that there is as much public knowledge of the petroleum potential area as possible. Flexibility, public knowledge, and analysis are absolute prerequisites for optimum cost benefit resource development.

Table G-3 - Rough Estimates of Risk by Cost Region

I - Southern Provinces and Basins

Low cost and high price parameters

High Risk	Med Risk	Low Risk
Kodiak Island	Gulf of Alaska Lower Cook Inlet Bristol Basin and Alaska Peninsula	Upper Cook Inlet

II - Middle Alaska Provinces and Basins

Medium Cost and high price parameters

High Risk	Med Risk	Low Risk
Bering Sea (Norton) Bering Sea (Yukon-Koyukuk) Yukon-Koyukuk Geosyncline Bering Sea (Bethel Basin)		

III - Northern Provinces and Basins

High Cost and high cost parameters

High Risk	Med Risk	Low Risk
Kotzebue Province Hope Province Chukchi Province Middle Tanana Minchumina Copper River Hollitna	North Slope Beaufort Sea Province	Prudhoe Bay Area

PETROLEUM POTENTIAL AREAS AND CORRESPONDING LEASING CRITERIA

The various leasing criteria can be combined to give the leasing character of each resource province. These approximate classifications can then be used for planning future leasing and in the economic analysis for selection of an optimum leasing method. Referring to Figure G-2 which shows the various leasing provinces, Table G-2 lists each of these provinces along with its corresponding leasing characteristics.

Table G-2 can be utilized for the establishment of priorties on exploratory data acquisition and as a preliminary tool for long range lease planning. As the table is refined, it will be used as a classifications input for a leasing method analysis.

Table G-2 - Petroleum Potential Areas and Corresponding Leasing Criteria

Petroleum Province or Basin	Price*	Risk*	Cost*
Gulf of Alaska	High	Med	Low
Upper Cook Inlet	High	Low	Low
Lower Cook Inlet	High	Med	Low
Kodiak Island	High	High	Low
Bristol Basin	High	Med	Low
Bering Sea (Norton)	Med	High	Med
Bering Sea (Yukon-Koyukuk)	Med	High	Med
Bering Sea (Bethel Basin)	Med	High	Med
Yukon-Koyukuk Geosyncline	Med	High	Med
Kotzebue Province	Low	High	High
Hope Province	Low	High	High
Chukchi Province	Low	High	High
North Slope Uplands	Low	Med-High	High
Prudhoe Bay Area	Low	Low-Med	Med
Beaufort Province	Low	Med-High	High
Middle Tanana, Minchumina, Copper River, Hollitna	Med	Med-High	Med

*Note - All classifications can change with time and further knowledge.

STATE LAND WITH PETROLEUM POTENTIAL

BY

PROVINCE

Following is a description of each potential area, both onshore and offshore, including estimates of their petroleum potential.

GULF OF ALASKA

Figure G-4

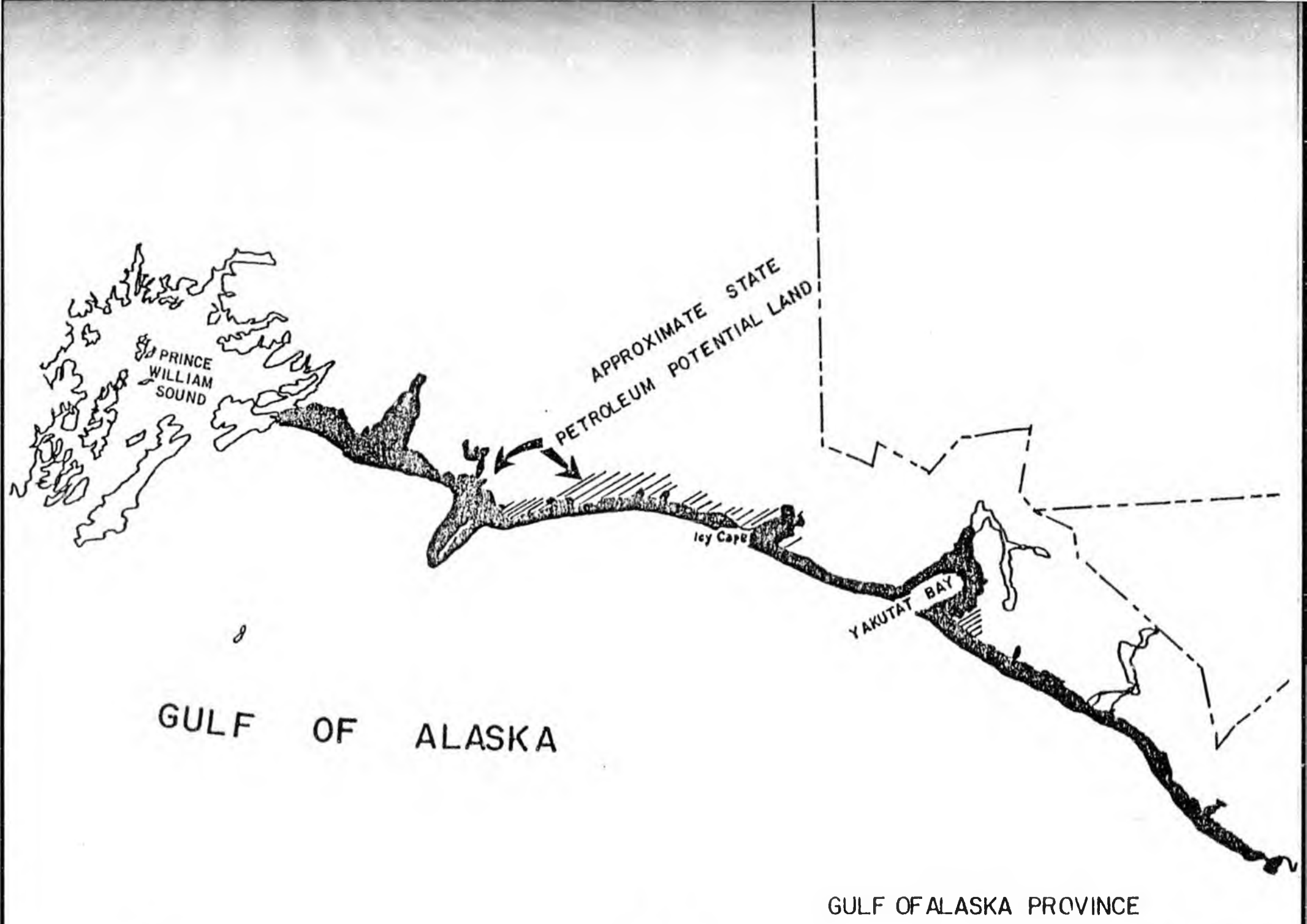
The State submerged lands in the Gulf of Alaska could contain a few small petroleum fields or one large field, or perhaps, God forbid, nothing but salt water. Both onshore and offshore statelands which lie in the Gulf of Alaska total approximately 3,940 square miles. The average thickness of the sedimentary deposits in this area is about 1.8 miles, making the available amount of sediments about 7,088 cubic miles. A low to high estimate of petroleum reserves ranges from zero to 354 million barrels. Gas reserves could range from zero to 2,000 TCF.

COOK INLET BASIN (LOWER & UPPER COOK INLET)

Figure G-5

It is becoming increasingly apparent that the Upper Cook Inlet Basin has been developed near the economic limit of its resources and capacity, and that future oil and gas discoveries will lie further south.

The estimate of recoverable oil and gas in offshore areas has been lowered as more exhaustive exploration has yielded fewer discoveries than previously expected. Also, the remaining state owned areas to be explored lie on the fringes of the Cook Inlet basin, where oil and gas potential may not be as high as in the middle portion of the basin Because of this, the estimate of 115,000 bbls/cubic mile in Alaska Open File 50 has been dropped to 50,000 bbls/cubic mile, to serve as a more realistic bottom line figure for



GULF OF ALASKA PROVINCE

FIGURE G-4

recoverable oil and gas resources on remaining state submerged lands.

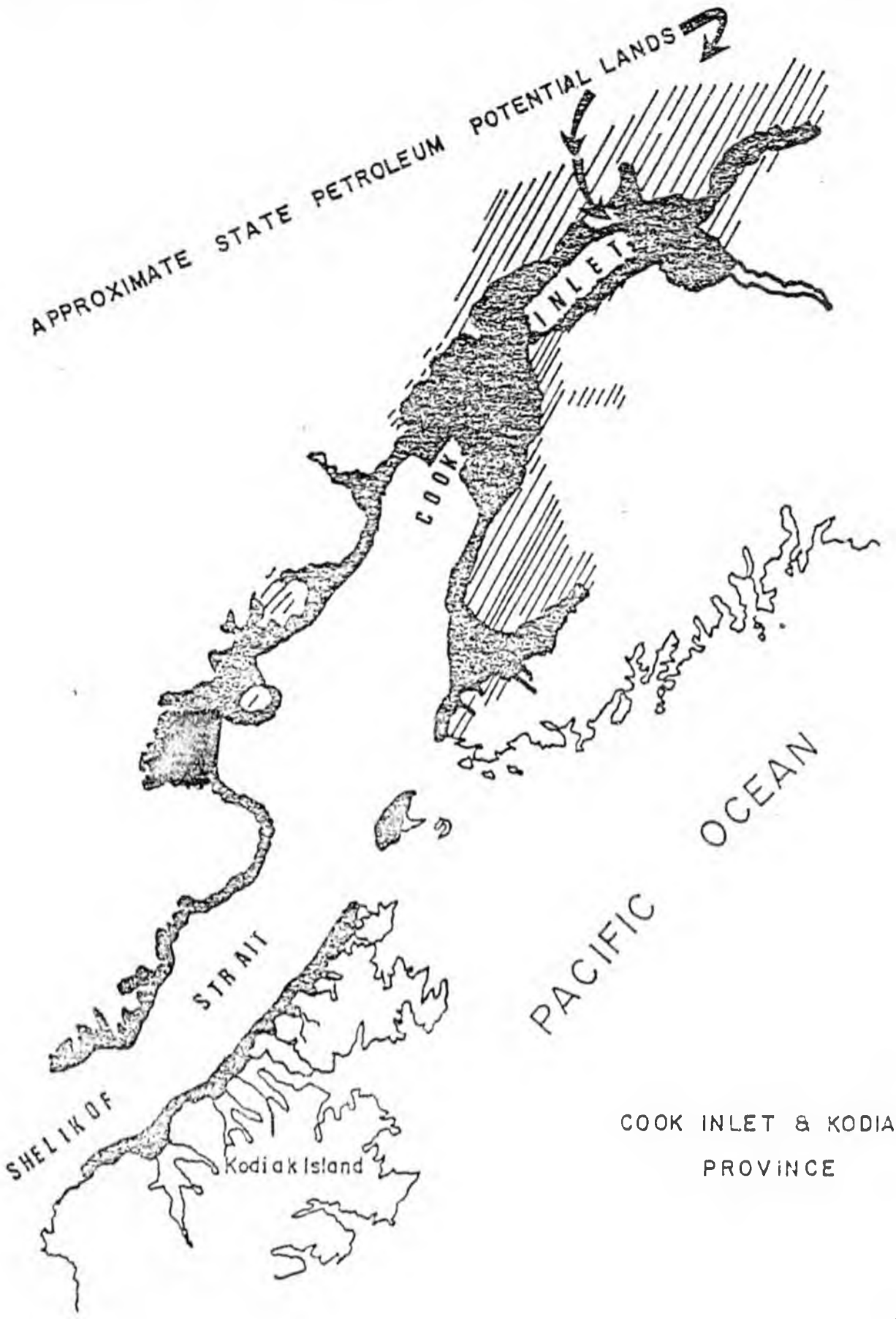
Onshore areas of the Upper Cook Inlet contain a large amount of both patented and tentatively approved state lands. These lands were believed to be of high petroleum potential, but exploration in the northern onshore areas has not been as successful as anticipated. Therefore, the estimation in this area also has been scaled down to 25,000 bbls/cubic mile.

KODIAK ISLAND

Figure G-5

The State owns very little petroleum potential land in the Kodiak Island province. The three mile limit area around Kodiak Island is at the edge of the petroleum province and the speculative estimated petroleum resources are low.

Approximately 4,000 square miles of petroleum potential lands are in this province. Because of the poor petroleum potential of this area, and its location at the edge of the petroleum basin, we estimate the quantity of available hydrocarbons in this region to be from zero to marginal. Our outlook for possible economic recovery of resources is pessimistic.



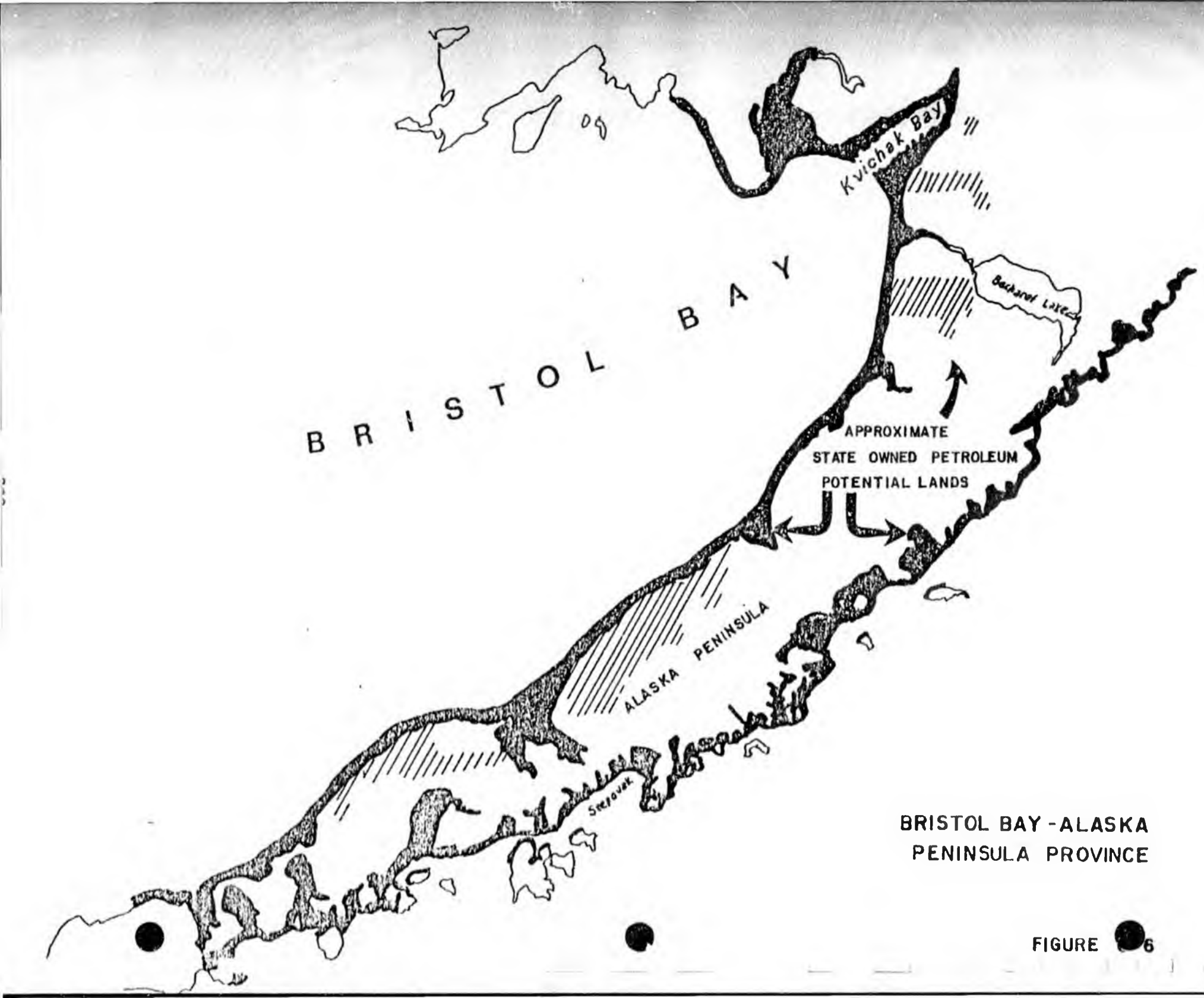
COOK INLET & KODIAK ISLAND PROVINCE

FIGURE G-5

BRISTOL BASIN & THE ALASKA PENINSULA

Figure G-6

Presently the Bristol Bay Basin and the Alaska Peninsula are two of the more promising areas in Alaska for future reserves of petroleum. Although exploration efforts have revealed no commercial quantities of petroleum to date, drilling operations continue. In time we should know more about this area and its potential for hydrocarbon deposits, but for now the amount of estimated speculative recoverable petroleum ranges from 300 MMB to 650 MMB. Of course, this could lie in small deposits or in one large petroleum reserve. Speculative potential natural gas on state owned land averages 29.65 TCF.



BRISTOL BAY - ALASKA
PENINSULA PROVINCE

FIGURE 6

BERING SEA (Bethel Offshore)
(Yukon-Koyukuk Offshore)
(Norton Basin)

Figure G-7

State owned lands of the Bering Sea petroleum potential basins are geologically complex, and the chance of finding giant oil and gas fields is small. The fields are more likely to be small and scattered; however, the cumulative reserves in these fields could be potentially economic. Future OCS development may lead to discoveries in the state submerged lands.

There are no onshore state lands adjacent to the Bering Sea provinces under discussion. The petroleum potential of coastal submerged lands of the Yukon-Koyukuk Basin (612 Sq. miles), the Bethel Basin (506 sq. miles), and the Norton Sound (972 sq. miles) is relatively unknown. The development of OCS acreages and onshore native activity will provide information in the future. Seismic data will also be needed for evaluation of these state lands.

MINCHUMINA, HOLLITNA, LOWER TANANA, COPPER RIVER, AND THE YUKON-KOYUKUK GEOSYNCLINE

There has been very little state land selected in the interior petroleum basins. As indicated in Open File 50, the majority of state land selections to date in interior Alaska have been in the hard mineral highland areas. Only a few miles of state selections appear on the fringes of the lowland petroleum basins (See Figure G-2). An estimate of the petroleum potential in these scattered lands is not possible with the limited data available to the state at this time. Hopefully, the state will be able to select

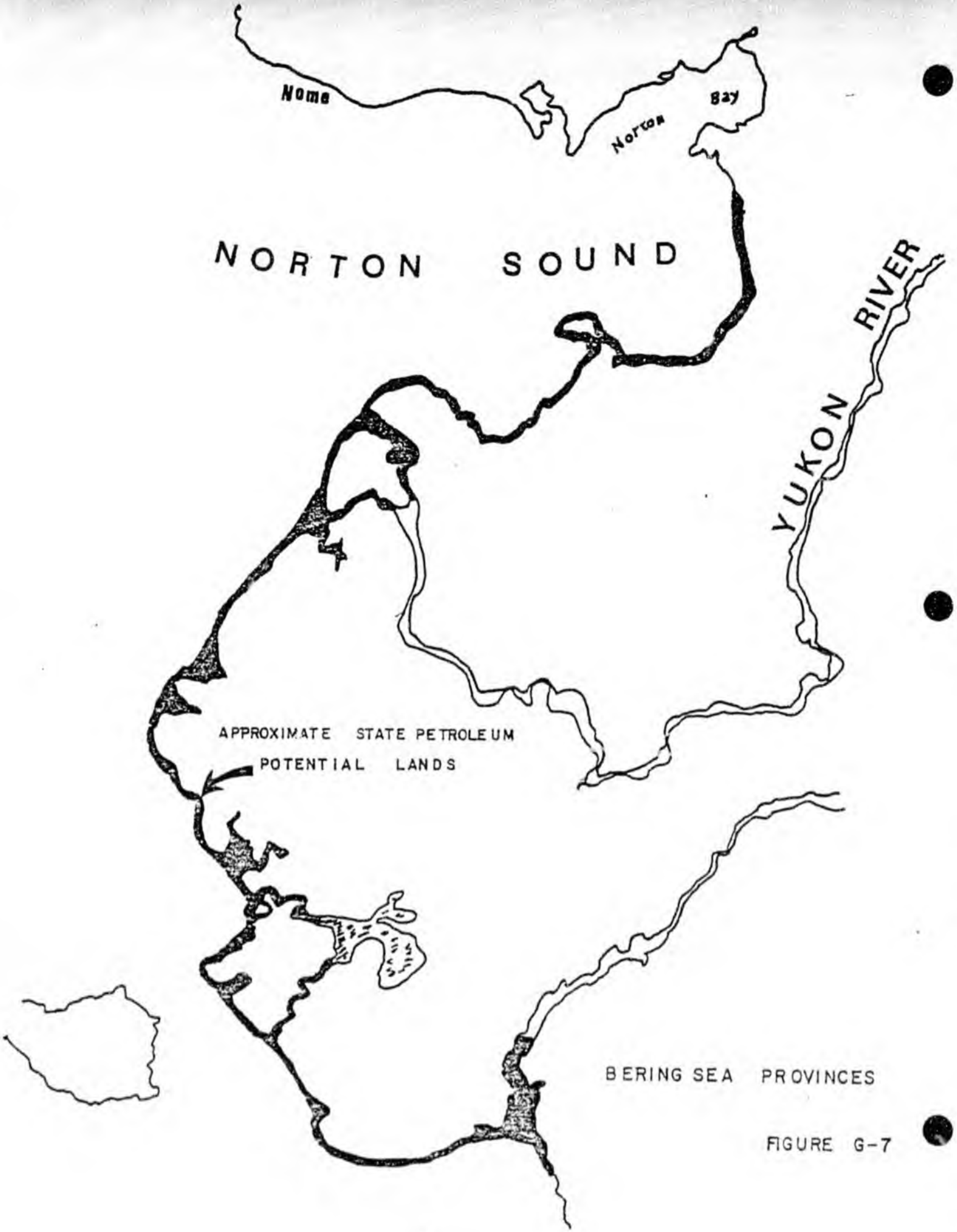

Nome
Norton Bay
NORTON SOUND
YUKON RIVER
APPROXIMATE STATE PETROLEUM
POTENTIAL LANDS
BERING SEA PROVINCES

FIGURE G-7

additional lowlands in the future. The Division of Minerals and Energy Management will need to evaluate the interior lands as conditions permit.

KOTZEBUE PROVINCE

Figure G-8

Onshore and offshore areas of the Kotzebue Province are in a potential petroleum area, and future exploration could lead to discoveries. State petroleum potential lands total approximately 864 square miles in this area, all lying offshore or located in Selawick Lake. Very little drilling has occurred in this region, with only two dry holes drilled on land to date, but generally these state submerged lands lie in the thicker sedimentary portions of the petroleum basin than the areas where the unsuccessful tests were made.

As in the case of the Bering Sea petroleum areas, future OCS and native development may give us more information on this area. Seismic data will also give a clearer picture of petroleum potential.

HOPE PROVINCE

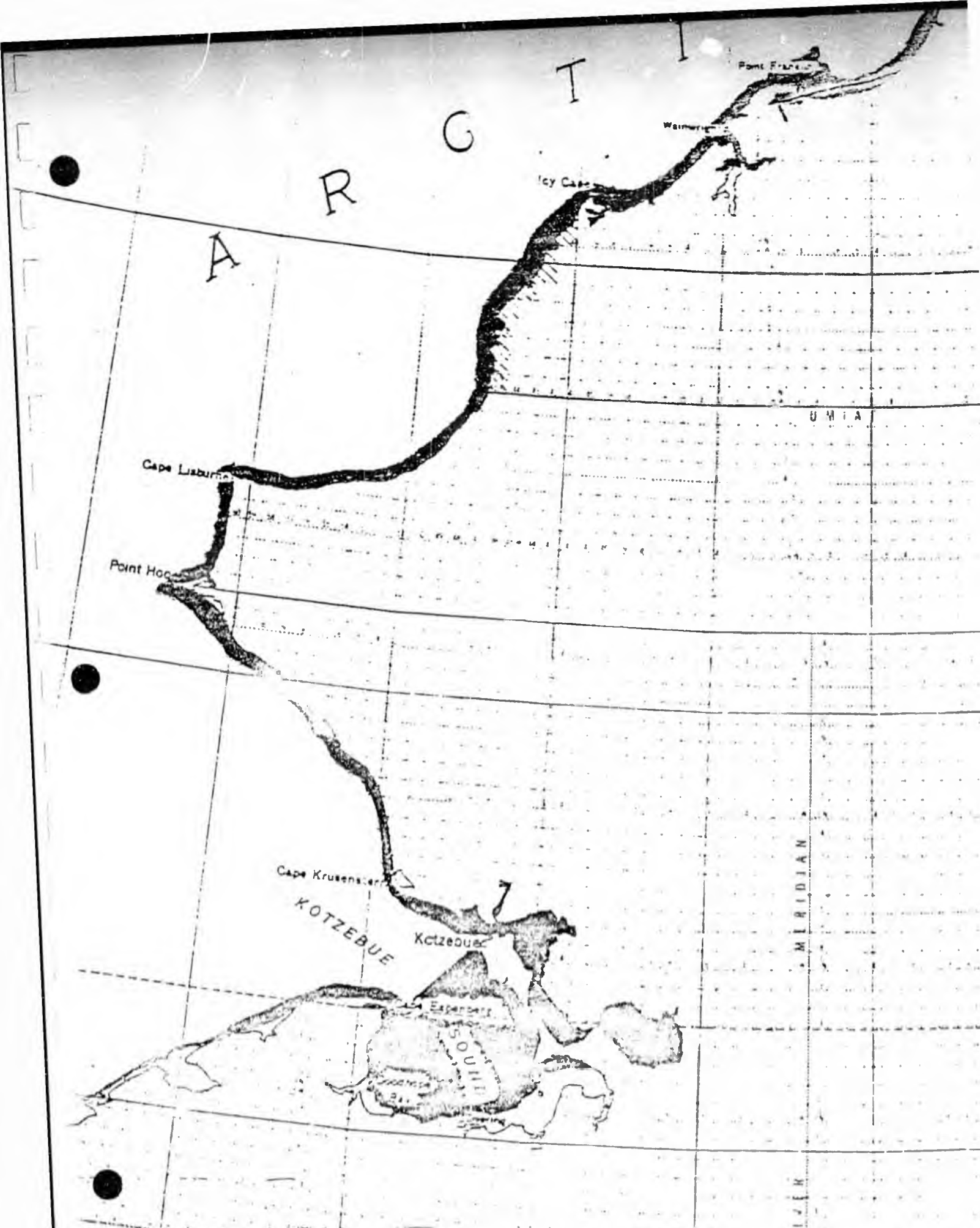
Figure G-8

State lands contained within the Hope Province consist of about 450 square miles along the coastline of the lower Chukchi Sea. It is difficult to speculate on amounts of recoverable oil and gas in the Hope Province because of the small amount of public exploratory work which has been done to date, but on the basis of available information, the state owned lands do not appear to be very promising. Estimates of potential reserves will have to be made in the future after sufficient data becomes available.

CHUKCHI PROVINCE

Figure G-8

The oil and gas potential of the Chukchi Province is highly speculative



Kotzebue Province
Hope Province
Chukchi Province

Figure G-8

due to the lack of seismic and explorative data in this area. The state-owned lands contained within the Chukchi Province are all submerged, three mile limit lands. When more information is available we should have a better picture of the hydrocarbon potential of the entire Chukchi region.

State owned submerged lands in the Chukchi total about 1,440 square miles.

NORTH SLOPE REGION

Figure G-9

State owned uplands of the North Slope are shown on Figure G-10. These lands have been under active industry exploration for a number of years and contain the Prudhoe Bay giant petroleum field. The potential for additional oil is high here and a rough estimate of remaining reserves would be as follows:

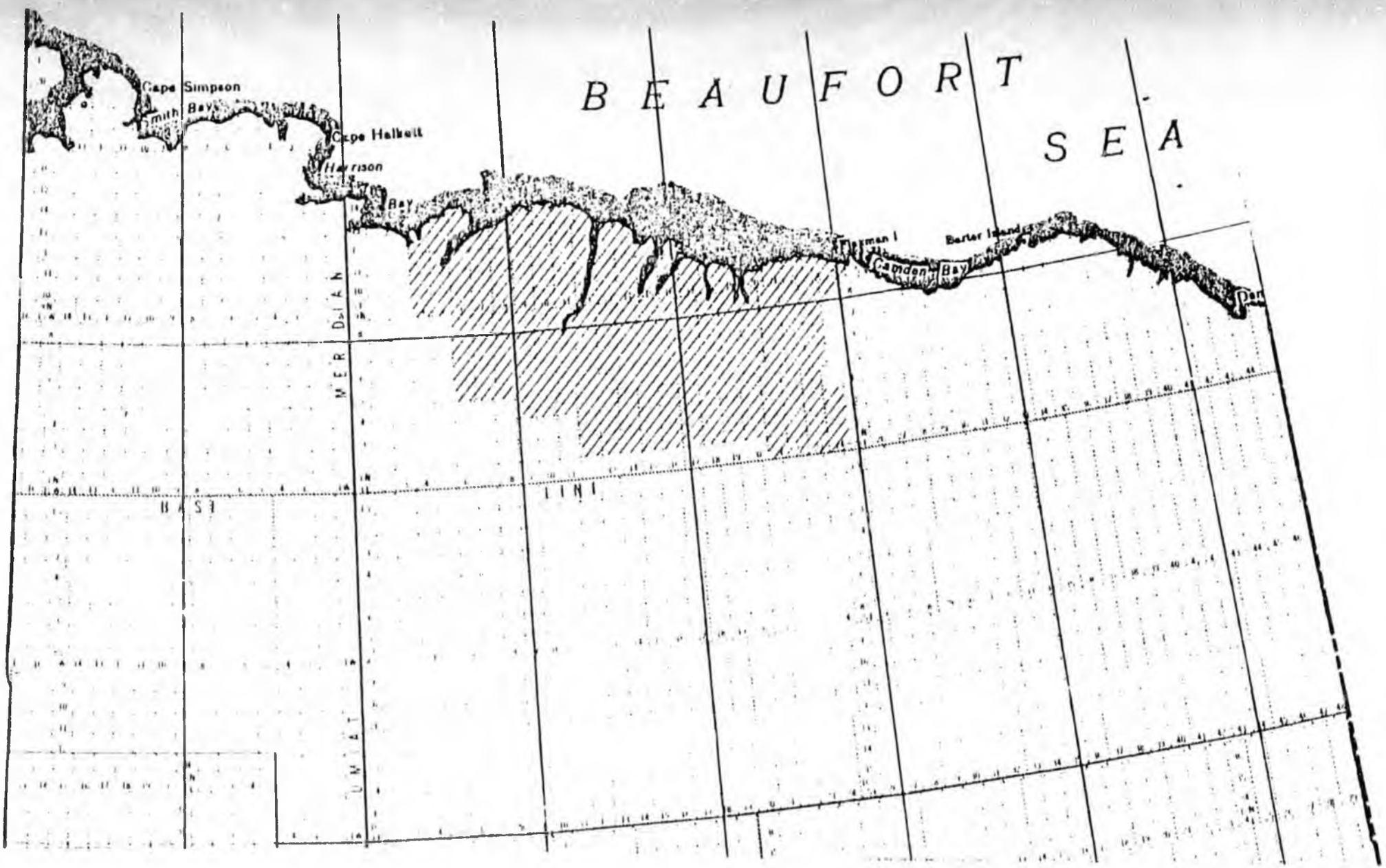
There are approximately 6,624 square miles of state lands contained within the North Slope uplands. This total is about ten percent of the entire number I potential lands on the Slope. Taking ten percent of the potential recoverable reserve figure in Open File 50, there are about 1,200 MMB of recoverable oil reserves, and 3,400 TCF of natural gas. These are middle estimates, and real recovery could be more or less than these reserve figures. Seismic data is needed to map the structures in these state uplands.

BEAUFORT PROVINCE

Because of the proximity of the Beaufort Sea area to the Prudhoe Bay discovery, and its geological similarities to Prudhoe Bay, the Beaufort Sea

region is high on the list of state areas available to oil and gas leasing. There are about 2,160 square miles of state offshore lands available for leasing in the Beaufort Sea area, including the coastal areas of the NPR4 and the Wildlife Refuge.

Department of Natural Resources Open File Report 50 gives the entire Beaufort Sea a figure of 15.5 billion barrels of recoverable oil and 41.8 trillion cubic feet of gas. The lease area is only a small part of this province, so it is difficult to estimate the amount of recoverable oil and gas. Using volumetric methods of analysis, a low estimate of petroleum resources would be 306 MMB. A low natural gas estimate would equal 129.8 TCF. There is a good possibility for these resources to lie in large deposits, and because of the proximity to Prudhoe Bay, chances of economical recovery would be good. These estimates are bottom line since there is a good chance of much larger reserves lying in the unleased vicinity of Prudhoe Bay.



North Slope (Eastern)
Beaufort Sea Province

Figure G-3

SECTION V

STAFF AND BUDGETING NEEDS OF SOME LEASING METHODS CONSIDERED

By

Jack Roderick, Deputy Commissioner

Department of Natural Resources

STAFF AND BUDGETING NEEDS

Historically, the State has operated its leasing system, both competitive and non-competitive, with a staff of fewer than 20 people. This includes management and all administrative help. Competitive bonus bid, royalty bid, cost or profit sharing (auditing) and ad valorem charge (appraising) systems of leasing, or any combination, take different levels of staffing. The type and quality of information required by the State, before and/or after leasing, controls the level.

The competitive cash bonus-fixed royalty leasing system used to date by the State causes the least administrative burden. Compared to any of the alternative systems being considered it requires the least "value judgements" by administrators and the least amount of information from companies.

Moving away from this standard system, thereby increasing the State's need for information, increases the administrative costs of the State. How much will depend upon the mix of various systems and the volume of information required by state personnel and/or consultants and contractors.

One basic assumption is made: that a system or systems of leasing can be devised that will keep the number of state personnel required to a minimum. However, the quality of the people in any system must be very high, and much of the data collection and interpretation, be it accounting or geophysical, can be contracted out.

One other assumption is that once having accepted part of the "risk" (unlike the bonus bid system) the State will not spend great amounts of money for statisticians, computer analysts and economists to only second-guess the results of lease sales. A postmortem review procedure will be necessary, but we have assumed that it will not be overly involved.

The staffing needs for the various leasing alternatives will be presented as follows:

1. Bonus bid (with delay rental);
2. Royalty bid - sliding or otherwise;
3. Cost (profit) sharing; and
4. Ad valorem (reserves) charge.

Generally, existing administrative staff in the State are capable of handling bonus bid or delay rental and royalty bid systems. Depending on the number of lease sales, the number of operators and the complexities of the ante and post sale information analysis, the "team" is presently in place. Any change in the present bonus bid system will, based on a cursory examination of other jurisdictions, cost the State more money.

At the present time, like the Federal Government, the State must do some estimating of anticipated reserves before a sale in order to evaluate the bids when received. In a royalty bid situation, more emphasis would have to be placed on monitoring production rates and establishing wellhead values after production begins. Before discovery, no significant increase

in staff would appear necessary. (Australia is presently in a fight over what offshore wellhead values should be.)

A competitive royalty leasing system would inevitably require some work commitments from the (operator). The simplest commitment would be to do so much exploration work up to and including a well or wells. Some jurisdictions simply permit affidavits attesting to the work accomplished; others require certified audits. In any event, the State would have to require some auditing staff to satisfy itself that the work required to offset the smaller bonus was being done. No estimate of additional staff required under a royalty bid leasing system has been made here because the work commitments would be part of the lease terms and they are almost infinite, ie. they would be "negotiated" between the operator and the State.

The present budget of the Department of Natural Resources Division handling oil and gas leasing is approximately $1.1 million. This includes the Director of the Division of Minerals and Energy Management, a leasing manager and staff, a petroleum manager, one petroleum reservoir engineer, one petroleum economist, one petroleum geophysicist, one petroleum geologist, one petroleum engineer, and one petroleum revenue audit supervisor.

This "team" appears equipped to manage oil and gas leases in either a bonus bid or royalty bid situation. If bonuses are paid with a delay rental method several more land management officers and clerks would likely be necessary. If royalty were bid, skilled lease negotiators would be needed.

The cost (profit) sharing, or net profits, system would be the most costly to administer, again depending on the specific requirements. This, for the reason that the State would need to obtain and evaluate the operators' cost figures. A few major oil companies, it can be argued, would be easier to monitor than a large number of smaller oil operators, but one of the State's goals may be to increase the number of operators, thereby increasing the administrative costs.

Cost padding, sometimes known as "gold plating," useful life of the asset, depreciation paths, etc., in short all the necessities of auditing a business are called for in a net profits type leasing system.

Like administering on income tax (IRS), this "cost" leasing system requires that costs be allocated to tax or deduction impacts. Other governments, notably the Canadian Federal Government and several provinces are into variations on the "net profits" arrangements. Production offshore Long Beach, California involves these type of cost sharing leases.

As cost sharing leasing system would necessitate auditors experienced or trained in the petroleum exploration business. These auditors would most likely be located in a division of the government concerned with monitoring state revenue. In Alberta, approximately 100 people administer approximately 50,000 agreements (leases), where as some 60 persons are involved with "auditing" certain costs involved with petroleum production.

Knowing actual costs of operating a business will involve the State more

substantially. Estimates of administrative costs to the State must be very general depending on whether State law requires financial disclosure, the general relationship between the State and the operators, and how many operators and fields are being monitored.

Based on experiences in other states and foreign countries, most administrators of leasing systems feel that a "net profits" system of leasing will cost "substantially more" to administer. Assuming the same number of operators and equal number of leases as are now being administered under the bonus bid or prospective royalty bid systems, staffing needs could double again the needs under the ad valorem charge system.

Thus, whereas an additional $240,000.00 might be expected to administer an ad valorem system, (see following), $500,000.00 could be necessary to administer a "net profits" system.

The ad valorem (reserve) charge type leasing system would place the emphasis on appraising the value of the reserves in the ground once a discovery had been made. This would necessitate determining the size of the field, the potential productivity and the estimated rate of flow. This is basically now being done by the staff of the Department of Revenue in establishing the reserves tax. Again, depending on the number of oil and gas fields involved and the level of sophistication needed (with the sums of money involved the level would need to be very high), the administrative costs could be significant.

Again, assuming several fields discovered in the Arctic and assuming an ad valorem (reserves) charge based on a percentage of assessed value of the discovered reserves, the following minimum staffing and budgeting could be anticipated to set a workable ad valorem charge:

1 petroleum assessor	$ 25,000
2 petroleum appraisors	40,000
1 petroleum economist	30,000
3 research analysts	45,000
4 contract petroleum engineers	100,000
Total salaries	$240,000

The subject of what kind of information the State should acquire prior to offering its land under any leasing system, may be as important as the system itself. How much information is necessary to make wise decisions involving public resources is a matter of continued heated debate. The debate falls between the true laissez-faire proponents on the one hand to the government owned exploration firm on the other, with the "resource manager" somewhere in between.

Also, almost as important as the amount and type of information required, is the decision of what to do with the information once acquired. Recognizing the need for confidentiality of "proprietory" information, should the subsurface information acquired by public funds be made public? What will be the result of such publication?

Each government involved with petroleum exploration has to deal with the

information question. Alberta has recently begun a scheme in which it will expend some $20 million a year to acquire geophysical information. Rather than using the information to predetermine the potential of the lands to be leased or to enter into the business in competition with operators, Alberta requires that the information be made public at a nominal cost, usually after the lease sale. Alberta decided that this method would encourage competition in bonus bid sales and further activity in the later phases of exploration.

In Alaska, costs of acquiring seismic data and of modeling the results must be examined by the Legislature if it decides to direct the administration to devote more energy to "managing" the State's oil and gas resources. Attached hereto is an estimate of approximate costs of acquiring seismic data necessary to evaluate an area 100 by 15 miles in Alaska. (Appendix A). Depending on a number of variables, the costs can range from $70,000 to as high as 2 1/2 million dollars.

Caution should be used in examining these figures because they are only estimates. However, it is significant to note that joining others obviously brings the costs down and, in any event, the costs are high.

Compared to the cost of acquiring the raw data, interpreting it would be comparatively cheap. We have estimated $10,000 for a consultant to interpret 500 miles of seismic records. This latter cost becomes important particularly if reconnaissance data becomes available from the U.S.G.S or more data is acquired from operators by the State. Depending on the volume acquired more state personnel might be required. The Division

of Energy and Management's 1977 fiscal budget calls for $40,000 for acquisition of geophysical information, and $110,000 for Fiscal '78.

In summary, the present bonus bid leasing system used by Alaska takes the fewest state personnel to administer. It is the easiest to administer because most all evaluative decisions are left to the operators. As one moves away from this system, administrative costs will likely rise.

They will rise significantly as the need for additional petroleum appraisers and reservoir engineers grows, and will go even higher if the State asks to participate in the knowledge of costs and profits of the oil and gas operators. (The ultimate would appear to be the need for information to protect an equity interest.)

Auditors, similar but, perhaps, even more expert than income tax inspectors, would be necessary in a true "net profits" system. The incentives for the operator are all toward increasing the costs allowable. The level of monitoring depends to some extent on the level of confidence the State and operators have in each other.

Lastly, the amount of physical information required by the State before and after a discovery of petroleum needs to be addressed. It is costly and it is available. How it is used and for what purpose is critical to the health of the State's role in exploration.

And finally, no system will work well unless there are qualified people making the decisions. The administrator, located between the elected official and the public, traditionally has tended to lay back. Judgments made in the oil and gas exploration business inevitably results in being proved "right" or "wrong". There's either oil and/or gas there in paying quantities, or there is not.

This is not the traditional role of government administrators, but they have been and can be attracted to government service.

SEISMIC DATA ACQUISITION AND COST MODELING

for a

PETROLEUM RESOURCE ANALYSIS

By

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SEISMIC DATA ACQUISITION AND COST MODELING FOR A PETROLEUM RESOURCE ANALYSIS

INTRODUCTION

In order to have controlled development of its petroleum reserves, the State of Alaska must be able to determine the location and the potential quantity of this valuable resource. Exploration seismology is the primary method available to achieve this objective. The following text discusses the various methods by which the State can acquire seismic exploration data and, through a model study, the approximate cost of data acquisition.

CONCLUSIONS

The procuring and interpretation of geophysical data in order to determine Alaska's petroleum reserves is an integral part of having an intelligently managed energy evaluation and development plan. The cost of acquiring the data could vary from negligible, if picked up by regulation, to considerable, if the State must contract proprietary data. Currently, the least cost route to obtain reconnaissance data would be through obtaining USGS Open File Reports, purchasing old data and being an original participant in group industry seismic programs. Structural detail information could possibly come from group shoots but would probably have to be gathered as contract proprietary work.

In order to determine some approximate costs for geophysical data that would be needed to evaluate an area considered for leasing 100 by 15 miles containing at least one major structure, an exploration model was developed. Results

indicate that costs can range from around 70 thousand dollars to 2.5 million dollars depending on a variety of factors.

METHODS OF ACQUIRING SEISMIC DATA

There are several routes the State can take to acquire geophysical and specifically seismic data. Given an area of interest the State can (1) obtain United States Geological Survey open file data, (2) participate as a partner in a group industry seismic program, or (3) contract original work. A fourth method would be to require copies of seismic data as a stipulation of exploration permits on state lands. This fourth method would be following the precedent set by the Federal government and its implementation would probably be similar to the Federal method. For each of these data acquisition methods the cost of acquisition, location, grid spacing, data quality and time of acquisition must be considered. Each method now will be discussed in detail.

Federal and Public Data. The primary concerns of the USGS in obtaining seismic data in Federal waters are to evaluate the energy potential of the area, to determine the potential environmental hazards, and to perform basic geological research. Many of its older surveys extend into state waters and this data can be obtained for the cost of reproduction of its Open File Reports. Through the State's personnel participation and sharing of expenses with the USGS, there is the possibility of the USGS extending its Federal Water Surveys into Alaskan State waters. Such a cooperative effort in the acquisition and interpretation of the USGS Exploration data would be to the advantage of both parties. The data's location grid spacing, and time of acquisition would not be completely controllable, but it would provide a low cost addition to the State's data base. Data is also available

from public sources such as universities and other Federal agencies.

Industry Group and Speculative Seismic Surveys. The least costly method of obtaining technologically up-to-date seismic data in current areas of exploration interest is through the State's participation in the petroleum industries group seismic survey. An original participant in a group seismic survey has the advantage of influencing the decision on line location and grid spacing. To buy into a group after the original participant closing date, generally costs up to twice the original amount thereby making it advisable to be an original participant. Also, the late participant cannot influence the group's decisions. Old group survey and contractor speculative survey data is available to the State at varying costs depending upon location and age. This old data would give the State an original data base to expand upon. Group surveys are the least expensive way to obtain good quality reconnaissance data in a current area of interest.

Original Contract Data. The greatest control over all but the cost factor is obtained by the contracting of original seismic programs. The line location, grid spacing, and acquisition time would all be dictated by the State. This kind of control is necessary when one desires to perform a detailed structural investigation. Although original contract work is very expensive, relative to the other methods, the cost can be held down by sufficient planning and foresight. By keeping informed of crew location and contracting for small amounts of structural detail data the major expense of crew mobilization can be avoided. The amount of detail data contracted would depend upon whether the State had acquired copies of industry data, permit stipulations and other factors.

Regulative Requirements. By requiring that a copy of all geophysical data taken in the State be turned over to the State as part of leasing State land or obtaining a geophysical operations permit, Alaska would be guaranteed obtaining both reconnaissance and structural detail data. This data, of course, would be in current areas of interest and may not be timely with respect to long range planning. But it would allow detailed structural analyses after a lease sale. The cost of acquisition would be, at most, the cost of reproduction. For structures that lie wholly in State waters a complete structural evaluation would be possible. For structures which lie partially in Federal waters, a total evaluation would not be possible if the State only receives the data covering the position of the structure in state waters. Planning for future lease sales should include a seismic analysis to identify structural areas that lie both on State and other lands. Cooperative leasing ventures can then avoid drainage of State resources.

EXPLORATION COST PREDICTION

The actual cost of obtaining seismic data varies considerably and depends not only on the source of the data, as discussed previously, but also on the area of the State being evaluated. For the purpose of this cost analysis, the State has been divided into three cost of exploration areas. The areas are the Arctic Submerged Lands, the other submerged lands, and the State uplands. Assuming good data quality, the probability of finding a particular size field in the above mentioned areas is strictly dependent upon the seismic line grid spacing. (See Appendix A-A.)

Probabilities of Finding a Structure. Table 1 shows the probabilities of finding a structure of a specific size given a particular size seismic line

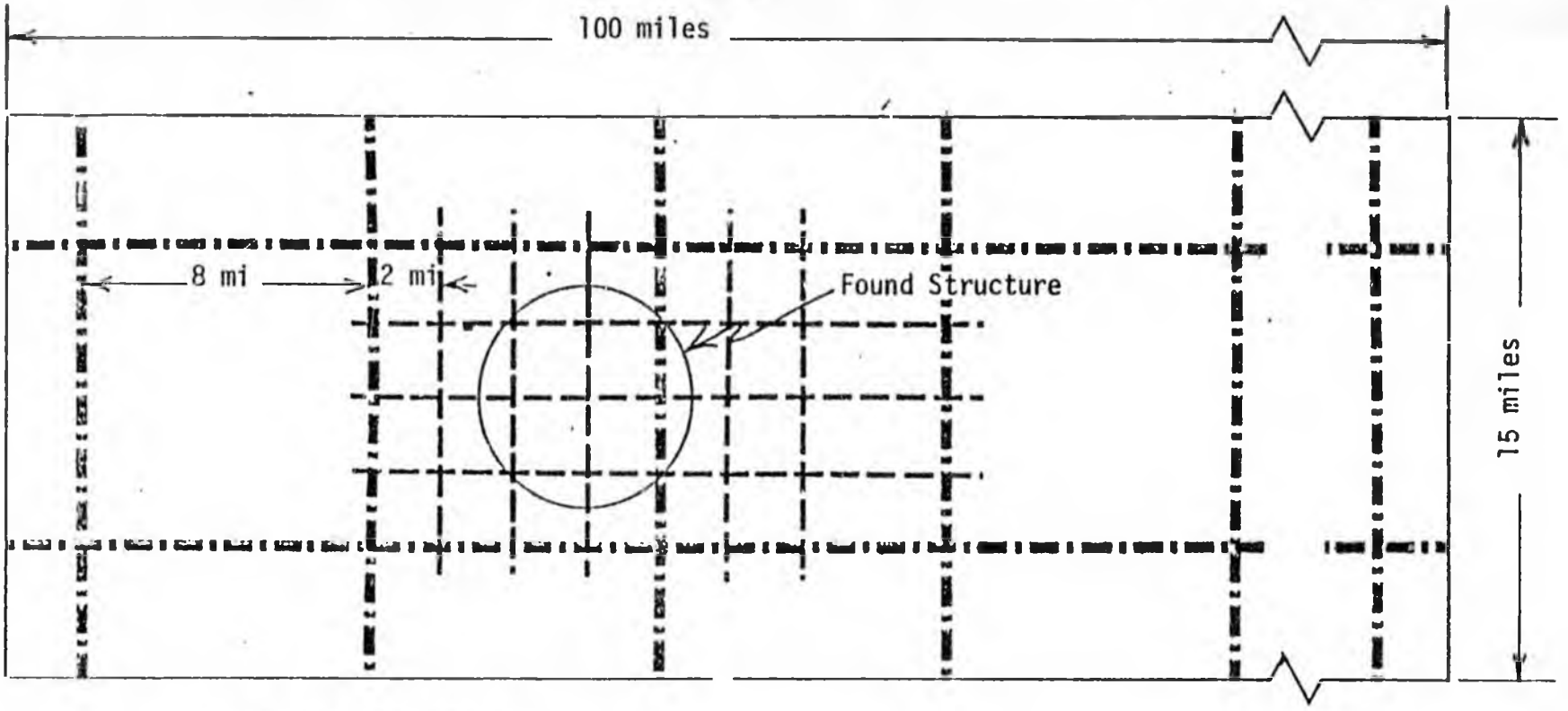
grid spacing. Four oil fields were chosen to represent a range of structures over the State's current structure size range of interest. The MacArthur River field was chosen as the target size field for this cost study. It is a 500,000 BBL field with an approximate structural area of 28 square miles, which gives a structural equivalent diameter of 5.9 miles. Table 1 presents the various probabilities of finding a structure of this size given a seismic grid spacing of twenty, ten, eight, and five miles. They are respectively 0.35, 0.63, 0.74 and 0.96. Also, if the grid spacing is 8 miles, the probability of finding a Prudhoe Bay size field is 1.0 (100%), of finding a MacArthur size field is 0.74, a Granite Point size field 0.52 and a Trading Bay size field 0.41.

Model Lease Area and Costs. Figure 1 displays a portion of a fifteen by one hundred mile area chosen as the model reconnaissance area. An eight mile reconnaissance seismic grid and a two mile structural detail seismic grid are displayed in the figure. These grid spacings were used in the cost determinations. Three hundred and ninety-five (395) miles of reconnaissance data and one hundred and three (103) miles of detail data were needed to find and adequately describe the MacArthur River field size structure.

The actual costs to explore the size area defined by the model in each of the cost regions is given in Table 2. The cost per mile of the seismic data, the cost to acquire 395 miles of reconnaissance data, and the cost to acquire 103 miles of detail seismic work are arranged by cost region and data source. The total cost is the sum of the original group shoot reconnaissance costs and the original contract detail data costs. The cost figures for the original contract work are only close approximations from a telephone survey and are not actual bid figures. The cost figures can be considered accurate within 15%.

If more than one structure is found in the model area then the cost of the reconnaissance data is distributed to each structure and thereby reduces the structure finding cost.

For the model, the lease area is considered to be the 154 square miles that were detailed by the contracted proprietary data.



Model Area Outline

Reconnaissance Seismic Lines (395 miles)

Detail Seismic Lines (103 miles)

MODEL FOR FINDING STRUCTURE

Figure 1

		FIELD			
		Prudhoe Bay	McArthur River	Granite Point	Trading Bay
Recoverable Reserves		8.0 mm	500 mm	110 mm	75 mm
Structure Area		500 mi^2	28 mi^2	11 mi^2	6 mi^2
Equivalent Diameter		25 mi	5.9 mi	3.7 mi	2.8 mi
Probability of Finding Structure with Seismic Grid Spacing = L	L = 20 mi	0.97	0.35	0.24	0.19
	L = 10 mi	1.0	0.63	0.42	0.34
	L = 8 mi	1.0	0.74	0.52	0.41
	L = 5 mi	1.0	0.96	0.74	0.61

TABLE OF PROBABILITIES
SEISMIC GRID SPACING
VS
STRUCTURE SIZE

TABLE 1

Data Source	Cost Region		
	Arctic Submerged Lands	Other Submerged Lands	Coastal Uplands
Contracted State Proprietary	$2,200.00/Mile* Recon. $869,000.00* Detail $226,600.00*	$500.00/Mile Recon. $197,500.00 Detail $51,000.00	$5,000/mile Recon. $1,975,000.00 Detail $515,000.00
Original Group Shoot	$400.00/Mile Recon. $158,000.00 Detail $41,200.00	$50.00/Mile Recon. $19,750.00 Detail $5,150.00	$400/Mile Recon. $158,000 Detail $41,200.00
Late Participant Group Shoot	$800/Mile Recon. $316,000.00 Detail $82,400.00	$60.00/Mile Recon. $23,700.00 Detail $6,180.00	$50.00/Mile Recon. (Old data) $19,750.00 Detail No Data
Total Cost Group Recon Contract Detail	$384,600.00*	$70,750.00	$534,750.00

Data: 8 mile reconnaissance seismic grid, 2 mile detail seismic grid, recon. line mile = 395, detail line mile = 103, model field size = 500 MM.BBLs, (McArthur River Field), resultant lease area 154 square miles.

*If crew is not in area there is a mobilization cost of, from $100,000. to $250,000.00, from Kenai to North Slope.

Interior Alaska seismic costs could be very high, but the State owns very little oil potential land in the interior at this time. The shallow Holitna Basin could possible be evaluated using a combination of cheaper methods, such as gravity and shallow refraction seismic.

TABLE OF SEISMIC EXPLORATION COSTS, BY COST REGION

TABLE 2

Seismic Data Grid Size Determination

When performing a seismic reconnaissance survey, the grid spacing of the seismic lines is a major factor in determining the cost of the survey. The two factors which control the grid spacing are the size of the structures being sought and the probability of finding a structure of a particular size. In a specific geologic province knowledge of structural character and orientation will influence the type and orientation of the grid size used.

The development that follows is a generalized probabilistic approach to the problem of what size grid spacing to use when a structure of a particular size is being sought. The basic geometric assumptions are that the structure is circular with a diameter of "D" and the grid is equilateral with a side length of L. The structure is considered found if one of the sides of the square grid passes through the structure a distance less than or equal to "S" from the center of the structure, as displayed in Figure 1a. For the purposes of this discussion "S" is chosen to be one third of "D."

$$S = 1/3\ D$$

Figure 1b displays a portion of a seismic grid. The center of a structure of diameter "D" has an equal probability of being at any point withi. the representative grid. The crosshatched region of width "S" within the grid is the region where the center of the structure must lie in order to be considered found. If the center of the structure lies in the central non-crosshatched region it is considered missed. The ratio of the Find Area to the Total Area enclosed by the grid represents the probability

of finding the structure "P_f." So that:

$$P_f = \frac{\text{Find Area}}{\text{Total Area}}$$

$$P_f = L^2 - (L - 2S)^2$$

$$P_f = 1 - (1 - 2\frac{S}{L})^2$$

Now, since $S = \frac{1}{3} D$,

then $P_f = 1 - (1 - \frac{2}{3}\frac{D}{L})^2$.

The ratio D:L is the ratio of the structural diameter to the seismic grid spacing. The above final equation is plotted as Figure 2. Displayed on Figure 2 is the following example. Given a grid spacing of 5 miles when looking for a structure of 3 miles in diameter, the ratio would be 3/5 or 0.6. The probability of finding a structure of that size with the given grid spacing would be about 0.64. In a similar manner, given the grid is 5 miles and the structural diameter is 5 miles the probability of recognizing that a structure has been found is 0.89.

Figure 2 can therefore be used to determine the probabilities of finding structures of various sizes given a particular size seismic grid spacing. Conversely, it can also provide the answer for the size grid spacing to use to find a particular size structure within a particular probability.

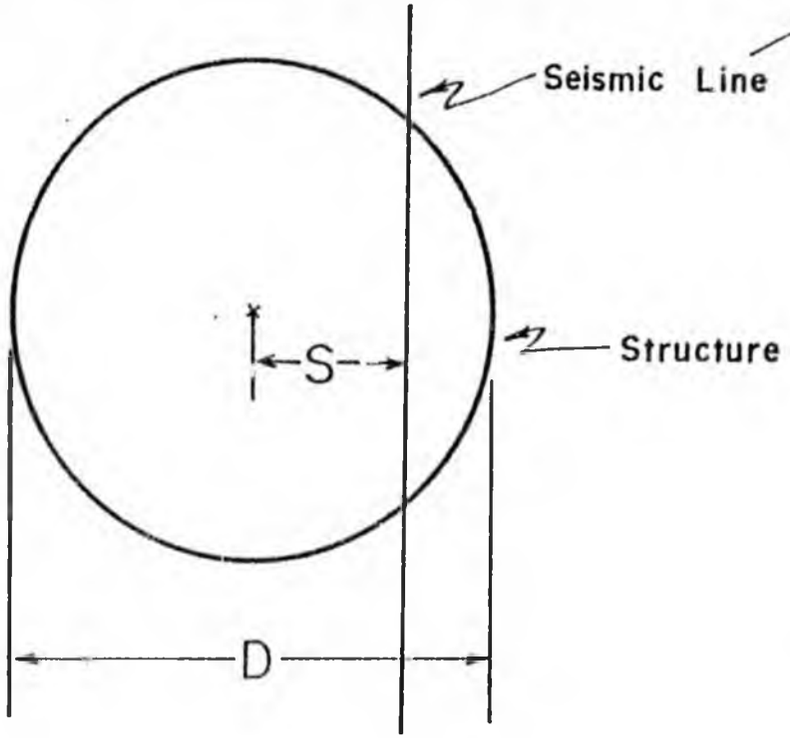


Figure 1a

Structure Find Criteria

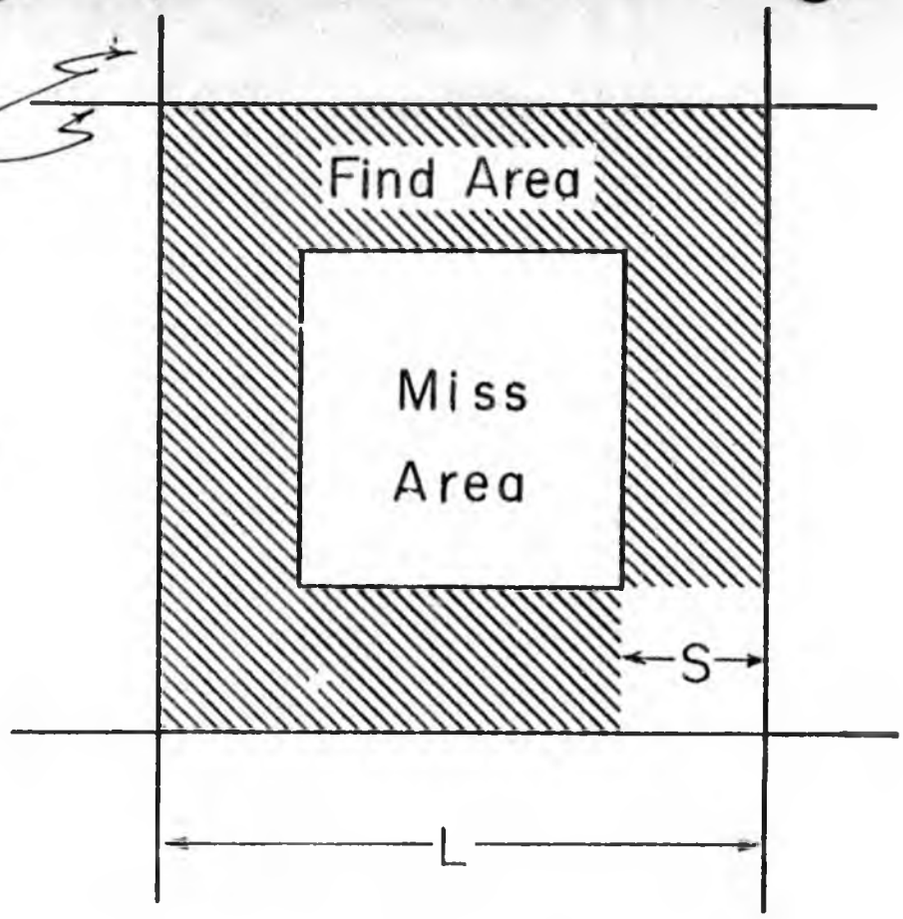


Figure 1b

Seismic Grid, Structure
Find and Miss Areas

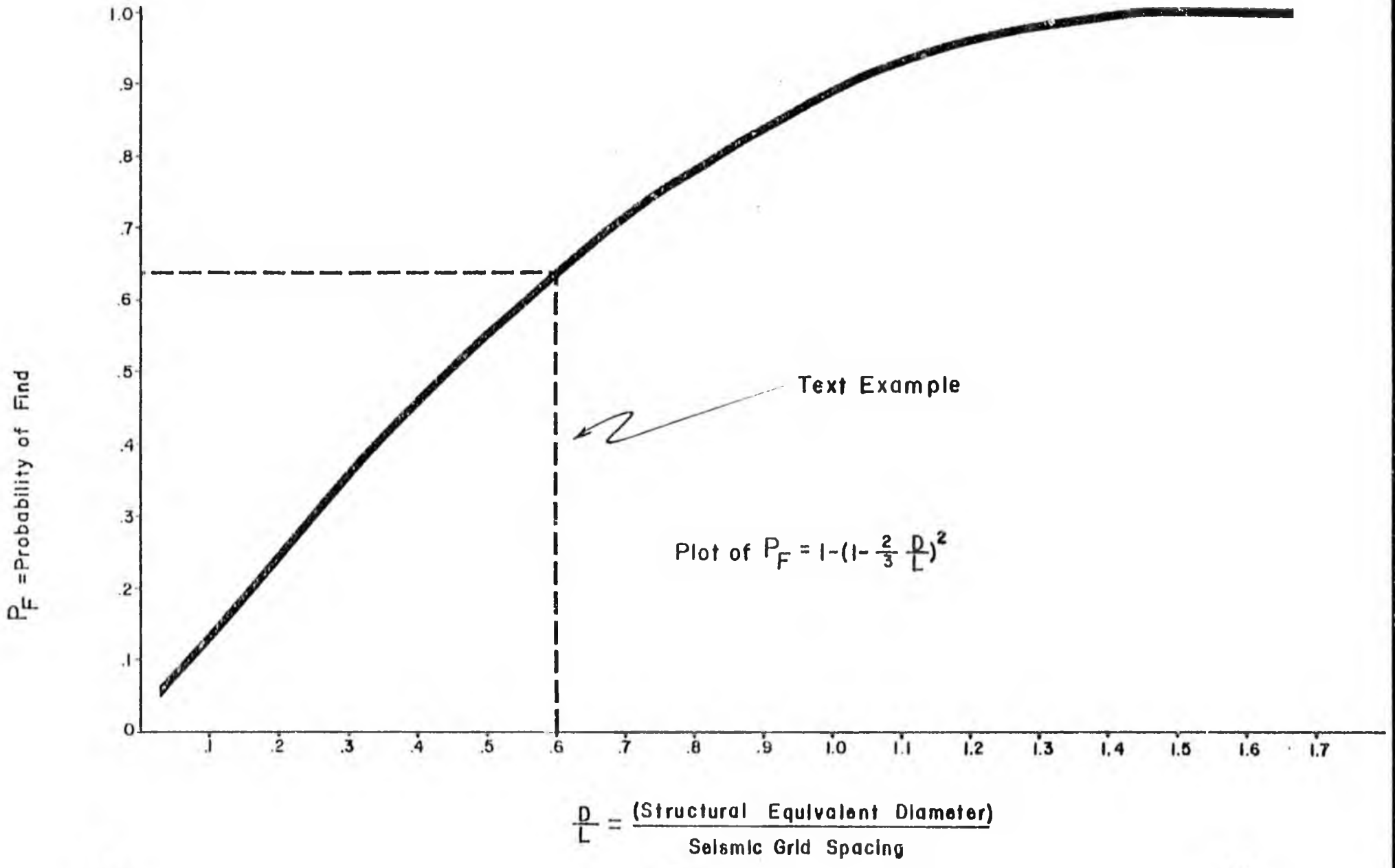

1.0
.9
.8
.7
.6
.5
.4
.3
.2
.1
0
P_F = Probability of Find
Text Example
Plot of $P_F = 1-(1-\frac{2}{3}\frac{D}{L})^2$
.1 .2 .3 .4 .5 .6 .7 .8 .9 1.0 1.1 1.2 1.3 1.4 1.5 1.6 1.7
$\frac{D}{L} = \frac{\text{(Structural Equivalent Diameter)}}{\text{Seismic Grid Spacing}}$

Figure 2

SECTION VI

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GLOSSARY

ADVALOREM TAX - the tax derived from the value of oil and gas property.

ALASKA GREAT COMPUTER PROGRAM - projects the cash flow to the State of Alaska resulting from leasing of natural resources, includes bonus, royalty, severance tax, conservation tax, advalorem tax and income tax used to compare various leasing strategies. A commercial program of GARRETT Computer Corporation adapted for the Division of Minerals and Energy Management.

ANALYSIS - an examination in detail, so as to determine the nature or tendencies for the purpose of understanding and/or comparison of parallel systems.

BONUS BID - the amount of money a bidder is willing to pay for the privilege of exploring for petroleum and for the privilege of developing and producing the oil and gas which may be found.

BONUS COMPUTER PROGRAM - determines the expected rate of return to be obtained from a lease as a function of the probability of finding commercial quantities of hydrocarbons, bonus paid, royalty percentage, and/or profit share percentage.

CONSERVATION TAX - tax based on the amount of oil produced.

DISCOUNT RATE - the time value rate of money which is used to evaluate future income and expenditures at present value -- generally equatable to a company interest rate at which the company borrows or lends money, or the average rate of return.

DMEM - Division of Minerals and Energy Management within the Department of Natural Resources, State of Alaska.

ECONOMIC LIMIT - The production rate at which the cost to produce a field is equal to the revenue received.

EXPECTED VALUE - the average value obtained from a number of attempts which include the successes and the failures.

EXPECTED PETROLEUM FIELD SIZE - the average field size obtained from a number of attempts which include the successes and the failures.

FEA - Federal Energy Administration

FIXED BONUS - a predetermined sum of money required by the resource owner to ensure that only earnest bidders participate in the auction. Syn: earnest money.

FRONT END MONEY - cash bonus paid at the time of leasing.

GREAT - Generalized Reserve Estimating, Appraising Tax Computing System, developed and operated by Garrett Computing Services, Inc.

INCOME - the money or other gain received for labor, services, property or investments.

MODEL - a set of estimated parmeters which are assumed to reflect reasonable values as compared to actual fields.

NORMAL DISTRIBUTION - a symmetrical bell-shaped curve, where the relative frequency with which a variable will take on values between two points is the area under the curve between the two points on the horizontal axis.

OIL, LOWER TIER - FEA regulated oil price applicable to all old oil produced on old discoveries.

OIL, UPPER TIER - FEA regulated oil price applicable to a new oil discovery or oil produced above a base level.

PARAMETER - any measurable characteristic of the defined universe.

PRESENT WORTH - the present value of future income or expenditures which is determined by discounting future income and expenditures at an acceptable discount rate.

PROBABILITY - relative frequency of particular events in a very long sequence of trials.

PROBABILITY OF SUCCESS - the chance of finding the expected value resource (field size).

RATE OF RETURN - discount rate which results in the discounted present worth of future net income becoming equal to the discounted investment.

RECOVERABLE RESERVES - the amount of production that can profitably be removed with present technology.

REVENUE - the income, royalties, rentals and fees, collected by government.

RISK - percent chance of success.

SEVERANCE TAX - tax derived from the gross value of production.

STATE INCOME TAX - tax based on taxable income.

TAXABLE INCOME - all company income less operating cost, less depreciation on investment, less amortized pre-leasehold costs (bonus), less conservation and advalorem tax.

SEC. 4

MILTON LIPTON:

The comments that I would like to offer and then open up to your questions are based upon the draft for a bill that amends the leasing policy of the state. To begin with, I call your attention to a rather unique and I think a very progressive statement of the preamble which says that among the purposes of this is to maximize the state's share from profitable oil and gas production while minimizing revenue from unsuccessful exploration wells and from marginal economic oil and gas production. It is a most unusual approach for a state or a government that is leasing property to take....that is...what you are saying in effect is that you are not trying to maximize your revenues come oil or high water, but that you'll take your revenues from successful oil and gas exploration and you are prepared to forego under certain circumstances optimum revenues that you might have gotten from bonuses paid to the state where the venture was unsuccessful. I would think that the industry would look with great favor upon this as a principle of leasing, and as I said before, it's a most unusual thing to see a government proposing this itself.

A major change which is now being proposed in your leasing policy has to do with bidding methods and on page 4 of the proposed draft bill there are actually eight (8) different bidding methods itemized which would be available to the commissioner and from which he could select in any particular lease sale. The eight different bidding methods break down really into four different bid variables. The first is the very familiar front end bonus bid, and there are three (3) different ways this can be done.

The second is royalty bidding and there are two different ways the commissioner can do that. The third is bidding for a net profit interest to the state out of the proceeds of successful oil and gas exploration development and production. The fourth is bidding on the basis of work obligations, how much a company will commit itself to work obligations. As I said, the bonus bidding is the familiar one which as been used most commonly, I think, almost exclusively here in Alaska in which the blocks which are up for competitive bidding will go to that company that offers to the state the highest bonus, and then the terms of the lease specify certain fixed commitments on the part of the leasing company, in the past, it has been almost universally 12 1/2% royalty. Under this proposed legislation, if the commissioner can solicit competitive bidding on the basis of a front-end bonus but with one of three alternative sets of fixed commitments written into the lease. One is a straight royalty which shall not be less than 12 1/2%. Second is a sliding scale royalty, that is beginning initial production at one level and then moving upward. And the third is a combination of a fixed royalty and a net profit interest to the state where the fixed royalty shall not be less than 12 1/2% of the fixed profit, interest shall not be set by the commissioner at less than 30%. So in effect this deviates from your present practice only insofar as it gives the commissioner a choice of three different elements which he can write into the leases when he opens them up for competitive bidding on the basis of the bonus. The royalty bidding is quite different. Here the two alternatives are that the companies would bid competitively; offering, competing on the basis of a sliding scale royalty which cannot begin at less than 12 1/2% and which carries thereafter a fixed bonus. The bonus is fixed by the commissioner, the companies bid on what kind of a sliding scale royalty they are prepared to offer the state or alternatively there's a fixed bonus and they offer a

fixed royalty. They bid competitively on royalty not a sliding scale royalty, but one says I'll offer 12 1/2%, another one says I'll offer 15%, yet another one says I'll offer 18%..... A few words about royalty, competitive royalty bidding, in previous discussions with committees of this legislature we have argued that royalty bidding is not a preferred form of bidding, except under very exceptional circumstances. If, for example, you have semi-proven acreage where the volume of the oil to be found is reasonably calculable, and the risks are not that great, location of the oil in terms of distance from ports or whatever else is pretty well known because other production is close by, under those circumstances you might have royalty bidding. But under most circumstances we would feel that royalty bidding is not a preferred form of bidding. You remember from our discussion of severance tax that the nature of the royalty or of the severance tax is that it becomes a percentage of gross value. Taken off the top of the gross value without regard to what the profitability of the venture is and when companies don't have to pay a very large bonus, the bonus is fixed at a modest rate, everybody pays the same bonus bids, but competitively on the basis of the royalty there may be a tendency for companies in their exuberance to obtain the lease to push the royalty which they offer the state progressively higher, they don't know what their competitors are going to offer, so they stretch their bid in order to win the lease. And then subsequently it may turn out that this royalty to which they commit themselves and which must be paid on every barrel of production over the entire duration of the lease becomes a very burdensome one; it could lead to earlier abandonment. But this is particularly relevant, what I'm saying now in the context of paragraph "D" at the bottom of page 4, which says regulation shall be established for all bidding methods to allow reduction of royalty to compensate for these increasing costs in the later stages of production decline, to prolong the

economic life of the field. And then it goes on, it says that the commissioner cannot really abate the royalty before at least two years of production have transpired. But, I put it to you, that although discretion on the part of the commissioner to abate royalties is something which you had in your lease a long, long time ago in your leasing bill; although this may be good legislative practive and good administrative practice when fields are beginning to reach the end of their natural life and you would like to encourage the maintenance of production even if it means taking a lesser royalty; to have this in the statute at the time when companies are bidding competitively on the royalty and then there is a temptation to say, well, if we bid too high a royalty, we come running back to the commissioner and we ask for abatement of the royalty So, you put the state, you put the commissioner in a very bad hole and and you have perhaps without intending to, you encouraged the companies to bid not the highest royalty that they think they can afford to pay in light of their exploration expectations, but to over bid because when worse comes to worse they will go running back for abatement of royalty. So I would think that if you are going to maintain this feature in the leasing law which says that in order to encourage the continuation of marginal production there will be the possibility of abating royalty then you certainly, I think, want to consider very, very carefully whether you want to have among the options, under which the commissioner can lease, bidding competitively on royalty. The third alternative or the third form of competitive bidding is bidding a percentage of net profit to the state. What this means in effect is that the companies who are bidding competitively to obtain a lease will say to the state, well, your lease requires us to pay a fixed bonus so we all have to do that and in another version your lease requires us to pay a fixed bonus, plus no less than 12 1/2% royalty whatever the commissioner specifies. Now, each company

bids competitively by saying to the state that after we have paid the bonus and after we pay a royalty of 12 1/2% of gross well head value on every dollar of production, thereafter, each year we convey to the state a percentage of our net profits and the companies bid competitively; the company that commits itself to turning back to the state the largest percentage of net profits is the company that wins the lease. Net profits can be defined, they are not defined in the statute, and I think correctly not so. The commissioner before any lease sale where the bidding component or the bidding variable is net profit, tells all companies who are entering the bidding precisely how net profit will be computed. It does not have to be and, hopefully, will not be the same way net profit is computed for income tax purposes. It is a notional concept of net profit which says you start with this gross value or whatever it is and you subtract certain specified costs everyone knows precisely without too great argument or debate how the accounting will be done in the course of the year and relatively simple accounting can be mandated by the commissioner before the lease sale. We have felt for a long time that the net profit bidding variable is a particularly attractive one, both in the standpoint of industry and for the standpoint of whatever government it is that's putting up acreage for lease. Not necessarily to the exclusion to other possibilities, but under certain circumstances a very attractive approach. What it does is, it removes a great deal of the capital available for exploration from the front-end bonuses so that the money thats available goes to productive work instead of just to front-end bonus. Where there is highly successful exploration the lessor, State of Alaska in this case, can expect to have very, very substantial revenues from the lease quite apart from taxation or anything else. Revenue from the

lease as the percentage of net profits. You might even think of net profit as a royalty based upon net value instead of a royalty based upon gross value. Sometime it's referred to as a net royalty or a net profit carried interest. What it means in effect is that the State of Alaska takes on a very considerable proportion of the risks in the exploration game. It does get a bonus but the bonus is a small bonus fixed by the commissioner as being appropriate to this bidding variable. And it may get, say, a fixed royalty but after that the larger proportion of the income which the state might expect to receieve it would receive only if the lease proves to be a productive lease and how much the state gets depends upon how much oil or gas is found, what the value the oil or gas is, and how profitable the operation. So the state in a sense becomes a partner with the explorer in both the failures and the successes of the venture. But the state does not become a working partner, the state does not become an active partner, the state is not in the oil and gas business. The decision as to whether or not the exploration should take place, the competitive bidding on what the net profit conveyed to the state is... all of these are private decisions by private industry in a competitive environment. Then the final variable, and it is the eighth item among the alternatives available to the commissioner, is bidding on the basis of work commitments. And there in a sense, the commissioner says when the sale is being advertised, that there is going to be a fixed bonus, and there is going to be a stipulated royalty. Now the winner of this lease who is entitled to do the exploration is the company who commits the largest amount of money to exploration process. This kind of bidding, perhaps, would be utilized in very, very difficult environment areas where the state wants to be sure that all potentials of the acreage are really explored, where the costs of exploration may be very, very high and where in the absence of work commitments the companies may be inclined to back out too quickly in terms of the results of one

unsuccessful well or whatever the case might be and the state would like to get the best possible exploration of the prospects within the area put up for lease and therefore says to the companies, we will reduce your bonus commitments, we won't have a bidding on the basis of royalty, but we will allow you to bid on how much you are prepared to commit to the exploration of this acreage which the state is putting up for lease. Well, just a few comments, I've already indicated that I think, that we think, that gross royalty bidding except in rare circumstances, is not the most attractive form of competitive bidding, and particularly not if you are going to allow abatement of royalty under certain circumstances. Bonus bidding, net profit bidding, work bidding, each one a reasonable approach to competitve bidding depending upon the nature of the area which is up for lease; how the state, the commissioner, and his technical staff regard the potentials. So I think that by providing these alternatives, the state is in effect creating a reasonable basis for a leasing policy within Alaska. I wonder, however, whether it is necessary in legislation to itemize all eight possibilities, that is to say, a bonus bid with not less than a 12 1/2% royalty, or a bonus bid with a sliding scale royalty, or a bonus bid with not less than 12 1/2% royalty and not less than 30% net profit. There are many variations which are itemized here, and for example, a bonus bid with not less than 12 1/2% royalty, and not less than 30% net profit is hardly, I would suspect in most areas, is hardly going to get much competition in terms of the bonus. Why not less than 30% net profit? It seems to me that if you lay out in gross terms what the permissable bid variables are, bonus under certain circumstances royalty, perhaps net profit, work commitments, and then leave it to the commissioner as to the combination of variables and the minima for the fixed items he wants to put in there, how far can one anticipate in legislation itself, what combination of fixed commitments

should underlie the selection of a bid variable, like a bonus variable and I would think that perhaps it might be advisable for the legislature to consider presenting to the commissioner a greater option of more bidding variables and perhaps set certain minima, but not itemize them in the details which appear here. Now there is one other aspect of the bidding that I would like to refer to and it is an item that appears on page 9. It says lands which have been offered for lease within the previous five years, but which received no bids at public auction may at the discretion of the commissioner be immediately offered for lease under regulations promulgated in advance upon terms most advantageous to the state including leasing non-competitively. The commissioner shall utilize a sliding scale of royalty based upon such formuli as he determines to be equitable, but need not adhere to the rental schedule in subsection (k) of this act nor to the 57 (indesc.) acres per lease and so on. What I am calling your attention to is the option here avaiable to the commissioner where a lease that is offered for bidding has not been taken up very quickly, to put it back for lease including under noncompetitive circumstances. I think that this could open up some dangerous precedents. Particularly if it's offered too quickly. I mean that the fact that a lease is not taken up in competitive bidding does not mean that there is no oil and gas there, it does not mean that the prospects are not good for oil or gas, it means that given the state of the knowledge at that moment of time, given the way the industry perceives the attractiveness at the moment of time they have'nt been interested in bidding on it.. They had other things that were more attractive, whatever the case might be. But let some time go by before opening this up for leasing again and particularly under competitive conditions again, what may have been learned about the geology of the state in the interim period. The way in which

company perspectives may have changed for a lot different reasons, I don't know what the case may be, I think may lead to the ability to lease under more favorable terms rather than for the state to conclude that nobody wanted our lease, well, we would like to have it explored anyway, let's get it on the market as quickly as possible, even if under noncompetitive circumstances. I would strongly suggest that you hear from the department, as well as from me, and others about why there is a sense of urgency about leasing noncompetitively just because the lease has not been taken up. I pass to other aspects than the terms of bidding and leasing. On page 5, there is a very pregnant one line clause which says the commissioner is authorized to withhold acreage from leasing in a particular lease sale. Now again, for those of you who remember one of the first reports we made for the legislature on leasing policy many, many years ago, one of the things that was discussed was the advisability, under appropriate circumstances, of the state leasing less than the full acreage in which there might be industry interest. Now enough acreage has to be put up for lease so that the companies that win the leases have a reasonable aggregation of acreage to provide for viable production of oil or gas or whatever is discovered. It doesn't necessarily mean that everything within a particular area of prospective interest has to be put up for lease simultaneously, there is good reason particularly if the purpose is to maximize the states share from profitable oil and gas production and minimize revenue from unsuccessful exploration wells and from marginal production for the state to withhold a certain amount of acreage. Now the acreage which was withheld may be condemned as absolutely sterile if the exploration around it finds nothing, (indesc.) the state may have withheld may turn out to be condemned by the industry you will never be able to lease it in which case you will not have gotten any bonus revenue

or whatever the case may be. But on the other hand, if it is successful you may come up with a subsequent lease sale with a net profit bidding for example, which makes it very attractive to the state in terms of the income that they will receive. So I would think that this thing is that the commissioner is not only authorized, but subject only to circumstances which make it undesireable which in case the commissioner has to exercise his judgement, that he should in fact withhold acreage it should be a more positive thing. I wouldn't want to make it binding under all circumstances. discretion must lie (indesc.) some areas where it may not be feasible where whatever acreage is put up really has to encompass the most of the structure which is in interest. If it can be done, I think it would be advisable to do so. The next feature that I would like to touch on briefly has to do with the period of exploration and on page 6 the appropriate paragraph says that an oil and gas lease shall cover a reasonably compact area and be for a period of five years. And there is no provision here for extension of the exploration period except under specific circumstances if production is eminent or a well has to be completed or the property goes into unitization. What under normal circumstances is a 5 year exploration period. I would suggest that there should be provision for at least some reasonable extension of the exploration period particularly in a country as difficult to operate in as the State of Alaska, where the geology, the environment, the climate, the circumstances all make it impossible to conclude an ongoing exploration period precisely within the five years. A whole exploration season may be lost because of a combination of circumstances; because drilling equipment couldn't get out there, or at the end of one season the

seismic work never got completed and one has to wait for the proper time of the year to go back and finish it and one loses a year of exploration. I would think it would be advisable to allow an extension of the exploration period. If in the view of the commissioner, good faith has been exercised by the leasing company in the previous 5 years. I think it does no violence to the interest of the state. But there is another very interest feature thats introduced here at the bottom of page 9, paragraph v, the state shall have the right to purchase not to exceed 16 2/3% by volume of the oil and gas produced pursuant to a lease, and it goes on. That is to say, the state is assuring itself that if it chooses, it can have as much as 1/6th of the oil or gas produced on the lease. Now included within that would be the states royalty oil and gas and the volume metric equivalent of whatever the state may get on a net profit share. But if those fall short of 2/3rds of the oil and gas the state has the right to buy at the market value at the field price enough to make up 2/3rds. There is no obligation on the state to do it, the state has the right to do it. I see a tremendous advantage of the state in this, I seen no great diadvantage to the industry in this if exercised judiciously. It could be unattractive to the industry if it is arbitrarily applied and particularly out of small production where the lease holder really needs a substantial volume of oil to provide the economics for his export out of the state for example, and taking away 1/6th of the volume of oil starts cutting things too narrow for him, then I would say that this could be a burden to any company who is undertaking the exploration and who successfully is doing the development. So I would think there ought to be at least some proviso where by the lease holder is protected against simply a determination to take 16 2/3rd

no matter what, and in particularly small areas where the increment of the state gets may matter very little to the state but may matter very much to the producing company. I think some kind of clause should be put in to provide the protection.

That's the sum of the remarks that I think I could make about the special features of this proposed bill and if there are any aspects of it that I touched on or things that I have not chosen to talk to that you would like to address yourself to, I'm at your mercy.

SENATOR POLAND I will ask you one question Mr. Lipton, and that is, have you felt for sometime that our leasing policy needed to be updated or overhauled?

MILTON LIPTON Well, I think that if only to broaden increase, the number of options available for leasing, yes, I think so. I think the traditional front end bonus bidding and there is a lot to be said for it under the proper circumstances, and, but for this to be the sole basis of competitive bidding, I think it places a burden in rank wildcat areas upon the industry which is unnecessary, that you have to put so much money that ought to be used constructively, pay out as a bonus and it puts the state in a position where in many rank wildcat areas what the state gets is miniscule in terms of bonuses compared to what may be the profitability. If you add up the sum total of bonuses received by the state from the producing areas of Prudhoe Bay, it is miniscule bonus income because the companies were bidding on rank wildcat areas at a time when even if they were

successful no one ever knew if it could be developed, tremendous volumes of oil had to be found and if prices had ever stayed at $3.00 per barrel it never woud have been produced you see, under those circumstances obviously the bonuses are very very little. Now, I think there is no great virtue in the state having competition on the basis of front end bonuses when the total amount of bonus income you may get, particularly in the less attractive areas of the state. What seemed to be the less atractive areas of the state will be very very little and may prove to be the most attractive producing areas after they are developed. So that if you minimize the front end bonus under certain circumstances and go to a net profit interest then you have a chance of sharing much more considerably in the profitability of successful ventures and without doing great violence to the incentives of the industry. Because no company is going to bid away such a large share of the net profits that it leaves them without the incentive of very very profitable operations on the remaining shares. Now it is something which I think can be equitable both to the state and to the company. So yes, I do think that the leasing warranted amendment if for no other reason than to introduce a greater variety of bidding variables without going mad with you know giving the commissioner so many options that the poor man will never no on what basis he can make a selection. But I think to introduce several other options is a major step forward.

Q: Senator Huber - Milt, can you tell me from industries viewpoint if we would do any harm to this bill, in particular, or good or otherwise, your comments in regards to us putting an Alaska hire clause into the leasing requiring Alaska hire based not upon our regulatory rights but upon our proprietary contract rights?

Lipton: Senator Huber, you know, you ask me from the standpoint of the industry you really should ask that of the industry, not of me, but I would give you a very quick impression and if you put an Alaska hire clause, in, what it

means to the industry depends really on what you intend by Alaska hire. I mean there, if the industry doesn't have sufficient flexibility to obtain competent people, whatever their origin, then I think it does harm to the industry. But if the way in which it is applied is sufficiently flexible then I suspect not only wouldn't the industry object, but the industry would be delighted. You know, I think the industry would like to make the maximum possible contribution to Alaska hire. But it must be a very difficult thing to administer, I suppose.

Q: Senator Huber - I apologize for asking the industry viewpoint. I was asking basically for the economics of the industries viewpoint.

Lipton - Well, as I said the economics are affected depending upon how this either contributes to, or intereferes with the efficiency of the industries exploration and producing operations.

Q: Senator Huber - I was referring to a particulary in the difference between our regulatory powers as a government and our proprietary rights as a contract maker in this particular case.

Lipton - Well Senator Huber, this suggests to me that if you are doing this as part of a contract rather than by regulation, does that mean it's going to be less flexible, because it is in the contract?

Q: Senator Huber - Madame Chairman, Mr. Lipton, the intention is to make it less flexible because we are presently finding that our leases do not contain this and that hiring is not being done from the North Slope from Alaska where it could be done when there is qualified people sitting on the benches. And we want something to get a handle on this, so that it is not going to be struck down by the Supreme Court saying that you cannot make

such a law we want to work on our proprietary rights being that is our oil that we are selling.

Lipton - Senator Huber, I find it very difficult to give you a responsive answer because if you say that there are qualified people sitting up there who are not being hired, now obviously that is bad and if you had it in the lease they would be hired. On the other hand, if the industry may interpret qualified people differently. I don't know it's very very, it's difficult to say. But if the whole idea is to make it a firmer obligation through the lease that is one thing. But if you make it a firmer obligation and there is no flexiblity then I think it could be very difficult.

Q: Senator Huber - Well Madame Chairman, I won't dwell on it but just one more short thing, so that you understand what I am talking about. When the industry on the North Slope makes a deal, with forinstance, a Hawaiian corporation to supply them with the personnel and to do the hiring for them and then the hiring is done in Houston Texas we become concerned when there is qualified Alaskans sittin on the bench. But if we have a handle, a way that we can get a handle on this, using our proprietary rights we should be doing it, or trying to find a way to do it when we know that we can't do it with our regulatory rights and that is why I wanted to get your expertise on this.

Senator Meland - Madame Chairman, I, has Mr. Lipton spoken to any type of questions about all the legislature or are we just talking about (inaudible). Because I did have some questions that were left over from Wednesday, but we can certainly wait on that and talk about this legislation before us.

Senator Poland - Well what we had though we would do is talk about this and when there are no more questions on this we will go to the royalty oil proposals and then throw it open for all types of questions.

Q: Senator Radar - There are many question Madame Chairman. I had two items that I would like to have Dr. Lipton comment on. One of them is the concept of limiting from 500,000 acres to 200,000 acres the amount that any one entity can hold in leased lands and that concept actually appears in several faces in the bill. I assume it is to prevent or to insure a competitive market here so that we don't end up with one company dominating the field. Comment on this and give us your observations on that and what problems and benefits might flow from that.

Lipton - I think there is great virute in limiting acerage holding by an individual company. On the other hand, I have no feel really, for whether 200,000 acres as an amendment to the 500,000 alternative is too little or not. I would strongly urge that in order to acheive the same purpose, that is, I think that two things are of value. Acerage limitation I think could go in there. I don't think it does violence, providing that it is not so narrow that in a sense very soon you start reducing the number of competitors and a company that is successful in a couple of lease sales and then suddenly finds itself barred from further competitive bidding for acerage. You defeat your own purpose if you do that. But I sense that the purpose of the legislature and certainly the interest of the state is that acerage shall not be held. The purpose of winning acerage under a lease is to get on with the business of exploration. And therefore I would suggest that whether there is competive bidding on work obligations is one of the options or not. I think there should be work obligations in every lease. The commissioner should in every lease stipulate minimum, not maximum work obligations. We are not trying to tell the companies how to conduct their exploration activities. But there should be certain minimum work commitments which the companies have to perform in order to hold that lease. Let them get on with the business of exploration. It does no violence to the purpose of the companies, unless they want to get in that bidding and then sit back and wait for

somebody else to do some work or they wanted to be sure they were represented in the area but they had other fish to fry elsewhere in the state or somewhere else. I think you have a five year duration of the lease and I have already suggested that you might be willing to extend it, if the companies really need it and they have been going about their business. On the other hand, there should be minimum work obligations in every lease there. I think also there is a certain virtue in putting a ceiling on the amount of acerage which a given corporate or individual can hold as a result of leasing from the State of Alaska. I certainly would not want you to cut that down so small that you lose the competitive bidding and the third, fourth and the fifth lease sale because one company has already not exhausted it's interest, not even exhausted it's dollars but has exhausted it's ability to hold acerage in the state.

Q: Senator Radar - Would you comment on the provision as to the lessee or permittee conducting any exploration for development or production of oil and gas, the state shall provide the commissioner access to all data obtained from such activities and shall provide copies of such specific data as the commissioner may request. I don't know whether that is intended to change the public disclosure of that information or whether there is still proprietary interests or not but what is your understanding of that provision and your comment? It is on the top of page ten. It starts on the second line.

Lipton - I assume that your statutes prevent public disclosure of this for some minimum period. What is it two years in Alaska. Two years, I think I believe. Two years by statute.

Q: Senator Radar - Cause I take it that the proposal here does not suggest that we alter that proprietary -

Lipton - I would hope not. I would hope not. I think the right to proprietary information for at least two years. For any company operating here considering the amount of money which goes into

exploration. I think that should be protected.

Q: Senator Radar - Well let me ask you this. Would that be true. I assume the reason for your statement is that a company therefore gets the value of it's own work product. But what if the state, for example, should for reasons unknown, at the time of exploration, should withhold in the leasing for a period of three years. Then under those circumstances we would have deprived the company of the value of it's own work product. I don't know how to avoid that but I can see a problem here and perhaps discretion should be available here. Although I am not certain as to the purpose of this particular section or what the discretion or the thrust of the discretion should be. Whether the purpose here basically is to give the state the right to deprive them of the work product, within two years or what?

Lipton - Well I don't know how you can set the period of confidentiality so that it conforms with the amount of, the lapse of time between one lease sale and another lease sale. I mean that is a pretty difficult thing to do. I don't think, see the point is the state has access to this information. It is just that the competitors don't have access to this information. And in that respect there is a certain value in extending the period of confidentiality to a reasonable period of time because the value of the information is not just for another lease sale in exactly the same area. There is an awful lot of information. It becomes valuable because one correlates it with what one knows from other wells elsewhere. One builds up ones geologic and geophyical knowledge as this stuff becomes public. So there is virtue in keeping it confidential for a reasonable length of time. But I don't know, one can't do it for too long a time or you deprive the industry as a whole of what is really basic knowledge necessary for it to advance. So there is some kind of a compromise has to be struck between the virtue of the confidentiality to the company doing the work and how important it is for the whole industry to know more and more about the State of Alaska.

Q: Senator Radar - Well let me ask you. You have suggested in a number of instances descretion in the commissioner. Do you think that in this particular instance that we should provide administrative descretion in perhaps, write in a minimum or maximum or something of that nature. Or do you think the two year -

Lipton - Senator Radar I don't think this is an area where the commissioner ought to have descretion. This is protection which the legislature is going to give to an exploring company as they are taking the risks in putting it's money in. It depends upon the legislature to know exactly what it's protection is.

Q: Senator Radar - Well what if you wrote in a minimum of two years, an extension of that period of time before it was made public?

Lipton - Senator Radar, I don't know of any place where that exists. That of course doesn't mean that it's a bad idea. I don't know that it exists anywhere else. I am not familiar with it. I think normally two years is pretty ample time. Again I would certainly defer to the judgement of people in the administration you know they have alot more experience with what the circumstances up here in Alaska have been.

Q: Senator Huber - Madame Chairman, I would like to just ask Milton just one thing, one question that was raised here by Senator Radar and I would hope he would concur with me. Milton will you take a look into the matter that Senator Radar brought out to determine in your opinion how our laws stack up on this at this time and give us some kind of a report on it. I think I know and the question I would like to ask you would be if you thought that two years was the best period of time and compare this with our current law and give us another report.

Lipton - Yes. I would be pleased to.

Q: Senator Radar - Madame Chairman, perhaps if I might ask Dr. Lipton, he said he had no particular feel to the 200,000 acre limitation for single holdings. I might ask him if it is possible for you to develop a feel for that. At least give us your best judgementas to whether or not -

Lipton - Yes.

Bristol Bay Native Corporation 445 E. 5TH AVENUE / P.O. BOX 220 / ANCHORAGE, ALASKA 99510 / PH (907) 278-3602

March 10, 1978

The Honorable Alvin Osterback
Chairman
House Resource Committee
Pouch V
Juneau, Alaska 99811

RE: H.B. 854

Dear Mr Chairman:

It is my understanding your committee will be holding hearings on H.B. 854 on March 16th and 17th, 1978. Unfortunately, we will have no representative at the hearings to testify and therefore, we respectfully request this letter be included in the official record of the hearings.

First of all, we object to most sections of this Bill as it is very complex, creates a multiple choice system that is unworkable, discourages exploration on State lands, and above all would have a serious impact on the development of our lands. We strongly urge that no action be taken on H.B. 854 this year.

Previous State selections and proposed selections in our region total several million acres with oil and gas potential in the Nushagak Basin (Bristol Bay Basin). BBNC lands in the onshore portion of this sedimentary basin would total about 1,750,000 acres surrounding 17 villages, several of which the Native lands are not contiguous. In other words, most of our lands with the new proposed State selections would be adjacent to or surrounded by State lands. In many instances, a drilling unit would involve both State and Native lands and in some instances, Federal lands. Therefore, any changes in leasing of State lands will have a direct effect on BBNC lands. Most of the provisions of H.B 854 would change the economics of State and Native lands in a producing unit. The net result will be that the portion of the unit under State leases would become uneconomical and abandoned first and the Native portion of the unit would then become less economical followed by early abandonment and thusly leaving large amounts of oil or gas in the ground. This could hardly be called conservation.

BBNC has had a joint agreement with a major oil company whereby, with commercial production, we will become a producing oil company. We do not lease our lands! Knowing some of our selected lands might not be adequate to cover undefined seismic structures, we anticipated leasing State or Federal lands in order to form drilling units for early development of our lands. About three years ago, we filed the necessary qualifying documents to hold both State and Federal oil and gas leases and have filed offers to lease on several thousand acres of Federal lands.

We have no problem with the present leasing system as it has been tried, tested, proven and above all, is understandable. Such a mixed bag of radical, czarist possibilities as proposed in H.B. 854 is uncomprehensible, unjustified and will no doubt have the opposite effect of the original intent, unless the intent was to retard development of State lands indefinately and in effect retard development of much of our lands.

Again, we strongly urge the postponement of any action on this Bill.

Sincerely,

W. C. Bishop

W. C. Bishop
Manager, Subsurface Resources

SEC. 5

OIL AND GAS LEASING POLICY:

ALTERNATIVES FOR ALASKA IN 1977

A Report to the State of Alaska, Jay S. Hammond, Governor

Department of Natural Resources, Guy R. Martin, Commissioner,

and to the

Alaska State Legislature, Interim Committee on Oil and

Gas Taxation and Leasing Policy, Chancy Croft, Chairman

February 1, 1977

OIL AND GAS LEASING POLICY: ALTERNATIVES FOR ALASKA IN 1977

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Summary

The purpose of this report is to be of service to the Alaska State Legi ture and the Department of Natural Resources in their review of oi gas leasing policy. It is written from the State's viewpoint. It t. he State's interests as being frequently adverse to those of the Sta lessees, without being hostile to them. Where the State's interest verse to the federal interest, we take the State's position. Otherwise, the purpose is to be as objective as possible. The Report lists the pros and cons of alternative policies and indicates what the Legislature needs to do to make each policy work. Recommendations are made in a tentative way.

This is a survey rather than an intensive study of any one alternative. The purpose is to display the full range of alternatives and the full range of issues to be considered regarding each one, so as to keep individual matters in the larger perspective so that no one issue is overweighted. The purpose is to compare, and to show how different leasing elements complement or substitute for each other. The purpose is to serve as a springboard for legislative review and a guide to additional, more selective investigations.

As a unifying theme, the list of alternatives proceeds sequentially, showing how each more complex alternative emerges as an answer to faults perceived in prior ones.

As a set of criteria for judgment the Report seeks to lay on the table assumed goals of the State. These are the following:

-- Business-like ma[illegible]his is taken to mean in practice the maximization of discounte[illegible]

-- Equity. This is take[illegible]n avoiding giveaways; reducing the lottery element in leasing; hewing to the productivity basis of distribution of income; collecting for the State the rent of its lands; basing industry incentives on productivity rather than acquisition of State assets; and reducing the differential advantage accorded to accumulated wealth.

-- Workability. This means a minimum of arbitrary regulation, achieved by binding the lessor and the lessee in a community of interests when writing the lease.

-- Avoiding economic waste. In addition to physical waste, there are the wastes of producing at excessive cost and doing things at the wrong time. The Report suggests abandoning the criterion of maximizing ultimate recovery in favor of maximizing discounted cash flow; avoiding the dissipation of rent by overspending, particularly on capital. It warns against the twin dangers of using proven resources too slowly and searching out new ones too early.

-- External impacts. These are seen as negative by environmentalists and as positive by developmentalists. The reconciliation lies in a wider distribution of benefits.

-- Coordination with federal and native landowners.

The Report now surveys leasing alternatives in sequence:

-- Noncompetitive leasing is faulted for giving away too much and encouraging premature leasing and production.

-- A high bonus partially cures these problems but creates a serious front-end filter problem. Professor Norgaard's postmortem analysis of bonus bidding i Alaska indicates that too little has been received for leases.

-- A high annual rental cures the problem of the front-end filter by replacing it. It may overaccelerate production, however, unless made to dwindle over time. A rental whose level is set before discovery reduces the buyer's risk since he may drop the lease at will, but does not alleviate the State's risk of selling for too little. A rental based on assessed value avoids this problem and also dwindles over time.

-- High royalty rates solve much of the risk problem. They eliminate the front-end filter and they collect revenue. However, they allow too much speculation. They also put a drag on production, especially marginal production. Premature shutdown turns out to be a minor problem. Others are greater: slow production and future shift; leakage of rent into private hands from better deposits; excessive deferral of State revenues; and lower success ratios for exploration. These problems can be alleviated by imposing specific work terms, by using sliding scales, and by limiting the term of the lease.

-- Specific terms. These must be used with high royalties to compensate for the disincentive effects. Mandatory liability for environmental damage is also suggested.

-- Profit sharing. This means letting lessees write off costs against royalties and also raising the rate to compensate. This lets the State receive more per barrel from the richer deposits, and avoids

sterilizing the marginal ones. It gets us into the same problems as administering an income tax: the rate is high, padding costs is likely, depreciation paths and lives must be determined according to complex and sometimes arbitrary formulas. There remains a loophole for unrealized capital gains.

-- Rent-sharing. In addition to costs the lessee deducts interest on the value of his improvements by one of three methods: by allowing deduction of capital over time with interest at a specified rate; by allowing front-end recovery of capital and by applying an ad valorem charge to the assessed value of the leasehold interest. The first two alternatives engage us in severe auditing problems, and both are biased against exploration on long-shot ventures. The third alternative removes the auditing problem and replaces it with an assessing problem. It also puts a bite on unrealized capital gains. It avoids many faults seen in prior systems: it raises money; it defers payments but not excessively; it puts no drag on production; it requires little direct regulation; it imposes no shift towards the future; there is little opportunity to pad expenses; and there is only a limited bias against long-shot exploration (because what is hard to find is often hard to produce and therefore low-valued). Its problem is discouraging postleasing exploration. Some remedies are suggested.

-- Regulating field operations. Some form of unitization is required. It is suggested that this will work much better if the State accepts the criterion of maximizing discounted cash flow, eliminating a conflict between the State and the operators. A two-tier system is suggested as an alternative to 100 percent unitization.

-- Three alternatives are passed over lightly, although without prejudice. These are: checkerboarding; the sale of undivided interests; and the sale of a fixed volume of oil and gas.

-- Handling information. The Report considers the pros and cons of the State's buying more information on contract as an alternative to relying on industry nomination. The weight of argumentation is in favor of the State's taking a more active role.

-- Direct State intervention in the market is considered, primarily to aid in monitoring prices used as bases of evaluation for royalty and assessment purposes, and to guarantee to all lessees equal access to transportation.

Next a criterion and procedure is developed for timing lease sales. State lands are to be ranked according to maturity or "ripeness." Ripeness is defined as a condition where the percentage growth rate of the DCF of the State's interest slows down. The State's wealth is maximized by selling leases when this anticipated growth rate slows down below the rate of interest. The appropriate rate of interest should be the State's borrowing rate. The question is raised whether the State should set a reservation price when auctioning leases. The Report addresses the question of whether the proposed procedure will cause leases to be sold at a sufficiently even rate.

The Report considers the administrative load and personnel requirements associated with alternative leasing systems. The use of royalties entails ancillary regulation to compensate for the disincentive effects of the royalty on production. The profit share system entails an

auditing staff to avoid the deduction of unjustified expenses. So, also, do the first two rent-sharing systems where capital costs with interest are deductible. The ad valorem charge system entails a staff of valuation engineers or appraisers, whose services are also required to operate a system of timing lease sales optimally.

Leasing is seen as supplementary to taxation, and taxation is not seen as an adequate substitute for leasing policy because taxation is addressed to persons or corporations while leasing policy is addressed to parcels of real estate. The exceptions to this are a net proceeds tax and a property tax, either of which might be used as a substitute for leasing policy.

Recommendations are submitted tentatively in light of the complexity of the subject and the several imponderables involved. I recommend screening out systems based on ex ante forecasts of resource values like the bonus bidding system, because of the front-end filtering out of leaner firms and because so much has to be gambled on so little information. We consider the lease elements whose value depends on actual disclosure of resource values and rank them in the following order: the ad valorem charge, the profit share, the sliding scale royalty, and the front-end recovery. We recommend a vigorous program of State-financed contract exploration with publicity of findings. We recommend scheduling lease sales according to the ripeness criterion described above. We prefer that unitization be administered by an organization of local leaseholders.

Our most immediate and unambiguous recommendation is for a greatly expanded program of information-collecting and valuation, to serve as a necessary base for all other decisions.

A. Reasons for this study and Report

This study was commissioned by Guy R. Martin, Commissioner of Natural Resources, State of Alaska, in cooperation with the Legislative Interim Committee on Oil and Gas Taxation and Leasing Policy, chaired by Senator Chancy Croft. The present Report is part of a larger study being conducted by the Department of Natural Resources, a study described in Commissioner Martin's statement of July 10, 1976, entitled "Alaska Oil and Gas Leasing Study," copies of which have been submitted to the Legislature. The primary focus of the present study is Section 4 of the July 10th memo which reads as follows: "A description and analysis (legal, economic, other as necessary) of all alternative systems which are practically applicable to State use in Alaska, with emphasis on broadening the State capability to employ alternatives rather than making final decisions on which systems to use. This task should consider the practical experience of other states and nations as well as leasing theory and research.

a. Special attention in the analysis should be given the risk element in alternative systems as it relates to public administration of oil and gas resources.

b. The analysis should include, in some form, an overview of this entire leasing issue of use to State officials and legislators."

This Report also responds to Section 5: "An economic/legal analysis of the interrelationship of leasing (ownership interests) alternatives with taxation alternatives. Ongoing coordination with the taxation

segment of the administration/legislative study."

This Report also responds to Section 7: "Design of a system (a criterion) for decision-making by public administrators regarding various leasing alternatives. What information must be available; what factors should be considered; what process should be followed to decide between new alternatives."

In keeping with the spirit of the assignment, the tenor of this Report is expository and not advocatory. The main purpose is to lay out major alternatives in a systematic way to serve as a basis for legislative review, debate and decision. The report does offer its own recommendations at the end and the consultant offers his own judgments from time to time where it seems appropriate, and where they may be identified as such. The overall spirit of the Report, however, is to define and articulate alternatives, to spell them out in a logical sequence, stating the advantages of each, the faults of each, and what the Legislature would have to do to make each one work. Most of them will "work" --sort of-- and are in operation in various jurisdictions around the globe. It is a question of what might work better in light of your own objectives, circumstances, and visions of the future.

In developing alternatives, the Report proceeds from the simple and basic to the more complex and sophisticated, showing how each complexity develops as a logical effort to overcome some fault in the simpler system. Before breaking down in complexities, however, the effort is made to apply Adam Smith's dictum that the evolution of successful inventions is not, in the end, into greater complexity but

greater simplicity -- an observation dramatized by Igor Sikorsky when he exhorted his engineers, "Simplicate, simplicate -- and then add more lightness!"

A purpose is to cut down the seeming number of alternatives without reducing the real number by boiling proposals down to their essentials and showing how few of them there really are. The number of possible combinations is still extremely high because there are so many elements in a lease but the number of reasonable combinations is much smaller because they need to be combined so as to balance each other and countervail each other's faults.

A correlative purpose is to develop commensuration, that is conversion factors among the apples and the oranges. By doing so we develop a common tongue for communication, a common currency for trade-offs, and a unitary standard for decision-making.

Alaska's interest in this topic is timely and in step with a worldwide trend to study and improve leasing systems. This is a natural result of increased valuation of oil and gas resources in the ground. As the retail price rises there is enormous leverage on field prices. The farther the field is from the gas pump the greater the leverage, so that the percentage increase in the field value of Alaska's resources is at a rate so high that few would have credited it a few years ago. Field prices everywhere are rising out of all proportion to other costs. This is reflected in extremely high bonus bids offered for tracts which were previously considered marginal or submarginal. A recent survey indicated that costs of land acquisition

by oil and gas companies increased by nearly 700 percent from 1970 to 1974 (Joint Association Survey, 1976) in comparison with all other costs which increased by considerably less than 100 percent. Clearly, the world is recognizing the high value of remaining oil and gas lands and it behooves any prudent landowner to protect his interests and to economize on the resource with much greater care than ever before.

Most analysts now foresee continued upward pressure on energy prices and this consultant, although forecasting is not his forte, is inclined to agree. This is the more reason to guard our future interests by using care in drawing leases now. The lease contract is binding and irrevocable, unlike tax policies. No legislature can bind or limit the tax power of a future legislature; but neither can a legislature in the United States, with its strong tradition of judicial review, rewrite a lease contract executed by its predecessors. Other nations may force renegotiation of contracts considered unfair in the light of changed circumstances. This is not unknown even in the United States but much rarer and harder than in countries of different traditions.

The result is a growing interest in public landowners' participating in future profits from oil and gas. For generations past, many governments virtually gave away land simply to get it used; while private landowners sold their future rights for a little money up front. Now these attitudes are changing drastically and there is ferment everywhere. The U.S. Congress has entertained several bills in both branches calculated to increase government participation in future profits in spite of

the government's having secured large revenues from bonus bids following the OCS Act of 1953. There has been some support ofor a federal oil and gas corporation to explore in advance of leasing. Equity participation in corporations has been a strong trend, exemplified for example in Norway, in Canada, in Saudi Arabia and elsewhere. Indonesia has pioneered its own interesting leasing system, characterized by rapid capital recovery to the lessee followed by very high royalties. Papua-New Guinea has recently adopted the same principle in more sophisticated form, basing its law on the careful advice of economists Ross Garnaut and Anthony Clunies-Ross. The academic world which ignored this topic for many years past is beginning to spawn several research projects and will soon be awash with reports and articles and proposals and econometric studies and models and new philosophies. The world is moving. Alaska is in step, although perhaps a step behind. The present assignment indicates an intent to catch up or pull ahead.

B. Objectives of the State

Only individuals, it is said, can have objectives. By "objectives of the State" this Report means the objectives of the effective majority of Alaska's voters as expressed through their political representatives and other leaders. No one thinks that representative government can completely succeed in representing everyone or, perhaps, anyone. But it is what we have, and this report addresses these leaders as though they were the State.

The Report does not presume to say what the State's objectives should be. It, rather, purports to distill what the consultant observes them to be; and to articulate and organize ambient ideas which are often heard but want greater system and organization. This entails the consultant in some interpretation. Those with more data and better interpretation may improve on this statement. The present report only begins the job of laying out our goals on the table.

A further purpose is to begin to define and expand on their specific implications. This inevitably entails even more interpretation and perhaps even some presumption by the consultant. Seeing these implications as he interprets them, one may sometimes recoil and say "no! -- That's not what I really want." So be it -- then we may go back and spell out more realistic objectives we can live with and we are well down the road to our present goal which is to be prepared for decision-making.

The following are what I take to be the State's objectives in framing a leasing policy:

1. Businesslike management of State property

The State holds property in trust for the people of the State and has a duty to manage it prudently for their maximum benefit. This means several things but one is certainly money. The State is a landlord. It wants to secure maximum income. It does not do this by fostering maximal use of resources but optimal use -- that is, it encourages lessees to maximize the bottom line, recognizing that income is net of costs. "Maximum income" is still ambiguous, however, because rival schedules of land use and income differ in their time-distribution: a fast start means a slow finish and vice versa. To resolve this ambiguity we deduct interest on capital between the dates capital is committed and later recovered.

This goes far towards resolving ambiguities but still leaves a large one, the treatment of the investment in withholding unproduced reserves from year to year. The final resolution is achieved by maximizing the Net Present Value of future cash flows. This procedure is also called maximizing wealth; and also called maximizing Discounted Cash Flow (DCF).[1] This report uses the last, which seems to be in common

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[1] There are references in Alaska reports to maximizing the "DCF rate of return." This usage seems ambiguous since the rate of return is held fixed at a rate determined by outside markets when one discounts the cash flow. It is the present value of the cash flow that one maximizes. It is mathematically quite possible and simple to hold the present value fixed and maximize the rate of return instead, using the same mathematical formulae, but treating the interest rate as the unknown to be maximized rather than as a "given." Sometimes this is done when one is out of contact with outside capital markets but there is no need for it here; and it would not affect the findings anyway because, as a rule, maximizing the internal rate of return as it is called will not lead to strikingly different results from maximizing the Discounted Cash Flow, so long as one makes no mistakes in mathematics.

use in Alaska. Businesslike management means adopting the criterion of maximizing DCF.

Maximum DCF is not to be applied rigidly or dogmatically or narrowly as a standard. It does not always comprehend all relevant values and factors. It does, however, comprehend a great many more than critics of the "almighty buck" might realize because it is the net balance arrived at after a long process of adding and balancing all manner of pluses and minuses. In addition, it provides a logical analytical framework within which newly recognized goods and bads may be added to the analysis in carefully measured perspective. One of these, on the minus side, is environmental damage. Some environmental damages are measurable in reduced cash flow. Damage to commercial fisheries is an example. Others are indirectly measurable in the marketplace. For example, the loss of residential and recreational amenities on privately owned land which reduces their service flow is measured in reduced selling prices of titles to the real estate.

Damage to sports fishing reduces an amenity service-flow which is harder to measure than cash flow but no less important on that account. Economists are developing techniques for measuring such service-flows. These techniques are still imperfect, like the rest of this world, but they at least let us set an upper and lower bound on the values and so let us begin to measure them in the same balance with other things.

On the plus side, increased payrolls and commercial sales deriving from oil and gas income will increase residential and

commercial values in some areas. Part of this increase is a "secondary benefit" from oil and gas development and should also be entered into the balance. This obviously gets complicated and extended. It is beyond the scope of this Report to resolve all such issues. The present point is that the use of the crassly materialistic and narrow concept of Discounted Cash Flow does not in any way box us in and preclude us from broadening the scope of the analysis when we have the will and resources to do so. It provides a framework of analysis which is almost indefinitely extensible to comprehend as many variables as we have the ambition to try to consider.

The concept of "discounting the future" disturbs many people but it is only the choice of words which is unfortunate. Discounting does not imply neglecting, abusing or short-changing the future but, rather, charting the most advantageous path into the future. The mechanism discounts poorer paths to the future because there are better ones -- "better" meaning a higher rate of increase of wealth. It is not prodigal to decline a 3 percent path in preference to a 10 percent path.

It is often suspected that discounting the future leads us always in the direction of faster resource use. Not so. We will see that this criterion may well lead the State to retard lease sales and production, so long as the anticipated proceeds to the State are growing faster than money in the bank. On marginal and submarginal lands these net proceeds begin growing from a base near zero. From such a low base they need not grow much in order to grow faster than money in the bank.

Discounting the future requires a discount rate. The State's rate need be no higher than its borrowing rate but it can be a good deal lower when Alaska has surplus funds to invest. There is no suggestion here that the "social" rate of discount is lower than the market, a concept wanting in both precision and rationale. It is, rather, a practical question. If the State cannot invest its surplus for high returns then an investment in the growing value of oil and gas in the ground may be a superior alternative.

Maximizing DCF as a criterion solves two problems for us, problems of timing. One is the optimal rate of production from proven reserves. These timing decisions are largely in the hands of lessees except to the extent that the State interferes with their natural desire to maximize DCF by controlling the rate of production. An equally or more important timing decision is when to begin production. Here the State is in the saddle with its decision of when to sell leases. The DCF criterion says that we should sell leases at that time when we expect that their future value will be growing more slowly than money in the bank. This rationale has been developed in the consultant's previous work, "Extractive Resources and Taxation." The relevant pages are attached as Appendix A.

The State's concern with money is not narrowly centered on lease-hold income but includes tax revenues of course. On the minus side, there will be associated public costs with increased economic activity. An exclusive or unbalanced attention to either the revenues or the costs without the other will always be misleading. It is the

net balance of advantage that we seek to maximize. This should provide a reasonable basis for compromise between the advocates of growth on the one hand and restraint on the other.

While leasing policy should help to protect State revenues, the State has minimal interests in protecting federal revenues from oil and gas. Since the federal rate is much higher than the State rate, especially after the Multistate Tax Compact (MTC) sharing formula is applied, leasing policy may often achieve a net increase of State revenues by being bent to consider the foibles of federal tax law applied to oil and gas, a law which the State follows. Much as we may deplore the peculiar federal tax treatment of income from oil and gas, there seems little reason for the State in its capacity as a landlord to conduct its affairs so as to maximize federal taxation of lessees where that would cut into State revenues from its property.

2. Equity

There is a strong feeling that the distribution of benefits from oil and gas production in Alaska should be equitable. Equitable does not mean equal although there is some suggestion of that in it and it might be more equal than now. There is support for the productivity theory of distribution, however. This means that rewards should be shared in relation to productive contributions rather than other factors like luck of the draw and the weight of superior wealth accumulated in the past.

Tolerance of gambling and the lottery principle has not altogether died. There are residuals of it in the lottery system for allocating noncompetitive leases which are filed on "simultaneously," that is, within one 30-day period, and of course there are lottery elements in the bonus-bidding system. There is a growing interest, however, in shifting from Lady Luck to productivity as a basis for distributing wealth. This is a corollary of a desire for greater equality since productivity is usually more equally distributed than luck, and certainly moreso than accumulated wealth. The Alaska attitude is Jeffersonian: "...there is a natural aristocracy among men. The grounds of this are virtue and talent....There is also an artificial aristocracy, founded on wealth and birth, without either virtue or talent....The natural aristocracy I consider the most precious gift of nature, for the instruction, the trust, and the government of society."

The implication of this is that we should seek to identify and measure that value which belongs to the State, that is the rent of

land, and then collect it. At the same time we leave to lessees all the other values, the ones which they create. Jefferson continued, "What is needed is a wise and frugal government, which shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned."

As a happy corollary, if we succeed in this we will protect necessary incentives to the industry and other lessees. A skillful system of discriminating rent collection will leave more incentive to lessees than a blunt instrument such as a royalty accomplishes. A rent-collecting device will take more from the flush deposits in their flush years and less or none from the marginal deposits, leaving incentives unimpaired.

Collecting rent will, to be sure, reduce certain kinds of incentives but these are ones that should be reduced in the interests of efficiency. Resource economists have repeatedly observed that the failure of landlords to collect rent results in overstimulation of resource use by interlopers, resulting in the dissipation of rent, as on the open sea fishery, or an open range. In such a case, reducing incentives is a good thing. It is not enough for incentives to be large; they should motivate people to allocate resources productively.

The prevailing concept of equity also implies that rewards should be related to ability and application more than to the weight of accumulated wealth. In practice this amounts to a suspicion that the present bonus-bidding system with its high requirements for money up

front is filtering out large numbers of potential lessees whose productivity might be high but whose accumulated wealth is low.

A corollary concept here is that reducing the bonus money screen would increase the number of competitive bidders. This, if properly handled, should allow the State to increase its revenues.

3. Practicality

Alaska has traditionally operated with a minimal bureaucracy. While it is increasingly recognized that some additional staff may be very productive, beginning from this low base, there is a presumption against any proposed system that presupposes a large and elaborate and expensive bureaucracy. It is also desirable that there be a low burden of compliance in the form of paper work imposed on lessees and that minimum policing be entailed.

Alaskans have traditionally left considerable latitude of judgment to their higher public officials as well as to technical specialists like reservoir engineers. There is a growing interest in stating objective criteria for these persons to follow, minimizing the burden of judgment and making it easier to evaluate the performance of individuals.

A practical system will be as automatic as possible, minimizing direct regulations and controls which are required when people have to be forced to go against what they perceive to be their economic interests. This is accomplished by drawing leases so as to bind the contracting parties in an identity of interests. The lease should make

the interests of the lessee as nearly as possible identical with those of the State, so he is moved to act in the State's interest by economic incentives rather than orders controlling his rate of production, work commitments, spacing, diligence, and so on.

A very simple system like a royalty system without other features might seem to avoid many problems, but in fact has the shortcoming of involving the lessor in extensive direct regulation in order to offset the disincentive effects of the high royalty rate. A profit share system, allowing for extensive deduction of costs by the lessee, precludes such direct regulations but on the other hand requires extensive audit of expenditures. A rental which is proportional to the appraised value of reserves like the Alaska Reserves Tax avoids the foregoing sets of problems but requires personnel with the ability to place a value on reserves. It is hardly possible to avoid demands for additional personnel under any system designed to protect the interests of the State. It will be a question of determining which system is least costly and most effective to administer.

4. Avoiding economic waste

There is a new and explicit concern with avoiding "economic waste." This is quite a change from and quite an improvement over the prevailing concepts which are limited to preventing "physical waste." The State presently legislates against various kinds of physical waste, for example against flaring and venting gas; against producing from "rate sensitive" reservoirs too fast to maximize "ultimate recovery." In this legislation waste is perceived only in concrete, materialistic terms.

Any subsidy to the industry tends to prevent the "physical waste" of not producing submarginal oil and gas. The State has extended a few such subsidies such as a tax holiday to a pipeline in Cook Inlet. Nonuniformity in taxation is a sort of subsidy to those taxed less, and the term "tax subsidy" is commonly applied to it nowadays. Federal income tax law traditionally extends enormous tax subsidies to the oil and gas industry through preferential treatment. The State has followed along by adopting the federal tax law and in addition has joined the Multistate Tax Compact (MTC) whose allocation formulas minimize State tax revenues from oil and gas. The attitude might perhaps by summed up as "as much as possible, as early as possible."

Producing subeconomic reserves entails not only the economic waste of the excess of costs over revenues, there is also the waste of selling the reserves when they are cheap, instead of later when they probably will have become dear. Our initial criterion of maximizing Discounted Cash Flow (DCF) would tell us to hang on to reserves as long as their value was growing faster than money in the bank.

Past policy in administration has been disposed to take an "infant industry" posture towards oil and gas. Raising money or maximizing State wealth has been secondary to attracting activity and capital. Lease sales have occurred at the initiative of industry nominations more than the State's, with the State not much disposed to hold back for the best price. Encouraging and establishing the industry was ipso facto a good thing.

A policy of leasing on demand will undoubtedly stimulate early exploration which will result in locating deposits that might otherwise not be produced, at least for a while. This might be construed as minimizing physical waste -- the waste of not finding something. There has been little concern about the economic waste inherent in premature and duplicative preleasing exploratory investments. In an earlier phase this was carried to even greater extremes when noncompetitive leases were issued. But leasing on demand at the rather low prices that have been received is only a halfway step between noncompetitive leasing of the free entry, first-come first-served, variety and an economical system which would maximize the discounted cash flow of the State.

As to duplication of effort, this is generally rationalized on the grounds that a second explorer might use a different concept from the first and therefore find something overlooked by the first. That is beautiful so long as cost is no object, but it is really no substitute for a benefit cost analysis that would at least purport to tell us how the cost of a second pass at the shot lines relates to its probability of success.

In regulating field production the concept of maximum efficient rate (MER) has been accepted rather uncritically with the thought that itmust be good to maximize ultimate recovery. MER has been accepted not for what might be the legitimate reason that prices are rising or the partly legitimate reason that it requires fewer wells and that saves capital, but rather almost entirely on the grounds that faster flow might cause physical waste. In this case the goal "as early as possible" clashes with the goal "as much as possible" and the latter wins.

The net result of overstimulating preleasing investigation, and decelerating production, is to attract lots of capital into the industry and slow down the rate of recovery. Capital requires to be paid for every year that it is tied up without being recovered. This payment necessarily detracts from the surplus that remains to be captured by the State. This is a kind of economic waste which I believe the State would like to learn to avoid. It dissipates rent.

The traditional conservationist feeling in favor of wide spacing developed at a time when the land surface was subdivided into small private properties, smaller than most oil-bearing structures, so that some offset was needed. The result today is rather one-sided preaching for the benefits of wide spacing without due note of its costs. Such preaching, which is widespread in the literature of this business, also suggests more solicitude for lessees than lessors because the interest of lessors is generally to have lessees apply more capital rather than less, where royalty is being charged. This bias is understandable in an industry where lessees have traditionally dominated lessors by virtue of being larger and fewer; and lessees' agents have written the books.

Where there is a high royalty rate the lessor's interest is to see prompt in-filling at high density. The lessee, on the other hand, might prefer to invest capital by stepping out to someone else's land while dawdling on this.

There is a growing awareness in the State that exclusive preoccupation with physical waste is a one-track goal which lacks adequate

balancing of benefits against the costs of achieving them. There should be an equal awareness that the problem of one-track goals is not peculiar to oil and gas. Specialists in any resource or activity become interested parties and tend to overvalue it and undervalue the costs of promoting it -- since costs represent a sacrifice of the interests of specialists in other resources and activities. This is a universal problem in an over-specialized world.

Legislators are called on to be generalists, arbitrating among the claims of competing specialists. There is no suggestion here that oil and gas interests are better at this game than other specialists, that their technical inside language is more obscure or intimidating than that used in other professions, or that their high "standards" are more unreasonable than those imposed by other groups of whom we could all supply examples. Focusing on "physical waste" is an overpleading technique not peculiar to the oil and gas industry. We bear down on oil and gas here because it is our subject matter and not because it is outstandingly bad. No industry or profession has any monopoly on self-serving, special pleading, and careerism.

Economic waste occurs whenever we prevent physical waste at a cost higher than the value of the oil saved. This would be simple enough to see and correct if all costs were present costs and all production flows occurred right away. The problem is more subtle because it usually involves the factor of time and therefore questions of capital and compound interest. Some major economic wastes of timing are described in what follows. Please note that I speak not only of what has been and

what is but also of what might be if we adopt certain alternative leasing policies that have been proposed.

a. Slow use of proven reserves

Slow production occurs if the State requires it through MER regulation or if it simply fails to build a fire under lessees whose cost of waiting is virtually nil when there is no substantial delay rental, and who might be "stepping out" with other leases which preoccupy them from attending to this one. Not maximizing DCF means ignoring the cost of interest -- first, the cost of drilling wells and equipping the lease and, second, the holding cost of the unproduced reserves. To schedule production this way is the same as assuming that no profit is required on investments, an assumption inconsistent with the idea usually accepted that some very high rate of return is required in order to interest lessees in taking a lease. This paradox is too often resolved by sloughing the cost onto the State in the form of lower bids for leases, from which lower base the lessee can still earn a good rate of return. This clearly is a bad resolution for the State.

The MER standard developed historically as a reaction to the rule of capture and has had at times a useful history therefore, leanding some aura of engineering "authority" to restrictions on production. But it became abused and harnessed to the purpose of helping rationalize price maintenance restrictions; and then it became habitual and traditional, applied in a rote way. It is not appropriate to Alaska today. It can easily become another case of a fixed professional "standard" applied without regard to circumstance or cost, forgetting

that "cost" means more than money. It means an invasion of the standards of other professions and other people who have to make the economic sacrifice.

b. Premature investment

We noted above how a noncompetitive claim-staking system based on priority of claim leads to premature and duplicative investment; and that a system of leasing upon industry demand or nomination halfway resembles a simple claim-staking system. The result is to sink too much capital too soon in the initial phases of exploration, proving up, social infrastructure, equipping leases, mobilizing support facilities, and so on. Money at 10 percent doubles every seven years. Money at 20 percent doubles every four years. To advance investment by a few years, therefore, is the same as doubling the costs.

But as well as neglecting cost-- and often more serious -- premature investment neglects price, the price of the product reflected in the price of the lease. The lessees who buy early aren't neglecting it for they can ride up the escalator, having obtained a lease and being under little pressure to produce quickly. It is the State that is neglecting price when it sells leases too soon at too low a figure. It then plays the lessees' game if it permits or, worse, requires them to produce slowly and at the same time encourages them to go out and acquire more leases.

There should be no implication that the State should hold onto its unsold leases indefinitely, waiting for the top dollar. To everything there is a season and a time for every purpose. The criterion

of maximizing DCF is in keeping with the wisdom of Ecclesiastes for it tells us exactly the best time to sell, namely when the anticipated selling proceeds stop growing faster than money in the bank. Early sale may waste the resource by releasing it for a low price. Later sale may conserve the resource but waste the capital tied up in it. Optimal timing balances the two considerations.

Some things are happening too soon and others are happening too late. Is this just random confusion with no pattern? No, there is a pattern which may be summarized as slow recovery of capital. Capital is put in too soon and taken out too late. The cost of all those extra dollar years of capital time is borne by the State.

A waste imposed by slow turnover is loss of flexibility and adaptability. Each time capital is recovered and replaced it may be brought up to date with new technological developments. The advantage of flexibility is perhaps most obvious in respect to contractual commitments. "Old" gas may be subject to Federal Power Commission (FPC) regulation and tied to a particular pipeline, or it may in any event be under a long-term contract. In an inflationary period there is always an advantage of bringing new supplies on the market at new prices.

There are also more fundamental reasons not dependent on inflation. I have analyzed these in the work already cited and append the relevant pages as Appendix B.

Another route to understating costs is to accept the plea of those with an interest in supplying oil fields that one man's cost is another man's income and therefore to cancel these out. The result of

heeding these arguments is to conceive of benefits in gross rather than net terms. This almost always results in premature development inasmuch as the gross value of a resource is not only greater than the net value but it is positive during that early period when the net value is negative. This kind of argument can be carried even farther by some "economic base" analysts who compute "multipliers" of still more extended benefits proliferating downstream and upstream and sidestream from the resource development, all being dependent on it. If there is much unemployed labor and idle industrial capacity such a case might sometimes be made. In Alaska, which imports labor and oil field materials and steel, there seems little basis for it.

Unfortunately, economic development which is sought after by some and shunned by others is defined by none. This leaves the door open to considerable uncertainty. The extreme prodevelopment posture is that resource discovery creates value and then provides an economic base for mutiple benefits all around. Current thinking seems to be moving away from this. Discovery does not create value all alone. It is a cash-register payoff from the larger development of infrastructure, community support facilities, and so on. All activities are mutually supportive, discovery no more so than others, and the other contributors need support, too. The new emphasis on the problems of community impact is some acknowledgement of this.

It is not surprising that people who see mainly the costs of development and disregard the benefits are disposed to wait a longer time before permitting it to take place. They, too, may get carried

away and overstate their position, becoming like Oscar Wilde's crabbed economist who "knew the cost of everything and the value of nothing." In this Report we will not try to resolve these complex and extended issues, but treat the question of multipliers and extended benefits and costs as something of a standoff, except where very specific external costs or benefits may be identified and measured.

Another economic waste to guard against is "cross-subsidy." This is a generic term for what occurs whenever accounts are consolidated and costs are deductible so that high-cost and losing ventures may be rolled in with low-cost and winning ventures. Cross-subsidy is a hazard in every profit-sharing scheme such as the corporate income tax, and it would be a hazard in any profit-sharing lease resembling the corporate income tax. It is a hazard in any lease that resembles utility rate regulation where a lessee is guaranteed a rate of return. The resulting overinvestment of capital is known in the trade as "goldplating," or more formally as the "Averch-Johnson effect."

Goldplating today might often take the seductive form of an excessive lack of resistence to the claims of some worthy cause like environmentalism. The caribou lobby specialists may overvalue that, the energy specialists may overvalue energy but they can join forces in undervaluing the costs of having both, the costs being shifted to others.

Perhaps the commonest manifestation of cross-subsidy is the overextension of subeconomic feeder lines. This is nearly universal elsewhere and will undoubtedly happen here without vigorous efforts to prevent it.

When we combine this pattern of waste with the pattern of improper timing described earlier, they tend to reinforce each other in a general pattern of overdecentralization. Too much capital is applied too early to expand exploration and allied transportation lines. Too little is applied and too late to more intensive development in and around proven reserves. The overall pattern has much in common with imperialism. All of this can be avoided by hewing faithfully to the concept of businesslike management with maximum DCF. That will be our lodestar.

5. External impacts

To allow for the externalities of oil and gas production both positive and negative the State seems evenly divided between those who perceive more pluses than those who perceive more minuses.[7] This is appropriate since there are both kinds. The issue between the polarized parties is sharper, however, than can be resolved by such devices as measuring the value of the sports fishery, for example, and trading off these values for equivalent energy values because some of the very things seen as positive by some like added payrolls, added spending, and increased property values seem negative to others. Change viewed as progress by some is seen as retrogression by others. To measure and then reconcile these attitudes would be far beyond our scope.

We need not, however, leave the matter completely unresolved. A key to reconciliation is in the distribution of gains and losses. There are probably more gains than losses from general economic development since the actors reinforce one another, but the gains are not equally distributed. One man's windfall is another man's wipeout. Many gains are

unearned and received by absentee investors. As the problem is distributive so is the probable solution. Wide distribution of the benefits of oil and gas development will make it much more acceptable. Leasing policy can contribute to this solution, although it is by no means the whole story.

Another external cost imposed on society by extractive industries is frequently instability, and many people fear the boom and bust characteristics of oil and gas and other mining industries. This consideration argues for leases that yield steady revenues and encourage steady activity and it also may argue for a steady flow of lease sales. Neither of these is an absolute, obviously, and must be balanced against the question of getting top dollar by turning production and sales on and off.

6. Coordination with leasing on federal and native lands

Federal and native lands will share common transportation lines and support bases with State lands. They may be on the same structures. State and federal lands especially have extraordinarily long common boundaries in oil-prone areas. The State evinces strong desires not to be led by federal policy and to have some input into federal policy. At the same time, there is no drainage treaty or compact between the different landowners even though England and Norway have managed to work this out on an international basis. Until this is done, clearly a strike near the boundary will force a drainage sale on the other side. If the Feds and the natives get and keep ahead of the State, the State

might do very well by specializing in drainage sales, a policy favored by many. But there is an uncomfortable feeling that this loss of initiative might also impose high costs by letting others determine the location of activity as well as the timing. There is also some fear that division among the three kinds of landlords might divide them for easier conquest by the industry. The State's objective therefore is clearly to achieve a higher degree of cooperation.

C. Elements of Leasing

There are several elements in a lease, most of which are optional and variable along a wide spectrum. Kinds of leases are frequently distinguished by identifying the bid variable; but the constant elements may be more important than the bid variable where they are set at very high rates. Thus we discuss the pros and cons of each element in leasing first, and only at the end discuss the choice of a bid variable.

1. Prior claim: the noncompetitive system

A substantial acreage in Alaska remains under noncompetitive lease. Figures forwarded by Mr. Denton of the DNR for noncompetitive acreage of "oil companies" totaled to 625,000 acres. In addition there is acreage held by individuals. Ranking the companies in order of their net acreage held, we find that the top 10 percent hold 58.9 percent of the noncompetitive net acreage. This compares with 64 percent when we do the same thing for competitive net acreage. Major holders of noncompetitive acreage are Texaco, Union, Cities' Service, Amoco, and Atlantic Richfield. (Major holders of competitive acreage are the same firms plus Sohio, Phillips, BP Alaska, Exxon, Standard of California, and Mobil.) (See Appendix C.)

Noncompetitive systems are widespread outside the United States. Major faults appear to be that they give away State property without payment, and so encourage premature claims and, where there is a work requirement, premature use. The claim-staker rather than the State gets in on the ground floor of the elevator and holds the resource while it appreciates from a zero value up to whatever value its natural richness

warrants. Any rate of return beginning from a base equal to 0 is mathematically infinitely high and therefore not to be lightly given away.

We append an analysis by Professor Michael Crommelin, Faculty of Law, University of Melbourne, Australia (Appendix D).

2. The bonus

There are several advantages to using a high bonus in allocating leases and it has many staunch advocates, including Walter Mead and Milton Lipton. Advantages of a high bonus include:

a. Large commitment by the lessee -- he will not walk away.

b. There is no marginal disincentive imposed on the lessee.

c. The State receives its money up front.

d. Major corporations have access to market funds at rock bottom interest rates, about 7.5 percent on bonds today, and therefore presumably will discount future expectations at correspondingly low rates. Some of them have access to internal funds whose opportunity cost or alternative use may be even lower in the event the management is embarrassed with more assets than it can manage effectively. Some utilities, in seeking to support their rate bases, have advanced money to invest in leases. This last kind of investment is being cross-subsidized by the profit-making parts of the firm and may yield extremely low marginal rates to the company. Historical evidence presented by Mead from the Gulf of Mexico indicates rates of return of about 7.5 percent.

e. If the State should be exploited inadvertently it can use the tax mechanism later on to compensate.

f. The transfer is complete and there is no need for policing prices later on, auditing costs and so on.

On the con side, major problems with high bonus payments are the following:

a. High capital barrier to entry, reducing the number of bidders. This is undesirable both because of the concentration of wealth and power which it implies but also because reduced competition might prevent the State's receiving fair value. Data supplied by Mr. Denton when ranked by net acreage indicate that the top 10 percent of the holders of competitive net acreage have 64 percent of the acreage. These top 10 percent consist of Arco, Phillips, Union, SoCal, Exxon, Sohio, Mobil, and Cities' Service. While this degree of concentrated control is not unusual in other places and other industries it is still higher than many would consider socially desirable.

b. As low as the industry's internal cost of capital may be, the State's effective rate is probably lower. This is a considerable change from the past and calls for a change in policy. The State is no longer desperate for front money but on the contrary is looking for outlets for its permanent fund. The industry, on the other hand, may be entering an era of higher internal interest rates. It is freely alleged that figures like 20 percent are used in determining bonus bids although this is difficult to nail down. It is certain, however, that monumental capital requirements are projected for oil and gas related investment requirements in the next decade, presaging increasing tightness of capital and therefore lower bonus bids relative to resource values.

c. The bonus aggravates the cash crunch since it is synchronized with the need to find capital for drilling and equipping. This may result in underallocation of money to the latter, especially for small firms.

d. The time preference and therefore the production scheduling of different firms is ruled by their internal interest rates which vary from one firm to another. The allocation of credit among companies is based not on marginal productivity but on collateral security. The result is too much time pressure on some lessees and too little on others. The one may depend on extremely rapid use while the other may depend on speculation and delay above and beyond the social interests.

e. The payment is determined and made before enough is known about actual reserves. There is a large lottery element in the outcome and the outcome is not closely correlated with the price paid. The State might sell $10 billion worth of oil for $6 million as it apparently did at the 1965 auction at Prudhoe Bay. At the same time it sells some barren land for a high price. The rule of caveat emptor is applied, frequently intentionally by the seller. This constitutes a fraud with malice aforethought, which would not be tolerated in private business dealings and it is questionable if the State should observe a lower level of elementary morality than is expected of private sellers.

f. The distribution of petroleum reserves in nature is extremely unequal as among different deposits and tracts. The result is extreme inequality in the distribution of gains to wealth when all the payments are made up front and the results of successful and unsuccessful gambles fall entirely on the lessee.

g. If, as is generally believed, most investors are risk-averse, then the lottery element in having a high bonus acts as an additional filter screening out possible entrants. This leads to higher concentration and less active competition in the bidding for State property. Also, to the extent that accumulated wealth and a positive attitude towards gambling are factors determining the high bidder, productivity and cost control are less determinant.

h. Use of bonus bidding lends itself to preemptive, preclusive buying by wealthier firms concerned with controlling the market and discouraging competitors.

i. Once a bonus is paid and then a discovery made it is hard and costly to deny production if the environmental damage turns out to be high relative to the value of production. We have just lucked out of one such trap; we might do worse another time.

j. Transfer or sale of lease for a high bonus is a de facto sale of land but without much property tax liability imposed on capital or land (notably excepting the special Alaskan reserves tax). The capital invested in drilling and equipping is partly exempt and the intangible capital developed from exploratory drilling is not taxed. The leasehold interest itself is not always taxed. While such tax relief should result in higher bonus bids, this exacerbates the problem of the front-end filter.

k. The front-end filter becomes even tighter when lease sales are large and there is no slide bidding and the usual 20 percent advance bonus is required.

1. If oil and gas prices are regulated, and of course they are vulnerable to this risk, a bonus paid in the past is not treated as a current cost and not rolled in, resulting in lower prices received, whereas certain kinds of subsequent participation demands by the State might be treated in the regulatory mechanism as costs. In distinguishing between old oil and new oil, regulation may also distinguish between old costs and new costs.

Our worst suspicions of bonus bidding are confirmed by the brilliant, succinct and damning analysis of Alaska's past experience researched and written by my associate, Professor Richard Norgaard of the School of Resource Economics, University of California, Berkeley (Appendix E). Bonuses captured only from 9 percent to 16 percent of the surplus DCF value above costs and royalties in Cook Inlet. There were too few bidders to assure effective competition. Outcomes were wildly unrelated to bonuses bid and paid. Bidders have successfully used advanced gaming strategies and statistical analyses to take advantage of a State without expert staff in these fields. The State has not set adequate reservation prices or screened out fishing bids and overnominations: only 2 percent of the offshore Cook Inlet tracts leased through 1968 have produced. Dr. Norgaard recommends drastic changes.

3. The delay rental

Delay rentals are the smallest of the three major payments in the usual bid, the other two being bonus and royalty. They have been by no means negligible, however, and in Alberta, for example, have run at 50 percent as much as royalties and bonuses at various times. In addition,

as compared with royalties they come earlier, and when we figure compound interest are blown up into an even larger figure.

Delay rentals are usually an annual yearly payment that ceases when production and royalties begin but there is room for many variations. They might continue until production ends, for one. For another, they need not be at a fixed level but might increase in proportion to some index such as cost of living or they might be made proportional to the assessed value of reserves, giving them the character of a property tax on reserves. Another possibility is to pay the bonus on the installment plan over several years. Yet another possibility is the production bonus, a contingent payment which is due only when and if commercial pay-rock is struck. This has some of the character of a bonus and some of the character of a rental and will be treated here.

The advantages of delay rentals and other rentals are the following:

a. Payment is deferred. This has the same effect as extending credit to payers of bonuses and letting them pay on the installment plan. This is of greater advantage to the leaner interloping firms and tends to increase competition.

b. The payment is fixed with respect to production and places no drag on it therefore. Thus it achieves two goals at once that the State is seeking. It shifts payments into the future and it does so without disincentive effect. If anything, it applies positive leverage to accelerate production.

c. At present when the firms need more time they simply request that leases be extended and the request is frequently granted. This involves arbitrary exercise of judgment by officials. It would be better for lessees to pay so much a year and make their own decisions. The pressure would be on them, of course, to accelerate production once the lease was signed. Firms would be less anxious to nominate acreage and insist on lease sales many years in advance of the availability of transportation.

d. Alaska has millions of acres out under lease. It could all be returning more money each year or else be relinquished for future sale at a more propitious time. Alaska is getting $1.00 per acre year for these lands. OCS lands are yielding $3.00 per acre year in practice and go higher on drainage and development tracts. Norwegian rentals go up to $21 per acre year.

e. Most capital is subject to property taxation and must therefore yield a return high enough to cover both interest and property taxes. The investment in withholding oil reserves from production, however, need only yield a competitive interest rate. A delay rental serves to compensate for the lack of property taxation so that the same discount rate is applied in both cases.

f. A rental is terminable in practice when a lease is dropped due to lack of interest. This reduces the risk imposed on the lessee considerably and should result in higher bids on the bid variable, whatever that might be.

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g. A delay rental is smoothly convertible to an ad valorem base at such time as enough is known about the reservoir and its contents to allow reasonably accurate assessment. Thus, instead of being a fixed amount per year it would be a fixed percentage of the assessed value of the reserves, still retaining its key qualities of shifting payments into the future and not varying as a function of production.

On the negative side are the following considerations:

a. Early shutdown. This traditional argument against fixed charges would apply only to one of the several alternative forms of rental, the nonterminable level payment. It can be prevented by adopting one of the declining forms. Professor Rooney's studies (Appendix F) indicate that the problem of early shutdown is not a serious one in general unless there is a substantial bias against investments in pressure maintenance. A constant rental contains no such bias. An ad valorem rental based on the value of as yet unproduced minerals would exempt the value of capital in place and therefore leave the lessee with a substantial investment even at such time as the rental charge approached zero.

b. Rentals are traditionally lowest of the three kinds of lease payments. This suggests that the industry doesn't like them and would not accept them readily. While this point is often made, this consultant discounts it because of other evidence, presented later (Section 7c).

c. Some federal tax provisions favor delayed production, advantages which might be lost by any lease provision which promotes early production.

d. A lessee might promise to pay a high rental and then walk away from the lease in a short number of years if it proves to be unproductive. Some would consider this to be a disadvantage of the system although it is included among the positive aspects as well.

e. The rental is normally fixed ex ante. It therefore has the same lottery qualities as a bonus.

The pros and cons discussed above indicate there are alternative forms of rental, which are listed here:

a. One might pay the bonus on the installment plan over a specified number of years at a specified rate of interest.

b. The traditional "delay rental" terminates when production begins and royalties are paid. It is usually at some fixed level per acre independent of value, although BLM policy permits figures of $3.00, $5.00 and $10.00 per acre, depending on the class of acreage.

c. A rental might increase yearly at a fixed or an accelerating rate during the preproduction period in order to emphasize the landlord's intent to force action.

d. A rent might be level for the term of lease. This is the pattern that must be faulted for forcing early shutdown.

e. A rental might be a specified percentage of the bonus bid, for a fixed number of years. If the percentage were rather high, say 20 or 30 percent, the effect would be nearly the same as option (a.), that is paying the bonus on the installment plan, but with a substantial down payment. If the rate were 100 percent you would have exactly the same effect as an installment plan payment.

f. The rental might be a specified percentage of the appraised value of the unproduced minerals in the ground. This is an ad valorem charge (AVC). It closely resembles the ad valorem property tax in its impact and administration. Administrative aspects of this form of levy, mainly the technique of assessing minerals in the ground, have been ably discussed before this body by Robert Paschall. Basic principles of the application of such a charge are laid out in Appendix H with a numerical example showing how one would use the data in the Van Poollen report on the Sadlerochit Formation to levy the charge, and how it would diminish over time.

The ad valorem charge differs sharply from those discussed previously in that it is based on progressive disclosures of the value of minerals actually present while the others are based, like bonus bids, on ex ante surmising about what might be there. The ad valorem charge (AVC) is ex post discovery, while the other forms of rental are ex ante.

Thus AVC has some of the good and some of the bad qualities of a royalty. Like a royalty, it is based on what is actually in the ground rather than an uninformed guess as to what might be there, and is a function of actual outcomes. It therefore prevents many of the distributive inequities which flaw the system of high bonuses.

On the negative side, again like a royalty, it has some disincentive effect on discovery since discovery and proving of reserves result in higher assessments. The effect is much weaker here than with a royalty, however, because the ad valorem charge is based only on the value of the resource in situ whereas the royalty is also, in effect, a

charge on all the costs of extracting the deposit as well. In the extreme, on a marginal deposit the ad valorem charge will be zero whereas a royalty, could it be collected, would be substantial. Similarly, at the end of life the ad valorem charge falls to zero while royalties continue with a fixed rate.

The two more substantial weaknesses of the ad valorem charge appear to be, first, there is some question about whether assessments can be tolerably accurate in practice, and second, there is some disincentive effect on exploratory drilling. These weaknesses may be substantially overcome by a combined system which would work as follows: There would be two stages in the life of a lease, before and after the discovery of commercial petroleum. Before discovery, the rental would be a specified percentage of the bonus bid (as in paragraph (e.) above). Following discovery, the same percentage would be applied to the assessed value of the discovered reserves. It would progressively rise as more reserves were proven and decline as they were exhausted (see Appendix H).

The presence of several lessees on any one structure would probably prevent substantial concealment of reserves. However, if experience suggested such concealment to be a problem, it might be offset by programs of compulsory disclosure, State participation in drilling, penalties for concealment, and so on. Professor Norgaard (Appendix E) and Professor Rooney (Appendix F) both suggest schemes for State exploration.

g. Lease terms might be quite short, say five years, with rents "renegotiable" at that time. Such "renegotiation" would be rather

unilateral with the State holding the upper hand and would seem to impose unreasonable risks on lessees. Unilateral renegotiation of terms is actually practiced in many countries around the world in the wake of multiplying petroleum prices which made the original lease terms seem egregiously favorable to the lessees. Even American law occasionally permits change of contracts in the face of gross unforeseeable, external change of conditions. In general, however, this seems an unsystematic and arbitrary approach and less desirable than AVC which, although it might be criticized for some arbitrariness in the assessment process, is subject to objective administration and evaluation of performance.

4. The royalty

Production-based royalties are traditionally a large element in mineral leases. The most frequently heard proposal for reducing high front-end bonuses today is to increase royalty rates either directly or through making them the bid variable. The advantages of high royalties would be the following:

a. Payment is deferred. This eases entry for leaner firms and conserves front money for actual drilling and equipping leases. It increases competition and aids small business.

b. Major payments are contingent on the lessee's finding commercial petroleum and are in proportion to the volume, although not the value of what he finds. This reduces the risk element in lease bidding. It also reduces the premium now placed on prior knowledge of what is there and reduces the advantage of firms that can afford extensive early investment in preleasing surveys.

c. It removes the possibility of the lessee's paying a high price for something that is not present and removes the probability of windfalls when more is present than the market expected.

d. The State now has a lower discount rate than many potential bidders and can better afford to participate in future income at the expense of immediate cash. This must be tempered with the thought that the median voter is poorer than the median corporate shareholder and has a higher time preference. On the other hand, the State is free from federal income tax so that a given percentage return on investment is more attractive to the State than it is to a taxable private body. If it were just a matter of avoiding State taxes this advantage would be spurious, but if the State can successfully avoid federal taxes where private lessees cannot there appears to be a net advantage from the State's own viewpoint. Countering this is the observation that some large energy corporations have succeeded in lowering their effective federal income tax rates to a low percentage of profit, but the answer to that is that it is not an objective of the State to encourage a small number of large firms but to maximize the number of potential entrants into the field, including those too small to take full advantage of tax loopholes.

e. A royalty is the exact opposite of the depletion allowance. Oil and gas firms, in their eagerness to secure depletion allowances, will be willing to pay higher royalties than otherwise, a relationship which might be exploited to benefit the State. However, this again runs counter to the desire to benefit smaller firms inasmuch as the depletion

allowance is now limited to smaller wells and is programmed to shrink progressively over the next few years.

f. A properly attuned royalty might substitute for unitization of a common pool. It may also substitute for direct controls on well-spacing and rates of flow.

In spite of its attractive features, the royalty has a long list of problems.

a. There is no commitment by the lessee. He may tie up land at little cost by merely promising to pay high future royalties and wait for a free ride on his neighbor. A successful bidder who overbids may abandon the lease, but there is no symmetry. The bidder who successfully underbids cashes in at the expense of the lessor, who cannot back out.

b. Marginal deposits are made submarginal and marginal effort on rich deposits is made submarginal. This applies to entire tracts, to the high-cost fringes of low-cost deposits, to the extra wells and capacity needed to give better control of timing, to equipping the lease, to work-overs, to the date of beginning production, to the stretch-out of the entire period of production, to the date of terminating production, to pressure maintenance and secondary recovery, to exploration for smaller and marginal deposits, and to production during high-cost seasons. Vastly more is involved here than the problem of early shutdown usually emphasized.

Royalties are not automatically passed on to consumers. Prices are determined by supply and demand in world markets. The burdens of the royalty system are borne primarily by the landowner in the form of lower net income.

c. A good deal of leakage of surplus cash flow is suffered by the landlord on the low-cost flush deposits, especially during their flush years when the surpluses are yielded. To be sure the prospect of winning these surpluses tends to raise bids all round but as noted, high royalties on low-value deposits are uncollectible whereas low royalties on low-cost deposits are irretrievable.

d. The lessee's incentive to defer production is exaggerated. There is a strong future shift. The mathematics of this are developed in Appendix J. The basic idea may be simply expressed: It costs more to produce faster, and royalties discourage incurring costs (because the resulting output is shared with the landlord but the costs are borne entirely by the lessee). In addition, there is an exaggerated motive to wait for higher prices. A royalty makes a marginal field or unit of production submarginal, but by waiting for higher prices the lessee can wait until it becomes somewhat better than marginal even after paying the royalty.

By the same token, if fluctuating prices are expected or experienced the lessee's motivation to turn production on and off at his convenience is exaggerated. The lessor's royalties are therefore afflicted by instability beyond what would be an optimal adjustment to changing markets. Instability also has negative external effects on impacted communities, of course.

It may be shown mathematically (see Appendix J) that the disincentive of a royalty operates with greatest force on investments that are incurred immediately before their effects are felt in increased

production. That is, it strikes hardest at workovers, at pressure maintenance, secondary recovery, and so on. Its effects are relatively less in relation to investments that occur well in advance of production such as exploration. The overall result of this pattern is a stretch-out of the commitment of unrecovered capital between first outlay and ultimate recovery. This pattern increases overall capital requirements which in turn works to the advantage of wealthier firms and helps to screen out the leaner firms. Thus the royalty system works to the disadvantage of the very firms that it is designed to help.

e. The deferral of revenues hurts the State, of course. The additional deferral caused by the future shift of production hurts even more. Deferral of State revenues is acceptable if it serves the function of encouraging more competitive firms; but deferral of revenues after discovery serves little or no such function. The lessee who discovers commercial pay-rock may cash out immediately in several ways. Companies regularly borrow or issue stock on the basis of discoveries. Not only does this take cash out of them, it does so without incurring any federal tax liability and is thus substantially subsidized by the workings of income tax law. Economists regard the nontaxation of unrealized capital gains to be a major source of bias in tax law. Unrealized gains are an unpreempted potential tax source. It is a good principle of State policy to go after unpreempted revenue sources, as noted earlier, and a royalty fails to do this. On the contrary, it widens the loophole.

f. The lessee may shortchange the lessor by understating the price of produced oil and gas. This has to be policed carefully at some expense.

g. Environmental damage from oil and gas production is more a function of the fact that some production is taking place than it is a variable function of the flow of volume in any year. The royalty-induced stretch-out therefore increases the total environmental damage.

h. There are many more little finds to be discovered than big ones, more poor ones than rich ones. The effect of royalties is to screen out the little ones. This greatly reduces the success ratio where success is defined as simply finding a commercial find that is producible. It screens out the little ones without succeeding in capturing all the rent on the big ones. It tends, therefore, to reduce sharply the number of viable firms since the expected success ratio is an important consideration, especially for the leaner firms which cannot afford a large number of failures. Once again it fails in one of its primary objectives, which is creating an economic environment more favorable to the leaner firms.

The discussion of pros and cons of royalties has centered on the simple concept of a high royalty rate. Some of the disadvantages may be overcome by the use of step royalties, sliding scale royalties, and using royalty as the bid variable which results in different rates on different deposits. Professor Rooney has outlined a workable step-royalty system (Appendix F). In our recommendations we include this among the workable alternatives.

There are many drawbacks, however. The problem with sliding scales is that they slide only with volume, and volume is only one of several factors that need to be considered. In addition, a scale which

is progressive with respect to volume worsens the tendency of royalties to shift production into the future, since the high rate brackets may be avoided by reducing production now and stretching it out. If the rate is progressive per well it may be avoided by drilling more wells.

If it is progressive per tract it also depends arbitrarily on the size of the tract. It causes future shift. And it has a built-in bias against the marginal fringes of superior tracts which may exist where the tract is fractured and complicated.

It takes no account of cost differences which are independent of the volume factor. Thus, a high-volume well in a difficult, remote location gets a high rate while a low-volume well in a convenient location without much depth gets a low rate. It is a blunt instrument.

It makes no distinction between high volume which is the result of natural pressure achieved at no cost, and high volume which is the result of costly pressure maintenance such as that now experienced in several Cook Inlet fields whose volume has been maintained over the years at some cost.

It might be possible to adjust for all these and other variable factors by an extensive and complex system of variable rates based on extended observation of particular circumstances. All this would accomplish is the same thing that might be accomplished generally and accurately by letting costs be deducted. Deducting costs, however, has its own problems, and this lets us avoid them.

One problem with royalties may be solved by the use of a State marketing board. That is the problem of price determination if it

appears that the lessees are fiddling the transfer prices which are used to determine the State's share. This is the approach taken by British Columbia in marketing its natural gas through a provincial marketing board. The royalty is taken as an excess profit of the marketing board. Unfortunately, this only solves one of the several problems of the royalty system. The British Columbia experience has been one of having progressively to raise the field price and reduce its profits in order to stimulate more exploration and production. The basic fault is that it fails to distinguish between the low-cost and the high-cost deposits.

A very useful adjustment in a royalty system is to let the rate increase as a function of an index of petroleum prices. This offsets part of the future shift problem since it removes the incentive to hold back waiting for higher prices. It fails to account for cost changes, however.

Another device similar to a royalty would be taxation levied on a major pipeline. There is a case against any taxation of pipelines, especially underutilized ones, because of their economies of scale.[1] The "six-tenths rule" implies that optimal rates would cover only 60 percent of costs. This implies the need for a subsidy, rather than a tax. I.C.C. regulation is not geared to accommodate this kind of thinking, so we can forget about the subsidy idea. There is also a special case for taxing, TAPS, to recoup the windfalls at Prudhoe. In general, however, taxing

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[1] There is an engineering rule of thumb, the "six-tenths rule," that the cost of incremental capacity is 60 percent as high as the unit cost of the capacity before the increment. The rule is inaccurate and not universal but gives a rough notion of what is normal.

pipelines has the same faults as a royalty. (Inflating pipeline rates for reasons other than taxation, as I.C.C. regulation seems to do, has all the bad effects of a royalty without the benefit of raising revenue.)

Another feature of a royalty which may be an advantage or disadvantage is that it may be taken in kind and marketed by the State. This has aroused great enthusiasm in Alaska recently but the kind of enthusiasm suggests the kind of problems that would be encountered, namely domestic use at low productivity in preference to export at higher prices. This is a subsidy. The recipient has to take his subsidy in the one form of underpriced petroleum products and will use them wastefully. Industries which use lots of cheap energy do not constitute an unusually seminal economic base. Energy-intensive industries tend to be capital-intensive, and frequently polluting. Located in remote areas, they generate a minimum of associated activity. As an example there is Kitimat, British Columbia, with its hot house aluminum industry dependent on underpriced power. What would be the effects of reallocating this power to a more diversified community in a more attractive area where it would attract more labor-intensive industry?

5. Specific terms

Here we treat specific terms that are not generally specified in money; but we do not treat field regulations, which are in Section 8. The use of specific terms generally runs counter to the goals of administrative simplicity and objectivity, since terms tend to be arbitrary or discretionary and are usually discrete with sharp black and white boundaries as opposed to incremental pressures which run along a spectrum.

The present treatment is abbreviated in order to reserve more time and space for matters of higher current priority.

a. The term in years

i. The term before beginning production. Five years is usually allowed subject to discretionary extension. It might be better to substitute a delay rental increasing at an increasing rate. Lessees naturally will argue in favor of longer terms. That is their interest. Ours is to sit on the landlord's side of the table. From this position there is much to be said for holding feet to the fire.

ii. The term after beginning production. The practice, of course, is to let the term continue as long as production continues. An alternative is to terminate the lease after the lessee has recovered a volume of reserves previously agreed upon. This is discussed in a later section.

b. Size limits

i. Size per parcel. Professor Stephen Cheung, an authority on leasing systems, has emphasized the landlord's advantage in keeping parcels small. This helps to assure that each lessee, in making a viable operation, will apply a certain minimum of labor and capital to the landlord's land. Lessees argue in favor of larger parcels. Again that is clearly their interest, but it is adverse to the landlord's.

ii. Cumulative total acreage by state and by substate region. There is an argument for limiting the holdings of one firm in any area, in order to increase the operating base of as many potential competitors

as possible. This also assures closer attention to each individual parcel. There are nine firms who currently hold more than 200,000 acres each of competitive leases in Alaska. It is not clear that one firm can effectively explore and operate that many acres at once. However, acreage maxima are difficult to enforce, so that in general we prefer the use of general economic incentives rather than acreage limitations.

iii. A "market-structure impact statement." The State might reasonably mount a substantial antitrust operation, presumably in the Attorney-General's department. Winning bids might be rejected if the Attorney-General's office determined that accepting the bid might tend to reduce competition.

c. Joint bidding

There is a good case for prohibiting joint bidding, which reduces the number of competitors. Professor Norgaard's statement (Appendix E) speaks to this point. Like Professor Mead in an earlier study, Professor Norgaard found that the number of independent bidders is a most important variable determining the size of bids. The counter-argument that joint bidding permits bids to occur which would not otherwise be made, owing to high capital requirements, is unpersuasive where the bidders are large multinational firms, which are simultaneously bidding elsewhere in Alaska and the world.

d. Liability for environmental damage

It would make sense for environmental damages anywhere in Alaska to be made a first lien on the lease from which the offending oil

originated. We might further introduce a progressive element in this by making the liability a first lien on all leases held by the offending company.

For damages beyond the amount thus recoverable, it probably is desirable to make participation in environmental damage insurance a mandatory feature of all State leases.

None of these terms should be imposed in a punitive or negative spirit. The objective is never to damage the industry, but to help the State. The objective is never to penalize larger firms for being large, but to open the door to help smaller firms. We should carefully avoid referring to "the industry" as a block, and praising or blaming it as a whole. Lease terms which favor small business over big business are not hostile to "the industry." They are, rather, designed to help most firms in the industry by offsetting unfair advantages enjoyed by the large and wealthy firms. Whenever the State can help itself by helping the industry it should do so. Whenever the State can help itself by weakening oligopolistic elements in the industry in order to strengthen competitive elements in the industry, it should do so. None of this is "hostile to industry" in general.

In addition, the State's interest as landlord is generally adverse to that of the industry as tenant. In asserting its legitimate property interests, the State is adverse to industry without being hostile to industry. These are all important distinctions which should be held firmly in mind to avoid confusion. The American Petroleum Institute, in one of its publications, argues in favor of larger parcels,

bigger sales at one time, longer terms, and the absence of any reservation price. In opposing the Institute's position, the State is not being "hostile." Rather, it is asserting its own legitimate interests and at the same time being friendly to smaller firms whose interests seem neglected in the API positions.

6. Profit sharing

To overcome the weaknesses of the royalty system the lessor may allow the lessee to deduct from royalty payments an allowance for costs. In return he raises the basic rate charged per barrel. Thus the royalty, which resembles a sales tax, is converted into a profit share resembling an income tax.

The concept is simple enough in regard to regular expenses of operation and routine maintenance which are deducted from production payments in the year in which the are incurred. The allocation of deductions becomes more complicated with respect to capital outlays, and since these are normally quite high relative to ongoing expenses the matter cannot be overlooked.

Capital outlays must be deductible over a considerable period of years, presumably the useful life of the capital. This immediately engages us in a number of complexities and tricky questions which we will discuss under the negative aspects of the proposal.

Since we are dealing with a lease and not a tax on the total income of the multinational corporation, only those costs can be deductible which are expended on site, or in such close conjunction with it that we have no difficulty identifying them. This means that overhead

expenses are not deductible. Neither are federal taxes. The proposal thus resembles what is called a "net proceeds" tax rather than a pure income tax. The distinction is important and fundamental. The income tax is in personam; that is, it is levied on a person or corporation as such. The net proceeds tax, on the other hand, is in rem: it is levied on the income and expenses attributable to a particular "thing," in this case the leasehold.

This also means that interest payments are not deductible. The deduction is based on the value of the capital applied to the site regardless of whether it is debt financed or equity financed. It might seem preferable to allow some deduction for the cost of capital whether it be equity capital or debt capital, but this proposal is considered in the following section, #7.

The lessee might recover his capital on a per year basis or, alternatively, on a per barrel basis. If the latter, it must be subject to some yearly maximum to avoid his recovering his capital all in one or two years as would happen with a flush producer. Such accelerated recovery would mean in effect that the lessee's capital would not be tied up for any appreciable number of years and that there was no base remaining on which he could legitimately be said to be contributing to the profit. This in turn would convert the arrangement from profit sharing to simple rent collecting, which is discussed in Section 7. The present proposal is that the State share in the lessee's profits, which presupposes that the lessee still have some unrecovered capital outstanding which contributes to the joint profit.

The per barrel recovery basis resembles the depletion allowance of the income tax and may be thought of in similar terms with this difference: the present proposal limits the depletion allowance to recovery of costs actually incurred. On the surface the per barrel basis might seem much superior to the per year basis of cost recovery, because the per barrel cost credit comes in the form of a depletion allowance and would offset the disincentive effects of the royalty element. Actually this is a minimal advantage for two reasons. One is that there must be an upper limit per year in any event to keep this a profit share system, and the other is that the deduction of current expenses eliminates the disincentive effects of the royalty in the short run in any event. In fact, adding to this a per barrel depletion allowance would have a slight tendency to accelerate production.

Therefore, we do not sharply distinguish between the per barrel basis and the per year basis in discussing the pros and cons.

The advantages of the net proceeds or profit sharing approach are the following:

a. Allowing costs to be deducted overcomes the problems that plague the royalty system without incurring the problems that plague the bonus system. It succeeds in binding the lessor and the lessee in much more of a common interest -- they share the profits and they also share the costs.

This means that we succeed in preserving incentives at the margins, both intensive and extensive, and reduce (without eliminating) the "deadweight loss" that is caused by the disincentive effects of a

royalty. Second, we can and indeed we must charge a basically higher rate which rifles in on the flush producers who have little cost to deduct per barrel and succeeds in extracting a large amount of rent which leaks away when we depend on royalties.

b. Because costs themselves are deducted, this approach obviates the complex schemes of sliding scales and so on which one might use to modify the royalty system to make it approximate a cost sharing system.

c. This approach sustains over a long period of time the union of interests between lessor and lessee.

d. The nonacknowledgement of overhead costs creates minimal bias since this merely results in lower bids for the bid variable. Overhead costs will be roughly proportionate to on-site costs for many firms. For some others, overhead costs will be large relative to on-site costs and they will be discriminated against, but it may be desirable to discourage such firms since their overhead costs will be incurred outside the State and since they tend to be the larger firms. The intent is not to discourage larger firms but to encourage smaller ones relatively.

e. The income received by the State from different leases will be now made progressive with respect to profitability. That is, the State's share per barrel on marginal oil will be zero while its share per barrel on profitable oil will be quite high.

On the negative side, we now create some new problems and are left with some old ones:

a. The basic problem of the royalty system is only partially solved because a large share of the economic costs remains undeductible,

that is, the interest on the lessee's investment. This is normally a high figure compared with current operating costs because in this industry capital costs are very high relative to operating costs. As a result, there will still be some deadweight loss because some marginal opportunities will be made subeconomic and there will also be some leakage of rents because the basic rate cannot be set high enough to extract all the rent from the best deposits.

b. The problem of future shift, which is so exaggerated in the royalty system, is compensated for by cost deduction but not 100 percent compensated for. This point requires mathematical exposition and is treated in Appendix J.

c. There are new and formidable administrative problems in allowing cost deductions, several of which have been suggested above. Substantial staff will be required to frame the system properly in all its details initially and then to administer it. Administrative problems will resemble and approximate those involved in the corporate income tax. They might be considerably ameliorated by legislation requiring disclosure of corporate income tax returns to DNR personnel. This is not altogether on the negative side. Information about the costs of the industry would be of great aid to DNR personnel and administrators in performing their functions effectively. On the negative side, the industry would avoid such exposure and this might reduce bids.

d. The slow recovery of capital allowed, which is an inherent feature of this system, will be harder on the leaner firms which we want to encourage. Of course, the fact that some capital is recoverable is

attractive to all. The fact that it is recoverable only slowly is more acceptable to the richer firms than it is to the leaner ones.

e. The ability to deduct exploratory costs is not worth much where the probability of success is low. Thus, if the success ratio is one in ten, only 10 percent of the preproduction exploratory costs will ever be eligible for deduction. On the other hand, the costs of working over a producing field would all be deductible. This constitutes a large bias in the treatment of different kinds of costs and different parcels, which would need to be compensated for although there may be no simple and administrable way of doing so. It constitutes a serious drawback to a parcel-by-parcel system.

f. There will be some padding of costs and some gold plating which will leak through our best efforts to prevent them. These problems will be greatest on drainage tracts where production is a sure thing. Professor Rooney indicates that padding of costs is a very serious problem in the profit share leases in Long Beach, California.

g. If there is no inflationary adjustment made, the actual capital recovery allowance will be less in constant dollars than the amount of capital invested.

h. The allowance of fixed capital recovery has a negative leverage effect on incentives. It is the opposite from a regular fixed charge which has a positive leverage effect. After the lessee has recovered his allowable capital quota for the year, his incentives will be less. And after he has recovered it for the life of the deposit, his incentives will be permanently less. This pattern is bound to create some distortions.

Another and very different approach to profit sharing is through the State's taking an equity participation in one or more private corporations, as Canada has done with Panarctic Oils and Great Canadian Oil Sands, Limited. This does not directly solve the problem of land disposal, however, unless the State secures its equity by trading land for shares in the corporation. This, however, then makes the State a partner in all the affairs and ventures of the corporation around the world and gets far beyond the basic question of leasing policy which this study addresses.

A distantly related proposal is that offered by Phillips Petroleum that the bonus bid should be recoverable by the lessee as a deduction from royalties. This would either constitute a net cost to the State or else result in higher initial bonus bids in anticipation of later recovery. The latter has no particular advantages and would raise the bonus higher than otherwise and worsen the problem of the front-end filter.

7. Rent-sharing

We have seen how the landlord may share the lessee's costs in effect by letting him write them off against royalties. We've discussed profit sharing where the lessee may write off his operating costs and also his capital costs. The next and last logical step is to let him write off interest on his capital costs as well. What remains, then, for the landlord is the net contribution of the land; that is, the contribution to output which may be attributable to the resources which the landlord contributed. In theory this divides the product exactly as it

should be. The lessee gets a return in proportion to his investment and the landlord gets a return based on the value of his contribution. The question is whether this theoretical ideal can be approached in practice.

There are three basic approaches which are sufficiently different that we will discuss them separately:

a. Guaranteed rate of interest

In this scheme the lessee may deduct from his royalty base the operating costs, the capital costs, plus interest on unrecovered capital. The interest rate would be set at some market-derived figure like 8 or 9 percent. The capital could not be written off immediately. It would have to be depreciated over several years. There are many alternative rates of depreciation and many alternative ways of selecting the life over which capital may be depreciated. Were we to opt for this alternative, we would have to give detailed consideration to the complex choice of depreciation paths and life. An extended discussion of this is premature at this point, however. We would also have to decide whether to allow carry-forward of unused depreciation in years of no production.

b. Front-end recovery of capital

We can let the lessee have the first cut at production, letting him keep the entire proceeds until such time as he shall have recovered all of his deductible capital expenses. In a flush producer this will occur so rapidly that the question of interest rate is not critical. His capital is tied up for such a short period that interest on it is not a large amount. Following this, the State takes the lion's

share of the operating profit, leaving 15 or 20 percent to the operator as an incentive. There will be a bid variable, probably a bonus, to soak up any residual net advantage which operators anticipate.

(An unnecessary variation on this scheme would be to let the bonus also be deductible. As discussed in Section 6, this merely adds to the capital which the lessee has to put in and take out without achieving any particular purpose. Another elegant variation would be to let operators write off their capital outlays against the bonus. This, too, would result in inflating bonus bids and simply constitute lost motion with little net effect. We do not, therefore, discuss these bonus recovery options any further.)

c. Ad valorem charge based on reserves in place

This method has been alluded to earlier in Section 3, dealing with rentals. Like a rental it is based on time rather than production, but unlike the traditional concept of a delay rental it is not determined simply ex ante or per acre, but is based on a continuing assessment of the capacity of a reservoir to produce. It is determined ex post the disclosure of reservoir contents rather than ex ante. Therefore we continue and complete the discussion of it in this section.

There are pros and cons of rent sharing by whichever of the three methods, and then they have their individual pros and cons. First we consider all three collectively. On the positive side, they all have the following benefits:

1. There is a theoretically attainable degree of perfection where there is no deadweight loss. This theoretical perfection is not

attainable in practice but is worthy of note because other systems would impose deadweight losses on the State, even if they could be perfectly administered at zero cost, because of fundamental conceptual defects. In the rent-share schemes every cost of developing any resource is deductible. On marginal resources where the costs just equal the gains the rent share equals zero, so there is no charge levied to have a disincentive effect on the producer.

2. The counterpart of zero deadweight loss is zero leakage of State income into private hands. This again presupposes perfect administration and administrability. Rent is exactly the income properly attributable to the State's share in the joint effort, that is, the share contributed by land which the State owns.

3. The rent share is progressive with respect to profitability, like the profit share, only more so. Oil produced from strictly marginal deposits where costs equal gains yields the State no share whatsoever. But oil produced after the lessee has recovered his capital from rich tracts goes nearly 100 percent to the State. The State gets a higher share from the more "profitable" -- only now we should say "rentable" -- deposits because the basic rate can be so much higher. By virtue of allowing the deductibility of all costs, including interest on investment, we can now increase the basic rate nearly to 100 percent (subject to administrative feasibility).

Ideally, the State's share will be progressive only with respect to that profitability that derives from the land input. Extra profits that come from more efficient management, cutting costs and so on

should accrue to the operator. Whether this can be accomplished depends on how effectively we can audit the deduction of costs. Under alternatives (1.) and (2.) especially, this poses serious problems which we discuss later.

4. Rent sharing is based on ex post disclosures of the outcomes of exploration rather than ex ante guessing.

On the negative side, there are these problems:

1. Rates must be much higher than under other systems. This accentuates incentives to evade, and it makes all valuation questions more critical.

2. By virtue of its efficacy in collecting rents, the system reduces incentives for preleasing exploration. This forces us either to provide substitutes or to come to a decision that the present level is economically excessive and costly. Even if we do so conclude, this will leave a number of firms with a substantial investment in preleasing information subject to some capital loss, which they will resist.

a. Capital recovery with fixed interest

The proposal is to let the lessee write off capital investments against royalties at so much per year. He may write off capital together with interest on unrecovered capital at a fixed rate of interest like 8 or 9 percent. The advantages of this arrangement are the following:

1. The State starts recovering money right away. The lessee's capital continues to work for the State and the lessee remains entangled for a considerable period of time.

2. There is an upper limit on what the lessee can get. He is guaranteed a reasonable rate of return on his investment and little more. He is not relieved of all risks because the guarantee depends on production.

3. In case the State's share is left too low, there is a safety valve in the fact that there is still a bid variable, like the bonus, to soak up any excess of expectations.

4. The guarantee of interest reduces risk, and so reduces any risk premium needed or alleged to attract capital.

5. Full cost recovery with interest eliminates the tendency to slow down production which the royalty imposes (Appendix J).

6. There is no intertemporal bias against early costs incurred long before there is income from the lease. Exploratory drilling is recoverable. Compound interest accrues and may finally be recovered. (This does pose severe auditing problems, however.)

7. There is no temptation to pad capital costs in the declining years, because they can only be taken at so much per year.

Disadvantages are the following:

1. Padding expenses and gold plating. With a high basic royalty rate and generous deductions allowed with interest, the temptation towards boondoggling is at a maximum. The landlord may expect severe problems of monitoring, surveillance and evaluation. This system makes a lessee think and act like a regulated utility. This probably gives some practical notion of its impact. We have learned to survive with regulated utilities even though utilities pad their rate bases. We might similarly learn to survive with this system, in spite of its problems.

There are special aggravated problems in remote areas where "base maintenance," rather than drilling per se, is the largest cost. "Base maintenance" comprises a wide range of the necessities, amenities, follies and recreations of life, a bottomless sink of unauditable expenses.

Just as with profit sharing schemes, there is underrecovery of capital on long-shot, wildcat acreage. The British and Canadians have tried to compensate for this by extending somewhat beyond the individual parcel the area in which accounts may be consolidated, so that the costs of losers may be written off against the gains of winners over some considerable area. They call the boundary of this area the "ring fence." They are vague about how this fence line is drawn. Their system delegates more arbitrary power to civil "servants" than ours does, and may not be tolerable here (or there).

To be sure, federal income taxation contains a bias in favor of risky ventures; leasing upon industry demand, as Alaska has done, has a similar bias. It is difficult to evaluate countervailing biases and this has not been undertaken. If this idea is one that the Legislature wishes to pursue such an investigation would be desirable.

3. The guaranteed interest rate is the same for all firms regardless of their own cost of capital. This is a relative advantage to the wealthier firms whose cost of capital is lower. It is not as great an advantage, however, as that in the bonus element, because the discounted present value of the bonus is derived by discounting all future revenues, not simply those imputable to the lessee's capital.

The lower cost of capital to larger, wealthier firms may be inferred from data in Appendix K. Larger firms make less use of their credit ratings than smaller firms do, even though the credit ratings are better. This is to say that the larger firms could, if they wished, borrow a good deal more at 7.5 or 8 percent but are choosing not to. This displays the presence of internal funds such that the internal cost of capital is no greater than 7.5 percent.

b. Front-end recovery

The proposal is to let the lessee recover his capital at the front end before the State gets anything. The lessee recovers his capital with maximum feasible speed. His stake is in and out s rapidly that it need earn little interest.

The advantages are the following:

1. The incentive is towards haste. The lessee will not dawdle just to have interest pile up. He avoids interest costs by minimizing the period of capital commitment rather than writing off interest at a given rate.

2. There is reduced temptation to pad the early, preproduction outlays, because no interest is allowed. Exploratory drilling is already largely expensible for federal tax, and further temptation by the State might be redundant.

3. There is minimum feasible risk imposed on the lessee except as before where there is wildcat acreage.

4. This system favors the leaner firms. It shifts payments into the future more than any other system. The lessee owes the State

nothing until he has recovered almost everything -- everything that is his.

5. Lessees' capital is kept working in the industry, going in and out in a rapid reciprocating movement. A maximum of work is performed with a minimum of capital tied up. Small firms, particularly, depend on high capital turnover.

6. There is no need to determine depreciable lives and depreciation paths.

7. There is no inflationary leakage because so little time passes between investment and recovery.

The negative points are the following:

1. The premium on early inception may be excessive and in some cases cause wasteful haste. Presumably this could be controlled.

2. There is no explicit provision for the lessee's receiving interest on his capital. He would, however, adjust for this by reducing his bid (for the bid variable, whatever that might be). The best arrangement probably is for the State not to try to capture 100 percent of the cash flow after capital is recovered but to set the rate at 80 percent or so, leaving the bid variable to soak up the remainder.

3. The nominal royalty rate will be extremely high. This will lend itself to exaggeration and misinterpretation by critics who might succeed in having the system changed after the lessees had already recovered their capital, resulting in severe losses to the State. There is no protection against this other than widespread understanding.

4. The problem remains of a bias against wildcat acreage and other long-shot acreage. If the system is attractive enough on other grounds, some means could probably be devised to compensate for this. It would have to be something other than simply letting large firms pool their entire accounts within the State, because this contains a built-in bias in favor of the larger firms just as the corporate income tax does.

5. The temptation to expense dubious capital outlays against any flush producer is overwhelming, posing a severe auditing problem. To be sure, the auditor must be shown that the capital is to be productive on the same parcel, with its diminishing returns from a limited resource. So the possibilities of fraud are finite. In addition, this encourages intensive infilling and development as opposed to overdecentralization, probably a needed antidote to other biases. But this remains a drawback.

c. The ad valorem charge (AVC)

We touched on this method earlier in Section 3, the discussion of rentals, because it has some of the character of a rental, being an annual charge independent of production. We continue the discussion here because it also is a device for sharing rent. The ad valorem charge or AVC resembles a property tax. It consists of a base which is the current appraised value of the resource; and a percentage rate. The charge is the product of the base times the rate. The rate is high and common to all. The base varies from zero up to very high values for superior deposits.

The advantages of this leasing element are the following:

1. It cures the major fault of a high bonus by shifting payments into the future.

2. It cures the major fault of delay rentals by depending on ex post disclosures of what the ground contains rather than ex ante estimates made in the dark.

3. It cures the faults of a high royalty by not varying with production and by allowing for cost differences automatically in the evaluation procedure. That is, high-cost production carries a low AVC base. (In the extreme a marginal deposit has no value at all and hence there is no ad valorem charge.) As a counterpart, AVC minimizes the leakage of rents from low-cost resources out of the State treasury. They carry a high AVC base; and the common rate is high.

4. It cures the fault of profit sharing by allowing interest on the lessee's capital, again automatically in the valuation process. The "automaticity" depends on the appraiser's having proper legislation to work with and upon the legislation's having competent appraisers to implement it, so it is only automatic on the assumption of careful preparation and continued vigilance. The present point is that an appraisal of the resource in situ is always made net of the full costs of developing it and one of these costs is interest on the capital required for the purpose.

5. This lease element cures the fault of other rent-sharing techniques by having no place for padding costs or gold plating. A lessee cannot reduce the assessed value of his property by overdeveloping it. The major risk indeed is the reverse. He might inadvertently get it

increased that way, although this would constitute an error in administration rather than the intent of the system.

The intent is that the appraiser would calculate that schedule of production which maximizes discounted cash flow (DCF). He would value the deposit based on the assumption that that schedule was followed and that only those costs were incurred which were necessary to follow that schedule. Incurring additional costs would not lower the valuation, nor increase it either.

There should be no difficulty about recognizing this concept and procedure because it is what any buyer in the market place goes through when determining what to pay for bare land; and it is what any appraiser goes through when estimating what a market price would be, based on highest and best use.

6. AVC cures the fault of noncompetitive leasing, which is to overstimulate investment in exploration (which occurs whenever landlords fail to collect rent). A concern is that it might overcure the problem, leaving us with inadequate exploration. This is considered further on the negative side, and also in Section II on how to motivate exploration.

Overinvestment in exploration is just as much padding and gold plating as any other kind of overinvestment. It is insidious and seductive because it is invisible and hard to evaluate, and because there is in the "cultural subconscious" a proexploratory bias. There is also a federal tax bias for exploration to which the State need not add.

Nevertheless, one could go too far, and we must be careful to preserve enough motive to explore. There are several possible ways of

doing this. One would be to let the lessee recover his postleasing costs of exploratory drilling before the ad valorem charge is imposed. Other options are discussed in Section II.

7. Like options a. and b., this method of rent collection is progressive with respect to rentability -- the State gets a high share per barrel from rich deposits and little or nothing from marginal deposits. This option scores better on this count than the first two because of the absence of padding and gold plating (which would dissipate rent from richer deposits).

8. Because of advantage #7, this method permits the State to schedule the timing of lease sales in an optimal way, and to get more money from bid-variable-bonuses. Compare it with a high royalty rate. A high royalty rate means that at the time a deposit has risen to marginal status (owing to increased prices or any other cause) it is still worth less than nothing to a lessee after paying the royalty: yet it has a large positive value to the State, or would have if the State could induce a lessee to produce it. This gives the State an interest in selling leases at a time when lessees have little interest in buying them.

This in turn puts the State at a bargaining disadvantage at the time a lease is sold. When, on the other hand, the State's share is based merely on the net value of the resource, the State has an accurate criterion to follow in timing leases. Maximizing the DCF of the State is now socially optimal. This point is discussed in more detail in Section D below.

9. Where the AVC element is large, and appraisals are kept current (as they must be), the State assumes almost all the "passive" risks. Those are the risks imposed by price changes, cost changes, and changes of market interest rates. When prices rise, valuations rise and vice versa. This is appropriate since price basically affects the value of land which is the State's contribution. This also removes a good deal of risk from the lessee. It accomplishes for the lessee just what a perfect hedging market would accomplish.

As to interest rates, when market interest rates rise the capitalization or "cap rate" used in valuation should rise, too. This lowers the valuation and reduces the tax. Mathematically, it reduces the valuation exactly by that amount required to let the lessee continue to earn a market rate of interest at the new market rate. The mathematics is shown in Appendix H.

This is quite an important feature whose importance might not be as immediately obvious as the price hedging feature. It makes the investment less risky than investment in a government bond with a fixed coupon. When market interest rates rise, the value of fixed coupon bonds falls below par. Under the AVC system a rise in market interest rates does not reduce the valuation of mineral deposits by nearly the same amount -- the State's claim falls, protecting the holder from the same degree of price risk that he would experience with a government bond.

Both these features would be attractive to risk-averse investors. This probably would increase the number of bidders for State lands.

10. The valuations of reserves required to operate this system would constitute an inventory of proven reserves, an inventory much more accurate than what is available today and much more objective. This inventory information would be useful in planning community facilities, transportation, and allied infrastructure. The sum total of information known might be little greater than now, but it would all be of public record and centralized in one location and accessible to all State planning agencies as well as to private individuals, local governments, native corporations, and firms interested in exploration on comparable or adjacent lands. The benefits of better planning extend outside the State into consuming states and federal regulatory agencies which are concerned about supply adequacy when pipelines are authorized. This national interest in improved inventory would justify Alaska's requesting financial support for its program.

11. AVC is free from the fault of a royalty, that there is no early commitment. There is an immediate and growing commitment from the lessee to the lessor. This is accomplished without imposing such a heavy front-end load as the bonus does, but without deferring state revenues as much as front-end capital recovery would do. In this respect it is comparable to the Alaska tax on mineral reserves.

This time pattern may approach optimality in terms of the credit needs of all the parties involved, beginning from the assumption that it is desirable to encourage smaller firms as well as to prevent speculation and to protect State revenues. When we look at borrowing rates and credit ratings we note that small firms can borrow for short

periods of time at a small disadvantage compared with large firms. The greater disadvantage of small firms in capital markets is long-term borrowing. The present proposal calls for some short-term advance of capital by the lessee, but not very much in comparison with a high bonus payment.

A pure bonus bid would be derived by discounting future expectations over the next 30 or 40 years, including future gas production which may be way down the line. This means that the same 30 or 40 years will in general be required to recoup the investment. The unrecovered investment must be financed over that whole period. Access to long-term money is what gives larger multinational conglomerated firms their special edge in financial matters. The present proposal cuts deeply into the prospects of future gain from leases and thereby minimizes the need for long-term financing to purchase leases initially.

12. A minor and uncertain potential advantage is that under price regulation by FEA and FPC, with their "cost plus" philosophy, an AVC might be construed as a current operating cost and rolled into the price, in contrast to historical bonuses which might be ignored.

13. AVC moves into one of the largest loopholes in federal tax law, the exemption of unrealized capital gains. After discovery, and before production, there is a large increase in the wealth of the lessee. The increase is bankable and bondable and therefore realizable in cash, but not taxable. AVC, like the Alaska reserves tax, taps this unpreempted source of revenue.

By taking early cash from lessees this might seem to hurt the leaner firms, but not so: they are not asked for cash until they have a bankable asset to raise cash on. At this point they are on the way from lean to fat.

On the negative side are the following drawbacks:

1. AVC is not in common use. We would start near the bottom of a learning curve when introducing a new system. In addition, there must be a lingering suspicion that there could be some reason why it is not in common use.

Tempering this, however, the components of the system are in common use and are acceptable business practices. In 1973 five of eight majors operating in Alberta voluntarily chose an AVC in preference to increased royalties. (Alberta did not follow through.) The concept of a variable payment based on an index determined by fallible human beings is not uncommon. The variable rate mortgage has been successfully introduced. Another acceptable practice is setting farm rents in midwestern counties by "county average yields." This allows for the effect of weather fluctuations. Property taxation everywhere, of course, depends on assessed variations. Almost every investment everywhere in real estate is made subject to this hazard. While valuations vary in quality and complaining is constant, the system has lasted for 2,000 or 3,000 years and undoubtedly will continue. Mr. Paschall has explained how the system works in California and has emphasized that successful appraisal does not presuppose a 100 percent accurate estimate of ultimate reserves. Professor Adelman says "The development of known oil pools can

be calculated with tolerable accuracy even on the basis of incomplete data" (Adelman, 1969:26), and in his research has demonstrated how one can draw inferences from limited data.

Oil companies buy and sell their reserves, and also each other, based on appraisal. A frequent practice is to hire two recognized appraisers and agree in advance to accept the average of their two appraisals. In a recent case this resulted in a price increment of $6 million.[2] Loans and credit ratings are based on appraisals of property value and many outstanding contracts involve payments which are indexed or tied to the consumer price index or other price index.

The question is whether firms would have confidence that an objective assessment would be made by a State employee, and not whether such an objective assessment is possible or acceptable. It is up to the State, therefore, to set up procedures assuring objectivity. Judicial review is one of these and it might be desirable to create a court specializing in this kind of case, to be sure the judge understood the issues. This is the practice in Australian property taxation and is reported to work better than the use of general courts.

2. AVC is a tax on successful exploration to the extent that exploration identifies the reserve whose value is the tax base. Large private landholders in the lower 48 have sometimes deferred exploration in order to avoid property taxation, at least by their own account. This fault is not peculiar to AVC: any system of tapping revenues from proven

[2] The purchase of McAlester Fuel Co. by Alaska Interstate Co. for $45.8 million instead of $39.4 million originally announced (Wall Street Journal, January 6, 1977).

reserves is also a tax on exploration. The problem is worse with AVC, however, by virtue of its greater efficiency in identifying and capturing the rent of proven reserves. Other systems, by their very inefficiency and inaccuracy, allow a considerable leakage of mineral rent out of the State treasury, which in turn serves as an incentive for more exploration.

Preleasing exploration is not the problem, so long as there is a lease sale with a bid variable. The lease sale would provide the same opportunity as it does now for firms to limit the size of their bids in light of the need to earn a rate of return high enough to recoup investment in preleasing exploration. The problem centers about post leasing exploratory drilling.

To keep this problem in perspective, this problem concerns one-tenth of all costs. The Joint Association Survey reported the following breakdown of expenditures from its respondents in 1974. These respondents were estimated to comprise about 76 percent of the revenues of the industry in the United States (Joint Association Survey, 1976).

	Billion $	%
Exploratory wells	1.6	11
Acquiring undeveloped acreage	5.7	38
Geological and geophysical	.6	4
Development wells	2.7	18
Lease equipment	.8	5
Production expenditures and overhead	3.5	23
Total	14.9	99[3]

[3]Differences due to rounding

Ad valorem taxes, that is property taxes resembling in their impact our AVC, were included among production expenses and overhead and were equal to $.4 billion or almost two-thirds as much as was spent on preleasing exploration. Spending on exploratory wells is a substantial but not an overwhelming part of the total, being substantially less than the costs of development and production. While there is a problem to be solved yet, it is not as great a problem as it would be if exploratory drilling were a larger share of total costs.

A partial solution to the problem of motivating exploration adequately is simply to adopt a lower percentage rate for the charge.

Another mitigating factor is that deposits which are expensive to produce, and which therefore carry a low ad valorem base for the AVC, are on the whole the same ones that are expensive to find by virtue of being small, deep, remote and so on. AVC therefore does not take a large bite out of the value of deposits that are expensive to discover but mainly out of those that are cheap to discover. In this respect it is less discouraging to exploration than would be a royalty which raised the same total revenue.

This problem is further explored in Section 11. In general there is a choice to be made between leaving some rent as bait for explorers or paying for exploration by direct contract before leases are signed.

3. As with other rent-collecting devices, the AVC rate is going to be high; so all judgments and decisions are more critical. In order to work properly the system must be more fine-tuned than a royalty

for example. It is something like licensing surgeons to operate instead of giving aspirin. More careful training and control are called for, and personnel capable of more discriminating judgments. I would not overstate this point, because the judgments called for are primarily of one kind -- valuation -- and are subject to review according to preannounced objective criteria. Nor are they regulatory kinds of judgments which involve ordering lessees to do or not to do specific acts. They are nonetheless judgments and the consequences of error may be severe, and this must be reckoned as a fault of this lease element.

Another disadvantage of high rates is the ease with which they may be misinterpreted. A high rate on a small base raises no more money than a low rate on a large base, but more easily evokes images of confiscation. This problem may be ameliorated by using a capitalization rate rather lower than the 18 percent currently in use in the Alaska reserves tax. Eight percent, a market rate of interest, seems more reasonable today. Inflated capitalization rates are the same as underassessment of the base. As indicated, the State is assuming a large share of the risk under this system so that a low, riskless capitalization rate is appropriate.

4. The first few annual payments are preproduction. As compared with some other systems, therefore, this one has a larger front-end load. This issue is discussed under advantage #13.

8. Regulating field operations

In issuing a lease, the State reserves the right to regulate field operations in the interest of preventing waste. This primarily involves control over rate of flow, unitization and spacing.

a. Rate of flow

Where many independently owned tracts overlie a common communicating pool, everyone recognizes that some regulation of flow is needed. This is true even where production is not rate-sensitive, in order to obviate the excess costs of hyperaccelerated withdrawals. Even where physical waste is caused by rapid recovery, it may be the lesser economic waste: capital sunk in excess capacity may be the greater one. The most frequently heard rationale, however, is to prevent physical waste, because of the traditional overemphasis on physical waste. Whichever we emphasize, all hands can agree that some control is needed over rate of flow. This may be accomplished through total unitization, or through prorating allowable flows to individual wells and parcels based on an overall reservoir plan.

It would be most desirable to stipulate that the objective of such a plan, by whatever means administered, be to maximize discounted cash flow (DCF) rather than ultimate recovery. The latter is no criterion at all for reservoirs which are not "rate sensitive," and it is the wrong criterion for those that are.

In Appendix I we present discounted cash flow values derived from different production schedules for the reservoir at Prudhoe Bay as presented in the Van Poollen report. It is clear that the fastest option

which they presented is the one that maximizes the gross DCF without deducting costs. Information on costs is not given in the report. In Appendix I, however, we show what to do with such cost information when it is available. Shifting from the 1.2 MBD schedule to the 1.8 MBD schedule increases gross DCF by $5.6 billion when a 10 percent discount rate is used. All we need to do now is match this gain against the cost of additional wells required to achieve it. The number of wells and the cost per well are figures that knowledgeable people could supply readily. It is quite likely that they would be less than the gain in DCF, and therefore be justified (in the absence of major considerations not listed here). Even as we complete this Report, the operators are announcing their intent to increase capacity in daily flow towards the upper figure.

Appendix I indicates that optimal flow is not very sensitive to the rate of interest. The gain in gross DCF from speeding up flow is calculated over a wide range of interest rates and is not much affected. To the extent it is affected, the effect is the opposite from what one normally expects in other kinds of investments: at a higher rate of interest more investment in drilling wells is justified rather than less. Most long-term investments, of course, look worse at higher rates of interest. Investment in recovering minerals looks better, because we shift cash flow towards the present.

It might be thought that anticipated rising prices of petroleum products would reduce the optimal rate of flow. So they do but not by very much. The effect of well-head prices rising at 5 percent per year is the same as the effect of lowering the discount rate from 15

percent to 10 percent and Appendix I shows that this effect is not very great.

We must distinguish sharply, however, between anticipated rising prices and absolute high prices at a fixed level. While anticipated future increases tend slightly to reduce optimal flow, high prices today and continuing into the future (but not rising) increase the payoff from investment in additional wells and argue strongly in favor of speedier production. The existence of today's elevated price level, therefore, calls most urgently for review of traditional flow regulation based on MER or maximizing ultimate recovery. In the DCF analysis a slight loss of ultimate recovery is a minimal consideration. Even a substantial loss of ultimate recovery may be small relative to the interest costs of holding unproduced reserves longer than necessary. Tradition has elevated the minimal factor to a maximal and almost the sole criterion of rate determination.

Interest on assets which one owns is an "invisible" cost and all too easily relegated to the limbo of irrelevant, abstruse, philosophical speculation by those who don't actually have to pay it. Proper economy of valuable natural resources would be achieved if we regarded the managers as being saddled with a mortgage equal to the value of the resource, on which interest is due regularly, thus converting the invisible cost into a tangible, painful cash outflow.

A lessee, left to his own devices, will in his own interest act so as to maximize DCF. If the State prohibits this in advance of lease sale, it makes the lease that much less attractive. The cost of

this kind of regulation is thus borne by the State in lower bids. If the State imposes an uneconomical concept of regulating flow it has little gain to show for its cost. By the same reasoning, future leases can be sold at considerably advanced values if they are free from flow regulation based on the concept of MER.

Should the State decide to abandon MER, this also opens the possibility of renegotiating old leases. The State can calculate the present value to the lessee of being allowed to produce faster and offer to sell him that right for that price.

b. Unitization

Unitization may be partial or complete and it may be under the control of the operators exclusively or it may involve extensive State participation and surveillance.

There are advantages in keeping unitization partial. It is always tempting to view the potential gains from total rationalization of a large works project, consisting of many parts, but there is also the danger of losing individual initiative, enterprise and familiarity with the local scene; and there is the danger of doing too much at once. Not all producers are ready to move simultaneously, as we see today at Prudhoe Bay.

A two-tier approach is recommended, analogous to that used in irrigation areas for administration of aquifers overlain by many competing landowners, each with his own water pump. Landowners join in forming a water conservation district which is given the task of aquifer management, and certain powers over withdrawals by individuals. Water

conservation districts generally have inadequate powers, but an analogous petroleum conservation district in Alaska, beginning de novo, need not suffer such limitations. The State might initiate such a district for each communicating pool and make membership compulsory among its lessees.

The argument for this two-tier approach is weaker with petroleum management than it is with aquifer management inasmuch as we cannot visualize a water agency taking over the minutiae of operating every farm, where the water input is relatively much less important than petroleum to an oil firm. Even so, the Joint Association Survey data cited earlier indicate that development and production costs in field management outweigh exploratory well drilling costs by a substantial amount, and it might be letting the tail wag the dog to let unitization become total. Partial unitization could involve trade-offs and adjustments among separate lessees. Where wells need to be divided unevenly among tracts, cash payments could be made to compensate the losers from the gains of the winners. The same can be done when one producer is ready to go and another wants to wait. Whether this is a feasible and superior arrangement in the circumstances would call for extended study, so in this Report we advance the suggestion without endorsing it.

It is desirable as a general principle to minimize the intervention of State officials in decisions which might be left to operators in the field who have a proprietary economic interest in the outcome. The arguments for this are numerous and traditional and need not be repeated here. A great advantage of abandoning the MER criterion and substituting the DCF criterion is that it eliminates the conflict of

goals between the State and the lessees concerning flow regulation, thus making it possible to delegate fuller authority to the lessee operators themselves and minimize State intervention. The presumption today is that the State needs to prevent the operators doing something which is advantageous to them but somehow disadvantageous to the State. Things go better when we can presume that the operators are serving the public interest by attending to their private interests.

The State cannot impose unitization unilaterally where oil-bearing structures straddle the border with federal lands, to say nothing of subjecting federal structures to regulation by State officials. On the other hand, if communicating pools were subject to regulation by an organization of the operators, using a two-tier system like that suggested, it should make it easier to achieve successful unified management in the field. The delegation of operating control and planning to local organizations should obviate the question of which central agency is in charge.

Much of the above presupposes that the State accept DCF in preference to MER as the criterion for regulating flow. Let us therefore recap how we justify spending more money to speed up flow even when that will result in physical waste. Can we accept real physical waste merely for the purpose of saving something as vulgar as money, in a form as profane as interest, and as imaginary as interest foregone on investments which we might have made?

Say it costs $100 to discover $50 worth of oil in the ground. The world is telling us something by the way it prices petroleum, as well

as the resources required to develop it. It is telling us that the resources which we sacrifice to gain the petroleum are worth more than the petroleum. This is clear enough when the resource cost is materialistic in the form of steel and when it is personal in the form of labor. It is harder for some people to accept when the cost is entirely financial in the form of interest payments on a mortgage, but interest too is a real social cost.

Interest is the cost of getting your hands on wealth today which you do not own, in order to build something today which will yield you a much greater return in the future. Thus, if you put $100,000 into a building to be rented, you will get your $100,000 back in less than ten years, normally, in voluntary payments made by renters. After that everything is a surplus above the cost of production. Over a life of 50 years the unit will probably yield five or six times its initial cost in net cash flow to the owner. Thus, having wealth at your disposal today instead of years down the line is very productive, which is why interest is paid. The rate of interest is the rate of exchange between wealth this year and wealth next year. It is determined in the same kinds of markets that determine conversion factors between apples and oranges.

Economists and businessmen are saying we are in greater danger of running out of capital to develop resources, than we are out of resources in the ground themselves. There is nothing vulgar or profane, therefore, about economizing on capital in a resource-short world. Nor is there anything sacred about economizing on physical resources when the cost is wasting capital.

Let us consider the feeling sometimes expressed that there would be something prodigal about producing rapidly from proven reserves at Prudhoe Bay. A purpose of faster production at Prudhoe Bay would be to fill the pipeline and thus delay the need for new lease sales. The pressure will be on, obviously, to increase production from some source until the pipeline is full. By producing slower at Prudhoe, we would not reduce the withdrawal of petroleum from Alaska; we would rather cause some to be withdrawn from other areas instead. Speeding the flow from Prudhoe means getting the same flow from fewer acres and from a lesser investment in exploration, drilling and equipping wells, and equipping leases.

This is not to argue against advance planning to keep the pipeline full. It is, rather, a matter of planning to do so at the least cost. Doing anything at the least cost involves a small risk of not accomplishing the goal, but that is acceptable. Keeping the pipeline full is not an absolute. It is a desirable thing, if at a reasonable cost. What is required is a careful cost-benefit analysis of the whole picture. It would be a mistake to let leasing policy be dominated by any absolute commitment to keep the pipeline full regardless of cost. When we look at the chaos at the marketing end of the pipeline it would be ludicrous to demand absolute certainty at the production end at the expense of the people of Alaska.

c. Well spacing

This is largely the same issue as rate of flow. Higher flow rates require more wells, more closely spaced. It is not very fitting that the State of Alaska should impose wide spacing requirements on its lessees. This may be a throwback to another situation in another state where surface subdivision caused excessive well density, which had to be countered by public regulation. In Alaska the State is the landlord collecting royalties. The interest of such a landlord is to maximize the capital invested by the lessee. The royalty reduces the operator's incentive to apply capital, and this needs to be countervailed.

Closer spacing in addition to increasing rates of flow may also have some effect in increasing ultimate recovery. In fractured reservoirs with noncommunicating pools, this is obviously true. In other reservoirs it may be true. Little is published on this. It may be desirable for the State to commission a study on this subject: what is the optimal well spacing, well diameter, and rate of flow to be adopted, assuming that the goal is to maximize discounted cash flow net of costs? Most past analysis is not on target because it is premised on the goals of minimizing physical waste, and prorating excess capacity to market demand. Alaska, 1977, is no time and place to be invoking "standards" and going by the book when the standards and the books were developed for other conditions in other places and times.

It sometimes happens that regulators, operating under what appear on the surface to be counterproductive criteria, modify them in practice and make regulation work out better. We have not reviewed

actual procedures, and limit these comments to the criteria which appear to be followed as guidelines, whether by legislative mandate or professional tradition. No criticism is intended or implied of any individual or group.

9. Acreage reservation (checkerboarding)

The Alberta system of crown reservations has attracted considerable attention. Professor Andrew R. Thompson of the University of British Columbia Faculty of Law has been an exponent, although his enthusiasm is reported to be waning. Alberta, too, is modifying and backing away from the system. The concept as explained by Professor Thompson is for ". . . free entry on unproven lands under an exploratory reservation or permit which carries the right to lease, but requires that at least half the acreage, or some other fraction, be relinquished to the State on a checkerboard or corridor pattern after the lapse of a sufficient period of time for completing exploratory work and evaluation. Thus, it is the oil company that . . . must decide when and what to lease . . ." (Thompson 1969:86-87). An attractive feature of this system is, as Thompson points out, that it relieves State officers of a "tremendous burden of decision."

On the negative side, this may also relieve the State of a large quantity of oil since the State (or the Alberta crown) gets the leftovers after the lessee has picked the eyes out of the land.

It does seem advantageous for the Commissioner of Natural Resources, in his discretion, to lease out some areas for exploratory drilling while holding back adjacent and interstitial tracts for later

drainage sales to benefit from the spillover of exploration on the leased tracts. This is discussed further in Section D on the timing of lease sales.

It does not seem advantageous to let the lessee have the choice of lands to select. This is another "blunt instrument" whose results may be capricious and arbitrary. Since finer instruments are available, we do not pursue this further at this time. Authorities who have studied this subject in some depth are Professor Michael Crommelin, Faculty of Law, University of Melbourne, Australia; Professor Andrew R. Thompson; Dr. Campbell Watkins, Petroleum Consultant in Calgary; and Professor Anthony Scott, Faculty of Economics, University of British Columbia. For a fuller description of the Alberta system we are submitting along with this Report a copy of Crommelin, Scott, and Peter Pearse, "Management of Oil and Gas Resources in Alberta: An Economic Evaluation of Public Policy."

10. Sale of undivided interests

It has been proposed that communicating pools or even larger units should be sold as such, rather than as volumes of the earth's crust underneath tracts of land measured on the flat. There are certain advantages:

a. The "transactions costs" of negotiating among the several surface owners would be obviated. Unitization is inherent and automatic.

b. Small firms could take a small interest. The scheme allows for ownership to be divided into many units, let's say 100. Each bidder would indicate a price and also the number of units he wished to acquire

at that price. These would then be ranked in order of price until they added up to 100 percent. The winning bidders would then automatically become an operating consortium.

c. There is a dramatic reduction in risk, since offsetting risks are pooled. There is much less need for preleasing survey, therefore. The structure itself can be confirmed before there is great concern about just where upon it to take a position.

On the negative side, here are some considerations:

a. Entire structures or geologic features would have to be marketed at one stroke. The possibility of the State's withholding acreage for later drainage sale at high price is precluded.

b. The degree of centralized administration may be unnecessary, and the loss of autonomous action by the smaller individual firms undesirable. The controlling operator presumably would be the largest owner of shares and production would be presumably regulated more for his benefit than that of others. Smaller firms would tend to lose some freedom of action. There are alternative unitization methods available which do not impinge on freedom of action to the same degree (see Section 8 above).

c. Professor Rooney's analysis of the Long Beach case sheds some light on problems inherent in undivided interests. The dominant interest there evidently gains considerably by integrating the Long Beach production into its vertically integrated operation. If the smaller interests represented other firms their interests would tend to be neglected.

On the whole this represents an interesting possibility for solving one of the many problems of petroleum leasing, but it is neither broad enough nor promising enough to warrant further discussion in this Report of limited scope.

11. Handling information: generation, control and disclosure

Preleasing investment in geological and geophysical investigation accounted for 4 percent of the expenditures recorded by the firms in the Joint Association Survey (JAS Survey, 1976). For a fairer picture of the importance of these expenses we should multiply by three or so, to account for the time difference. These expenditures take place many years before the others do and before their results show up on the positive side of the income statement. Remember that money doubles every seven years at 10 percent. Then we should multiply by another factor because preleasing work is bigger in Alaska than the lower 48.

The industry pays these costs on the first round but the State inevitably bears them in the form of lower bids. Alternative methods of financing preleasing exploration have therefore been suggested. We will consider the existing system and a couple of alternatives.

a. The present system: open access to State unleased lands; timing of leasing dependent on industry initiative through the nomination system

Some advantages are the following:

1. It is hard for the State to play the sleeping landlord. Enterprising private businessmen are free to call the attention of State officials to economic opportunities.

2. Judgmental decisions are in the hands of highly motivated private firms. Several of them are in competition so that many concepts are applied to the same land by people who are rewarded by being creative.

3. The State does not have to bear the cost of conducting its own survey.

4. The system is time-honored and familiar and acceptable to the industry.

On the minus side:

1. Preleasing investment is another front-end filter like a high bonus. It is a tighter screen as well for the leaner firms, at least per dollar involved, because of the long waiting period between investment and recovery and the uncertainty of recovery. A firm possessing no real estate but only intangible wealth in the form of information is not very creditworthy, especially for long-term loans, so that this activity is nearly unfinanceable and requires equity capital. The advantage then is to firms with accumulated wealth.

2. Preleasing exploration adds no value to any real asset owned by the firm and therefore has to find its reward in the firms' acquiring State lands at a low value. An extreme case, of course, is the 1965 sale of 90 percent of the oil in the Prudhoe Bay field for $6 million. Application by the State of a low "discovery royalty" rate to early finds aggravates this situation. The State gets a lot of wildcat acreage surveyed in this manner, but there is no guarantee that the cost to the State is less than the benefit. It is more likely to be the other

way around. And the State does not get the information. (Nomination does not convey much information, because overnomination is the standard operating procedure.)

3. A counterpart to point #2 is that the firm with a large investment in preleasing exploration may neglect intensive infilling and development of acquired leases, and instead buy more leases. This is implied by the common allegation that many firms do not look at investments that yield less than 20 percent, even though they can borrow at 7.5 or 8 percent. The excess of 20 percent over 8 percent presumably reflects, among other things, some allowance to cover the overhead of preleasing exploration. But if a firm spurns investment opportunities on leases which yield less than 20 percent, it will not apply adequate capital to develop them. This would lead to a pattern of decentralization of development in the State.

4. Duplication and prematurity. Since access is open, the competitive edge in exploration comes only in part from doing the job better. In large part it comes from doing it sooner. The result is "soonerism," somewhat akin to behavior in the Oklahoma land rush when the race went to the swift. In addition, there is a certain amount of costly duplication, some of which may be justified and some of which has been prevented by cooperative line-shooting, but not all of which has been or could be eliminated.

Even where the lines are shot jointly, costly interpretations are duplicated many times without there being any occasion to ask if the first exploratory well might not be a cheaper alternative. By the

time many firms are interested in duplicating the same interpretation it is most likely that the existence of a structure is well known and the purpose of incurring this expense is primarily acquisitive and redistributive rather than productive: that is, it is a matter of jockeying for competitive advantage over other firms wishing to acquire the same resource rather than a matter of increasing the resource.

5. Each firm's information is held tightly secret. Secrecy is almost always counterproductive and expensive to maintain. Secrecy prevents any positive spillover value from information in advance of disclosure. State planning agencies cannot use it and environmentalists cannot use it. Peg Tileston, spokesperson for Alaska Center for the Environment, advises me that industry secrecy about future plans for activities with large environmental impacts ranks at the top of environmentalists' concerns and that full disclosure would go far towards abating many of these concerns. Tina Stonorov, Executive Secretary, Alaska Conservation Society, writes "Thorough public discussion of lease proposals . . . should precede every such decision. . . . If an area is so poorly known that . . . guidelines can't be written, lease sales are obviously premature" (Stonorov, 1976). These concerns are much aggravated by the fact that overnomination is routine on the part of many firms seeking to hide their real intentions.

6. The system is vertically integrated. The firms that explore and nominate a tract early have every advantage in bidding for it at the time, more or less of their choosing, when they nominate it and push for it to be auctioned. There are, to be sure, some firms which

specialize in preleasing exploration and acquisition and then try to sell their acquisitions to production and marketing firms. Such sales are, however, subject to taxation at that time, which the vertically integrated firm is spared.

7. Larger deposits are generally easier to find than smaller ones. This system draws most exploratory effort into the search for big ones where it is least needed and away from the smaller ones. An elephant in the bush looks much better than several birds in the hand. This reinforces the propensity towards decentralization.

8. Preleasing exploration does not necessarily or even generally increase the value of State lands. It may reduce the value if the absence of petroleum is confirmed. This information is of value to potential buyers but not to the State and the State need not feel obligated to pay for it.

9. State officials, to recoup losses, may turn around and knowingly sell bad acreage for h'gh prices as in 1969. It should, I believe, be considered beneath the dignity of a sovereign state, equipped with the powers and immunities of sovereignty, to withhold information that would prevent a businessman from damaging himself by bidding high for defective real estate. The sovereign should be above this game, not part of it.

10. Independent exploratory firms which acquire leases for sale to majors may be exploited by the latter's superior bargaining power.

Because of these several criticisms, alternatives have been suggested which we now consider:

b. Exploration by contract

The State may employ firms specializing in exploration to perform geological and geophysical investigations on the understanding that the results would be made public. Contracts might be drawn in a variety of ways with or without substantial bonus incentives, based on results of investigations. Professor Rooney suggests one method (Appendix G). The State would also do its best to secure greater cooperation from the U.S. Geological Survey, NOAA, and the Department of Interior in order to use information derived from federal lands to learn more about adjacent State lands. Cooperation with native corporations would also be desirable. The advantages would be the following:

1. Preleasing investigations would be unitized, obviating the cost of duplication. The State would recoup its investment in the form of higher bids and it shold recoup more than its investment because the bidding firms need not cover the overhead of their duplicative preleasing investments. Entry would be open to many more bidders, resulting in keener competition as well.

Once information has been gathered it costs little to disseminate it. It is a "public good" (a good which, once created, may be provided to any number of people at little extra cost). It probably costs less to publish data than to keep it secret. Some analogous cases where government publicizes valuable information are: weather reporting, earthquake fault-mapping and prediction; navigation aids; road maps; public land survey; the Torrens system of land title registration used in Canada and Australia; farm market reports; farm extension services; public health information; and public education.

2. The State may control timing of lease sales better, reducing industry initiatives with demands for premature nomination. In order to time lease sales in an economic way, State officials need have some basis for predicting expected sale proceeds and this procedure supplies them some of that information. The State at the time of sale can set its own reservation price as well.

3. Contracting explorers would come from the same geo-data industry that presently exists in firms now doing contract work for the industry.

4. The State's exploratory function would not be preclusive. Any firm that can do the job better still has the option of doing so. Thus, while it may be true that the Postal Service is unenterprising, this criticism should be directed against the Post Office and not against the present proposal, which does not contain any prohibition on competition.

5. There is no built-in propensity towards underpricing or overpricing leases, as with the present system. All parties on the buying and selling sides have available all the information that there is.

6. A substantial barrier to entry would be eliminated. Many more firms could bid on any given lease. The State itself would also become an effective "bidder" in the sense that it could set an affective reservation price. Leaner firms have a greater need for foreknowledge and a lesser ability to finance it.

7. The State would assume the riskiest element in the petroleum business, a risk it is able to bear because of its diversification, and a risk which it should bear because the risk is inherent in the land which the State owns.

8. Contracting exploratory firms will be motivated by a desire to enhance their reputations and get future contracts. In addition, various bonus and incentive systems may be adopted which reward them with percentages of what they find.

9. The problem of secrecy is dispelled. Planners and environmentalists can know as much as anyone about what is planned and what is going on.

On the minus side, here are some weak points:

1. Firms in the geo-data industry are not used to allowing disclosure.

2. Incentives are less acute than when the firm is gambling its own money. In the extreme, we might visualize a group of long-haired geology professors out practicing art for art's sake, mindless of any payoff.

We might alleviate this problem by spelling out objectives clearly, keeping contracts short, and shifting away from poor performers. We could give performance bonuses based on findings, even though we know this is a function of what there is to find as well as the skill of the finder. At least we would not be giving it all away in order to get it found.

We could allow two or more contracting firms to explore the same ground, provided we had some rational reason based on evidence to think that might be worth the extra cost (as opposed to the present system of letting all comers in regardless of any evidence of productivity) and the door is always open to others if the government is botching the work. Experience would soon show if officials were capable of being productive. Competition and exposure would stir them up, too -- pride of performance is an important element in competition, regardless of remuneration. Most workers in competitive industry also work on fixed salaries.

A variation of the contract system is the Alberta practice. The province contracts with private firms to put up 30 percent of their costs in return for which it gets their information after a lapse of one year. The Province can, but normally does not, publish the information before a sale of the land in question. Canadians are great compromisers and this system appears to compromise between two or three different principles. The results, we may surmise, will be equally mixed.

Another variation is the incentive-bonus contract. Instead of paying the exploring firm a fixed fee or a cost-plus fee, we may reward it with a percentage (or other function) of the value of its findings. This is similar to the contract system except with greater performance bonuses built into the contract, and lesser cost-plus payments.

Either method has the advantage that the State breaks into a joint in the vertically integrated industry and creates a market at that joint. In this case it is a market for the "products" of exploration

firms. It gets the job done cheaper and without giving away its right to dispose of the resource once its outlines have been discovered.

Incentive-bonus has the advantage of keying motivation more to results. It has the disadvantage that the value added by exploration depends on luck. No matter how skillfully you search and how hard you work you cannot find what isn't there; while a fool may stumble on an elephant in the dark. A good job of exploring barren land will reduce its value by confirming its barrenness. It is hard to find a system for rewarding the effort of exploration on small tracts on an incentive basis.

There is a federal tax problem, too. Cash rewards paid out become ordinary taxable income in contrast to capital gains, only 50 percent of which would be taxable, and in even greater contrast to unrealized capital gains enjoyed by vertically integrated corporations which are not taxable at all. The weight of bias in the federal tax system would work against this proposal. Simple contract exploration doesn't share this fault in the same degree, since the capital gains would be realized by the State which is not taxable. While we should in general be chary of exploiting the State's nontaxability, in this case it seems justified in order to offset the special tax privilege accorded to private firms which are vertically integrated.

Another approach which becomes feasible in the event that we announce our intention to recapture the lion's share of any findings (by any of the various methods described in earlier sections) is to abandon the distinction between preleasing and postleasing exploration. We could

divide State lands into large tracts and lease them as wildcat acreage. In order to be sure that lessees were highly motivated we would subject them to a delay rental which rose annually at an increasing rate or a constant percentage rate of about 10 percent per year. This would assure that no one took out any such lease without exploring diligently.

Instead of the delay rental we might use the shrinking concession as Iran does. Iran progressively takes back a percentage of concession acreage after five, ten, and finally, twelve years, charging $3.00 per acre year in the meantime.

Another variation on this plan would be modeled on the proposal frequently made and sometimes implemented to base property tax assessments on self-assessment by the landowner. In this case the leaseholder would set his own delay rental, which would be considered an Ad Valorem Charge at a specified percentage of a base value. To prevent his setting a low base value, the lease would contain a reservation stipulating that the State might repossess it for the base value declared by the lessee. Another reservation would open the area to exploration by others who might acquire the lease from the sitting leaseholder by paying him his declared value plus 15 percent. The idea is to allow a reasonable security to the leaseholder but to keep everyone on his toes and avoid exploiting the State by underpayment.

There is little doubt that such a system could be made to work, even though it is novel and would require much explanation and discussion. Among its prominent advocates are Professor Arnold Harberger, University of Chicago, and Professor Daniel Holland, editor of

the National Tax Journal. At this point we merely pose this as a beguiling alternative without lengthy discussion.

d. Postleasing incentives

All systems that take a bite of mineral rents based on ex post disclosures have some tendency to discourage postleasing exploration, primarily exploratory drilling. This is no problem with the bonus system or with delay rentals. A high royalty rate still leaves an incentive to explore for large, rich deposits which still will yield a surplus but biases exploration away from possums in favor of elephants. Profit-sharing and rent-sharing schemes allow the deduction of exploratory outlays, solving the problem but creating another problem of padding.

The Ad Valorem Charge, in most ways ideal, may leave inadequate incentive for exploratory drilling. We can now see several solutions to this problem. One is to allow a deduction for drilling costs, guarding as best we can against padding of costs. Second is the use of high and rising delay rentals. The level of such rentals might be the bid variable. This has the advantage over the first method of raising money instead of giving it away. Third is a time limit on leases. Fourth might be a reservation by the State, in its capacity as assessor, of the right to enter the leasehold to investigate sections not being actively produced. It could also reserve a right to repossess them for the purpose of resale to others.

12. Sale of fixed volume

The State might contract with lessees to sell them a specified volume of oil, subject to the lessee's finding it at the lessee's expense. After the lessee had withdrawn the specified quantity, the lease would terminate and possession revert to the State for future resale, along with capital invested by the lessee. All information generated by the lessee would belong to the State.

The purpose is to get the State's land explored at a reasonable cost without having to give away or sell below value those few extraordinarily valuable deposits.

The effect of the proposal would be similar to paying explorers a fixed finder's fee for any commercial deposit, regardless of its size. It has the advantage that there need be no dispute over whether a deposit is "commercial" or not. The lessee would search until he found one that he himself considered commercial.

The proposal seems potentially workable. It is, however, novel and untried and, insofar as we are aware, undiscussed. It contains several possible pitfalls to guard against, all of which would require further analysis. We omit further discussion here, leaving this for future study if there is interest.

13. State intervention

The State cannot achieve its goal of business-like management without knowing a great deal about the nuts and bolts of the industry with which it is dealing.

On the price side, almost all leasing schemes presuppose accurate knowledge about price. Internal transfer prices of vertically integrated corporations can rarely be taken at face value. In addition to the obvious kinds of fiddling which are possible and frequently discussed, there is the question of volume discounts. There may be a spot market for petroleum at a considerably higher level than the price for firm wholesale supplies. There may be independent refineries that would pay a higher price than the major firms' internal transfer price. What, then, shall we consider the prevailing price?

In a perfectly competitive industry we would find a central market somewhere in which we could have some confidence. In an industry dominated by vertically integrated firms, where oil is frequently swapped for oil rather than for money, where certain markets are dominated by a small number of refineries and marketing networks, these questions assume great importance. The question of marketing is beyond our scope, but it seems obvious that the State would benefit by moving aggressively and definitively in this area to preclude its being exploited by under-pricing. A very productive use of royalty oil might be to supply a state marketing agency to "test the waters" and find out what price might be fetched by independent oil offered outside of regular marketing channels.

The possibility should not be overlooked, particularly with natural gas, of dealing directly with governments of the consuming states. These governments, after all, regulate the distribution of gas within their boundaries. California has taken some halting steps in the direction of looking into securing its own supplies of gas reserves.

Here, however, arises another hazard. Consuming states would like nothing better than to capture oil and gas reserves in Alaska, subject to mandatory delivery at regulated low prices. A paramount consideration in leasing policy should always be to blunt the impact of regulation by the FPC and the FEA, agencies whose policies seem calculated to effect a large transfer of wealth from producers to consumers. There need be no sense of guilt about this. California has no more claim on the resources of Alaska than Alaska has on the resources of California; and if California did have such a claim, underpricing gas and oil would be a most inefficient way to assert it. We are not suggesting that Alaska exploit consumers in a monopolistic way; we are, rather, suggesting that Alaska avoid being exploited by consumers in a monopsonistic way by consumers with the club of federal power at their command.

Dealing with vertically integrated concerns (with dedicated reserves designated for specific plants and consuming regions) lends itself to this kind of exploitation. Long-term leases dedicated to costly pipelines financed by consumers make the State vulnerable. The shorter the term of the lease, the later it is written, and the more the State depends on the free market, the stronger is its position. All these are complex and ramifying questions beyond our present scope. The present point is that they urgently require attention when a leasing policy is being formed.

Closer to home, access to any common carrier pipeline needs to be aggressively assured by exercise of the good offices of the State. Attorney John Lamont has indicated that equal access to common carrier

pipelines is far from automatic (Lamont, 1974). In order to sell additional North slope leases the State clearly must guarantee potential buyers full and equal access to the pipeline. In the event that producing capacity may exceed transporting capacity, the formula for allocating capacity needs to be specified in advance. Second-class treatment for nonowners of the line will result in second-class bids for State leases.

The choice of a bid variable

There should be a bid variable. There should be an auction at some point in the leasing process. Otherwise we are back at a noncompetitive system with its propensity towards prematurity or "soonerism." We now ask which of the leasing elements makes the best bid variable.

An argument for choosing the royalty as the variable is that a sliding scale is needed to make high royalty rates tolerably workable, and one way of making the scale slide is to let the bidders decide what the rate is to be.

The trouble is, variable royalties will slide on ex ante expectations rather than ex post disclosures. If we do opt for sliding royalties, it would be more feasible in my opinion to base them on objective ex post conditions such as depth, location, size, pressure, bearing strength of surface, length of working season, and so on.

The same considerations, pro and con, apply to profit share bidding in somewhat lesser degree.

When we get to the rent share element there is no need for any sliding scale. Sliding scales are simply means to make royalty and

profit share systems more nearly approximate rent share systems. The idea is to capture as close to 100 percent of the rent as the State can. There is no need to settle for less because rent is a surplus above necessary payments for costs and incentives. It is exactly the value imputable to the natural resource which the State contributes to the production process.

The bonus makes a logical bid variable because it is hard to set in any other way. It is not a percentage of anything fixed or known. To be sure, it could be set equal to the State's appraisal, but this is based on imperfect knowledge ex ante. An additional advantage of the bonus as the bid variable is familiarity and custom.

The problem with the bonus bid variable is that whatever is variable may tend to increase over time in relative importance and we are trying to get away from heavy reliance on bonuses. We may solve this problem easily by tying the bonus and the rental together at a fixed percentage, with the rental being a high percentage of the bonus. If the percentage were 50 percent the bonus bid would be converted to a rental bid with a double rental paid in year 1.

An annual rent has most of the good qualities of a bonus with few of its failings. We would recommend, therefore, that the rent-to-bonus ratio be set quite high. Indeed, the main reason for retaining the bonus element at all is its familiarity.

If we choose to let the ad valorem charge (AVC) be a large element in subsequent lease income, there is attractiveness in using the same rate for both the charge and the rent-to-bonus ratio, let's say 25

percent. Then there may be a smooth transition from the bonus bid as the basis of valuation to an assessment of reserves as the basis, maintaining the same 25 percent rate on each.[4]

If we choose a high delay rental and a system of production-based payments, we can probably improve on the present concept of letting the delay rental lapse when production is shown to be commercially feasible. This contains an arbitrary element, permitting token production or token shows of producibility to terminate the rental. It might be better to let the rental continue and be creditable against production payments. This will pose another arbitrary decision later on when pressure is dropping and production falling, but later arbitrary decisions are less harmful than earlier arbitrary decisions and in this case probably less consequential.

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[4] Looking farther ahead, the State may wish to consider actually transferring land title, and go out of the leasing business. The Legislature could create a special class of property, to wit, oil and gas rights transferred to private hands after the date of legislation, subject to a 25 percent ad valorem property tax. The proposed system would lend itself to a smooth transition from public to private property, without there being any giveaway element.

D. Timing Lease Sales

Our position on this question has now been foreshadowed at several points. We will only summarize and recapitulate here.

Decisions about timing lease sales entail the following sequence:

1. The State must determine which leasing procedure and method of repayment it will use before it is possible to determine rationally the optimal timing of lease sales.

2. Potentially leasable lands should be ranked according to "ripeness" or maturity for lease sale. This ranking will be roughly in the order of value. Economists generally agree that it makes sense to use the best resources first, but value is not the only criterion nor is it unambiguous since it could mean value per acre, value per barrel, value per well or value per parcel. The correct criterion does not involve these ambiguities, because it is a percentage.

We are discussing the value of the State's share of the income from the lease and not the value of the leasehold interest. We mean the present value or discounted cash flow of the State's share. This reduces it to a unitary figure. It will be a substantial job to make these estimates and to attach appropriate degrees of certainty to them. This job is indeed impossible so long as preleasing exploration is a monopoly of the potential lessees and the information is not shared with the State. The State must buy or otherwise acquire more information. Professors Rooney and Norgaard both address this vital point (Appendixes G and E).

The next step is to arrive at a forecast of how rapidly we anticipate the present value of the State's share will be rising. This is not a mysterious concept. If we had a simple bonus bidding system it would mean how fast we expected that bonus bids would be rising. If we have a State participation system it means that we calculate the present value or DCF of anticipated State revenues, first on the assumption that we begin the process this year, second on the assumption that we begin next year, third on the assumption that we begin the year after that, and so on.

This all might be done by hunch, but it would be much better to lay the whole process out explicitly on paper in a very systematic way with all the assumptions being stated. This will involve a substantial amount of work the first few times, but specialized personnel may quickly become familiar with the routines involved and devote most of their time to the few questions of judgment which have to be factored in.

3. The basic criterion for ripeness is now assessable. We calculate each year the anticipated percentage growth in the present value of the State's interest in the lease. So long as this figure is higher than the relevant interest rate the time is still unripe for selling.

This is a very difference criterion from a "high display of interest" by the industry. It is likely that the "sooner" interest will be high at a time when sooners anticipate future values to be rising at a very high percentage rate. They would like to get in on the fast

part of the growth curve, but there is no advantage in this for the State.

In calculating the State's share, we must be sure to deduct all associated costs and figure only the net value of the State's share. The gross share will always be growing at a slower percentage rate than the net share, so if we focus on the gross we will sell too soon.

We should add State tax collections to the gross, but be sure to subtract associated public costs from the total to arrive at the net. Adding taxes without subtracting public costs will cause us to sell too soon.

We should resist the blandishments of those whose incomes are our costs. Their interest will be to urge us to sell before the time that is optimal for the State.

We should not accept the argument to speed up selling so that development can occur before costs of development rise further. No cost of development is rising anywhere like as fast as the value of oil in the ground, a fact documented earlier. The wellhead price of Swanson River Oil in 1961 was $1.50 a barrel. If we produced that oil beginning today, fifteen years later, and had it classified as new oil and sold it for $12.00 a barrel, that is an eightfold increase in fifteen years, which works out to 15 percent per annum compounded. The State can borrow money at a much lower rate than that.

We should not give in to the pressure applied by "socners" who see the value of their map files depreciating with each passing year. The State owes them nothing.

We should not think that selling for top dollar will tend to screen out leaner firms. Lean, efficient firms can pay well for something they can sell quickly. It is long waiting periods that screen out lean firms: they work with impatient money. We can also reduce the price of entry by shrinking the size of the units we well, as the price per barrel goes up. The later we sell the more profit is to be made on each barrel and the fewer barrels it requires to make a viable operation.

We should remain constantly aware that the owners of the pipeline have much less interest than the State does in waiting for higher prices. Since they own the pipeline and the costs are mostly fixed, their value for oil is at Valdez while ours is at Prudhoe. The percentage increase in value at Prudhoe will always be greater than the percentage increase at Valdez because of the leverage effect.

In forecasting needs for production from new leases, the State should bear in mind the finding from other areas that the major increment to new reserves each year does not come from new discoveries but from the revaluation of proven reserves on extant leases (Lovejoy and Homan, 1967).

4. The appropriate interest rate for the State to use should be no higher than its borrowing rate and might be lower if the State has surplus funds which it is being forced to invest in ventures of questionable marginal productivity merely in order to do something with the Permanent Fund. The State should add a "shadow cost" to its interest rate to account for its freedom from its own State and local taxes. It does not make sense for the State to invest capital or withhold assets

earning 4 percent from its own citizens who might be earning 5 percent, where the extra 1 percent goes to pay State and local taxes. But as to the extra 3 or 4 percent required to pay federal taxes, that is another question. This is 99 percent leakage from the State and so, as a matter of State policy, should not be considered. Federal policy is something else, but that is not our present concern.

5. Just as there is an optimal time to sell leases, so there is an optimal time to begin preleasing exploration. Where the State is contracting this out, the time to begin should be calculated essentially in the same way as the time of selling leases. This will necessarily be done on a much lesser base of information.

6. At the time of lease auctions the State should set a reservation price. The Public Land Law Review Commission found that where all bids were rejected, they were substantially higher at the next auction. Professor Norgaard's analysis (Appendix E) pinpoints this as one of the most needed reforms.

7. The State should give some concern to maintaining a steady flow of lease sales, but should not let that dominate policy. For one thing, it tends to follow automatically from the criteria suggested. That is, a bulge in lease sales will overload the industry and reduce present bids and create, therefore, an expectation of higher future bids.

An artificially contrived steady flow in the face of roller coaster world prices is not advisable. It is extremely costly in lost revenues and one of its major effects is to help the largest firms overcome their diseconomies of scale, that is, their large commitment of

fixed capital. Smaller, more flexible firms are better able to move in and out and take advantage of unstable conditions.

Something along the line of the procedure sketched above has been attempted by Kalter, Tyner and Hughes in their "Alternative Energy Leasing Strategies and Schedules for the Outer Continental Shelf" (Kalter, et al., 1975). I do not vouch for everything in the Kalter report and I believe it leaves out some of the steps specified, yet I recommend it as a first step towards demonstrating how to apply these procedures.

A particular problem in the context of current federal price controls is the need to watch federal regulators carefully with their tendency to discriminate against what they call "old oil." In many natural resource tenure questions there is a grandfatherhood principle of favoritism applied. This indeed is the basis of "soonerism." Federal price control of oil and gas has taken exactly the opposite tack, a reverse grandfatherhood principle, with new producers being allowed better prices than old producers. So long as we may expect this regulatory philosophy to continue, the interest of the State obviously is to defer leasing commitments longer than otherwise. This consideration reinforces other arguments for deferral of leasing and argues strongly for withholding lands from lease. This would not be an antisocial gesture towards the lower 48, but a defensive posture forced on the State by a counterproductive, uneconomical, and irrational Federal policy to which the State has no choice but adapt as best it can.

The State should guard against losing control of its own priorities by being forced into drainage sales along the boundaries of federal and native lands. Some are born decisive, some achieve decisiveness, and some have decisions thrust upon them, often by others with other axes to grind. The State should push for early resolution of uncertain tenures: native over-claims and State selections. It should push for a drainage agreement with federal and native landowners. The more oil- and gas-prone lands it selects, the greater its decision-making role in the energy industry. Whether the recreation industry, one alternative, will be equally consequential in a future of higher energy and transportation costs is a question to which State officials should give much thought.

Another argument for deferring lease sales is the State's desire to extract more tax revenue from the windfalls at Prudhoe Bay. Heavy taxes on petroleum income received by private firms would be borne by the State in lower bids for new leases. If there is to be a period of high taxation of corporate income from petroleum, it would be well not to sell many new leases until this phase shall have ended.

E. Procedural Implications: Administrative Load and Staff Needs

We may now summarize and recapitulate our observations about staff needs.

Past policy has been dominated and limited by a traditional emphasis on economy of staff. Sales policy over a considerable period was dominated by the short-run cash needs of the State, a passive posture of nonmanagement. These traditions are inappropriate now that the State's oil and gas assets have become so large and are ripening into even higher values.

Yet the Legislature is appropriately cautious about plunging ahead blindly, building a costly administrative empire without making careful, discriminating judgments as to what is most required. One need not look far for examples of valuable public resources whose administrations eat up much of the rents that might be returned to the Treasury.

Economists are aware of a serious perceptual bias, however, which makes most people more aware of padded payrolls than padded capital budgets, the latter being in general a worse problem. The capital-intensive and land-intensive bias of bureaucracies is easily explained: once capital is acquired and captured, its annual cost no longer appears in the budget. Payrolls, on the other hand, are a regular cash outflow, highly visible and much easier to jump on, fairly or not.

A recommendation, therefore, is to make a conscious effort to compensate for this bias. An excellent way is to maintain a constant appraisal of the value of the assets disposed over by the bureaucracy and impose a

"shadow mortgage" on the agency equal to the appraised value of its resources. If we discover that the annual value of the nonlabor input, measured in this way, is much greater than the cost of the personnel we are using to administer it, it will give us a better perspective on the potential productivity of additional personnel.

Having said that we still want to economize on personnel. This does not mean underpaying them, which is one of the more expensive "economies" known to public administration. It does mean adopting those leasing methods which involve the least lost motion. Lost motion results when the basic leasing concept fails to bind the lessee and the lessor in a community of interest. The cheapest leasing method to administer is the one which sets up the least conflict.

High royalties rate poorly on this score. The State shares in the gross income but not in the costs. The State is a landlord administering a share-cropping system. Historical experience with sharecropping shows that successful landlords always oversee many details of their tenants' operation. They have to require the tenant to apply minimum amounts of labor and capital per acre. Thus, a royalty system leads inevitably towards work commitments, with extensive State intervention into operating decisions, which in turn presupposes large staff requirements. Thus, the royalty system, which at first seems so simple, is not simple to administer successfully.

The next step beyond royalty is profit sharing. This in turn requires constant auditing of expenditures. Staff requirements here may be compared with Internal Revenue Service requirements in the kind and

quantity of personnel. Some staff requirements could be obviated by borrowing information from the federal agency. However, the kind of information required for the net proceeds approach, presupposed with individual leases, might be difficult to obtain. In addition, federal tax returns are limited by the peculiar institutions of federal taxation of oil and gas, which we do not wish to emulate.

If we use a profit share system or a rent share system where the interest rate is guaranteed, we must solve complex problems about the useful lives and depreciation paths of capital assets. Many of these are treated as current expenses for federal purposes so that we cannot simply borrow the federal rules, even if we regard them as well conceived in the first place.

An advantage of the front-end recovery system is that we do not have to decide about depreciation lives and paths.

All cost sharing schemes, however, pose us a choice between two evils. We may submit to exploitation through cost padding or we may build up a large audit staff whose job is to trace down the endless and mind-bending maze of avoidance devices which may be and have been utilized to transfer profits to controlled companies elsewhere.

If we opt for the ad valorem charge approach, we need to staff up a large appraisal section. We need a staff of professional appraisers supported by additional reservoir engineers. On the other hand, we can dispense with the auditors and we need not be involved in imposing work commitments on lessees. Appraisal itself is a species of audit, and the ad valorem charge imposes its own kind of work commitment on the

person who has to pay it. Where the administration of cost sharing may be compared with the Internal Revenue Service, the administration of the ad valorem charge may be compared with property tax assessment.

Whether we choose royalties or cost sharing or ad valorem charge, we cut into private motivation to explore the underground and will need to allocate some cash to acquire the information in other ways, either in-house, or by contracting out exploration, or by Rooney's Exploration Expenditure Bidding (Appendix G). Either way, the appropriations committee will see the cash outflow and have to use inference and analysis to be persuaded that the bids received for State property are higher as a result. We should guard against the resulting perceptual bias leading us to overestimate the costs relative to the gains.

The next step in eliminating administrative costs is to move back to an ex ante system with emphasis on the bid bonus and/or a corresponding delay rental. These systems appear to relieve us of some administrative burden.

Note well, however, that in order to time sales properly we need the services of an appraisal staff, even if we use a simple bonus system. We need to be able to set a reservation price in case the bids are all too low, and above all we need to know the rate at which probable sales prices are increasing, in order to know the optimal time to sell. We would obviate the simpler appraisal task of valuing resources ex post discovery and description, but make more critical the more difficult task of appraisal before disclosure of outcomes.

An appraisal staff is also needed to assess environmental impacts which may be measured as the difference in the value of property before and after the impact.

Our most unambiguous staffing recommendation is, therefore, the creation and staffing of an appraisal section. Appraisal gets right to the heart of the rent-collecting business which is to distinguish high-cost deposits from low-cost deposits. It gets right to the heart of timing leasing sales which is putting a value on the State's share and its rate of growth. It gets to the matter of environmental impacts as just mentioned. It supplies an inventory to be used in planning. It is a means of collecting and organizing information in the most generally useful way.

Whatever leasing method is selected, staff resources should be set aside for constant review and evaluation. There should be a postmortem on every sale. How did we do? What mistakes did we make? How can we avoid them next time? Few of us would welcome intensive scrutiny of all our past decisions and understand the reluctance of others to be similarly scrutinized. Yet we all recognize the potential value in such review when applied to others, like the surgeon who just took out our kid's tonsils. It would be desirable, therefore, to institutionalize the postmortem review procedure.

While these are all important matters an excessive concern with them would be premature at this time. The first priority is to legislate basic businesslike guidelines for managing the State's extremely valuable resources. No administration can perform any better than its legislative

mandate allows and an excessive concern with administrative questions at this time would interfere with putting full priority on the larger question of specifying the basic conceptual guidelines and criteria for businesslike management.

F. Leasing and Taxation

Comparisons of leasing alternatives and taxation alternatives have been made throughout this Report. We will not repeat, but bring out points not made elsewhere.

Various lease elements have their counterparts in various taxation elements, but a lease is a binding contract which cannot be unilaterally changed by future legislatures, unlike a tax. A lease can discriminate against interstate commerce unlike a tax (for example, by allowing deduction of in-State costs but not out-of-State costs). A lease is an interest in real estate from which the State can reserve all manner of powers to itself, which it can hardly do when imposing a tax.

A lease differs from most familiar taxes in that it is in rem, that is it is attached to a piece of real estate rather than being in personam, that is an obligation of individuals as such. While this differentiates it from most taxes, it makes it similar to the property tax which is also in rem.

Any attempt to use the corporate income tax in lieu of an adequate leasing policy meets with only limited success because the tax is in personam, and requires an audit of all the affairs of the corporation, and requires interstate sharing, and is subject to the interstate commerce clause. The alternative, "net proceeds" tax, has been criticized by Ziefman and Ainsworth. (Ziefman and Ainsworth, 1977).

The tax instrument that we see as most capable of substituting for leasing policy would be a special, classified property tax to be imposed

either on leasehold interests in oil and gas, or on title to oil and gas after that had been passed from the State to a private buyer. This would closely resemble the proposed ad valorem charge, but would be subject to future changes of rates since the present legislature cannot biud future legislatures in tax matters.

G. Tentative Recommendations

Recommendations are offered tentatively by listing alternative leasing elements in what the consultant now believes to be their order of preference. This listing is not designed to persuade. On the contrary, it may serve to put readers on notice of the consultant's personal judgments which may have unconsciously affected his marshaling of the arguments. Nor is our position ready to be chiseled in stone. This is a complex new field; we have a lot to learn and the consultant reserves the right to change his mind subject to new information and new insights.

I would screen out the systems based on ex ante forecasts, and go with one of the ex post systems. This means primarily that I would not continue depending on a high front-end bonus. This is not because of any universal antipathy to bonuses. In the analogous matter of timber sales from federal forests, I prefer the bonus system as practiced by the BLM in preference to a stumpage rate based on scaled volume as practiced by the Forest Service. Standing timber may be cruised with tolerable accuracy before bids are made and accepted, and the period of time involved is or can be short.

Here on the other hand, we are dealing with resources much less well known in advance and whose extraction extends over two or three decades following the investment in the bonus. Even a five-year contract, as used in some forest sales, screens out many worthy operators without accumulated wealth and would much better be payable on the installment

plan to avoid this problem. To require bidders to pay in advance for an unknown possibility of acquiring a 20- or 30-year supply is virtually to substitute wealth for productivity as the effective basis of allocation. The possession of great wealth suggests there may have been past productivity, although predation and privilege are also sources of wealth. It is no guarantee of present or future productivity.

Whatever system is chosen it needs to be accompanied by vigorous inquiry into the transfer prices being used as the basis of valuation. If costs are to be made deductible the same holds true in spades.

I would place greatest emphasis on that lease element I have called the ad valorem charge (AVC). As indicated earlier, use of this element detracts from the motivation for exploratory drilling and this needs to be compensated for. A high and rising delay rental is recommended.

If we wish to retain the form and terminology of the bonus system, we could describe this as a low signature bonus paid on the installment plan followed by a high production bonus or discovery bonus whose size depends on the flow of production.

To strengthen the State's hand in appraisal and minimize concealment of reserves it would be desirable to accompany this system with a program of State-financed contract exploration with publicity of findings. (Appendix E and Appendix G) This is not, however, absolutely necessary. We could have AVC postleasing, while continuing to rely on the present system of privately financed preleasing exploration.

An ad valorem charge (AVC) at a high rate obviates reservations of acreage for the purpose of getting top dollar at drainage sales. AVC

assures that the State will collect these surpluses anyway.

My second choice would be profit sharing, without front-end recovery or recovery of interest at a guaranteed rate. This is a compromise among the pros and cons of different systems. Royalties, on the one hand, impose too much deadweight loss as the landlord shares revenues without sharing the costs. Sharing costs, on the other hand, in a high degree at a high rate is not administrable. There will be excessive padding.

Profit sharing is somewhat less paddable and hence, with severe policing, would be workable. Since costs may be written off against royalties, but without interest, its bias is mostly against costs which are incurred long before they result in increased production. We have noted that there is too much of that anyway, that several factors conspire to stretch out the period between investment and recovery of capital.

There is a substantial policing benefit to compensate for the social cost of not letting interest costs be deductible against production payments. Interest costs are invisible to most people, and somewhat mysterious, and not so easily perceived as padding. Most people perceive padding in terms of putting relatives on the payroll, featherbedding, girlfriends, and other labor-related offenses. These are highly visible and easily understood, hence likely to be overstressed relative to padding of interest payments. But capital can be lazy, too, and undoubtedly will be if interest payments are guaranteed. Profit sharing avoids this problem.

My third choice is a variable royalty with rates varying according to a variety of objective criteria which could be combined in a point system. Rates would be high where costs are low and vice versa. It would

not do simply to assume that volume of flow is the only important factor affecting costs and to have a sliding or step scale increasing with flow. Several other cost factors, probably including several not even alluded to in our previous discussion, need to be entered into the formula. We could remove the future shift effect by limiting the term of the lease to about 25 years or less.

The advantage of this system over actual deduction of cash expenses is the absence of opportunities for padding. Royalty rates would be low where the characteristics of deposits indicated that a prudent operator of average capability would incur high costs. Individuals who performed better than this standard would reap the rewards of their own efficiency.

The system could be progressively amended and improved over the years as experience indicated that the cost of overcoming certain handicaps had been overestimated or underestimated.

In some ways this system resembles the AVC, being based on an outside objective appraisal of the differential value of different deposits. It is something like having the Legislature play the role of assessor when it sets up the point system. Whether this is practicable is partly a question of how many variables there are which affect costs of production. If there are only a few whose effects on costs can be accurately specified then this system might be workable.

My fourth choice would be front-end recovery. This is preferable to guaranteeing a rate of interest because fast recovery is so much more important to lean firms than to rich ones. This system is to be compared with the privilege of expensing capital investments for income tax purposes.

The problem is that any capital expenditure could be written off immediately against a flush producer, opening the door to extensive goldplating and dissipation of rent. Auditing problems are not insurmountable: there is a limit to the credulity of any auditor as to what may legitimately be justified in expending to develop a specific mineral deposit, and auditors would be highly specialized in the oil and gas business.

If either the profit-share, variable royalty, or front-end recovery system is adopted it needs to be preceded by a substantial delay rental to commit the lessee to performance.

We would not recommend returning to the non-competitive or other claim-staking system. We would not recommend high front-end bonuses. We would not recommend exclusive reliance on annual rentals determined ex ante. We are mildly enthusiastic about unitization, b t prefer a two-tier system coupling individual operation of tracts with overall reservoir management subject to control by lessees themselves, and encouraged by the State to maximize discounted cash flow for the group. An effective two-tier system might permit parcels to be smaller than now, a subject we have not explored.

We would not object to putting an upper limit on the acreage controlled by any one lessee, but regard this as difficult to enforce, somewhat arbitrary, and probably unnecessary if other suggested changes are made. We would not object to leases' being subject to an antitrust impact evaluation by the Attorney-General, although we view this as legalistic, potentially arbitrary, and less desirable than generalized incentives designed to encourage competition.

We believe that liability for environmental damages downstream from a lease should be a lien on the leasehold interest (not on the State's interest) up to the full value of the leasehold interest, provided the damages occur in Alaska. It would be desirable for this lien to extend to all the leasehold interests held by the company committing the damages, introducing a progressive element into risk liability.

Leases should be transferable. All information generated on State-owned lands should be reserved to the State and made public immediately. The State should extend its good offices in the form of a guarantee to all leaseholders that they may have equal access to common carrier transportation. Differences among different leaseholders on the same structure as to desired rates of production are to be resolved by transfers from those preferring slower rates to those who prefer faster rates at a field price to be set by State authority, based on an appraisal of true market value.

Various lesser recommendations on a variety of points have been made from time to time as we proceeded.

We believe the measures recommended would constitute an effective response to the challenge of oil and gas leasing policy in Alaska.

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rates of extraction from the Sadlerochit Reservoir; the Tanzer report to the State Legislature; the Lipton statement; the work of Campbell Watkins on the economics of oil reservoir development; and Martin Stern's paper, "A Policy Impact Model for the Supply of Depletable Resources." All of these have proved to be fertile sources of information and ideas along with many other works too numerous to list, some of which no doubt should be listed on the same level with those already mentioned if memory only served and time were long enough.

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SEC. A

Introduced: 2/17/78
Referred: Resources and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 854

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the leasing and exploration of state land for oil and gas development."

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

Section 1. AS 38.05.180 is repealed and re-enacted to read:

Sec. 38.05.180. OIL AND GAS LEASING. (a) The legislature finds that

(1) the people of Alaska have an interest in the development of the state's oil and gas resources to

(A) maximize the economic recovery of the resources;

(B) minimize the exploitation of these natural resources in protection of the public interest;

(C) maximize competition among parties seeking to explore and develop the resources;

(D) maximize use of Alaska's human resources in the development of the resources;

(2) it is in the best interests of the state to encourage an assessment of its oil and gas resources and to allow the maximum flexibility in the methods of issuing leases to

(A) recognize the many varied geographical regions of the state and the different costs of exploring for oil and gas in these regions;

(B) recognize the need for stimulating development in particular regions of the state;

(C) minimize the adverse impact of exploration, develop-

ment, production, and transportation activity on the environment of the state;

(D) maximize state revenue from profitable oil and gas production, while minimizing revenue from unsuccessful exploration and from marginal economic oil and gas production.

(b) The commissioner shall prepare, review, revise, and maintain an oil and gas leasing program as follows:

(1) The leasing program shall be submitted to the legislature for its information within 10 days after the convening of each regular session of the legislature. The leasi program must indicate as precisely as practicable the size, timing, and location of leasing activity which the commissioner determines will best meet state needs for the following five-year period. The commissioner shall establish the timing and location of leasing, to the maximum extent practicable, so as to obtain a balance between the potential for environmental damage, the potential for the discovery of oil and gas and the potential for adverse impact on the local communities in the state.

(2) After the leasing program has been prepared by the commissioner, a lease shall be issued if it is for an area included in the leasing program; however, leasing may continue until January 1, 1980 or until a program is prepared, whichever is sooner, and leasing under (t) of this section may be excepted from the leasing program if the commissioner finds it to be in the best interests of the state.

(3) The commissioner shall review the leasing program at least once each year, at which time he may revise and reapprove the program.

(4) The commissioner shall, by regulation, establish procedures for

(A) receipt and consideration of nominations for any

A lessee who fails to discharge a work commitment in its entirety is liable to the state for the undischarged portion of the commitment. At his discretion, the commissioner may terminate the work commitment if he finds that the work would be unnecessary or cumulative.

(i) At his discretion, the commissioner may enter into an agreement whereby, with the consent of the lessee, the state's royalty share of oil and gas production may be stored or retained in storage by the lessee, or the commissioner may enter into an agreement with one or more of the affected field lease holders to trade current royalty production from a field for a like amount, kind, and quality of future production, on the condition that the state receives back its stored or traded royalty share during the first half of the estimated field life or no later than 15 years after start of production, whichever is sooner.

(j) An oil and gas lease must cover a reasonably compact area not exceeding 5,760 acres, and must be for a period of five years. The commissioner may grant a lease for a term greater than five years but not to exceed 10 years, where he finds that the longer period is necessary to encourage exploration and development in areas where environmental conditions severely restrict operations. An oil and gas lease shall be automatically renewed if and for so long thereafter as oil or gas is produced in paying quantities from the lease or, if the lease is committed to a unit approved by the commissioner. A lease issued under this section covering land on which there is a well capable of producing oil or gas in paying quantities does not expire because the lessee fails to produce oil or gas unless the lessee is allowed reasonable time to place the well on a producing status. Upon renewal, the commissioner may increase lease rentals so long as the increased rental rate does not exceed 150 per cent of the rate for the

preceding year. The commissioner may provide by regulation and in the lease that the lessee may earn production rights only to the depth drilled at the beginning of production from the lease. If drilling has commenced on the expiration date of the primary term of the lease and is continued with reasonable diligence, including such operations as redrilling, sidetracking, or other means necessary to reach the originally proposed bottom hole location, the lease continues in effect until 90 days after drilling has ceased and for so long thereafter as oil or gas is produced in paying quantities.

(k) The commissioner may establish by regulation that after a well has been plugged and abandoned, the rental rate which was in effect during the year of abandonment is maintained for the remainder of the term. Rental is payable in advance and continues until income to the state from royalty, net profit, or exploration work commitment exceeds rental income to the state for that year; after the rental income schedule has been exceeded for three consecutive years, the rental terminates. Oil and gas leases shall provide for payment to the state of rental on the following basis:

(1) for the first year, $1.00 per acre;

(2) for the second year, $1.50 per acre;

(3) for the third year, $2.00 per acre;

(4) for the fourth year, $2.50 per acre;

(5) for the fifth year, $3.00 per acre.

(l) Upon timely application as provided by regulation, the state may issue to the holder of a federal or private lease, a state shorelands lease covering land within the exterior boundaries of the federal or private lease which has been excluded on the basis of navigability or which is later administratively or judicially determined to be shoreland. The term of such a state shoreland lease shall be the same

as the term of the federal or private lease, but may not exceed five years.

(m) To conserve the natural resources of all or a part of an oil or gas pool, field, or like area, whether or not the part is then subject to a cooperative or unit plan of development or operation, lessees and their representatives may unite with each other, or jointly or separately with others, in collectively adopting or operating under a cooperative or a unit plan of development or operation of the pool, field, or like area, or a part of it, when determined and certified by the commissioner to be necessary or advisable in the public interest. The commissioner may, with the consent of the holders of leases involved, establish, change, or revoke drilling, producing, rental minimum royalty, and royalty requirements of the leases and adopt regulations with reference to the leases, with like consent on the part of the lessees, in connection with the institution and operation of a cooperative or unit plan as he determines necessary or proper to secure the proper protection of the public interest. The commissioner may require oil and gas leases issued under this section to contain a provision requiring the lessee to operate under a reasonable cooperative or unit plan, and he may prescribe a plan under which the lessee must operate. The plan must adequately protect all parties in interest, including the state.

(n) A plan authorized by (m) of this section, which includes land owned by the state, may contain a provision vesting the commissioner, or a person, committee, or state agency with authority to modify from time to time the rate of prospecting and development and the quantity and rate of production under the plan. All leases operated under a plan approved or prescribed by the commissioner are excepted in determining holdings or control under sec. 140 of this

chapter. The provisions of this section concerning cooperative or unit plans are in addition to, and do not affect AS 31.05.

(o) Producing acreage on a known geologic structure of a producing oil or gas field is excluded from chargeability as against the acreage limitation provisions of sec. 140 of this chapter.

(p) When separate tracts cannot be individually developed and operated in conformity with an established well-spacing or development program, a lease, or a portion of a lease, may be pooled with other land, whether or not owned by the state, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the commissioner to be in the public interest. Operations or production under the agreement are considered as operations or production as to each lease committed to the agreement.

(q) The commissioner may, on conditions which he prescribes, approve drilling, or development contracts made by one or more lessees of oil or gas leases, with one or more persons, when, in his discretion, the conservation of natural resources or the public convenience or necessity requires it or the interests of the state are best served. All leases operated under approved drilling or development contracts, and interests under them, are excepted in determining holding or control under sec. 140 of this chapter. Drilling or development contracts may include, at the discretion of the commissioner, provisions authorizing the state to share in the costs of exploration.

(r) To avoid waste or to promote conservation of natural resources, the commissioner may authorize the subsurface storage of oil or gas whether or not produced from state land, in land leased or subject to lease under this section. This authorization may provide for the payment of a storage fee or rental on the stored oil or gas, or,

instead of the fee or rental, for a royalty other than that prescribed in the lease when the stored oil or gas is produced in conjunction with oil or gas not previously produced in paying quantities.

(s) Each oil or gas lease issued by the state must contain a provision requiring the lessee to furnish the Department of Labor a quarterly report regarding the employment of state residents on the leased property. The commissioner of labor shall adopt regulations necessary to implement this subsection. No lease issued under this chapter is valid unless it contains provisions requiring the employment of qualified Alaska residents in accordance with AS 38.40.030, and complies in all respects with the requirements of ch. 40 of this title.

(t) Notwithstanding any other provision of this section, land which has been offered for lease within the previous five years but which received no bids at competitive sale may be, ~~at the discretion of the commissioner~~, ~~immediately~~ offered for lease, under regulations adopted by him, upon terms appearing most advantageous to the state, including leasing noncompetitively. The commissioner shall use a sliding scale royalty based upon such formulae as he determines to be in the public interest but not less than 12 1/2 per cent at the beginning of production from the lease in amount or value of the production removed or sold from the lease or unit area encompassing the lease. A lease must provide for payment to the state of rental but need not adhere to the rental schedule in (k) of this section nor to the 5,760-acres-per-lease limitation in (j) of this section. The lease term may not exceed five years except as provided in (j) and (k).

(u) The commissioner may, by regulation, restrict joint bidding ~~by~~ major or multi-national oil and gas companies to encourage competition.

(v) The state has the right to purchase not more than 16 2/3 per cent of the volume of oil and up to 100 per cent of the volume of gas produced from a lease issued in accordance with this section, at the regulated price, or, if no regulated price applies, at the fair market value at the point of sale, except that any oil or gas obtained by the state as royalty or net profits shall be credited against the amount that may be purchased under this subsection. Oil and gas purchased under this section may be used by the state in the same manner as it uses its royalty oil and gas.

(w) A lessee or permittee conducting any exploration for, or development or production of, oil or gas on state land shall provide the commissioner access to all data obtained from that activity and shall provide copies of specific data, as the commissioner may request.

* Sec. 2. AS 38.05.135(b) is repealed and re-enacted to read:

(b) When minerals are to be leased, in addition to any other notice given, notice must also be given as provided in secs. 305 and 345 of this chapter.

* Sec. 3. AS 38.05.140(c) is amended to read:

(c) No person may take or hold at one time phosphate leases on state lands exceeding in the aggregate 10,240 acres. No person may take or hold sodium leases or permits during the life of sodium leases on state lands, exceeding in the aggregate acreage 5,120 acres, except that the commissioner may, where it is necessary in order to secure the economic mining of sodium compounds, permit a person to take or hold sodium leases or permits for up to 15,360 acres. No person may take or hold at any one time oil or gas leases exceeding in the aggregate 500,000 acres granted on tide and submerged lands, and 200,000 [500,000] acres on all land [LANDS] other than tide and submerged land [LANDS], including leases held both as lessee and under option or

operating agreement from others. A person has five years from the effective date of this Act to conform to the 200,000-acre upland limitation. Where more than a single person holds an interest in an oil or gas lease, each person shall be charged only with that percentage of the total acreage which corresponds to its percentage share of the total beneficial interest in the lease.

* Sec. 4. AS 38.05.145(b) is repealed.

SEC. B

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

A STUDY OF STATE

PETROLEUM LEASING METHODS

AND POSSIBLE ALTERNATIVES

A REPORT TO THE STATE OF ALASKA, JAY S. HAMMOND, GOVERNOR, DEPARTMENT OF NATURAL RESOURCES, GUY MARTIN, COMMISSIONER, AND TO THE ALASKA STATE LEGISLATURE, INTERIM COMMITTEE ON OIL AND GAS TAXATION AND LEASING POLICY, CHANCY CROFT, CHAIRMAN

FEBRUARY 1977

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

11TH FLOOR, STATE OFFICE BLDG.
POUCH M — JUNEAU 99811

February 17, 1977

The Honorable Jay S. Hammond
Governor of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Hammond:

The following report regarding State oil and gas leasing has been prepared by the Department of Natural Resources as a part of a joint Administration-Legislature effort to evaluate the present leasing system and to explore alternatives for the future. The overall study effort, for which I served as Project Director, also includes other Department documents, the reports of independent consultants and miscellaneous other information.

The information in this report, and the entire study, is intended to serve as basic background material to illuminate alternative State objectives and leasing methods which may be desirable for the future. Although some conclusions are reached in parts of the various studies, no final comprehensive conclusions or positions have been reached, pending further analysis of the results of the study project and discussion thereof.

The complexity and importance of the oil and gas leasing issue for the future of the State has thus far sustained an ideal level of constructive cooperation between the Administration and Legislature, and I am hopeful that this report will contribute to an informed outcome on this matter.

Very truly yours,

Guy R Martin

Guy R. Martin
Commissioner

Acknowledgements

This study was prepared in sections by different people in the Department of Natural Resources. Staff members active in the preparation of the specific sections include:

For the Sensitivity of State Petroleum Income to Various Leasing Methods

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For the Variation of Petroleum Leasing Criteria with Geographic Location

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Foreword, Statutory, and Administrative

O. K. Gilbreth, Jr.

In addition, Michael Scott of the Institute of Social and Economic Research and Frank McMordie and David Cook of Garrett Computing Services provided invaluable consulting services.

FOREWORD

This report has been prepared in response to Departmental and Legislative interest in the methods and policies of competitive leasing of state lands for oil and gas purposes. A fairly complete history has been compiled showing pertinent information on past practices of the State. Summaries of all lease sales, bonuses, rentals, receipts and results of drilling and royalty awards are discussed. As a result of this report, it can be concluded that some types of bidding will theoretically yield greater income to the State under specific circumstances than other types will. From strictly a monetary point of view, this study reveals that four major factors will determine which method of bidding would be most advisable for the State to follow. The amount of income to be derived by the State will be determined by the level of risk, the size of the reservoir, the cost of exploration and development, and the value of the oil at the wellhead.

This report has revealed some areas that require further study and this will be done in the coming months. For example, the study reveals that with current economic, royalty, and tax conditions, the minimum size field that an oil and gas operator can afford to look for in Alaska must exceed 55 million barrels in close in areas such as Cook Inlet and could be 100 million barrels or more in remote areas. Also since special cases arise from marginal fields, more detail analysis should be made of effects of reducing royalties to encourage production in sub-economic fields.

Since the purpose of this report is to show variations that can result from various types of bidding most of the emphasis is on types of bidding

other than the cash bonus system. It should not be construed however, as condemning cash bonus bidding nor recommending any alternate type of bidding. The analyses are presented merely to show relative income under specific sets of assumed conditions. A change in some of the input factors can give substantial changes in results.

Risk is the most significant of the variables which would affect income to the State. In unknown, undrilled, untested areas, where the information level is low the risk will be extremely high and these analyses indicate that the cash bonus bidding method would yield greater income to the State. As more information becomes available and as the risk decreases, the method which yields the greatest monetary return revolves around some type of royalty bidding. After a discovery is made, any open acreage on the structure in essence becomes drainage acreage, risk will be low and royalty or some other type of bidding may yield a far greater income to the State than the cash bonus type of bidding. Somewhere then between the extremes of no information and maximum information the method yielding the greatest income probably will switch from cash bonus bidding to some other type of bidding. A significant result of this study indicates that state income can be increased for all leasing methods studied by using a percentage acreage option which is withholding a portion of the structure for later leasing. Other types of bidding are discussed to accomplish other purposes.

There are increasing pressures on government to secure more information about state lands and to know more about the possibilities of petroleum occurrences before the lands are leased. These analyses have been made on the assumption that more information will be available to the State

and if those conditions exist we feel that the values shown give reliable indications of benefits to be derived from one method as compared to another method of bidding.

Risk is dependent on the amount of information available to industry and income to the State is dependent on the knowledge industry has in an area. This study assumes that geological and geophysical information is available to the State at a level above that which it now has. Obtaining this additional information will require expenditure of larger sums of money than in the past. The reader is cautioned not to use the values shown as indicative of all conditions, because as mentioned above, significantly different results are obtained as input factors change. The uncertainty of crude oil prices in remote areas could cause input parameters to change significantly with corresponding changes in analysis results. Therefore, the information presented is to compare one method of bidding versus another method of bidding for a specific set of circumstarces.

Administrative costs and number of personnel can vary greatly depending on the leasing method used. An ad valorem type of leasing could cost up to $240,000 more per year to administer where a net profits system might add $500,000 with the same number of operators and leases as we now have. In Alberta it is pointed out that 100 people administer 50,000 lease agreements and 60 people are involved with auditing in a cost sharing leasing system.

From an administrative cost standpoint, the present method of operation results in the lowest total operating cost at about $1.1 million per year. Depending on the level of data acquisition and analysis, costs will increase

from the present quarter million dollars per year. To obtain adequate seismic data for managing an area of 100 miles by 15 miles will cost from $70,000 to over $1,500,000. The present budget contains $110,000 for the purpose in FY 78.

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DESCRIPTION OF LEASING METHODS IN HB854

Currently, the State of Alaska's leasing system is a cash bonus bid with a minimum fixed royalty of 12.5 percent. The methods outlined below include the present system with different fixed royalties, sliding scale royalty with bonus bid, sliding scale royalty bid with fixed bonus, net profit share bid with fixed bonus, royalty bid with fixed bonus and exploration work commitment. The basic elements of these methods are summarized below.

(1) Bonus Bid With Fixed Royalty

Bonus bid with fixed royalty is the system currently used by the State of Alaska. In a lease sale, the winning bid for a tract is the one which makes the highest sealed or auctioned cash bonus bid. There is also a minimum royalty of 12.5 percent. An advantage of this system is that government receives revenue regardless if there are economical quantities of oil or gas found and/or produced. To avoid early termination of production, royalties need to be flexible during a field's declining years.

(2) Sliding Scale Royalty With Bonus Bid (or Sliding Scale Bid with Fixed Bonus)

Under this system, the government receives a cash bonus bid and a sliding scale royalty. We used 12.5 percent as a minimum figure and 62.5 percent as a ceiling wherein the rate in any period is dependent upon the production of that period.

The royalty rate is graduated in much the same manner as the federal personal income tax. Table I gives two examples of a sliding scale royalty schedule. The royalty is progressive, that is, the royalty on additional production increases. For example, in the South Central Area, the initial 500 barrels pay a royalty of 12.5 percent, the next 500 barrels pay 25 percent. The royalty rate increases by 12.5 percentage points per 500 barrels until 2000 barrels of output are achieved. All production beyond 2001 barrels pays a royalty of 62.5 percent. Thus, if production reaches 5000 barrels, the average royalty rate is 50 percent. In the limit, the average rate would converge towards 62.5 percent as daily production continues to increase.

As field productivity declines and well production falls, the producer backs down the schedule and royalties decline. In order to optimally exploit the field, the royalties should decline to zero near the end of field life. Actually, final rates of five or six percent would result in minimal early shut down.

TABLE I
TYPICAL SLIDING SCALE ROYALTY SCHEDULES

SOUTH CENTRAL AREA

Daily Average Prod. Rate (Bbls./day)	Incremental Royalty Rate (%)	Royalty For Specific Producing Rates: Producing Rate (Bbls./day)	Royalty Production (Bbls./day)	Average Royalty Rate (%)
-500	12.5	500	62.5	12.50
501-1000	25.0	1000	187.5	18.75
1001-1500	37.5	1500	375.0	25.00
1501-2000	50.0	2000	625.0	31.25
2001-2500	62.5	2500	937.5	37.50
		3500	1562.5	44.64
		4500	2187.5	48.61
		5000	2500.0	50.00

NORTH SLOPE AREA

Daily Average Prod. Rate (Bbls./day)	Incremental Royalty Rate (%)	Royalty For Specific Producing Rates: Producing Rate (Bbls./day)	Royalty Production (Bbls./day)	Average Royalty Rate (%)
-1000	12.5	1000	125	12.50
1001-2000	25.0	2000	375	18.75
2001-3000	37.5	3000	750	25.00
3001-4000	50.0	4000	1250	31.25
4001 and above	62.5	5000	1875	37.50
		7000	3125	44.64
		9000	4375	48.61
		10000	5000	50.00

Note: The Sliding Scale Royalty Schedule for the North Slope area is significantly higher than for the South Central area because the higher North Slope operating costs result in a much higher economic limit.

Hopefully, this illustration clarifies the relationship between production rates and royalty rates.

Greater flexibility in setting the initial rate is the major advantage of this system while not running the risk of an uneconomically (for Industry) high royalty rate. On the other hand, to achieve an overall lower royalty payment, a company might spread out production over a longer period of time. Usually, however, because of the time value of money and increased operating costs, oil companies generally try to accelerate production.

(3) Net Profit Share Bid With Fixed Bonus

A small fixed bonus is required as earnest money. The bonus is low enough to encourage producers to bid a high net profit share while permitting profitable development.

(4) Royalty Bid With Fixed Bonus

This system utilizes the same method to calculate fixed bonus as described for Net Profit Share. The bid parameter is a function of production instead of net profits. Since the bonus is fixed, interested parties bid on the royalty rate that the government is to receive. The advantage of royalty bidding is that little front end money is needed by Industry. However, this could encourage speculation causing an overbid. Royalty bidding should encourage more competition among bidders and may allow the smaller companies a better chance of winning the tract.

(5) Work Commitment With Fixed Bonus, Royalty or Net Profit Share

The government itemizes the performance criteria such as the rate and amount of work to be performed on each tract. The total bid specified in dollar terms and a portion of the bid used for exploration and development activities. This system gives the government some control over the rate and extent of resource development.

of ALASKA

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINERALS AND ENERGY MANAGEMENT

DATE: February 28, 1978

Robert E. LeResche
Commissioner Natural Resources

FILE NO:

TELEPHONE NO:

FROM: [redacted]

SUBJECT: Rationale and Apparent Objections to HB 854- Oil and Gas leasing Bill.

Predictability, certainty and an acceptable political climate. These are the three things the petroleum industry looks for in an area attractive for exploration.

I contend it is the availability of land, not the method by which land is offered, that is the critical consideration. In other words, Alaska will become more attractive, less subject to severe criticism by the industry, once land is made available for leasing. The methods of leasing will quickly become secondary.

This contention, of course, will be disputed by the industry. They will argue that because the law allows administrators to choose from a wide variety of leasing methods the industry will remain uncertain about what to expect. I contend that the industry will be given plenty of advance notice of what method will be used in a sale and will therefore have enough time to plan financial strategy.

Industry's contention that Alaska must compete with other areas in the world within company budgets is, of course, correct. This does not mean, however, that Alaska has to settle on one, or perhaps two, leasing methods so as to make the Alaska budget dollar compete within a particular company. The company can estimate how much Alaska's prospective oil is worth to them and can calculate how much will be spent on a particular sale based on the method of lease offering, along with a multitude of other considerations. My basic assumption, of course, is that the oil is here and, eventually, the companies will come looking for it.

Which brings me back to my first point. Certainty and predictability will be established once the industry is convinced that a regular, stable procedure for offering oil and gas lands has been established by Alaska. Once lands are available and administrators are directed to offer leases to the public, most of the pressure will relax.

Industry's objection to the two reports to the legislature by the executive, I think, dramatizes my point. I think the industry will eventually accept the 5-year leasing program as a giant step toward predictability and, even though given wide public accountability, will come to believe that the report will not result in more governmental interference. Industry looks,

however, I think on the annual leasing method report as a way for the legislature to probably work its way into the day-to-day leasing decisions best left to the governor. They fear "politics" in leasing, and I am less sure of this one that I am the leasing program report.

The underlying criticism of HB 854 you will hear, I believe, is that Alaska is "experimenting" with leasing methods. We are said to be trying to adapt all the good features used in other states and jurisdictions and are trying to make them work where they were not designed to work. Alaska is frontier; Alaska is different, goes the argument.

I believe I was to take the first cut at a comprehensive review of Alaska's oil and gas leasing law following Dr. Gaffney's study. I do not claim infallibility but I do claim to have weighed the many considerations which make Alaska like and unlike other jurisdictions. As I have told you, I have tried to confront, head-on, the question of the question of the number of participants in exploration in Alaska. You have mentioned the concept of "incentives", at least as it applies to information, and I have indicated that whereas incentives are not directly dealt with in the legislation I think we may get there in the future.

So, with that background let me set forth the rationale for and some of the anticipated objections to HB 854.

Several concepts were examined and rejected. Found to be not applicable, at least at this time, are the so-called dual-leasing system (Ted Stevens' amendment to S-9). Congress may yet include something like it in OCS legislation. Also, the concept which involves distinguishing between exploration leases and those development and production activities which would be allowed after oil or gas is discovered. We have not included this concept because we believe that Alaska can know before it offers its land for drilling what development and production activities it expects to take place.(Incidentally, the conference committee on S-9 and HR 1614 is scheduled shortly.)

We examined the "ante" versus "post" royalty impact. The post (after) charge is the economic recommendation Dr. Mason Gaffney drew in his study of February, 1977 for the legislature. Dr. Gaffney concluded that the ideal way for a government (any lessor) to determine its economic rent was to determine such rent after a discovery at the price then existing and based upon the size of the field discovered. Determining the value of the field after the discovery is much like the present

calculations of the reserves tax. Its newness, being untried and the unsettling effect its introduction and application would have had on exploration activities in Alaska we felt would be primarily negative. Also, we felt that the legislature could follow-up on Dr. Gaffney's recommendations if they wished. Canada, in its new law for leasing of the North and offshore, has proposed a "progressive incremental royalty" similar in concept to Dr. Gaffney's ad valorem charge. Perhaps, it will be in Alaska's future.

We examined the incentive programs existing in the Province of Alberta, and other jurisdictions, and determined that although some incentives may be needed in the future, they should not be dealt with in this bill. Giving direct tax and other incentives to exploration operators may be necessary, particularly to stimulate the much needed geological and geophysical information data, but we felt future legislatures could deal with this basic policy charge. Rather than incentives, we believe the pace of exploration can best be determined at the time and by the terms of the original lease. And, as I note later, the work commitment lease method can be used to offer incentives.

We examined the trends all over the world toward governments retaining ownership interests (equity) in leases, and toward government-owned and operated exploration companies. We rejected both of these ideas for Alaska. Equity interests in leases makes no sense so long as the state has the flexibility to deal with the many and varied leasing situations which will confront it. Government sponsored exploration, if at all, can be achieved by contract with industry rather than by bureaucrats.

Again, the petroleum industry, not unlike any business, needs certainty and predictability in order to be comfortable doing business. A "stable and predictable leasing policy" - Tom Kelly. "The industry will initially tend to go where it's wanted and an orderly contract and dependable lease sale schedule would undoubtedly provide an impetus to further exploration in the state" - Pennzoil.

The state's need for a flexible, comprehensive, all-inclusive means of leasing appears to conflict with the industry's desire for predictability. One company (Chevron) in an informal paper went so far as to say that giving these many alternatives to the state (HB 854, before a significant change) amounts to "overkill" and makes Alaska an "experimental laboratory in oil and gas leasing." They conclude by saying: "We consider this to be capricious".

In the name of predictability and certainty, oil operators of size almost without exception opt for the cash bonus bid with a fixed royalty as the preferred leasing method. They want the simplest and most predictable method possible

I believe Alaska needs a flexible leasing law so that it may adjust to changes as they occur. The world, national and Alaska energy and oil and gas future is in a state of flux and will remain so for the two decades for which this bill is designed to accomodate. No one can be sure what future developments in energy will be and particularly in Alaska where exploration condition are so diverse.

Alaska is now one of the largest oil owning entities in the world. It will be dealing with petroleum matters, directly, for at least the next two decades, probably much longer. It's immediate future depends in large part on how it deals with petroleum matters. As such, it should become familiar with most of the alternative methods it can use to control petroleum exploration. HB 854, we believe, once it is enacted and in operation will provide the industry the certainty it requires. Admittedly, it calls for State land to be offered by methods including but also other than bonus bid where feasible. The bill introduces more alternatives than now exist, but once these methods are in place and have been used, we believe, most uncertainty will disappear.

One last word on flexibility. In addition to the State, the Federal government and Native Regional Corporations will be leasing land for oil and gas exploration for the next several decades. Terms and conditions under which leases are issued by these entities will include all the variables addressed in HB 854, and, undoubtedly, more. To protect its interest and to operate effectively in this constantly changing exploration picture, the State needs a flexible leasing law by which to respond.

Following, are an itemized list of the objections which I anticipate will be made to HB 854.

1. Term of 5 years. All operators want a lease term as long as possible. In HB 854, Commissioner can go up to 10 years if "extreme conditions, etc." exist. The majors usually know what they intend doing when they bid and lease. The smaller companies will argue that they need more time to put drilling blocks together. The State's interest is to have leases explored and it is not in having leased acreage on the books paying rentals only. Deals can be made in five years. Drilling should proceed as soon as possible, or the land should be offered again to a more agressive operator.

   The time between Cook Inlet lease sales in 1962 and 1965 until first production was begun from Middle Ground,

McArthur, Trading Bay and Granite Point averages under 4 years. Note this is production, not beginning drilling date. Average time from sale to drilling in New Mexico is 6 years.

As I have indicated before, I believe this is the most important term in the lease. The ideal would be for the commissioner to have discretion to set the length of the lease, but I do not believe the legislature or the industry would accept such discretionary authority.

2. Methods of leasing

a. Royalty bidding creates no incentive to develope leases (Chevron). This is particularly true if "surrounding leasehold were such that early evaluation was likely" -(Champlin Petroleum). Same lack of incentive argument is said to apply to high net profits and/or work commitment.

Loss of revenue to state, too risky and premature shutdown problem - (SE Alaska Empire editorial; a reprint of Fairbanks News-Miner editorial, 1977-no date) Rumor has it the USGS in Anchorage (Jones, et al) don't like royalty bidding and DOI forced it on So. Cook Inlet sale. But ARCO's first location appears to be on a royalty tract.

b. Work commitment is faulted for several reasons. Economists, including Gregg Erickson, see it as stimulating activity which the marketplace would not otherwise require. In fact, it can be used to stimulate exploration and, specifically, to acquire exploration information in areas which otherwise might not be explored. There can be an element of incentive in this method.

Tom Kelly sees the use of work commitments as pre-empting small companies. (It is interesting to note that Chevron favored the work commitment so long as the bonus or royalty was fixed and the work commitment was the sole biddable factor). Kelly sees it discouraging the promoting of participations (partners?) in drilling deals because the amount of dollars bid has been fixed. Frankly, I don't quite understand his argument, and contrary to hurting the small companies, I believe it could be used to encourage them to explore. Kelly believes a work commitment works best when it is negotiated and I agree with

him, but we agree that it is unlikely that the Alaskan legislature and public would condone negotiated lease terms by public officials. (unlike royalty sales.)

c. No mention is made of sliding scale royalty by any of the AOGA participants or companies who replied to your letter. All in the department, including Easy Gilbreth and Pedro Denton (from past memorandum in file), feel this is a most satisfactory answer. We are preparing several sliding scale examples for the Cook Inlet and the North Slope so as to focus on the factors which must be taken into consideration in setting the appropriate scale for an area.

d. Net profit will be objected to because it gets the government into the oil company's books and it will will be more costly to administer. Economists Lipton, Erickson, et al will argue it returns the most to the state.

Most economists will agree, I believe, it is the best way if "gold plating " can be controlled, but there seems to be disagreement as to whether it is best used where risks are high or low. Government encroachment will underlie the opponent's arguments.

3. The acreage limitation of 200,000 acres on state uplands (rather than present 500,000) has been objected to thus far only by a few majors. The reduction in the maximum is obviously aimed at the larger companies, and we should so state directly. (A list of state leaseholdings as of 2/10/78 is attached).

Some background may be helpful. No other state that I am aware of, has an acreage limitation. But no other state is Alaska's size nor has any state tens of millions of acres available to lease.

The Federal government has an acreage maximum for its land within each state. During Alaska's territorial days the Federal oil and gas acreage limitation in Alaska was 100,000 acres. In other states it was 46,080.

After 1961, Alaska's rose to 300,000 in the Northern district (approximately north of the Yukon River) and 300,000 in the Southern district. These apply today. Presently the acreage limitation is 246,080 acres of Federal leases per state, other than Alaska.

Finally, note that in HB 854 companies are given five years from the effective date of the act to comply with the 200,000 acre maximum.

Hopefully, a lesser upland acreage maximum in Alaska will act as, albeit a small, incentive for companies other than the majors now here to explore in Alaska.

4. The state's right to purchase up to 16 2/3% of the oil and 100% of the gas will be opposed on the grounds that it is a negative incentive for integrated companies who wish to find and use the oil and gas. We should be careful of this one, but suffice to say that in 1972 New Mexico passed a similar law (N. Mexico can purchase 100% of gas and oil), which though never exercised or tested in court, remains on the books. (a copy attached).

5. Rentals may be opposed as being too high. The authority of the commissioner to up the rental at least 150% each year on shut-in leases may begin to bind the operator without a market, but there is no easy answer to the shut-in field unless we investigate something like the reserves tax concept, which I don't believe will solve the problem.

6. Leases offered noncompetitively after receiving no bids appear to be favored by the industry. Tom Kelly comments that such leases should be offered immediately (automatically?) after the competitive sale.

Please note that HB 854(t), as written, allows the commissioner three options. He can offer tracts immediately, at any time up to 5 years after receiving no bids, or not at all. If he intended to offer tracts noncompetitively immediately after a competitive sale he would so announce in the notice of the competitive sale.

The problem inherent in giving the administrator this many options, it will be argued, is that unpredictability will occur. Unless the operator knows before hand that he can fill out his block of acreage, he is at a distinct disadvantage. The administrator should take these matters into consideration before he notices a sale.

Milton Lipton, Gregg Erickson and others may oppose this open-ended authority to lease noncompetitively following an unsuccessful competitive sale on the grounds that an administrator might rig a competitive sale so that it will not elicit bids so that an immediate noncompetitive lease can be awarded. I don't think such a hit-and-run transaction can exist these days, particularly with HB 854's public disclosure procedures, but, perhaps, I'm too naive.

7. Sealed bids or oral auction or sliding sealed bids (like Alberta). HB 854 permits the commissioner to use any or all of these. Sealed bids will be most commonly used. They are easy to administer. Oral bidding is used in New Mexico and Colorado. Champlin recommends oral bidding on "low potential" land so as to avoid preparing bid forms and "leaving money on the table." New Mexico, on the contrary, uses oral bidding about 50% of the time when it perceives that there will be alot of competition in a sale. About 50% of the time New Mexico offers tracts by sealed bid.

   Alberta allows bidders to slide bids from one tract to another in a sale. Thus, if bidder A's sealed bid fails to win on tract 1, he can direct his bonus be slid to tract 2, and so on.

   Tom Kelly, when commissioner, had his staff investigate this sliding bid method in Alberta in hopes that it might be used for the 1969 Prudhoe Bay $900 million sale. The idea was rejected because the industry objected on the grounds that it would cause too much uncertainty so close to the time of sale. Score one for certainty. Obviously, the advantage to the state would be that more money would be paid at the sale if bids were allowed to slide. Before actually using this system, Alberta's procedures should be studied again.

8. By regulation, the lessee may earn only to the depth drilled(j). I envision that the state would not invoke this right until it felt deeper horizons contained oil, and then would give the lessee a reasonable time to explore deeper. If the lessee failed to drill deeper, the deeper horizons would be offered at a competitive lease sale. Alberta woke up to this problem late and solved it by changing terms of existing lease contracts with all that political controversy.

   I will ask Peter Froehlich to research whether this issue of drilling deeper might not be solved by tightening-up terms of the lease form to require due diligence by the operator at the request of the state.

2-10-78

Alaska - O+G Acreage Holdings

COMPANY	ACRES
Amoco	126, 134.64
ARCO	411, 482.68
BP Alaska	103, 218.99
Bond Oil	71, 260.49
Chevron	126, 493.55
Cities Service	140, 071.58
Exxon	158, 627.73
Hamilton Oil	71, 538.36
Mobil	120, 375.19
Phillips Pet.	250, 748.38
Pogo Pet.	135, 588.28
Tenneco	156, 927.03
Union	293, 712.05
Getty	29, 857.30
Shell Oil	40, 603.10
Sun Oil	27, 453.87

CHAPTER 26

AN ACT

RELATING TO STATE LANDS; REQUIRING THE COMMISSIONER OF PUBLIC LANDS TO RESERVE CERTAIN RIGHTS TO THE STATE IN LEASES OR OTHER CONVEYANCES OF STATE LANDS GRANTING ANY INTEREST IN OR RIGHTS TO MINERALS OF WHATSOEVER KIND, INCLUDING OIL AND GAS; PROVIDING FOR A WAIVER OF THE REQUIRED RESERVATION; PROVIDING FOR DISPOSAL OF RESERVED MINERALS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. COMMISSIONER OF PUBLIC LANDS TO RESERVE CERTAIN RIGHTS TO THE STATE IN LEASES OR OTHER CONVEYANCES OF ANY MINERAL INTERESTS OR RIGHTS TO MINERALS IN STATE LANDS.--In any lease or other conveyance of state lands granting any interest in or rights to minerals of whatsoever kind, including oil and gas, in those lands executed by the commissioner of public lands after the effective date of this section, the following reservation of rights to the state shall be made: "The state has a continuing option to purchase at any time and from time to time, at the market price prevailing in the area on the date of purchase, all or part of any minerals (specify the minerals) that may be produced from the lands covered by this lease (or other conveyance).".

Section 2. WAIVER OF REQUIREMENTS FOR RESERVATION OF RIGHTS IN LEASES OR CONVEYANCE FOR SPECIFIC MINERALS--PROCEDURES FOR WAIVER.--

A. The commissioner of public lands may waive by written order the reservation of rights required under Section 1 of this act in respect to any specific mineral, other than fossil fuels, for which

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there is no significant consumptive use within the state, but such order may be made only:

(1) after written notice is mailed by certified mail at least twenty days before the hearing required by Paragraph (3) of this subsection to the governor;

(2) after notice of the hearing required by Paragraph (3) of this subsection is posted in the same manner as notice of public sale of mineral leases is required to be posted under Section 7-9-34 NMSA 1953;

(3) after a public hearing on the issue of waiver under this subsection has been held by the commissioner of public lands or his designated representative in accordance with procedure adopted by the commissioner of public lands; and

(4) if the commissioner of public lands finds after considering the evidence produced at the hearing that a waiver of the provision would be in the best interests of the trust beneficiaries considering long-range and short-range benefits.

B. A waiver granted under Subsection A of this section shall be limited to a definite period of time not to exceed five years. Waivers may be renewed by the commissioner but only after following the procedure required under Subsection A of this section.

Section 3. DISPOSAL OF MINERALS BY COMMISSIONER OF PUBLIC LANDS --The commissioner of public lands shall dispose of any minerals reserved under this act at the best price available in order to gain the maximum benefit for the trust beneficiaries.

STATE'S RIGHT TO PURCHASE OIL & GAS IN HB 854

The State has the right in HB 854(v) to purchase not more than 16 2/3% of the oil and up to 100% of the gas at the regulated price or fair market value at the point of sale. The right to purchase is needed to protect the "in kind" taking of its royalty by Alaska, a sale of said royalty, and a subsequent reduction of the royalty in the later stages of production (d).

New Mexico, 1973, enacted a law which gives it the right to reserve an option to purchase at any time at the prevailing market price any or all minerals, including oil and gas, produced from State land. Thus, New Mexico may purchase 100% of the oil and gas found on State land.

Whereas the New Mexico Commissioner is authorized to waive the reservation option with respect to any specific mineral, he may not do so for oil or gas.

The Act, Chapter 26 of the Session Laws of 1973, has never been exercised by New Mexico; thus no opportunity has been given to test its constitutionality.

If Alaska were to reserve an option to purchase up to the amount of the royalty, fixed or bid, an equivalent net profit share would have to be determined.

LEASING METHODS EXAMINED

BUT NOT INCLUDED IN HB 854

1. The so-called "dual leasing" system which would authorize the State to issue separate exploration and production leases. Senator Ted Steven's amendment to S-9 would permit the exploratory lessee to share with the government (Federal) the costs of the exploratory drilling program, which would be managed by the lessee, in exchange for a share of the revenues received by the government from a subsequently issued production lease.

   The Administration believes that the State can know before it offers its land for drilling what development and production activities it expects to take place.

2. Dr. Mason Gaffney's ad valorem charge, or a "post" royalty system versus the "ante" systems in HB 854. In other words, the state determines its take before discovery, not after. Other governments, like the Canadian national, are going to the "post" systems, i.e. "progressive incremental royalty."

3. Incentives. There are no direct incentives to lessees contemplated in HB 854, except that "work commitment" would allow cash bonuses not to go to the government but instead used by industry for exploration.

4. Government equities in leases or state-owned and operated exploration companies are not envisioned in HB 854.

5. Oil Payment Bidding - shift royalty to rental.

6. Performance System which provides government with the authority to specify the exact rate and extent of resource development.

7. Share Bidding or Phillips Plan. Bonus bids are entered for the entire structure instead of for a specific tract. Based on their equity in the field, each company receives a percent of the profits or losses with a maximum percentage participation by any one company.

8. Alberta's so-called "checkerboard" leasing system wherein a reservation holder may apply for leases over not more than 50% of the area in the reservation in a checker-board pattern. These leases convey the right to produce and sell the Crown's oil and gas, and the government retains the right to alter unilaterally the terms and conditions of the arrangement.

SUMMARY OF ACREAGE LIMITATION
CHANGE IN HB 854

The acreage any one State lessee may hold is 500,000 acres upland and 500,000 acres offshore. HB 854 reduces the uplands to 200,000 acres. This is to help increase the number of upland lessees by limiting the holdings of the larger major oil companies. Offshore holdings will be unaffected.

No other state that we are aware of has an acreage limitation. But no other state is Alaska's size nor has any state tens of millions of acres available to lease.

The Federal government has an acreage maximum for its uplands within each state. During Alaska's territorial days the Federal oil and gas acreage limitation in Alaska was 100,000 acres. In other states it was 46,080 acres.

After 1961 the Federal maximum for Alaska rose to 300,000 acres in the Northern district (approximately north of the Yukon River) and 300,000 in the Southern district. These apply today. There is no Federal acreage limitation on the Outer Continental Shelf. Presently, the acreage limitation is 246,080 uplands acres of Federal leases per state, other than Alaska.

HB 854 grants companies five years from the effective date of the act to comply with the 200,000 upland acre maximum.

A list of major leaseholdings as of February, 1978, (showing uplands and offshore holdings of those companies which now exceed 200,000 acres) follows:

ALASKA OIL AND GAS ACREAGE HOLDINGS
(as of March 13, 1978)

COMPANY	ACRES		
ARCO	408,151.21	356,882.86	acres of uplands
		51,268.35	offshore
		408,151.21	total
UNION	287,032.83	233,138.75	uplands
		53,894.08	offshore
		287,032.83	total
PHILLIPS PETROLEUM	243,227.94	80,332.74	uplands
		162,895.20	offshore
		243,227.94	total
EXXON	158,627.73		
TEXACO	156,027.03		
SOHIO PETROLEUM	135,588.28		
BP ALASKA	103,218.99		
CITIES SERVICE	140,071.58		
CHEVRON	126,493.55		
AMOCO	126,134.64		
MOBIL	120,375.19		
MARATHON OIL	71,538.36		
BEARD OIL	71,260.49		
SHELL OIL	40,603.10		
GETTY	29,857.30		
SUN OIL	27,453.87		

DESCRIPTION OF LEASING METHODS IN HB854

Currently, the State of Alaska's leasing system is a cash bonus bid with a minimum fixed royalty of 12.5 percent. The methods outlined below include the present system with different fixed royalties, sliding scale royalty with bonus bid, sliding scale royalty bid with fixed bonus, net profit share bid with fixed bonus, royalty bid with fixed bonus and exploration work commitment. The basic elements of these methods are summarized below.

(1) Bonus Bid With Fixed Royalty

Bonus bid with fixed royalty is the system currently used by the State of Alaska. In a lease sale, the winning bid for a tract is the one which makes the highest sealed or auctioned cash bonus bid. There is also a minimum royalty of 12.5 percent. An advantage of this system is that government receives revenue regardless if there are economical quantities of oil or gas found and/or produced. To avoid early termination of production, royalties need to be flexible during a field's declining years.

(2) Sliding Scale Royalty With Bonus Bid (or Sliding Scale Bid with Fixed Bonus)

Under this system, the government receives a cash bonus bid and a sliding scale royalty. We used 12.5 percent as a minimum figure and 62.5 percent as a ceiling wherein the rate in any period is dependent upon the production of that period.

The royalty rate is graduated in much the same manner as the federal personal income tax. Table I gives two examples of a sliding scale royalty schedule. The royalty is progressive, that is, the royalty on additional production increases. For example, in the South Central Area, the initial 500 barrels pay a royalty of 12.5 percent, the next 500 barrels pay 25 percent. The royalty rate increases by 12.5 percentage points per 500 barrels until 2000 barrels of output are achieved. All production beyond 2001 barrels pays a royalty of 62.5 percent. Thus, if production reaches 5000 barrels, the average royalty rate is 50 percent. In the limit, the average rate would converge towards 62.5 percent as daily production continues to increase.

As field productivity declines and well production falls, the producer backs down the schedule and royalties decline. In order to optimally exploit the field, the royalties should decline to zero near the end of field life. Actually, final rates of five or six percent would result in minimal early shut down.

TABLE I
TYPICAL SLIDING SCALE ROYALTY SCHEDULES

SOUTH CENTRAL AREA

Daily Average Prod. Rate (Bbls./day)	Incremental Royalty Rate (%)	Royalty For Specific Producing Rates: Producing Rate (Bbls./day)	Royalty Production (Bbls./day)	Average Royalty Rate (%)
-500	12.5	500	62.5	12.50
501-1000	25.0	1000	187.5	18.75
1001-1500	37.5	1500	375.0	25.00
1501-2000	50.0	2000	625.0	31.25
2001-2500	62.5	2500	937.5	37.50
		3500	1562.5	44.64
		4500	2187.5	48.61
		5000	2500.0	50.00

NORTH SLOPE AREA

Daily Average Prod. Rate (Bbls./day)	Incremental Royalty Rate (%)	Royalty For Specific Producing Rates: Producing Rate (Bbls./day)	Royalty Production (Bbls./day)	Average Royalty Rate (%)
-1000	12.5	1000	125	12.50
1001-2000	25.0	2000	375	18.75
2001-3000	37.5	3000	750	25.00
3001-4000	50.0	4000	1250	31.25
4001 and above	62.5	5000	1875	37.50
		7000	3125	44.64
		9000	4375	48.61
		10000	5000	50.00

Note: The Sliding Scale Royalty Schedule for the North Slope area is significantly higher than for the South Central area because the higher North Slope operating costs result in a much higher economic limit.

Hopefully, this illustration clarifies the relationship between production rates and royalty rates.

Greater flexibility in setting the initial rate is the major advantage of this system while not running the risk of an uneconomically (for Industry) high royalty rate. On the other hand, to achieve an overall lower royalty payment, a company might spread out production over a longer period of time. Usually, however, because of the time value of money and increased operating costs, oil companies generally try to accelerate production.

(3) Net Profit Share Bid With Fixed Bonus

A small fixed bonus is required as earnest money. The bonus is low enough to encourage producers to bid a high net profit share while permitting profitable development.

(4) Royalty Bid With Fixed Bonus

This system utilizes the same method to calculate fixed bonus as described for Net Profit Share. The bid parameter is a function of production instead of net profits. Since the bonus is fixed, interested parties bid on the royalty rate that the government is to receive. The advantage of royalty bidding is that little front end money is needed by Industry. However, this could encourage speculation causing an overbid. Royalty bidding should encourage more competition among bidders and may allow the smaller companies a better chance of winning the tract.

(5) Work Commitment With Fixed Bonus, Royalty or Net Profit Share

The government itemizes the performance criteria such as the rate and amount of work to be performed on each tract. The total bid specified in dollar terms and a portion of the bid used for exploration and development activities. This system gives the government some control over the rate and extent of resource development.

TWO VIEWS ON BIDDING STRATEGIES

WEALTH MAXIMIZING STRATEGIES FROM THE STATE'S VIEWPOINT

The choice of bidding method cannot be made on the basis of any single criteria but is the result of evaluating a number of factors including but not limited to the potential economic payoff and physical characteristics of the lease area. HB854 offers essentially four leasing schemes: (1) Bonus Bid - Fixed Royalty, (2) Royalty Bid - Fixed Bonus, (3) Net Profit Bidding with Fixed Bonus, (4) Work Commitment with Bonus Bidding. These options will be briefly evaluated.

Bonus Bid - Fixed Royalty

If the royalty is fixed at 12-½%, there is no reason to use this option. It is of historical value only. At higher fixed royalties, it has some merit, but the higher fixed royalty means a lower bonus bid which is supposedly the advantage of the system. Private discount rates are too high for bonus bidding to be advantageous to the State. For example, a brief examination of an annuity table suggests that increases in the discount rate rapidly diminish the present value of a future income stream. This income stream can be interpreted as the discounted net revenues resulting from the potential discovery and development of an oil field. Table II illustrates the discount rate effect.

Table II
Present Value of an Annuity of $1 Million
(Values in 10^0)

Number of Years	Discount Rates					
	6%	10%	14%	16%	18%	20%
20	$11.470	$ 8.514	$6.623	$5.929	$5.353	$4.870
30	13.765	9.427	7.003	6.177	5.517	4.979
N	16.67	10.00	7.14	6.25	5.56	5.00

From the State's viewpoint, a 6% discount rate may properly reflect the present value of the income generated by the potential oil discovery. The industry, on the other hand, is likely to discount the future net income stream at much higher rates, say 20%. Thus, the maximum bid under ideal circumstances would be $5 million for an income stream that would yield net revenues of on million per year in perpetuity. Perpetuity is longer than the life of Prudhoe Bay.

Royalty Bid - Fixed Bonus

Relatively easy to administer - reduces risk and front end filter to the private sector. With sliding scale, most early shut down problems are avoided. The fact

that the State receives a revenue stream over a 20^{+} year time horizon also is an attractive feature. The Beaufort Sale is an ideal candidate for a royalty bidding scheme.

Net Profit Bidding

This is very attractive from a risk sharing point of view. All risks (geologic, exploration, development, and production costs as well as product price) are shared with the industry. Would increase exploration and development in remote high risk areas. May be useful where there is low probability of bid find. Under ideal circumstances (political) is the best of all possible options but does have serious administrative problems.

Work Commitment

Cases where State wants information and is willing to specify type of information desired. Good for high risk areas in remote locations. May also be used where the State wants more information before putting structures up for competitive bidding scheme.

On balance, the royalty bidding schemes represent a substantial improvement over bonus bidding and are administratively tractable. Given the time to build the expertise, it may be advisable to shift to profit sharing or ad valorem schemes.

MULTIPURPOSE STRATEGIES

Bonus Bids

Bonus bidding should be applied in cases where the State has either:

(a) A very great amount of knowledge about the resource, or
(b) The prospect is of extremely high risk, the lessor has little knowledge of the resource and expected value revenues would be marginal.

The first case (a) where tracts might be offered for Bonus Bidding could be that of a drainage or near drainage situation where the State wished to maximize its near term discounted revenues. It would be advisable to not offer all of the tracts for bonus bidding, but to withhold a percent of acreage to be sold at a later date, (Report 2-77). Also, since royalty and other bidding methods have shown to offer higher expected value revenues for lower risk cases it could be advisable to mix royalty bidding with the bonus bidding, a practice followed by the Federal Government in the recent Cook Inlet OCS sale.

In the second case (b), that of extreme high risk, bonus bidding can be used as a filter to determine the value of marginal tracts. This is discussed under the section on (t) low potential, high risk and previously leased.

Report 2-77 indicates that for very high risk cases all bidding methods approach the same level of expected value income for the State. In cases of small and marginal potential reservoirs the bonus bid method with its ease of administration might afford optimum State revenues. Report 2-77 also indicates that in probability of success percents of 1 percent or less bonus bids could afford higher revenues, but the State should ensure that leasing under such high risk cases only occurs when sufficient knowledge is gained to indicate that the land to be leased is of such a low potential. For example, a geologic structure as large as the Prudhoe Bay anticline may have had a high degree of risk before it was drilled but its potential to hold enormous reserves was there. Bonus bidding should not have been used in that instance.

In summary, bonus bidding can be used when:

(1) Very small potential reservoirs are expected;

(2) Extreme risk is expected and the gaining of sufficient knowledge to determine the presence of reservoirs is unwarrented because of marginal to low potential indications.

(3) A sliding royalty should be considered in all bonus bid cases;

(4) This method could be used in a mixture with other methods such as royalty bidding;

(5) Also, in general, this method should only be considered when leasing in the less desirable state areas, i.e. those below the top 10 rank.

Royalty Bidding - Fixed Bonus

Report 2-77 indicates that royalty bidding and profit sharing deliver the highest expected value revenues to the State of all bidding methods. It is particularly effective where the probability of occurrence is high (i.e. low risk) and especially when the expected reservoirs are large. A sliding scale should be added in the declining production years to eliminate the problem of premature shut down. Cases for royalty bidding would be when:

(1) The State has enough knowledge to assess the size of potential traps.

(2) Potential reservoirs are not extremely small or of extreme risk.

The Beaufort Sea sale is a good example of a case for using Royalty bidding on tracts. In general, this method should be considered when leasing in the top 10 leasing areas on the desirability scale.

Net Profit Bidding

Net profit bidding would be most advantageous when costs and oil prices are in a state of extreme fluctuations making economic predictions unreliable. In remote high risk areas, this method might attract stronger bids than the royalty

or the bonus bid method.

Of the 35 potential State leasing areas, this method might be used to advantage on those areas below the top 10 in desirability.

Work Commitment

(See section (t)).

This bidding method can be best used where the State has a large (i.e. 100,000+ acres) area of probable low potential where industry has shown a general lack of interest in exploration and leasing. By offering a large area for lease to one lease owner, the State provides an extra incentive to undertake exploration and the State ensures the exploration by making the bid variable.

This method would be used in remote low potential high risk areas. Some of the State's 3 mile limit lands such as Area IX might be applicable to this method.

Low Potential & High Risk and Previously Leased Section (t)

On the basis of exploration knowledge, lack of interest by industry and reasonable analysis, the department may determine that lands have very low potential for oil and gas.

As a means of encouraging the evaluation and possible development of these low potential lands, the department could:

(1) Offer the lands for competitive lease using a bonus bid with sliding royalty. A minimum bid equal to the first year's rentals could be used to filter the bids. This should give a check on the potential of the lands. The sliding royalty would act as a safeguard for very low value bonus bid tracts if a discovery is made later on the lands.

(2) On tracts that receive no acceptable bids, the commissioner could hold a non-competitive similtaneous drawing after proper notice (30 days). Tracts not receiving applications for the drawing could then be opened for over the counter applications. Tracts could be offered at fixed 50¢/year rentals, 5 year terms. A sliding scale royalty would be used in all cases to provide a revenue safeguard against future potential discoveries.

(3) In some cases, all tracts not receiving acceptable bids could be aggregated into large blocks (100,000 acres or more) and offered for work commitment bidding or development contracts.

RESULTS OF LEASING MODEL SIMULATION @ 10% RISK AND LOW COST REGION

EXPECTED VALUE STATE INCOME

Leasing Method	Oil Rec MM/Bbls.	OIL CO. PROFIT *Total	OIL CO. PROFIT *PW @ 10%	STATE INCOME *Bonus	STATE INCOME Royalty	BONUS, ROYALTY & TAXES *Total	BONUS, ROYALTY & TAXES *PW @ 6%	BONUS, ROYALTY & TAXES *PW @ 10%
BONUS 12-½%								
I.	137.6	72.6	14.7	.5	27.6	61.2	24.9	14.6
II.	633.8	376.3	93.2	48.1	127.0	338.9	171.6	118.7
III.	5238.1	3189.1	697.2	385.3	1048.1	2807.0	1347.8	917.1
BONUS 12-½% Acreage Withheld (initial sale)								
II.	633.8	1524.8	289.9	179.9	533.5	1408.3	711.0	490.4
III.	5238.1	17905.3	2950.6	1780.0	6079.1	15900.8	7510.1	5035.4
BONUS 25%								
I.	uneconomic							
II.	633.6	316.9	77.9	38.5	292.5	445.1	214.3	141.8
III.	5236.9	2698.2	582.8	316.3	2095.7	3693.4	1681.2	1091.1
SLIDING ROYALTY								
I.	137.6	71.1	14.2	.1	31.0	63.9	26.2	15.4
II.	633.9	274.6	64.7	30.0	344.8	519.8	249.0	161.3
III.	5238.5	1388.6	265.1	117.1	4891.8	6046.5	2591.7	1568.3
ROYALTY								
I.	137.5	70.0	14.1	0.0	33.1	65.7	26.6	15.5
II.	632.6	178.9	42.4	15.0	547.9	688.9	311.4	193.4
III.	5230.1	1400.5	281.0	125.0	4861.2	6024.1	2555.6	1544.1
NET PROFITS								
II.	634.0	169.8	40.4	15.0	567.0	706.6	318.6	197.1

RESULTS OF LEASING MODEL SIMULATIONS @ 90% RISK AND LOW COST REGION

EXPECTED VALUE STATE INCOME

Leasing Method	Oil Rec MM/Bbls.	OIL CO. PROFIT *Total	OIL CO. PROFIT *PW @ 10%	STATE INCOME *Bonus	STATE INCOME Royalty	BONUS, ROYALTY & TAXES *Total	BONUS, ROYALTY & TAXES *PW @ 6%	BONUS, ROYALTY & TAXES *PW @ 10%
BONUS 12 ½%								
I.	137.6	635.0	98.6	44.5	24.9	603.4	275.2	180.8
II.	633.8	3247.7	585.0	377.5	1143.3	3012.2	1520.2	1048.0
III.	5238.1	27716.2	4452.9	2709.9	9433.1	24630.1	11618.3	7780.9
BONUS 25%								
I.	137.4	523.1	79.2	30.6	49.7	815.5	358.0	226.8
II.	633.6	2737.5	492.6	308.9	2285.9	3984.8	1917.6	1267.6
III.	5236.9	23473.1	3746.7	2228.6	18861.8	32734.2	14723.2	9443.5
SLIDING ROYALTY								
I.	137.6	622.1	95.5	42.1	279.0	628.4	287.2	188.1
II.	633.9	2376.0	407.6	256.1	3103.4	4678.2	2249.0	1461.2
III.	5238.5	12200.0	1832.0	820.6	44026.2	54260.4	23201.8	14001.0
ROYALTY								
I.	136.8	308.4	42.9	2.5	972.7	1219.5	516.4	314.2
II.	629.2	495.3	80.5	15.0	7261.1	8216.0	3665.7	2238.2
III.	5216.7	5666.5	836.4	125.0	58312.9	66525.9	27704.6	16370.0
NET PROFITS								
I.	137.7	271.6	38.6	2.5	1054.8	1295.5	538.8	323.7
II.	634.0	433.8	71.6	15.0	7419.0	8369.7	3712.6	2255.9

RESULTS OF LEASING MODEL SIMULATION @ 100% RISK (PERFECT CERTAINTY) & LOW COST REGION

Leasing Method	Oil Rec MM/Bbls.	OIL CO. PROFIT		EXPECTED VALUE STATE INCOME STATE INCOME (10^6)				
		*Total	*PW @ 10%	*Bonus	Royalty	*Total	*PW @ 6%	*PW @ 10%
BONUS + 12-½% ROYALTY								
I.	137.6	705.6	109.6	49.4	27.7	670.4	305.8	200.9
II.	633.8	3608.6	650.0	419.4	1270.3	3346.9	1689.1	1164.4
III.	5238.1	30795.8	4947.7	3011	10481.2	27366.8	12909.2	8644.4
BONUS + 25% ROYALTY								
I.	137.4	581.2	88	34	55.2	906.1	397	251
II.	633.6	3041.7	547.3	343.2	2539.9	4427.6	2130.7	1408.4
III.	5236.9	26081.2	4163	2476.2	20957.6	36371.1	16359.1	10492.8
SLIDING ROYALTY								
I.	137.6	691.2	106.1	46.8	310	698.2	318.9	209
II.	633.9	2640	452.9	284.6	3448.2	5198	2498.9	1624.4
III.	5238.5	13555	2035.6	911.8	489.8	60289.3	25778.9	1556.7
ROYALTY BIDDING								
I.	136.8	342.7	47.7	2.8	1080.8	1355	573.8	349.1
II.	629.2	550.3	89.4	16.7	8017.8	9128.9	4073	2486.9
III.	5216.7	6296.1	929.3	138.9	64792.9	73917.7	30782.2	18188.9
NET PROFITS								
I.	137.1	301.8	42.9	2.8	1172	1439.4	598.7	359.7
II.	634.0	482	79.6	16.7	8243.4	9299.7	4125.1	2506.6

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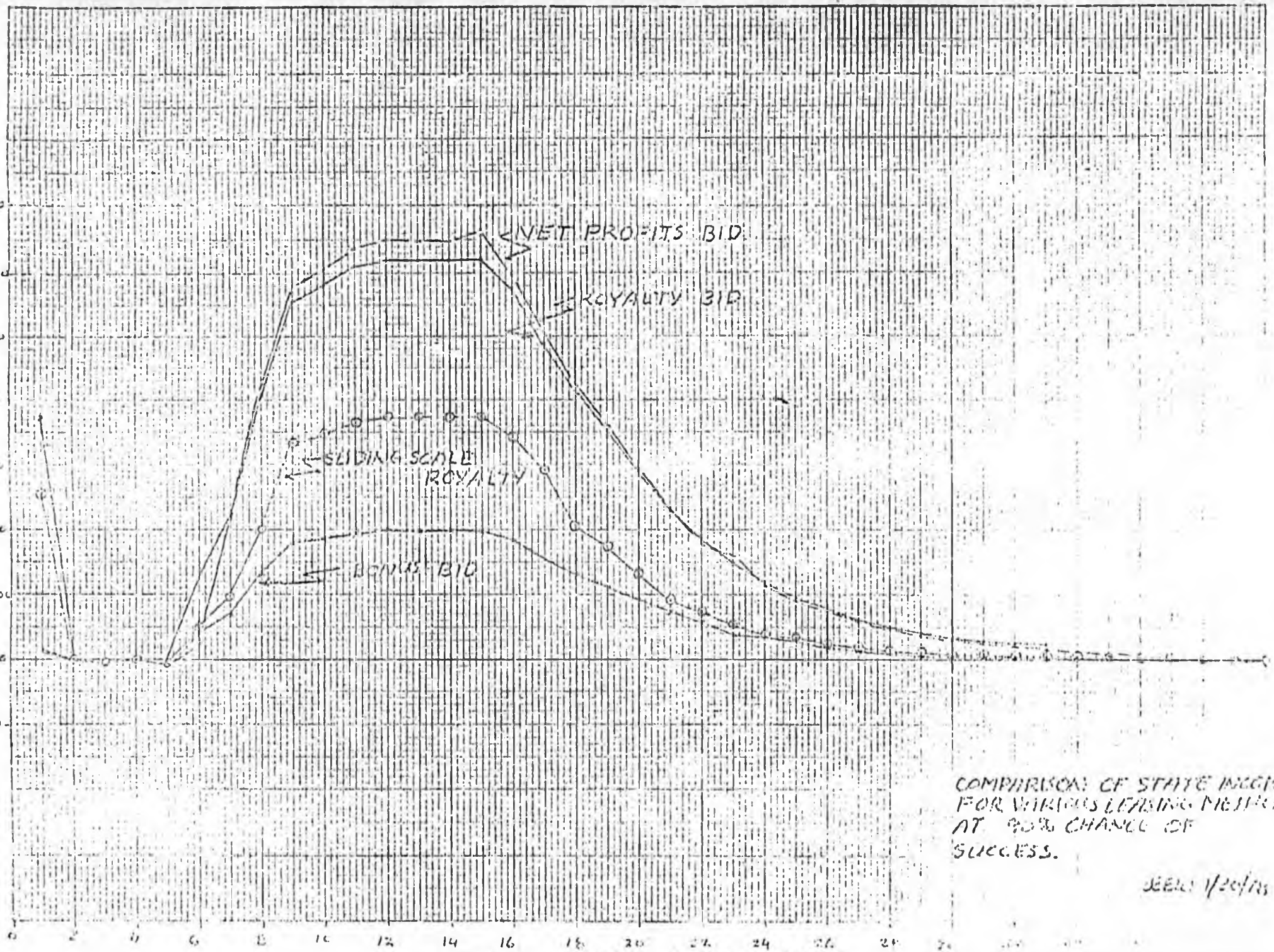
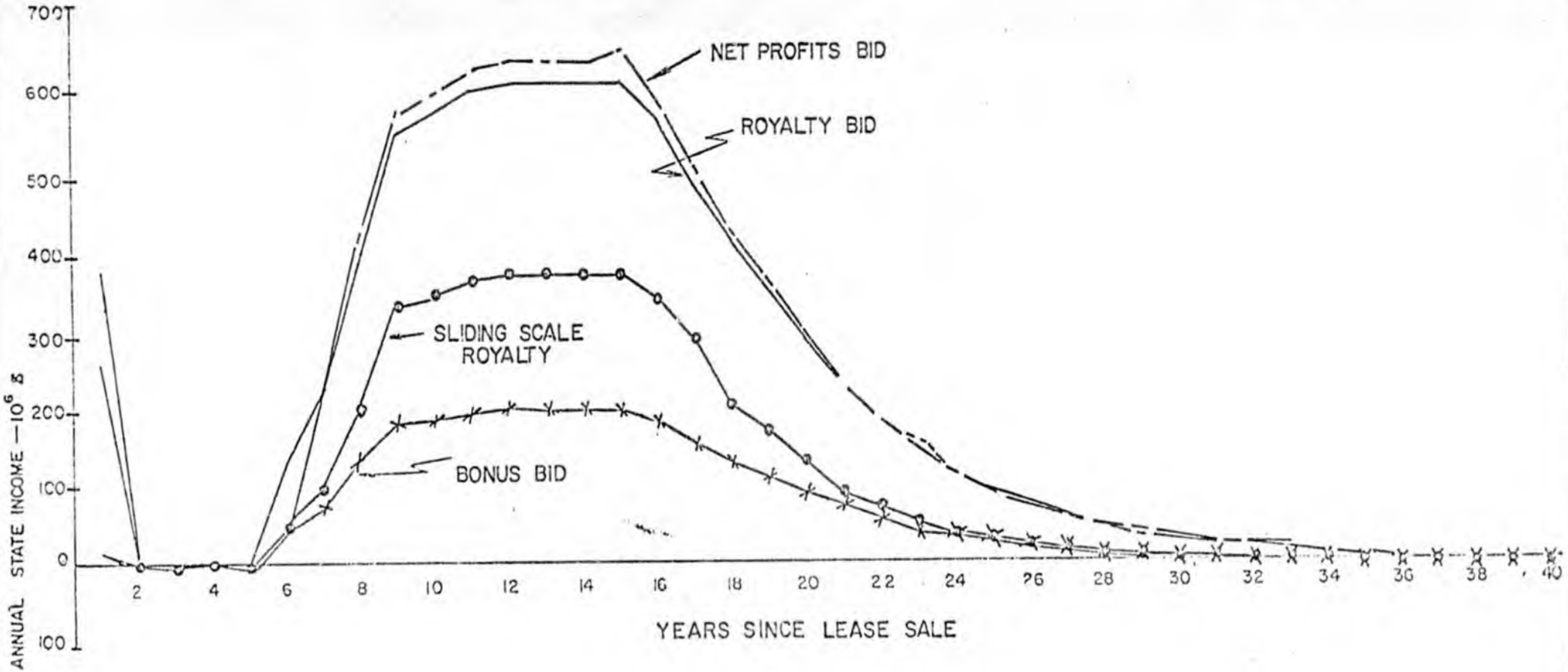


COMPARISON OF STATE INCOME FOR VARIOUS LEASING METHODS AT 20% CHANCE OF SUCCESS.

JEEL 1/20/78



COMPARISON OF STATE INCOME
FOR VARIOUS LEASING METHODS
AT 90% CHANCE SUCCESS

BEW 1-30-78

SEC. C

construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said lands or any part thereof for the foregoing purposes and to occupy as much of said lands as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lesses, successors, and assigns, as aforesaid, generally all rights and power in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved." (§ 1 art VII ch 169 SLA 1959; am § 14 ch 61 SLA 1960; am § 1 ch 42 SLA 1966; am § 3 ch 240 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "§§ 315 — 325 of this chapter, §§ 45 — 120 of this chapter, or ch. 50 of this title except as provided in AS 38.50.050 is" for "§§ 315 — 325 of this chapter or §§ 45 — 120 of this chapter, except for those lands originally acquired by purchase, exchange, condemnation, gift, escheat or foreclosure are" near the beginning of the section.

Legislative committee report. — For report on ch. 42, SLA 1966 (HB 387 am), see 1966 House Journal, p. 492.

Chapter 19, SLA 1977 held not invalid. — Chapter 19, SLA 1976, authorizing a three-way exchange of land between the state of Alaska, the United States government and a regional corporation of Alaska Natives, was not invalid on the ground that it waived the provisions of this section restricting the state's right to alienate minerals and former AS 38.95.060 authorizing exchanges of land with native corporations on the basis of equal value. State v. Lewis, Sup. Ct. Op. No. 1364 (File No. 3039), 559 P.2d 630 (1977).

Sec. 38.05.127. Access to navigable or public waters. (a) Before the sale, lease, grant, or other disposal of any interest in state land adjacent to a body of water or waterway, the Department of Natural Resources shall,

(1) under regulations, determine if the body of water or waterway is navigable water, public water, or neither;

(2) upon finding that the body of water or waterway is navigable or public water, provide for the specific easements or rights-of-way, or both, reasonably necessary to insure free access to and along the body of water, unless the department finds that regulating or limiting access is necessary for other beneficial uses or public purposes.

(b) The Department of Natural Resources shall adopt regulations implementing this section.

(c) Nothing in this section affects valid existing rights. (§ 2 ch 117 SLA 1976)

Editor's note. — Section 1, ch. 117, SLA 1976, provides: "Intent. It is the intent of this Act to implement the provisions of art. VIII, sec. 14, Alaska State Constitution, relating to access to the navigable or public waters of the state."

Legislative committee report. — For report on ch. 117, SLA 1976 (HCS 2d CSSB 215), see 1975 Senate Journal, p. 452; 1975 House Journal, p. 1296.

Sec. 38.05.130. Damages and posting of bond. No rights shall be exercised by the state, its lessees, successors or assigns under the

reservation as set out in § 125 of this chapter or until the state, its lessee, successors, or assigns make provisons to pay the owner of the land full payment for all damages sustained by the owner, by reason of entering upon the land. If the owner for any cause refuses or neglects to settle the damages, the state, its lessees, successors, assigns, or an applicant for a lease or contract from the state for the purpose of prospecting for valuable minerals, or option contract or lease for mining coal or lease for extracting petroleum or natural gas, may enter upon the land in the exercise of the reserved rights after posting a surety bond determined by the director, after notice and an opportunity to be heard, to be sufficient as to form, amount, and security to secure to the owner payment for damages, and may institute legal proceedings in a court where the land is located, as may be necessary to determine the damages which the owner may suffer. (§ 2 art VII ch 169 SLA 1959; am § 15 ch 61 SLA 1960)

Article 6. Leasing of Mineral Lands.

Section		Section	
135.	Generally	175.	Potassium
137.	Leasing agreements	180.	Oil and gas
140.	Limitations	181.	Geothermal resources
145.	Leasing procedure	182.	Royalty on natural resources
150.	Coal	183.	Sale of royalty
155.	Phosphates	184.	Limitation on oil and gas leases in certain areas, and reacquisition of leases
160.	Oil shale		
165.	Sodium		
170.	Sulphur		

Sec. 38.05.135. Generally. (a) Except as otherwise provided, valuable minerals deposits in lands belonging to the state shall be open to exploration, development, and the extraction of minerals. All lands, together with tide, submerged, or shorelands, to which the state holds title to or to which the state may become entitled, may be obtained by permit or lease for the purpose of exploration, development, and the extraction of minerals. Except as specifically limited by §§ 135 — 181 of this chapter, lands may be withheld from lease application on a first-come, first-served basis, and offered only on a competitive bid basis when determined by the commissioner to be in the best interests of the state. In unproven areas the commissioner may offer additional incentives, including a reduction of royalty to a minimum of five per cent in the case of oil and gas, and other terms in and granting permit or lease for exploration and development whenever it appears to be in the best interests of the state to do so.

(b) When minerals are to be leased on a competitive basis, in addition to any other notice given, notice shall also be given as provided in §§ 305 and 345 of this chapter. If land is to be made available for noncompetitive mineral leasing, notice of the proposed action shall also be given as provided in §§ 305 and 345 of this chapter. After the notice of

noncompetitive leasing has been made as required in this subsection, notice of the subsequent issuance of a noncompetitive lease for the land involved shall be made by mail not less than 30 days before the issuance of the lease only to those who have requested the notice. (§ 1 art VIII ch 169 SLA 1959; am § 1 ch 30 SLA 1964; am § 1 ch 91 SLA 1967; am § 2 ch 71 SLA 1971; am § 10 ch 257 SLA 1976)

Effect of amendment. — The 1976 amendment added present subsection (b).

Cited in Kirkpatrick v. Commissioner, Dep't of Natural Resources, Sup. Ct. Op. No. 201 (File No. 388), 391 P.2d 7 (1964); Moore v. State, Sup. Ct. Op. No. 1284 (File Nos. 2551, 2587), 553 P.2d 8 (1976).

Am. Jur., ALR and C.J.S. references. — 24 Am. Jur., Gas and Oil, §§ 32 to 102; 36 Am. Jur., Mines and Minerals, §§ 11 to 22, 39 to 62, 65 to 98, 139 to 142; 42 Am. Jur., Public Administrative Law, § 111; 49 Am. Jur., States, Territories and Dependencies, §§ 57 to 61.

Validity of prohibition or regulations of removal or exploitation of oil, minerals, soil, sand, gravel, stone or natural products within municipal limits, 168 ALR 1188.

73 C.J.S. Public Lands § 259.

Sec. 38.05.137. Leasing agreements. The commissioner is authorized to enter into cooperative mineral leasing agreements with the United States regarding lands which are the subject of a title dispute between federal and state authorities. Any such lease need not conform to the provisions of state law applicable to state leases issued under the authority of this chapter. (§ 2 ch 30 SLA 1964)

Sec. 38.05.140. Limitations. (a) No person may take or hold coal leases or permits during the life of coal leases on state lands exceeding an aggregate of 46,080 acres, except that a person may apply for coal leases or permits for acreage in addition to 46,080 acres, not exceeding a total of 5,120 additional acres of state land. The additional area applied for shall be in multiples of 40 acres and the application shall contain a statement that the granting of a lease for additional lands is necessary for the person to carry on business economically and is in the public interest. On the filing of the application, the coal deposits in the lands covered by the application shall be temporarily set aside and withdrawn from all other forms of disposal provided under §§ 135 — 181 of this chapter.

(b) The commissioner shall, after posting notice of the pending application in the local land office, conduct public hearings on the application for additional acreage. After public hearings, to the extent he finds to be in the public interest and necessary for the applicant in order to carry on business economically, the commissioner may, under regulations he prescribes, permit the person to take or hold coal leases or permits for an additional aggregate acreage of not more than 5,120 acres.

(c) No person may take or hold at one time phospate leases on state lands exceeding in the aggregate 10,240 acres. No person may take or hold sodium leases or permits during the life of sodium leases on state lands, exceeding in the aggregate acreage 5,120 acres except that the

commissioner may, where it is necessary in order to secure the econom. mining of soduim compounds, permit a person to take or hold sodium leases or permits for up to 15,360 acres. No person may take or hold at any one time oil or gas leases exceeding in the aggregate 500,000 acres granted on tide and submerged lands, and 500,000 acres on all lands other than tide and submerged lands, including leases held both as lessee and under option or operating agreement from others. Where more than a single person holds an interest in an oil or gas lease, each person shall be charged only with that percentage of the total acreage which corresponds to its percentage share of the total beneficial interest in the lease.

(d) The commissioner, for the purpose of encouraging the greatest ultimate recovery of coal, oil, gas, oil shale, phosphate, sodium, potassium, sulphur, and geothermal resources and in the interest of conservation of natural resources, after public hearing, or, when the state's title to land beneath navigable waters has been legally challenged by the United States and litigation initiated, may waive, suspend, refund, or reduce the rental, or minimum royalty, or reduce the royalty on an entire leasehold, or on any tract or portion of a leasehold segregated for royalty purposes, whenever in his judgment it is necessary to do so in order to promote development, or whenever in his judgment the lease cannot be successfully operated under its terms. If the commissioner, in the interest of conservation, directs or assents to the suspension of operations and production under a lease granted, the payment of acreage rental or of minimum royalty prescribed by the lease may be suspended during the period of suspension of operations and production. The term of the lease shall be extended by adding the period of suspension to the lease.

(e) The provisions of (d) of this section that apply to waiver, suspension, refund or reduction of rental of minimum royalty apply to rental or minimum royalty paid before or after June 19, 1970 on any lease covering land beneath navigable waters which, according to the records of the division of lands, is in effect on June 19, 1970.

(f) The submerged and shorelands lying north of 57°, 30 minutes north latitude and east of 159°, 49 minutes west longitude within the Bristol Bay drainage are designated as the Bristol Bay Fisheries Reserve. Within the Bristol Bay Fisheries Reserve no surface entry permit to develop an oil or gas lease may be issued on state owned or controlled land until the legislature by appropriate resolution specifically finds that the entry will not constitute danger to the fishery. (§ 2 art VIII ch 169 SLA 1959; am § 1 ch 68 SLA 1969; am §§ 1, 2 ch 208 SLA 1970; am §§ 3, 4 ch 71 SLA 1971; am § 1 ch 102 SLA 1972)

Legislative committee report. — For report on ch. 68, SLA 1969 (HB 3030), see 1969 House Journal, p. 572.

Sec. 38.05.145. Leasing procedure. (a) Deposits of coal, phosphates, oil shale, sodium, potassium, oil, gas, geothermal resources and state lands containing these deposits are subject to disposition under rules and regulations, recommended by the director and adopted by the commissioner, and the provision of §§ 145 — 181 of this chapter. In applying the acreage limitations the commissioner may apply the rule of approximation. The uses of the rule of approximation made before March 31, 1960, by the commissioner are ratified.

(b) If the state selects or otherwise acquires land other than shorelands, title to which was in the federal government and which, at the effective date of the selection or acquisition, is subject to a valid existing offer for a noncompetitive United States oil and gas lease, or application for a prospecting permit or noncompetitive mining lease, for coal, phosphates, sulphur, oil shale, sodium, or potassium under the federal Act of February 25, 1920 (41 Stat. 437 as amended), or for a noncompetitive United States geothermal lease, or applications for a prospecting permit or noncompetitive lease under the federal Act of December 24, 1970 (84 Stat. 1566), the offeror or applicant for the federal permit or lease, if a qualified applicant hereunder, shall be considered the first qualified applicant for a state noncompetitive oil and gas lease, noncompetitive geothermal lease, prospecting permit, or noncompetitive mining lease and is entitled to a state noncompetitive lease or permit upon compliance with the provisions of the regulations covering applications within 60 days after receipt of written notice from the commissioner of selection or acquisition. These priorities are not effective if the land covered by the federal offers or applications is classified by the commissioner as competitive land within 90 days after the selection of the land is finally approved by the Secretary of the Interior or the land is otherwise acquired. (§ 3 art VIII ch 169 SLA 1959; am § 16 ch 61 SLA 1960; am § 3 ch 30 SLA 1964; am §§ 5, 6 ch 71 SLA 1971; am § 33 ch 71 SLA 1972)

Revisor's note (1971). — In § 6, ch. 71, SLA 1971, the first sentence of AS 38.05.145(b) was split into two sentences. Since that would leave the first sentence incomplete and meaningless, and appears to have been a manifest clerical error, the two have been rejoined. Also, the missing "or" has been inserted before "for a noncompetitive United States geothermal lease" in that sentence. The federal Act of February 25, 1920, referred to is PL 66-146; the federal Act of December 24, 1970, referred to is PL 91-581 (the Geothermal Steam Act of 1970).

Legislative committee report. — For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

Applied in Moore v. State, Sup. Ct. Op. No. 1284 (File Nos. 2551, 2587), 553 P.2d 8 (1976).

Sec. 38.05.150. Coal. (a) The commissioner may, and upon the petition of a qualified applicant, shall divide coal lands or the deposits of coal owned by the state into leasing tracts of 40 acres each, or multiples of 40 acres, and in the form which will permit the economical mining of the coal in the tract.

(b) Thereafter the commissioner may, upon the request of a qualified applicant or on his own motion, from time to time, offer the lands or

deposits of coal for leasing. Each lease shall be awarded to a qualified applicant by competitive bidding or by the method which the commissioner adopts by general regulation.

(c) Where prospecting or exploration work is necessary to determine the existence or workability of coal deposits in an unclaimed and undeveloped area, the commissioner may issue to qualified applicants prospecting permits for a term of two years, not exceeding 5,120 acres. If within the period of two years the permittee shows to the commissioner that the land contains coal in commercial quantities and submits a satisfactory mining plan for the coal's recovery, the permittee shall be entitled to a lease for all or part of the land in his permit. A coal prospecting permit may be extended by the commissioner for a period of two years, if he finds that the permittee has been unable, with the exercise of reasonable diligence, to determine the existence or workability of coal deposits in the area covered by the permit and desires to prosecute further prospecting or exploration, or for other reasons in the opinion of the commissioner warranting extension.

(d) For the privilege of mining or extracting the coal in the lands covered by the lease, the lessee shall pay to the state the royalties specified in the lease. The royalties shall be fixed before offering the lease, and shall be effective for a period of not more than 20 years. The royalties shall be not less than five cents a ton of 2,000 pounds. The lessee shall also pay an annual rental payable at the date of the lease and annually thereafter, on the land or coal deposits covered by the lease, at a rate fixed by the commissioner before offering the lease. The annual rental shall be effective for a period of not more than 20 years. The annual rental shall be not less than 25 cents an acre for the first year of the lease, not less than 50 cents an acre for the second year, third year, fourth year and fifth year, and not less than $1 an acre for each year thereafter during the continuance of the lease. The rental for each year shall be credited against the royalties as they accrue for that year. Each lease shall provide that the annual rental payment is subject to adjustment at intervals of no more than 20 years and adjustments shall be based on the current rates for properties similarly situated.

(e) Each lease shall be for an indeterminate period upon condition of diligent development and continued operation of the mine, except when operation is interrupted by strikes, the elements, or casualties not attributed to the lessee. (§ 3(1) art VIII ch 169 SLA 1959; am § 17 ch 61 SLA 1960; am § 1 ch 71 SLA 1966; am §§ 2, 3 ch 68 SLA 1969)

Legislative committee reports. — For report on ch. 71, SLA 1966, see 1966 House Journal, p. 491. For report on ch. 68, SLA 1969 (HB 303), see 1969 House Journal, p. 572.

Sec. 38.05.155. Phosphates. (a) The commissioner may lease to qualified applicants lands belonging to the state which contain deposits of phosphates and associated and related minerals, when in his judgment it is in the public interest to do so. The commissioner may lease land

included in a permit may not exceed 2,560 acres of land in reasonably compact form. Upon showing to the satisfaction of the commissioner that valuable deposits of potassium compounds have been discovered by the permittee within the area covered by his permit, and that the land is chiefly valuable for these deposits, the permittee is entitled to a lease for all or a part of the land embraced in the prospecting permit, at a royalty of not less than two per cent of the quantity or gross value of the output of potassium compounds and other related products, except sodium, at the point of shipment to market. The commissioner may lease lands known to contain valuable deposits of potassium compounds which are not covered by permits or leases through advertisement, competitive bidding, or other methods as he adopts by general regulation. The area covered by the lease may not exceed 2,560 acres.

(b) Each lease shall be conditioned upon payment by the lessee of a royalty of not less than two per cent of the quantity or gross value of the output of potassium compounds and other related products, except sodium, at the point of shipment to market, and the payment in advance of a rental of 25 cents an acre for the first calendar year or fraction of it, 50 cents an acre for the second calendar year, third calendar year, fourth calendar year, and fifth calendar year, and $1 an acre a year thereafter during the continuance of the lease. The rental for any one year shall be credited against royalties accruing for that year.

(c) Each lease shall be for a term of 20 years and so long thereafter as the lessee complies with the terms and conditions of the lease. (§ 3(6) art VIII ch 169 SLA 1959)

Sec. 38.05.180. Oil and gas. (a) All tide and submerged lands, mental health lands, school lands, and university lands shall be leased by competitive bidding, and whenever oil or gas in discovered in commercial quantities, the commissioner shall determine the extent of the area of lands in addition to tide, submerged, mental health lands, school, or university lands in the same general area of the discovery well which, by reason of the discovery, the commissioner reasonably believes to be capable of producing oil or gas, and the additional lands shall be leased to the highest responsible qualified bidder by competitive bidding under general regulations, in units of not exceeding 2,560 acres (except that tide and submerged lands shall be leased in units of not exceeding 5,760 acres), which shall be as nearly compact in form as possible, upon the payment by the lessee of such bonus as may be accepted by the commissioner and of such royalty as may be fixed in the lease which shall not be less than 12½ per cent in amount or value of the production removed or sold from the lease. All lands other than those above provided to be leased by competitive bidding may be leased competitively or noncompetitively as determined by the commissioner to be in the best interests of the state. Noncompetitive leases shall be issued in units of not exceeding 2,560 acres in any one lease. Noncompetitive leases shall be conditioned upon the payment by the lessee of a royalty of 12½ per

cent in amount or value of the production removed or sold from the lease. Competitive leases issued under this subsection shall be for 10 years except that in the Cook Inlet sedimentary basin, leases shall be for a primary term of not more than 10 years and not less than five years at the discretion of the commissioner, and shall continue so long thereafter as oil or gas is produced in paying quantities. Noncompetitive leases issued under this subsection shall be for a primary term of five years and shall continue so long thereafter as oil or gas is produced in paying quantities. If drilling has commenced on the expiration date of the primary term of the lease and is continued with reasonable diligence, such operations to include redrilling, sidetracking or other means necessary to reach the originally proposed bottom hole location, the lease shall continue in effect until 90 days after drilling has ceased and for so long thereafter as oil or gas is produced in paying quantities. If all or part of the lands covered by the lease are lands that have been selected by the state under laws of the United States granting lands to the state and a patent has not been issued on them, a conditional lease may be issued. However, no term extension may be granted for the period during which the lease was conditional.

(b) An oil or gas lease issued under this section which is subject to termination by reason of cessation of production does not terminate if, within 60 days after production ceases, reworking or drilling operations are commenced on the land under lease and are thereafter conducted with reasonable diligence during the period of nonproduction. No lease issued under this section expires because operation or production is suspended under an order, or with the consent of the commissioner. No lease issued under this section covering lands on which there is a well capable of producing oil or gas in paying quantities expires because the lessee fails to produce oil or gas, unless the licensee is allowed a reasonable time within which to place the well on a producing status. After producing status is established, production shall continue on the leased premises until suspension of production is allowed by the commissioner.

(c) Upon the expiration of the initial five-year term of a noncompetitive lease maintained in accordance with applicable requirements and regulations, the record title holder is entitled to a single extension of the lease, unless otherwise provided by law. A noncompetitive lease on lands not determined to be competitive lands shall be extended for a period of five years and so long thereafter as oil or gas is produced in paying quantities. A noncompetitive lease on lands determined to be competitive lands shall be extended for a period of two years and so long thereafter as oil or gas is produced in paying quantities. A noncompetitive lease extended under this paragraph is subject to the rules and regulations in force at the expiration of the initial five-year term of the lease. No extension may be granted, however, unless within a period of 90 days before the expiration date

an application for extension is filed by the record title holder or an assignee whose assignment has been filed for approval, or an operator whose operating agreement has been filed for approval.

(d) The commissioner may provide for extension of the term of a lease whether competitive or noncompetitive, if all or part of the lease is included in an approved unit plan or program of secondary recovery operation to bring about or restore production.

(e) All noncompetitive oil or gas leases issued under this section shall be conditioned upon the payment by the lessee in advance of an annual rental of 50 cents an acre or fraction of an acre. All competitive oil and gas leases issued under this section shall be conditioned upon the payment of an annual rental, before discovery on the leased lands, of $1 an acre or fraction of an acre. A minimum royalty of $1 an acre instead of rental is payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.

(f) Repealed by § 7 ch 30 SLA 1964.

(g) An offeror for a federal oil and gas lease whose lease was issued after January 2, 1959, or a qualified applicant for a preference right under the Act of July 3, 1958, (72 Stat. 322) whose application for a preference right was filed before January 3, 1959, has a preference right to a state lease on the shorelands included within the exterior boundaries of the federal lease.

(h) If lands described in the offer for a federal lease are covered by nontidal water and are excluded from the federal lease on the basis of navigability, the state shall, upon application within 60 days after notice of the exclusion, if not previously filed, grant a preference lease for the areas excluded, carrying the same provisions as an ordinary state lease on the same lands, except that the term of the state lease shall conform in all respects to that of the adjoining federal lease including extended terms. The state shall issue a shorelands preference lease where a federal lease has been issued before March 31, 1960, and application is made to the state before July 1, 1960. Where a federal lessee or offeror failed before January 3, 1959, to file a proper application for a preference right under the Act of July 3, 1958, he may apply for a state preference lease under this section, subject to the rights of intervening applicants.

(i) Where the lands are classified as competitive, they shall be leased by competitive bidding. The holder of the preference right has 10 days after receipt of notice in which to submit an amount equal to the highest bid plus the rental for the first year.

(j) Upon timely application as provided by regulation, the state shall issue to the holder of a federal lease a state shorelands lease covering land within the exterior boundaries of the federal lease which has been excluded on the basis of navigability or which are later administratively or judicially determined to be "shorelands." The term of every shoreland lease shall conform to that of the adjacent federal lease including

extended terms. The authority of the state to classify the lands as competitive or noncompetitive shall not be impaired.

(k) Instead of the foregoing procedure, the federal lessee or his assignee may, at his option, exercise his preference right for a state lease on the shorelands included within the exterior boundaries of his federal lease by applying to the division of lands, Department of Natural Resources. If, at the time of applying, the lands are classified as noncompetitive, the state shall, upon application, issue a lease covering whatever shorelands are included within the exterior boundaries of the federal lease. If, at the time of applying, the shorelands included in the federal lease are classified as competitive lands, the lands shall be leased by competitive bidding. The competitive lease shall be issued to the federal lessee or his assignee upon payment to the state of an amount equal to the highest bid for the lease, plus the rental for the first year, payment to be made within 10 days after the lessee's or assignee's receipt of written notice from the director of the division of lands of the amount of the highest bid. These leases, whether competitive or noncompetitive, shall carry the same conditions as an ordinary state lease on the same lands, except that the term of the state lease shall conform to that of the adjoining federal lease, including extended terms, and shall terminate if the federal lease is terminated for any reason. The lease shall provide for annual rental at the rate of $100 a unit of 640 acres or part thereof of the lands included within the federal lease until agreement is reached between the state and the Secretary of the Interior of the United States, or his authorized representative, as to the actual area of the shorelands included in the federal lease, and as to the apportionment between the state and federal government of the rental theretofore paid under the federal lease.

(l) The lease of a record lessee of a federal oil and gas lease who filed, or whose predecessor in interest filed, between July 3, 1958, and January 3, 1959, a proper preference right application under the Act of July 3, 1958, (72 Stat. 322) to have included in the lease the shorelands within the exterior boundaries of the lease and which lease or any part of it has terminated or failed as to the shorelands due to mispayment of or failure to pay the required rental as to the shorelands in advance of the anniversary date of the federal lease, shall be revived and reinstated as to the shorelands upon payment to the Bureau of Land Management of the United States Department of the Interior or to the state of all rental payable as to the shorelands under the lease since January 3, 1959. The rights under this section terminate 60 days after receipt of notice from the director, but not later than March 31, 1961. Nothing herein operates to extend a lease beyond its stated term.

(m) To conserve the natural resources of all or a part of an oil or gas pool, field, or like area, (whether or not the part is then subject to a cooperative or unit plan of development or operation), lessees and their representatives may unite with each other, or jointly or separately with

others, in collectively adopting or operating under a cooperative or a u[illegible] plan of development or operation of the pool, field, or like area, or a part of it, whenever determined and certified by the commissioner to be necessary or advisable in the public interest. The commissioner may, with the consent of the holders of leases involved, establish, alter, change, or revoke drilling, producing, rental minimum royalty, and royalty requirements of the leases and make regulations with reference to the leases, with like consent on the part of the lessees, in connection with the institution and operation of a cooperative or unit plan as he determines necessary or proper to secure the proper protection of the public interest. The commissioner may provide that oil and gas leases issued under this section shall contain a provision requiring the lessee to operate under a reasonable cooperative or unit plan, and he may prescribe a plan under which the lessee shall operate. The plan shall adequately protect all parties in interest, including the state.

(n) A plan authorized by (m) of this section, which includes lands owned by the state, may contain a provision vesting the commissioner, or a person, committee, or state agency with authority to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under the plan. All leases operated under a plan approved or prescribed by the commissioner are excepted in determining holdings or control under § 140 of this chapter. The provisions of this section concerning cooperative or unit plans are in addition to, and do not affect AS 31.05.

(o) Producing acreage on a known geologic structure of a producing oil or gas field is excluded from chargeability as against the acreage limitation provisions of § 140 of this chapter.

(p) When separate tracts cannot be individually developed and operated in conformity with an established well-spacing or development program, a lease, or a portion of a lease, may be pooled with other lands, whether or not owned by the state, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the commissioner to be in the public interest. Operations or production under the agreement shall be considered as operations or production as to each lease committed to the agreement.

(q) The commissioner may, on conditions which he prescribes, approve drilling, or development contracts made by one or more lessees of oil or gas leases, with one or more persons, whenever, in his discretion, the conservation of natural products or the public convenience or necessity requires it or the interests of the state are best served. All leases operated under approved drilling, or development contracts, and interests under them are excepted in determining holding or control under § 140 of this chapter.

(r) To avoid waste or to promote conservation of natural resources, the commissioner may authorize the subsurface storage of oil or gas

whether or not produced from state lands, in lands leased or subject to lease under this section. This authorization may provide for the payment of a storage fee or rental on the stored oil or gas, or, instead of the fee or rental, for a royalty other than that prescribed in the lease when the stored oil or gas is produced in conjunction with oil or gas not previously produced. A lease on which storage is so authorized shall be extended at least for the period of storage and so long thereafter as oil or gas not previously produced is produced in paying quantities.

(s) Each oil or gas lease issued by the state shall contain a provision requiring the lessee to furnish the Department of Labor a quarterly report regarding the employment on the leased property of state residents. The commissioner of labor shall promulgate regulations necessary to carry out the provisions of this subsection. (§ 3(7) art VIII ch 169 SLA 1959; am § 18 ch 61 SLA 1960; am § 1 ch 124 SLA 1962; am §§ 4—7 ch 30 SLA 1964; am § 20 ch 70 SLA 1964; am § 2 ch 91 SLA 1967; am § 1 ch 65 SLA 1969; am § 1 ch 86 SLA 1970)

Revisor's note (1970). — In ch. 86, SLA 1970, subsection (s) of AS 38.05.180 was incorrectly designated (t).

Cross references. — See note to AS 38.05.020. As to establishment of drilling units for pools, see AS 31.05.100. As to gross production tax, see AS 43.55.010.

Purpose of subsection (a). — The provisions of subsection (a) of this section were intended to insure that leases on valuable oil and gas producing state lands will be made available to the public on a fair and equitable basis, that the state will be adequately compensated for its natural resources, and that the state's resources are developed in an orderly fashion. For the commissioner to decide that these purposes are furthered by providing for bidding by cash bonus cannot be said to be unreasonable. Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

And construction thereof. — The only reasonable construction that can be placed on subsection (a) of this section is that the legislature intended to give the commissioner broad authority to determine the kind of bonus he will accept. The legislature at the time it passed subsection (a) was undoubtedly aware that under competitive bidding procedures different forms of bonuses might be offered. It did not itself prescribe a particular form, but instead provided that competitive bidding shall be "under general regulations," and that lands shall be leased upon the payment of "such bonus as may be accepted by the commissioner." The plain language of the statute shows that royalties were to be fixed independently of the acceptance of the highest bonus. Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Power to change law respecting lease extensions is vested in state. — The governmental power to change the law respecting the granting of lease extensions, vested in Congress prior to statehood and preserved by § 6(k) of the Alaska Statehood Act, became vested in the state when the lands subject to the lease were granted to the state as its property. Kirkpatrick v. Commissioner, Dep't of Natural Resources, Sup. Ct. Op. No. 201 (File No. 388), 391 P.2d 7 (1964).

And has been exercised by the Alaska Land Act. — The state has exercised its power to change the law respecting lease extensions by the Alaska Land Act and by regulations adopted under its authority. Kirkpatrick v. Commissioner, Dep't of Natural Resources, Sup. Ct. Op. No. 201 (File No. 388), 391 P.2d 7 (1964).

Subsection (c) has no application to pre-statehood federal leases. — Read in the context of article 6 of this chapter, it becomes apparent that subsection (c) of this section, as to extensions, relates only to leases issued by the state under the authority of the Alaska Land Act, and is not pertinent with respect to pre-statehood federal leases. Kirkpatrick v. Commissioner, Dep't of Natural Resources, Sup. Ct. Op. No. 201 (File No. 388), 391 P.2d 7 (1964).

Subsection (c) of this section, relating to extensions of state oil and gas leases, has no application to federal leases of lands

granted to the state by the Alaska Statehood Act. Hence, appellant had no right to an extension of its federal lease, but only a right, which it was granted under the commissioner's regulations, to a state lease for a period of two years following expiration of the original five-year term of its federal lease. Kirkpatrick v. Commissioner, Dep't of Natural Resources, Sup. Ct. Op. No. 201 (File No. 388), 391 P.2d 7 (1964).

Nor to lands classified by Statehood Act as competitive. — The language of this section is not directed to a situation where lands have been classified as competitive by the Alaska Land Act itself, and where there is no room for the exercise of the commissioner's authority to make classifications. Kirkpatrick v. Commissioner, Dep't of Natural Resources, Sup. Ct. Op. No. 201 (File No. 388), 391 P.2d 7 (1964).

Effect of Alaska Statehood Act and statutes on pre-statehood federal leases. — For effect of the Alaska Statehood Act and statutes enacted by the Alaska State Legislature on oil and gas leases of Alaska lands issued by the United States Department of the Interior while Alaska was a territory of the United States, see Kirkpatrick v. Commissioner, Dep't of Natural Resources, Sup. Ct. Op. No. 201 (File No. 388), 391 P.2d 7 (1964).

Land classification orders of the commissioner are not within the meaning of "regulation" under the Administrative Procedure Act (AS 44.62.180 — 44.62.250) and are thus not subject to it. Bradley v. State, 2 Alas. L.J. No. 6, p. 88 (June-July, 1964).

State's reclassification of lands in the Cook Inlet Basin for competitive oil and gas leasing under subsection (a) of this section upheld in Bradley v. State, 2 Alas. L.J. No. 6, p. 88 (June-July, 1964).

For full treatment and explanation of oil and gas leasing procedures under Alaska law, see Bradley v. State, 2 Alas. L.J. No. 6, p. 88 (June-July, 1964).

"Commercial quantities" construed. — See Pan American Petroleum Corp. v. Shell Oil Co., Sup. Ct. Op. No. 553 (File No. 918), 455 P.2d 12 (1969).

The words "bonus" and "royalty" in their broadest concepts and meanings are conflicting and overlapping. On the other hand, when it is necessary that they be distinguished, there is a narrower concept of the two terms as they are ordinarily and commonly used and understood in the oil and gas industry in which they do not conflict but are harmonious. In this narrower sense, a reservation or a payment of a part or percentage of production under a lease which is to continue throughout the life of the lease is regarded as "royalty," and a sum certain to be paid in cash or out of production is regarded as "bonus." Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

In its broadest sense, "bonus" is any consideration given for a lease over and beyond the usual ⅛th royalty, whether the additional consideration be paid or payable and whether paid in cash or payable out of production. Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

In its broadest aspect, "royalty" is a share of the product or profit reserved by the owner for permitting another to use the property. In this broad sense, a sum certain to be paid out of production, although "bonus" in that it is consideration in addition to the usual ⅛th royalty, would also be "royalty." Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Choosing concept of "bonus" most commonly encountered. — In choosing the concept of "bonus" most commonly encountered in the oil and gas industry, defendants acted neither unreasonably nor arbitrarily. Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Requiring compensation for lease immediately upon award of lease. — It is not unreasonable for the commissioner to determine that it is in the state's best interest to receive compensation for the leases immediately upon the award of the lease, rather than to wait for uncertain sums to arrive in the form of premium royalties. Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Considering only cash portions of bids. — In considering only the cash portion of plaintiffs' 33 bids, defendants acted pursuant to valid regulations which provided that a lease would be awarded to the bidder offering the highest cash bonus. Since other bids on the 33 tracts contained higher cash offerings than plaintiffs' bids, the defendants acted properly in determining that the high cash bids on those 33 tracts were the apparent high bids, not plaintiffs' bids. Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Royalty legislation on state oil and gas leases is a matter within the paramount jurisdiction of the state. The conservation

of oil and gas is a matter within the authority of the states. 1969 Op. Att'y Gen., No. 6.

The royalty provisions of a mineral leasing act are related to conservation of natural resources. 1969 Op. Att'y Gen., No. 6.

The United States, under the 10th amendment to the Constitution of the United States, has no authority to legislate on state royalty provisions and state oil and gas leases. 1969 Op. Att'y Gen., No. 6.

An overriding gross royalty of 2% of all proceeds from any state and federal lands conflicts with the Statehood Act and the province of the Alaska state legislature. 1969 Op. Att'y Gen., No. 6.

A 2% overriding gross royalty cannot apply to a federal lease on public lands within the State of Alaska. 1969 Op. Att'y Gen., No. 6.

A 2% overriding gross royalty cannot apply to a State of Alaska oil and gas lease issued pursuant to this section. 1969 Op. Att'y Gen., No. 6.

Commissioner empowered to grant royalty reduction. — This section empowers the commissioner of the Department of Natural Resources, not the director, division of lands, to grant the specified royalty reduction. Union Oil Co. v. State Dep't of Natural Resources, Sup. Ct. Op. No. 1087 (File No. 2025), 526 P.2d 1357 (1974).

Cited in Shell Oil Co. v. Pan American Petroleum Corp., 5 Alas. L.J. No. 11, p. 230 (Nov., 1967).

ALR reference. — Validity of compulsory pooling or unitization statute or ordinance requiring owners or lessees of oil and gas lands to develop their holdings as a single drilling unit and the like, 37 ALR2d 434.

Sec. 38.05.181. Geothermal resources. (a) *Purpose.* The legislature finds and declares that

(1) the people of Alaska have an interest in the development of the state's geothermal resources potential for

(A) use in the generation of electrical power that may reduce the state's dependence on fossil fuel power plants that seriously pollute the atmosphere in a number of areas;

(B) the production of geothermal steam that may provide central heat for urban areas close to geothermal areas;

(C) the production of valuable minerals and other byproducts associated with geothermal steam and accompanying brines; and

(D) the distillation of fresh water;

(2) the state, through the Department of Natural Resources and its division of lands, should exercise its authority to encourage the exploration for, discovery and production of, geothermal resources in the public interest to

(A) encourage maximum economic recovery of this potentially important natural resource and prevent its waste;

(B) ensure that the exploration for, and production of, geothermal resources, and the disposal of wastes from them, are carried on in a way that will safeguard life, health, property, public welfare and the environment; and

(C) preserve the state's natural, scenic values especially in those areas where geothermal resources are or may be found; although the need to develop new sources of energy rapidly is becoming urgent, every effort also must be made to protect those hot springs and geysers that are among nature's scenic wonders.

HB

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A Note on

PROPOSED CHANGES IN ALASKA'S OIL PRODUCTION TAX

W. J. Levy Consultants Corp.
New York, N.Y.
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AGO 547695

A Note on

PROPOSED CHANGES IN ALASKA'S OIL PRODUCTION TAX

1. In this Report for the Alaskan Legislature, we review changes in Alaska's oil production tax recommended by the Department of Revenue and incorporated in Senate Bill No. 532 and House Bill No. 878.

2. In 1977, Alaska's production tax was amended to eliminate automatic escalation in cents-per-barrel tax rates.* At the same time, the amended law provided for annual review of cents-per-barrel and cents-per-MCF tax rates by the Department of Revenue, with a written report and recommendations for changes to be submitted to the Governor. The Governor, then, submits the proposed changes to the Legislature.

3. The Department of Revenue's Report for 1978 recommended (and SB532/HB878 incorporate) the following changes --

> An increase in the cents-per-barrel tax rate for other-than-old crude oil from 80 to 96.8 cents, which corresponds to raising the floor price (i.e., the price below which the cents-per-barrel rather than the percent-of-value tax applies) from $6.53 to $7.90 per barrel;
>
> An increase in the cents-per-barrel tax rate on old crude oil from 60 to 63.4 cents per barrel, raising the floor price from $4.90 to $5.18 per barrel; and

* Prior to this change, cents-per-barrel tax rates had increased or decreased with percentage changes in the Wholesale Price Index for crude petroleum published by the Bureau of Labor Statistics of the U.S. Department of Labor.

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Re-introduction of automatic escalation in cents-per-barrel tax rates, tying rates to percentage changes in the Gross National Product Deflator published by the Bureau of Economic Analysis of the U. S. Department of Commerce. *

4. In reviewing these proposed changes in the oil production tax rates, the Legislature will want to consider carefully two things. First, the reasoning behind the Department of Revenue's recommendations, as set out in the Department's report to the Governor. ** Second, that any changes in production taxes be reviewed in conjunction with proposed changes in other taxes that the State assesses on the oil and gas industry, notably the corporate income tax.

The Floor Price
for Prudhoe Bay Crude

5. The Department of Revenue report finds that the current floor price (and thus also the cents-per-barrel tax rate) is "inadequate." The Department calculates that the "market value" of Prudhoe Bay oil on the North Slope is significantly above the prices being reported by the companies for severance tax (or royalty) purposes. Furthermore, the floor price, which is designed to protect the State's severance tax revenues in the event that prices reported by companies are artifically depressed, is also below the computed market value. The conclusion: the floor price is too low to do its intended job of protecting revenues. The recommendation: raise the floor price for other-than-old oil to the level calculated by the Department as the market value ($7.90) of Prudhoe Bay crude on the North Slope.

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* Changes in tax rates would be based on changes in the Deflator from the First Quarter of 1978.

** Recommended Changes in Alaska's Oil and Gas Production Tax Rates for 1978, a Report to Governor Jay S. Hammond by the Alaskan Department of Revenue.

6. Our firm has always regarded increasing the severance tax as the ultimate recourse for the State in the event that wellhead values are artifically depressed by the actions of tax-paying companies. The question the Legislature must consider now is whether the current circumstances of wellhead pricing warrant taking such a major step at the present time in the light of available evidence. This can best be judged by looking, as the Department has, at the various elements that enter into Prudhoe Bay oil prices -- i.e., pipeline tariff rates, tanker charges, and prices in markets to which the oil moves.

TAPS Tariff

7. The major factor serving to lower wellhead values below earlier expectations is the high level of TAPS pipeline tariffs filed by the companies with the ICC (now FERC) and used by the companies in their netback calculations. These tariff rates average out to some $6.20 per barrel.* In contrast, the interim tariffs allowed by the ICC average some $4.83 per barrel, or $1.37 per barrel less. The State of Alaska, in its protest to the ICC, set out tariff rates that averaged around $3.96. FERC is now in the process of conducting an investigation (with Alaska Pipeline Commission participating) into TAPS rates in order to establish lawful permanent tariffs. Pending the final outcome, the Courts have allowed the companies to continue to charge their initial filed tariffs.

8. Thus, the question of what are reasonable interstate tariff rates for TAPS is being reviewed and will eventually be resolved by the appropriate regulatory body. Whatever rates are eventually approved by the FERC will be those actually charged for transportation of the bulk of oil moved via TAPS and will thus bear on the value of oil on the North Slope. These rates would be appropriate to the calculation of oil values for severance tax and royalty purposes.

* A weighted average calculated by the Department of Revenue based upon pipeline ownership.

9. If finally approved TAPS rates are below the initially filed company rates -- and lower ICC interim rates would certainly point in this direction -- the effect would be to raise North Slope values and severance taxes to which the State was entitled. The State would obviously want to take whatever steps are necessary to ensure that it is in a position to collect back taxes in the event that this were to happen. Assuming that the State does have this protection, it would seem inappropriate for the State now to raise the floor price for production tax purposes to reflect what the State judges will be the (lower) tariff finally approved. This puts the State in the position of prejudging a complicated issue which is being subject to extensive hearings, later careful regulatory consideration, and probably also eventually review in the Courts.*

Tanker Charges

10. The Department of Revenue's report also takes issue with the tanker charges being submitted by the companies. The Department points out that the reported charges (e.g., $.81-$1.08 to the West Coast) are substantially above what had been estimated by many third-party observers and by company spokesmen themselves earlier on. In contrast to pipeline tariff rates, tanker charges are not regulated. Thus, the State will not have regulated rates to provide guidelines.

11. In the circumstances, we certainly feel that Legislative inquiry into the question of tanker charges is warranted, in course of hearings on the proposed changes in Alaska's production (severance) tax. Many factors affect tanker costs -- e.g., tanker size, timing of charters, bunker costs,

* Note that the proposed increase in floor price from $6.53 to $7.90 (+$1.37) is the same as the difference between average ICC interim ($4.83) and company posted tariffs ($6.20). Thus, although other aspects of wellhead valuation are at issue, the pipeline tariff is pivotal.

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safety and environmental standards, etc. Thus, ocean transportation costs may have increased substantially since earlier estimates were made. However, the companies transporting North Slope crude via tanker should explain how they arrive at the charges they are reporting to the State. With a better understanding of the factors underlying those charges, the State should be in a better position to judge their reasonableness for purposes of valuation.

12. The State might also want to consider the possibility of establishing some norm for transportation rates at which North Slope crude could be moved in substantial and continuous volume to major markets -- rather than continuously monitoring charges for each and every company's transportation. This rate would presumably be one which a company could match on the basis of prudent transportation commitments. Companies who are particularly astute in their tanker operations could hope to do better -- and would benefit therefrom by not having North Slope oil values and thus production taxes raised by their lower-than-average tanker costs. Other companies who make less astute business decisions on tanker coverage would have to bear the consequence without the State picking up part of higher-than-average costs through lower severance taxes.

13. In this connection, we note that the average transportation cost of oil moving in international trade in foreign flag tankers has been calculated since 1954 by an independent London Tanker Brokers' Panel. Their estimates, Average Freight Rate Assessment (AFRA), are widely used as proxy for companies' actual transportation costs both in commercial contracts where delivered prices require a freight component and in c.i.f. values for Government administration and tax purposes. Some such approach might be considered for tanker movements of North Slope crude. This could avoid potential conflicts over tanker charges. In the event, companies would be completely free to make their own decisions as to how they cover their tonnage requirements, but tanker charges for purposes of wellhead valuation would reflect objective criteria as to ocean transportation costs.

Market Prices

14. The Department has also questioned the companies' data on market prices received for oil, particularly on the West Coast. The Department calculates a value for North Slope oil at a refinery destination in Los Angeles. This estimate of $13.44 is based on the Official Government Selling Price for Saudi Arabian Medium (31°) crude f.o.b. plus LR2 (80,000-159,999 dwt.) AFRA tanker transportation. It finds this estimate to be at the upper end of the range of West Coast market prices reported by the companies ($13.16-$13.44).

15. The problem, here, is that there are many factors that bear on market prices and it is difficult to come up with a precise objective estimate. First, there are questions of crude quality. The Department's estimate of refinery value, for example, is based on a 31° Saudi crude, when North Slope crude is in fact around 27°. If Saudi Heavy crude (27°) were used, the Department's estimate would have been $13.14 -- or below the low end of the companies' range. On the other hand, Saudi Heavy crude (as also Saudi Medium crude) contains substantially more sulphur than North Slope crude, which enhances the value of North Slope relative to these crudes.* Furthermore, the relative value of various crude qualities varies from refiner to refiner, depending on his processing facilities, market requirements, etc. At least as important, there are other aspects to crude sales than selling price that also affect the value to the buyer and seller -- e.g., credit terms, obligations for the seller to offtake crude from the buyer,** etc.

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* As against 1-percent sulphur for North Slope, Saudi Heavy is 2.8 percent and Medium 2.4 percent.

** The major third-party purchaser of North Slope crude is Socal for its Los Angeles and San Francisco refineries. Press reports indicate that at least some of Socal's contractual purchases of North Slope crude involve commitments by sellers to lift Middle East crude that Socal would have otherwise processed on the West Coast. Sellers of North Slope crudes are reportedly moving this Middle East crude to East-of-Rockies refineries.

AGO 547701

16. The State will obviously want to continue to monitor whatever relevant information it can obtain on sales prices for North Slope oil. However, given the range of difficulties in assessing an appropriate market price, the selling prices reported by the companies, in our judgment, do not look to be obviously out of line.

17. Finally, we note that companies have calculated severance tax values by netting back from the markets to which North Slope oil actually moves. Owing to much higher transport costs, netbacks from Gulf Coast shipments are obviously significantly lower than from the West Coast. The Department of Revenue, in its assessment of a market price netback for a severance tax floor price, has used only the West Coast as a reference point. On this basis, companies forced to ship North Slope crude to the Gulf Coast would have to pay a severance tax based on a higher netback calculated by the Department for the West Coast rather than actual netback from the market to which their crude moves.

18. In a report we prepared for the Legislature in 1970 on valuation of Alaskan crude oil,* we took the position that limited volume shipments of Alaskan crude to distant markets, which may reflect individual company economics, would not normally bear on the valuation of Alaskan crude. Valuation should be based on market prices in refining centers "where there is a substantial and continuous movement of Alaskan oil by the industry in general." At present, substantial volumes of North Slope crude move to the Gulf Coast; when production reaches 1.2 million barrels daily, approximately two fifths (500,000 barrels daily) is likely to be moving to the Gulf Coast. In these circumstances, it is not inappropriate that the value of Alaskan crude on the North Slope takes into account the fact that a substantial portion of production cannot realize the higher netback values obtainable on the West Coast, owing to limitations on the absorptive capacity of West Coast refineries for North Slope crude.

* Economic Considerations Bearing on Valuation of Alaskan Crude Oil and State Policy on Pipelines, December, 1970.

AGO 547702

Cents-per-Barrel Escalation

19. In addition to raising floor prices, the Department has also recommended re-introduction of automatic escalation in floor prices with an index of inflation. Escalation with the GNP deflator would almost inevitably result in progressive increases in severance taxes where cents-per-barrel and not percent-of-value is the operative tax.

20. Last year's severance tax revision was presumably designed to establish schedules of severance taxation appropriate to the producing circumstances of Alaska and with regard also to rates of severance taxation in other producing states. No doubt wellhead values and hence severance tax revenues have worked out below expectations; and we discussed above whether an increase in floor prices ought now to be considered as offset to protect Alaska's interests.

21. Escalation of floor prices with inflation, however, could have the effect of increasing producing companies' effective severance tax rates without regard to wellhead values. We have noted in the past that previous escalation with the Wholesale Price Index for crude petroleum imposed a progressively increasing severance tax burden on Cook Inlet producers whose old oil prices were held down by Federal price ceilings whilst average crude prices and hence their cents-per-barrel tax moved upward. The adverse effect (i.e., rising cents-per-barrel severance taxes relative to wellhead values) could be even more incongruous when escalation is triggered by a GNP deflator that reflects price behavior for the U.S. economy as a whole.

22. To the extent that crude oil prices advance in the future -- notably foreign oil prices into Alaska's Lower 48 markets, but also domestic oil prices that directly or indirectly affect the competitive evaluation of North Slope crude -- that would tend to raise wellhead values and severance tax revenues. Similarly, changes in transportation charges would be reflected in wellhead values and severance tax revenues. And to the extent that percent-of-wellhead value is the operative severance tax, there is a meaningful relationship between severance tax liability and production values.

23. Cents-per-barrel may be a necessary floor for protection of Alaska's interests in appropriate circumstances. Escalation of cents-per-barrel would not seem to be an appropriate device to raise severance taxes or severance tax income. If that is at issue, the Legislature could more cogently address the question whether established percents-of-value ought to be raised.

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March 23, 1978

The Honorable Alvin Osterback
Chairman
House Resources Committee
Alaska State Legislature
Pouch V - State Capitol
Juneau, AK 99811

Dear Alvin:

Enclosed please find our Notes on Proposed Changes in Alaska's Oil Production Tax. Again, I am sorry that we were unable to testify before your House Resources Committee on this matter last week, but I expect that you may want to have actual testimony and an opportunity for your Committee members to ask questions on the occasion of our next visit.

I am taking this opportunity to make our Notes available to other interested persons as indicated below.

Cordially,

Milton Lipton
Executive Vice President

/pt
enclosure

Distribution to:
The Hon. John Rader
The Hon. Hugh Malone
The Hon. Kay Poland
The Hon. John Sackett
The Hon. Steve Cowper
Mr. Jack Doyle
Mr. Gregg Erickson
Mr. John Messenger

AGO 547705

TO: CHAIRMAN, HOUSE RESOURCES COMMITTEE
AND ALL COMMITTEE MEMBERS

FROM: SUB-COMMITTEE ON OIL & GAS

During the week of march 21 - 26 the Joint Senate and House Resources Committees met to hear testimony relating to the various oil and gas taxation bills currently before us. Some of the bills under discussion, have not been refered to this committee.

Of the ones that have been, the Sub-committee on Oil and Gas recommends that H.B. 321, H.B. 322, C.S.H.B. 323, H.B. 328, and S.B. 274 be brought to the full committee's attention for consideration and that they be acted upon and passed out of committee no later than April 7.

Each of these bills have a further referal tc House Finance and the Finance Committee has scheduled hearings and work sessions on these bills beginning early next week. Representatives from the oil companies and several nationally recognized economists will be present. We urge all members, who are able, to attend.

RECOMMENDED BILLS

H.B. 321 - SEVERENCE TAX

This tax, in our opinion, rates highest in priorities. It's timeliness is dependant upon the actions undertaken by the Federal Energy Administration in setting a recommended "well head" price by April 15, 1977, and further by actions later taken by the I.C.C. in recommending the transportation cost of North Slope crude. For other features of the bill, we refer the committee's attention to the Governor's transmittal letter for H.B. 321, included with this report.

H.B. 322 - ALASKA NET INCOME TAX OR FRANCHISE TAX

This tax bill, in our opinion, has several advantages over our present income tax collection system. It is easy to administer, is based upon the amount earned within the state, including OCS development, and would provide the State and the industry with a stable taxation policy for years to come. For other features, we refer you to the Governor's transmittal letter for H.B. 322, included in this report.

AGO 547706

H.B. 323 - PROPERTIES AD VALOREM TAX

This tax bill, our opinion, is premature. It would increase the scope of taxable property to include refining, liquefaction, and marine transportation. We believe that it would act as a "disincentive", at this time, for future development within our state, and of all the tax bills before us, meet with the most resistence. Accordingly, we have asked the Department of Revenue to place before this committee, a committee substitute for H.B. 323 which would reduce the bill to a "house-keeping" measure. This has been done and is before the committee for consideration.

H.B. 328 - RESERVE TAX

This tax bill amends the reserves tax bill to allow a credit reduction of tax levied 12 [20] if the oil flow through the Trans-Alaska Pipeline by October 1, 1977 has reached at least 600,000 barrels of oil on a daily average. Otherwise, the bill extends the reserve tax beyond the December 31, 1977 effective date of the original act. We urge its passage.

S.B. 274 - THE TAKING OF OIL AND GAS ROYALITY IN KIND

This bill requires that royality oil and gas be taken "in kind" rather than in money unless deemed otherwise by the commissioner, the Alaska Royality Oil and Gas Development Advisory Board, and the the Legislature. As an encouragement for future development within our state, we urge the passage of this bill.

AGO 547707

CONCLUSION:

The Sub-committee bleieves that the passage of these tax proposals, taken in conjunction with the desire to have the Alaskan Permanent Fund replace the eventual and inevitable passage of our nonrenewable resources, will produce a desired benefit for the State of Alaska. We further believe that they <u>will not</u> act as a disincentive for the oil industry and that their passage will ensure Alaska's "fair share" in the wealth of our state. Regarding this aspect, we urge committee members to read the Tanzer Report, "IMPACT OF INCREASED TAXATION ON OIL EXPLORATION AND DEVELOPMENT IN ALASKA", submitted to all members of the Alaskan State Legislature on March 25, 1977.

We have asked that Mr. John Messenger from the Department of Revenue be present to assist committee members in answering their questions and would, as this time, like to highly commend the staff of Senate and House Resources for providing the back-up material needed for the committee's deliberations.

Rep. Merle G. Snider
Rep. Hugh Malone
Rep. William Akers.

AGO 547708

HOUSE BILL NO. 321 by the Rules Committee by request of the Governor, entitled: HB 321

"An Act relating to the oil and gas properties production tax; and providing for an effective date."

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

The Governor's transmittal letters appear following the bill to which it pertains: fiscal notes appear in House Supplemant No. 31 to today's journal.

"March 8, 1977

HB 321

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill relating to the oil and gas properties production tax.

As a result of a recent study of Alaska's oil and gas tax structure, the Department of Revenue has recommended several changes in the state's production or "severance" tax. This bill incorporates those specific recommendations.

Currently the state's oil production tax is calculated according to "stair stepped" rates depending upon the level of production for the lease or property. As currently structured the tax may have an adverse impact upon a particular property as it reaches its economic limit. The "stair step" approach may not alleviate this adverse effect since the economic limit may vary substantially from one part of the state to another. This is because it may be more costly to produce and transport the oil in the more remote areas of the state. Accordingly, the bill contains an economic limit mechanism which automatically scales the tax rate down as the production nears its economic limit. This will insure that the tax will not unduly inhibit oil production as it reaches its economic limit.

One of the immediate dangers which face the state's revenue picture is the potential for artificially depressed pricing of the state's North Slope oil. This could result from federal pricing decisions or excessive tariff costs from the wellhead to the refinery. To insulate the state's petroleum revenues from these forces, the bill provides for a mechanism which would raise the cents-per-barrel floor to correspond to a mid-range market value for North Slope oil and tie that floor to an index which will let the floor keep pace with inflation.

One of the Department of Revenue's recommendations -- the oil and gas surtax -- which was designed to offset revenue losses due to depressed pricing of North Slope oil and which was to be imposed only on holders of state-owned leaseholds was deleted on the advice of this department because of the substantial legal problems involved.

The bill places the tax on gas at a parity with the tax on oil. Currently gas is taxed at only 4 percent while oil is taxed from 5 to 8 percent. The bill would tax both oil and gas at 10 percent. In addition, the bill sets a cents-per-Mcf floor for the gas tax similar to the cents-per-barrel floor for oil. This new floor for gas corresponds to the highest market price in the state, and it too is tied to an index to keep pace with inflation.

Sincerely,

Jay S. Hammond
Governor "

AGO 547709

HOUSE BILL NO. 322 by the Rules Committee by request of the Governor, entitled: H3 322

"An Act establishing an oil and gas corporate franchise tax; and providing for an effective date."

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

"March 8, 1977

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.50.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill establishing an oil and gas corporate franchise tax.

The Department of Revenue, in its oil and gas tax study, found two basic deficiencies with the corporate income tax as it relates to oil and gas corporations. This bill would correct those deficiencies.

HB 322

The first problem is the eroded federal tax base. The department found that the federal corporate tax base which Alaska has adopted has been substantially eroded by special exemptions, deductions, credits and other accounting devices. The result has been that oil and gas corporations pay an effective tax rate much smaller than the statutory 48 percent. Accordingly, the bill would enact a separate franchise tax on a corporation's "book income." "Book income" is the net income which the corporation reports to its stockholders. This would eliminate all the special Congressional tax provisions.

In addition, the department found that the present apportionment formula does not fully represent the oil and gas corporate activity in the state. The present formula of property, payroll, and sales generally measures corporate business activity in the state. For natural resource companies, however, it does not. No reflection in the present formula is made for the scarcity value of the oil and gas produced. Accordingly, the bill will substitute for the present sales factor an extraction factor which will give weight specifically to oil and gas production activity.

One of the advantages of this franchise tax is that it will take into account elements of property, payroll, and extraction located on the Outer Continental Shelf which causes a resulting impact on the adjoining state. Thus property, payroll, and extraction not located in any state but which are located off the shores of an adjoining state which is impacted by the oil and gas production activity will be allocated to that state suffering the impact. Although this latter provision may raise some constitutional law questions, we believe that the proposal comes within the limits of the state's taxing powers given the impact on the coastal communities of our state of these OCS activities.

Sincerely,

Jay S. Hammond
Governor"

AGO 547710

HOUSE BILL NO. 328 by the Rules Committee by request of the Governor, entitled: HB 328

"An Act amending the oil and gas reserves ad valorem tax; and providing for an effective date."

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

" March 9, 1977

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.50.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill amending the oil and gas reserves ad valorem tax.

Section 1 of this bill proposes that the reserve tax levy be reduced from 20 mills to 12 mills this year with the condition that an additional levy will be made if there is a delay in the start-up of the Trans-Alaska Pipeline.

This amendment is proposed because the state has a budget surplus for FY 1977. This surplus is somewhat illusory, however, since the reserve tax payments may be recouped by oil and gas producers by credits against future severance tax. Accordingly, the adoption of this measure would reduce the surplus for 1977 and also reduce the amount "borrowed" from future revenues.

Section 2 provides for a contingent 1979 assessment at a rate to be determined by that year's legislature.

Sincerely,

Jay S. Hammond
Governor"

AGO 547711

HOUSE BILL NO. 323 by the Rules Committee by request of the Governor, entitled:

"An Act relating to the oil and gas exploration, production, and pipeline and marine transportation property tax; and providing for an effective date"

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

"March 8, 1977

HB 323

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.050(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill relating to the oil and gas exploration, production, and pipeline and marine transportation property tax.

The Department of Revenue has recently completed its study of Alaska's oil and gas tax structure and has made several recommendations. One set of recommendations dealt with the state's 20-mill property tax imposed by AS 43.56. This bill would implement that set of recommendations.

The bill corrects four problem areas in the current property tax: the omission of certain important kinds of oil-and-gas-related properties from the definition of taxable property; present uncertainty about how pipelines should be valued; the static nature of the $1500 per-capita limitation on municipal taxation, and the extent to which municipal property tax payments should be allowed as credits against the state tax. The bill's features are described below:

Section 1 of the bill makes clear that taxes paid to municipalities which exceed the statutory limitations in AS 29.53.045 and 29.53.050 are not creditable against the state tax.

Section 3 of the bill removes the current uncertainty on pipeline valuation by ensuring that pipelines will be valued on the basis of their full and true value with due regard to their economic value. This will eliminate the possibility of pipelines being valued under the depressed valuation method of actual cost depreciated.

Section 4 of the bill defines full and true value of property used in refining or liquefying of gas or oil as replacement cost less depreciation. It also defines the value of taxable marine transportation property.

Section 7 adds new categories of taxable property including oil refineries, gas processing plants and liquefied natural gas facilities. This will mean greater revenues to the state from these important oil and gas properties.

Section 8 and 9 of the bill tie the $1500 per capita municipal limitation to the Anchorage cost-of-living index in order that the limitation would increase over time as inflation raises the cost to municipalities of providing services to its residents.

HB 323

In addition, Sections 2, 4, 5, 6, and 7 are aimed at amending the relevant provisions of AS 43.56 to provide for the taxation of marine transportation property (i.e. tankers) on an apportioned basis determined by the number of days spent on ports loading and unloading gas and unrefined oil divided by the total number of days-spent-in-ports everywhere. Although these provisions raise close and difficult questions of constitutional law regarding the ability of the state and municipalities to impose an ad valorem property tax on such vessels in light of the traditional application of the "home port" doctrine, it is the view of the Department of Law that these vessels have sufficent nexus with the state to bring them within the constitutional parameters of the state's taxing power.

Sincerely,

Jay S. Hammond
Governor"

AGO 547712

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
HB 878	3/17/78	Alaska Oil & Gas Association	3/21 & 3/23
	3/20	Dept. of Revenue	" "
	"	North t Alaska Pipeline Co.	" "
	"	Royalty Oil & Gas Advisory Bd.	" "
	3/17	Keith Specking	" "
	"	Geoff Haynes	" "

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

March 22, 1978

MEMORANDUM

SUBJECT: Revenue Effects of HB 878

TO: The Honorable Al Osterback, Chairman
House Resources Committee

The Honorable Hugh Malone

FROM: Richard G. Haggart
Research Analyst

This memorandum is in response to your request that we prepare an analysis of the longer-term revenue impacts associated with HB 878. Tables I and II attached detail the revenue impacts of this legislation at varying inflation rates through 1990 for both Prudhoe Bay and Cook Inlet.

As can be seen from the tables, the major effect of the legislation would be felt in terms of Prudhoe Bay oil. The increase in the floor price alone (without accounting for inflation increases in the floor price as specified in the bill) would increase state revenues by approximately $750 million through 1990. Since the floor price would escalate at the same rate as the Gross National Product Deflator (a general measure of inflation within the U.S. economy), actual revenue increases over present law would be substantially greater. Based on an assumed annual inflation rate of between 4% and 6%, HB 878 would generate between $1.5 billion and $2.2 billion more in additional severance tax revenues through 1990 than would the current law (after deducting approximately $386 million in remaining Early Development Incentive Credits held by Prudhoe Bay oil producers). Under the same assumptions, revenues from Cook Inlet production would increase between $19.9 and $29.7 million over the same period.

If you have any further questions regarding this legislation or its associated effects we will be happy to answer them.

RGH:dh
Attachment

AGO 547716

TABLE I PRUDHOE BAY REVENUE EFFECTS UNDER HOUSE BILL 878[1]
($ Million)

Fiscal Year	(no floor price inflation)	Floor Price no inflation	Floor Price 4% inflation	Floor Price 6% inflation	Floor Price 8% inflation
1978[2]	$ 70.9	$ 86.2	$ 86.2	$ 86.2	$ 86.2
1979	276.0	334.9	348.4	355.1	361.8
1980	349.4	423.8	458.6	476.5	494.8
1981	348.3	422.4	475.6	503.8	533.0
1982	368.4	446.8	523.3	565.0	609.1
1983	369.5	448.1	545.9	600.8	660.0
1984	390.0	472.9	599.4	672.4	752.7
1985	379.3	460.0	606.5	693.5	791.0
1986	350.7	425.4	583.4	680.0	790.2
1987	276.7	335.7	478.9	568.9	673.6
1988	207.1	251.3	372.9	451.6	544.8
1989	146.5	177.9	274.6	338.9	416.6
1990	98.0	119.1	191.3	240.6	301.4
TOTALS:	$3,475	$4,220	$5,357	$6,047	$6,827

[1] Figures in Table I are not adjusted to reflect the EDIC.

[2] 1978 estimate includes only last six months of fiscal year.

Prepared by:
Legislative Affairs Agency
Research Division
22 March 1978

AGO 5471I7

TABLE II COOK INLET REVENUE EFFECTS UNDER HOUSE BILL 878[1]
($ Million)

Fiscal Year	(no floor price inflation)	Floor Price no inflation	Floor Price 4% inflation	Floor Price 6% inflation	Floor Price 8% inflation
1978[2]	$ 8.0	$ 8.4	$ 8.4	$ 8.4	$ 8.4
1979	13.3	13.9	14.4	14.7	14.9
1980	11.1	11.6	12.5	12.9	13.3
1981	9.3	9.7	10.8	11.4	12.1
1982	7.8	8.2	9.5	10.2	10.9
1983	6.7	7.1	8.5	9.4	10.2
1984	5.9	6.3	7.8	8.7	9.7
1985	5.2	5.5	7.2	8.1	9.2
1986	4.5	4.8	6.4	7.4	8.6
1987	4.0	4.2	5.8	6.9	8.1
1988	3.4	3.6	5.3	6.3	7.6
1989	2.9	3.0	4.6	5.6	6.9
1990	2.5	2.6	4.1	5.1	6.3
TOTALS:	$68.6	$72.1	$88.5	$98.3	$109.4

[1] Figures in Table II are not adjusted to reflect the EDIC.

[2] 1978 estimate includes only last six months of fiscal year.

Prepared by:
Legislative Affairs Agency
Research Division
22 March 1978

AGO 5477 18

Mr. Chairman and members of the House Resources Committee:

I want to thank you for the opportunity to testify today on HB 878. HG 878 represents in bill form the Department of Revenue's recommendations for changes in the state's cents-per-barrel tax rates under the production tax statute. These recommendations and our reasons are contained in a recent repor to Governor Hammond.

The bottom line of our recommendation is that the cents-per-barrel floor needs to be adjusted upwards to prevent further erosion of the state's production tax revenues which have resulted from spiralling transportation charges.

As you know our production tax is an alternative tax. A producer of new oil like that produced at Prudhoe Bay pays either 12.25 percent of the wellhead value or .80 per barrel of the oil produced, whichever is greater. The cents-per-barrel tax acts as a floor since if the wellhead value falls below a certain level the cents-per-barrel becomes applicable and the producer pays the certain enumerated cents-per-barrel regardless how far the well head value declines.

As I mentioned the present cents-per-barrel rate for all oil other than old oil is set at .80 per barrel and establishes an effective production tax floor of $6.53. That is, 12.25 percent of $6.53 is 80 cents. At wellhead values above

$6.53, 12.25 percent of that value equals a greater tax per barrel than .80 and at well head values below $6.53, 12.25 percent of the well head value gives a tax amount less than .80.

It is our position that a floor of $6.53 is not sufficient to protect the revenues of the state since the true value of our oil is much higher than that assuming fair and reasonable transportation charges.

Last year we recommended a cents-per-barrel floor of $7.50. We considered this a conservative mid-range estimate of a Prudhoe Bay wellhead value assuming no puffed tariffs or other corporate manipulations.

The oil industry did not dispute this figure of $7.50. In fact their public statements showed likely wellhead values ranging from $7.00 to $8.00. For example, the public statements of the industry last year are summarized in our report.

Third party estimates of likely wellhead values also fell in the $7.00 to $8.00 range and are summarized in our report.

Unfortunately for Alaska, when the oil industry filed its production tax and royalty returns a few months later when Prudhoe Bay production began in June, they reported wellhead values $1.00 to $3.00 below their public statements.

This reduction in the wellhead values - below what the industry stated - below what third parties stated - and below what the department stated - can be directly traced to the claimed transportation costs of the companies. These transportation costs we believe are both inflated and unreasonable.

For example, during the month of June the TAPS owners filed unprecedented tariffs in the range of $6.04 to $6.44, in some cases over a dollar more than the companies stated only three to four months earlier. These tariffs were subsequently protested as unreasonable by the United States Justice Department, the State of Alaska, the Arctic Slope Native Corporation and the Interstate Commerce Commission staff. The matter is now pending in court litigation and administrative adjudication.

Another example is the claimed tanker transportation costs. These costs have ranged from 81 cents to a $1.08 to the West Coast and $3.61 to the Gulf Coast. These reported charges are also substantially above what the companies stated earlier in the year. Unlike pipeline tariffs, however, which are now regulated by the Federal Energy Regulatory Commission, these tanker charges are not regulated by any public regulatory agency. Instead the transportation costs are set by negotiation between the shipper and the tanker company which in some cases may actually be between affiliated companies.

These inflated pipeline tariffs and tanker charges have reduced Alaska's wellhead values substantially and resulted in Alaska royalty and production tax revenues to plummet.

Again we are not talking about a difference of a few cents in the wellhead value and a loss of a few million dollars, but a difference of dollars in the wellhead value resulting in a loss of hundreds of millions of dollars.

Just to show how bad the situation has gotten, Shoio has managed to reduce the wellhead value for the oil which it is transporting to the Gulf Coast, to $2.87. This is from $2.00 to $3.00 below what it publically stated would be the case only three months prior to production.

For example in February of last year the Department estimated gross royalty revenues in FY 79 of $520 million. In January of this year after the companies had reported their first few months of wellhead values, our estimates of gross royalty revenues for FY 79 had dropped to $358 million. And in a continual spiral downward this month we are now projecting gross royalty revenues in FY 79 of $300 million. It also should be noted that it is not only the state's general fund that is affected by these reduced wellhead values, but the permanent fund and the payments into the Alaska Native Fund have been reduced substantially as well

since 16 percent of the state's royalty revenues are paid to the Native Fund and 25 percent are paid into the permanent fund.

Although the legislature cannot now correct the royalty reduction since they are set by prior statute and leases, the legislature does have the power to prevent further erosion of the state's production tax revenues by adjusting the cents-per-barrel floor.

We recommend putting a stop to the further decline of our production tax revenues by setting the cents-per-barrel floor at its true market value of $7.90 and escalating that amount over time based upon inflation.

We have arrived at that figure in two different ways. First of all, we have taken comparable market refinery prices on the West Coast and subtracted reasonable transportation costs (determined from third party sources) to arrive at an objective market wellhead value of $7.91.

A second way of looking at it is to take last year's estimate of wellhead value which was consistent with the public statements of the oil companies and numerous consulting firms and add to that figure the changes in inflation or oil prices since that time. As such $7.50 plus 5.7 percent inflation as measured by the G.N.P. deflator would yield a value of $7.93.

This action would bring our severance tax revenues back into line with what they should be absent inflated transportation charges. For example in FY 79 it would protect an additional $32 million in net production tax revenues over what we are now projecting under present law.

I ask for your favorable consideration of this important piece of legislation.

AGO 547724

Introduced: 3/9/78
Referred: Resources and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 878

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to oil and gas taxes; and providing for an effective date."

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

* Section 1. AS 43.55.011(c) is amended to read:

(c) The cents-per-barrel amount equals $0.634 [$0.60] per barrel of taxable old crude oil produced from the lease or property, and $0.968 [$0.80] per barrel for all other taxable oil produced from the lease or property, both as adjusted by sec. 12 of this chapter.

* Sec. 2. AS 43.55.012(a) is repealed and re-enacted to read:

(a) The amounts set out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or decreased by a percentage equal to the percentage of change in the Gross National Product Deflator published by the Bureau of Economic Analysis of the United States Department of Commerce, using 1972 as the base period for the deflator (1972 = 100). Changes in tax rates will be computed based on changes in the Gross National Product Deflator from the First Quarter 1978 Gross National Product Deflator. The department shall post the changes in the tax rates periodically and shall send notice of the changes to every person producing oil within the state.

* Sec. 3. AS 43.55.016(c) is amended to read:

(c) The cents-per-Mcf amount equals $0.068 [$0.064] per thousand cubic feet of taxable gas produced from the lease or property as adjusted by sec. 12 of this chapter.

* Sec. 4. This Act is retroactive to include production occurring

AGO 547725

at any time after December 31, 1977.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.070(c).

AGO 547726

#6878

ALASKAN TESTIMONY - JOE T. McMILLAN

MARINE TRANSPORTATION COSTS FOR NORTH SLOPE CRUDE

My name is Joe T. McMillan. I am General Manager of the Supply Department for Exxon USA. We appreciate the opportunity to appear today and discuss the marine transportation costs associated with moving North Slope crude to the West Coast. The basis Exxon is using in determining these costs is market-oriented and is consistent with the requirements of the severance tax statutes.

The payment of severance taxes requires the determination of a value for Prudhoe Bay crude at the inlet to the Trans Alaska Pipeline (TAPS). Since the crude must compete with other alternative crudes that can be delivered to a refiner, our prices for North Slope crude on the West Coast are based on market factors, primarily the landed cost of foreign crude imports adjusted for quality. The various increments of cost for moving the Prudhoe Bay crude from the North Slope to the refiner are deducted from the West Coast price of the crude to determine the TAPS inlet value.

In the attachment, I have shown how we determined the value for the crude that was produced in December 1977 and moved to the West Coast. The marine costs reported to the State include the Federal Oil Spill Fund payment, an allowance for marine losses, casualty insurance and tanker repositioning costs, as well as ocean freight costs from Valdez to the West Coast market. Let me discuss each of these components.

The Federal Oil Spill charge amounts to $0.05/B on North Slope crude shipped from Valdez. This is paid to the U.S. Government to build up the $100MM fund provided for in the TAPS Authorization Act. The fund will be available, if necessary, to pay for spill cleanup and administrative costs. The costs currently exclude the State of Alaska risk avoidance assessment which is presently being litigated. This could add another 2-3¢/B to the transportation costs.

The marine losses are to cover evaporation and other handling of the crude while in transit and were initially based on our experience in moving significant volumes of crude on a worldwide basis. It is not uncommon in the marine industry for a loss factor of .5% to be employed for this purpose. However, our operating experience in this service has been lower. In January we adjusted the loss factor to .25% to reflect our actual experience in shipping the North Slope crude during the August-December 1977 period.

The charge for casualty insurance is based on actual quotes from outside insurance companies. The insurance cost is for the complete move from the North Slope to the West Coast and would cover casualty losses from the pipeline and the terminal at Valdez, as well as any marine casualty losses.

The freight costs and the tanker repositioning costs are also governed by market conditions. In the foreign marine trade a panel of London brokers publish a monthly market rate for various sized tankers. The rate is representative of the actual mix of long and short-term charters and spot voyages currently in use in the foreign market. The Average Freight Rate Assessment, or AFRA, rates are widely used by industry and are accepted by a number of governments in assessing foreign marine costs. However, there is no such outside information available for U.S. Flag or Jones Act ships in West Coast trade. For this reason,

we have used our actual charter rates for ships in North Slope service to develop the marine freight from Valdez for both the chartered and our own ships. These charter rates are set by arm's-length negotiations between a third party ship owner and the company chartering the vessel. The repositioning costs are required to reflect the expense of moving the ships from their original service to the West Coast trade. These costs are not included on the charter costs and are a one-time expense that is being amortized over an 18-month period.

In addition, a 2.5% management fee is added to cover the cost of market solicitations, charter negotiations and administration, schedule coordination, and other services provided by Exxon Marine Department. The fee is composed of (1) the normal brokerage fee (1-1/4%) associated with market solicitation and charter negotiations and (2) an estimate of the costs for the remaining items.

The charter costs negotiated by Exxon represent a true measure of the value of term coverage of North Slope crude movements. However, West Coast transportation rates will vary due to different charter costs, discharge ports, and size of ship. For example, at San Francisco, the terminals are not capable of accepting ships with greater than a 34-foot draft. As a result, a charge must be added to partially unload, or lighter, a portion of the cargo into barges or smaller ships for movement to the refineries in that area. The alternative would be the use of much smaller ships and increased costs. However, most ships calling at Los Angeles can be accepted fully laden, thereby saving lightering costs. These and other variations explain why marine costs reported for an individual month or for different companies are not the same.

In conclusion, the marine transportation charges used by Exxon to determine the value of Alaska North Slope crude reflect third-party commercial market conditions. We believe this to be a proper and fair basis for determining the severance tax value for North Slope crude oil.

BASIS FOR EXXON'S NORTH SLOPE CRUDE PRICE NETBACK FOR SEVERANCE TAX

	December 1977 $/B	Basis/Comments
West Coast Market Price	13.16	Negotiated West Coast sales price. Represents parity price with imported crude adjusted for quality/other factors.
Federal Oil Spill Fund	(0.05)	5¢/B levied on each barrel loaded at Valdez until a $100 MM fund is established.
Marine Losses	(0.03)	0.2% losses based on previous Exxon experience. Actual North Slope experience indicates a higher loss of 0.25%.
Casualty Insurance	(0.01)	Crude casualty loss insurance for pipeline and Marine moves. Rate based on quotes from outside insurance companies.
Marine Freight from Valdez	(0.90)	Tanker rates for both owned and period chartered tonnage are based on third party charter rates plus a 2-1/2% management fee.
Tanker Repositioning	(0.09)	18-month amortization of positioning ships from Gulf Coast to West Coast (via Cape Horn) based on third party market charter cost.
Marine Subtotal	(1.08)	
TAPS Tarriff/Losses	(6.27)	Exxon Pipeline Company's ICC interim tariff
TAPS Inlet	5.81	

AGO 5477729

TESTIMONY BEFORE THE HOUSE RESOURCES COMMITTEE
OF THE ALASKA STATE LEGISLATURE
BY K. E. SHOWALTER
DIRECTOR, ALASKA GOVERNMENT AFFAIRS
SOHIO PETROLEUM COMPANY
MARCH 24, 1978
3

Chairman Osterback and members of the Committee:

I am K. E. Showalter, Director of Alaskan Government Affairs for Sohio Petroleum. My remarks are directed to House Bill 878, a proposed amendment to the oil and gas production tax laws. This bill would do two things; it would increase the production tax floor from $.80 to $.968, a 21% increase on top of an approximate 50% increase just last year, and it would escalate the floor tax by means of the Gross National Product Deflator index.

The recommendation for the increase in the floor is justified on the basis that the Prudhoe Bay Producers are somehow "manipulating" or "managing" transportation costs in such a way as to reduce well head values to the detriment of the State of Alaska and to the benefit of the producers.

The current well head values are no doubt somewhat below the expectations of the state and I can also tell you they are disappointing to Sohio and its stockholders.

It has been charged that Sohio and others deliberately gave misleading estimates of transportation costs last year that resulted in the production tax floor being set too low. I can categorically state that we were trying to make the best good faith, estimates we could with the information available at the time and I also believe that the other companies were doing the same.

In the short time that the Department of Revenue recommendation has been available we have not yet been able to do all the research necessary to give a comprehensive reply to their charges. However, we have done some preliminary work and would like to examine more closely some of the evidence presented in the recommendation.

First let's take a look at TAPS tariffs. The Department of Revenue cites a Sohio estimate by Mr. R. M. Donaldson on March 21, 1977 of $5.00 to $6.00 as one of the "misleading" estimates. Some three months later we filed a tariff of $6.16 -- less than 3% above the estimated range. Hardly a gross deception when the range given was 20%.

The recommendation also cites estimated tariffs from a Wainwright Securities report dated April 1, 1977. On page 42 of that report is a table showing three tariff levels using different assumptions as to how the ICC might rule on final tariffs for the TAPS pipeline. The tariffs listed were:

$3.32 per barrel (ICC 8% return)
$4.23 " " (ICC 10% return)
$6.25 " " (Elkins Act 7% return)

An additional 5¢ per barrel has to be added for the TAPS spill fund.

On page 47, the Wainwright report goes on to say:

> "As matters now stand, the TAPS owners are apparently moving forward to post initial tariffs on an Elkins Act basis, in the belief that past practice affords good justification for continuing to use this tariff setting approach."

The Elkins Act 7% rate of return basis was listed by Wainwright at $6.25, remarkably close to the middle of the range of tariffs filed of $6.04 to $6.44.

On page 49 of the Wainwright report points out the ifficulties of estimating final TAPS tariffs:

> "It should be fairly obvious from the preceding discussion that any attempt to accurately forecast pipeline tariffs and earnings is frought with major imponderables. While an endless number of permutations and combinations can be constructed as a means of defining sensitivities, in the end a useful earnings estimate must rest on a limited number of possibilities. Thus, in developing our 1977-1980 North Slope earnings estimates, we used only two alternatives for deriving TAPS tariffs and pipeline earnings: (1) the traditional Elkins Act consent Decree method, the basis on which the companies (with the possible exception of Ameranda Hess) apparently intend to file, at lease initially; and (2) the return on equity approach outlined by the ICC in the WBPL proceeding. These two cases can also be viewed as bracketing the eventual outcome."

Thus, this report estimated that the final tariffs will be somewhere between $4.23 and $6.25. We fail to see how this report could "mislead" anyone.

But the real issue on tariffs is that the extensive hearings required before the Federal Energy Regulatory Commission and the Alaska Pipeline Commission are now far from complete and it will be several months until final tariffs are determined. Should the State of Alaska and the other protestants prevail, with the tariffs finally set at a rate lower than we are now charging, our filed tariffs require that the pipeline companies refund the difference to the shippers. In that eventuality Sohio, as a producer, would then be required to pay the State of Alaska any difference in taxes and royalties attributed to such lower tariff on every barrel of oil shipped at the higher rate, regardless of when it was shipped.

The industry is also accused of shifting profits to tanker affiliates and away from the well head. Sohio has no affiliate in the tanker business since the Jones Act precludes us from owning or operating intercoastal vessels in the U.S. because B.P., Ltd., owns over 25% of our stock. All the tankers transporting our oil are owned by others and are on time charters of various lengths. The large newly built tankers are backed financially by Sohio long term charters. There would be no advantage for Sohio to shift profits away from the well head, where the profits are ours, to tanker transportation, where someone else gets the dollars.

Our estimate of $2.75 for shipments to the Gulf Coast was lower than the actual cost turned out to be. This $2.75 estimate was made in March, 1977. Since we do not own the tankers we can not set rates, we must negotiate the best deal possible and we believe we have done so.

The use of the $3.61 from our December reports is, in itself, misleading. As the Department of Revenue must know, we have agreed with the State of Alaska that since actual tanker costs cannot be determined on a monthly basis in time to make our tax payments we estimate tanker costs on a quarterly basis and pay taxes based on the estimate. Sixty days after the end of the quarter a determination of actual costs is made and tax adjustments made accordingly.

During December our tax payments were based on an estimate of $3.61. However, we have since determined that the actual costs were $3.31 for December and the extra tax due has been paid to the Department of Revenue.

Our people have estimated and have used for January, a tanker cost of $.99 to the West Coast and $3.05 to the Gulf Coast. These estimates may be high or low and will be adjusted on the first of June to the actual costs. So right now it looks as though our estimate was off about $.30 (11%) rather than the reported $.86, not really a bad estimate.

AGO 547732

In addition, we note that FCCS CSHB 118 has an appropriation of $35,000 for a study of tanker costs by Legislative Affairs. We are confident that an objective study will show that the tanker rates we are charging are proper.

I would also like to point out that Sohio has been working for about 4 years and has spent over $35,000,000 to date in an attempt to secure permits and do engineering work on the PAC-TEX pipeline project from Long Beach California to Midland, Texas. We do not have all the permits but we are getting closer. This line will, if built, reduce the cost of shipments to the Gulf Coast substantially, to the benefit of both the producers and the State. I believe this massive effort indicates that we are working hard to get the most reasonable transportation costs possible for Prudhoe Bay crude oil, even while we are accused of "manipulating" in the other direction.

I'm not quite sure why royalty oil was brought up in the Department's recommendations and in their testimony but since it was I would like to comment briefly on that subject. On page 16, of the Department's recommendations they point out:

> "The purpose of mentioning all these prices is not to set the ground for any possible legislative resolution of these royalty matters, since the royalty questions are already being litigated."

This is a fact. When we read our leases they say that we are to pay royalty "at the well" and that certain cleaning and dehydrating costs are deductible from the royalty value. The state believes that royalty value should be determined at the LACT meter with no deductions. These and other matters are the subject of the current litigation and their resolution should properly be left with the courts.

To sum up these three issues:

(1) The pipeline tariffs will be set at a level that the FERC and APC determine is proper. If they are lower than we have charged we will have to pay adjusted taxes and royalties.

(2) Tanker costs are above estimates but not nearly as much as indicated earlier and it appears you are about to make a study to determine whether or not these charges are reasonable.

(3) Royalty disputes (which have no bearing on this bill) are properly being decided in the courts.

I wish this committee could have also had the benefit of testimony on this bill from legislative consultant Milton Lipton. He did review the Senate companion bill with the Senate Resources Committee and you might want to get a transcript of that hearing. Since his testimony has not been transcribed I hesitate to quote him, but the essence of his testimony could be summarized, I believe accurately, as follows:

(1) Crude oil has no inherent value on the North Slope, therefore it is not proper to set any value such as $7.93 at the well head for tax purpose.

(2) Tariffs are being set by FERC and APC and Alaska should be prepared to accept whatever level they set. Lipton expects that the final tariffs will be significantly lower than those filed.

(3) The state should examine tanker charges and CONSIDER ~~corridor~~ setting up an independent board of ship brokers that would meet periodically and determine reasonable tanker charges for the future, based on recent past history.

The bill also would change the floor annually using the GNP Deflator Index. We believe, as we stated last year, that this is a totally inappropriate index and that it is wrong to use any index to automatically change the tax. Recent experience in Cook Inlet with indexing certainly should show the inequities created by this mechanism when the Federal Government is controlling the price of crude oil. The GNP Deflator Index is a very broad index with no relationship to the price of crude oil and is inappropriate for this purpose.

If my notes are correct, the Department of Revenue estimates that this tax increase will produce about $32 million in FY 79. Our calculations show that at 1.1 million barrels per day the additional tax will be about $54 million. Perhaps the difference is that the Department subtracted out the reserves tax credit. In any case it is an additional $54 million burden since we would get the credits under current law at a later date. PRUDHOE BAY OIL ONLY

I want to end my remarks by pointing out that the State of Alaska and the oil producers operating here do have many interests in common. I believe that efficient transportation of oil to market is one of those common interests, as I have explained about on the PAC-TEX line. There are many other examples that can be made. The point is, we would like to someday arrive at a milestone where the State and the producers could spend some time and effort working together on constructive things that will benefit both, rather than seemingly always being at odds on one subject or another. May be it isn't possible but we would certainly like to try.

Thank you.

TESTIMONY OF HARLAM MARTENS OF EXXON COMPANY, U.S.A.
BEFORE HOUSE RESOURCES COMMITTEE
H.B. 878
March 23, 1978
Juneau, Alaska

JKC

I am Harlan Martens, an attorney in the Anchorage office of Exxon Company, U.S.A. My comments today will be in three general areas -- on the overall implications of H.B. 878 as we see them, the Department of Revenue's report to Governor Hammond, upon which H.B. 878 is based, and the inequity of the cents-per-barrel minimum severance tax, in general.

The Department of Revenue report alleges that oil prices, pipeline tariff and tanker transportation costs are being manipulated so as to artificially lower oil values for severance tax purposes. When critically examined, the allegations made are based entirely on unwarranted assumptions and unjustified conclusions. The report fails to substantiate any of the charges. Further, the report fails to emphasize that the matters of transportation costs and TAPs tarrifs being questioned are currently all subjects of either appropriate administration hearings or pending litigation. These proceedings shall shed light upon the reasonableness of all transportation costs from the North Slope.

Exxon categorically denies the allegations in the Department of Revenue's report and dismisses the report out of hand because of its baseless charges.

The remainder of my comments will be addressed to House Bill 878.

House Bill 878

House Bill 878 would increase the cents-per-barrel minimum tax classified as "old oil" from 60 cents to 63.4 cents and other oil

from 80 cents to 96.8 cents. The minimum cents per MCS tax for gas would be increased from 6.4 cents to 6.8 cents. H.B. 878 also provides for a periodic adjustment to these amounts according to the percentage change in the Gross National Product Deflator. It would be retroactive to the first of 1978. Exxon believes this proposed legislation is unnecessary, untimely and inappropriate:

1) because it is being proposed not on the basis of any demonstrated need for more tax revenues, but on the bases of a report with unsubstantiated allegations which makes the proposed Bill look like a punitive measure;

2) because it deals with matters which are currently the subjects of regulatory agency hearings or litigation; and

3) because the Bill seeks to have the State participate in increases in oil values but have the oil producers bear all the impact when values drop below the established floor level.

With respect to this third point, on January 25, 1978, Dr. Milton Lipton, Consultant to the Legislature, addressed this committee and said:

"The establishment of the floor...says...that the State abstracts itself from the realities of the environment in which the oil companies are operating, that come hell or high water, whether the industry... is able to get the wellhead value on which the State's per cent-of-value tax is calculated, the State would get at least (the floor amount)...."

In essence House Bill 878 is nothing more than an additional and retroactive 21 percent severance tax increase in Prudhoe Bay oil production, effective a mere 6 months after the effective date of the 50 percent severance tax increase enacted last session.

In the last legislative session, the severance tax rate for oil was set by statute at 12.25 percent of realization, or a minimun of 80 cents per barrel. Of course, when the minimum floor takes effect, the actual severance tax rate exceeds the normal statutory tax rate. For instance, in December 1977, the average severance tax rate actually paid by Prudhoe Bay producers was 13.8 percent.

House Bill 878 would compound this inequity by taxing about half of the Prudhoe Bay production, which must be marketed on the Gulf Coast, at a rate more than double the existing severance tax rate! Any company which must transport its North Slope oil to the Gulf Coast would be hit hard by this proposed legislation because of the reduction of field realization due to the high transportation costs. Regardless of the intent of H.B. 878 the effect of the double tax rate for oil delivered to the Gulf Coast or beyond is to create discrimination against those parties that cannot market their Alaska oil on the West Coast.

The future of Alaska is dependent on development of its resources which, according to the USGS, includes vast undiscovered oil and gas reserves. Any new oil production which must be moved beyond the West Coast could be taxed at rates for above the statutory rate, as is the case for oil moving through the Panama Canal to the U.S. Gulf Coast. It seems obvious that the necessary inclusion of such a severance tax burden in producer's economic analyses will have severe negative impact on future development decisions.

Summary

In summary, Exxon believes this proposed legislation is both inappropriate and inequitable. It is premature in view of the orderly regulatory and legal proceedings now underway and would place unnecessary burdens on industry. Its enactment would be a further disincentive to future development in Alaska and counter-productive to the best interests of Alaskans.

R. E. Grove
Manager, Anchorage Division
Production, U.S. & Canada

Marathon Oil Company

P.O. Box 2380
Anchorage, Alaska 99510
Telephone 907/274-1511

March 30, 1978

The Honorable Alvin Osterback
Chairman, House Resources Committee
Alaska State House of Representatives
Pouch V State Capitol Building
Juneau AK 99811

Dear Representative Osterback:

On behalf of Marathon Oil Company, I would like to present our views on House Bill 878: "An Act relating to oil and gas taxes; and providing for an effective date".

Prior to the OPEC embargo in 1973, it might have been logical to set floor prices on hydrocarbons to protect State revenues derived from production (severance) taxes. However, today with the market price stability created by a strong demand for a scarce commodity, it certainly appears to be unwarranted.

The severance tax statute enacted last session established floor prices on "old oil" (lower-tier), "other oil" and natural gas. The basis for these floor prices is somewhat obscure, but certainly they exceed the actual controlled prices for lower-tier oil and natural gas in the Cook Inlet Basin. Now, HB 878 proposes to inflate these artifically high floor prices by the Gross National Product Deflator (GNPD) which reportedly increased 5.7% during 1977. In the first place, the current law which established the floor prices did not become effective until July 1, 1977; thus, the reason for applying an annual inflation rate to amend these prices cannot be (logically) explained. Secondly, this inflation factor is being applied to hydrocarbon prices which are regulated by the Federal Government. For example, the lower-tier oil price that Marathon receives in the Cook Inlet was permitted by the Federal Energy Administration (Department of Energy) to increase only seven cents or 1.5% during all of 1977. I believe this conclusively exhibits the impracticality of applying the GNPD to an artifically priced commodity which is not permitted by law to reflect its true market value.

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In conclusion, Marathon respectfully recommends that your Committee reject completely HB 878. Conversely, if you believe that the current severance tax statute is in need of improvement, we recommend the deletion of the floor price concept. If this was eliminated, the questionable practice of manipulating floor prices by the introduction of unrelated inflators would become unnecessary. The tax computation would then revert back to a simple percent-of-value calculation based strictly on actual prices received for the hydrocarbons. This concept is used by many other oil and gas producing states.

I thank you for your time and consideration.

Respectfully yours,

R. E. Grove

copy to Members of House Resources Committee

ATLANTIC RICHFIELD COMPANY STATEMENT
STATE OF ALASKA
HB 878

Atlantic Richfield Company, as a major producer of crude oil in the State of Alaska, objects to the proposal made in HB 878 which would increase the taxes paid on oil and gas production. Our objections are based on a view that the proposed increase is unreasonable and inequitable. It is unreasonable to change the tax almost immediately after establishing the present tax rate. It is inequitable to base the tax on values which are substantially above the market value. We further believe it is not in the long term interest of the State of Alaska to continue increasing oil and gas taxes -- already the highest of any state in the Union -- since it will signal a worsening of the tax climate to investors and potential developers of Alaska resources.

Support for the tax proposal contained in HB 878 seems to be based not on need for revenue but on the argument that the actual market price of North Slope crude is less than had been anticipated. In respect to the marketing of North Slope crude, Atlantic Richfield Company and the State of Alaska have a common interest -- both would like to sell their crude oil in the market at the highest competitive value. In fact, we each worked hard to avoid having an entitlement burden added under federal regulations which threatened to drastically reduce wellhead price less than a year

AGO 547741

ago. We felt an entitlement burden would have been completely inappropriate. Similarly, Atlantic Richfield Company considers it grossly unfair to tax on the basis of a price which is significantly above the present value of the item being taxed. In reality the minimum tax proposed under HB 878 means the effective tax rate on Prudhoe Bay oil would be not 12 1/4% but nearly 15% for Atlantic Richfield Company at today's crude prices.

The Department of Revenue supports this tax proposal by suggesting that the true market value of North Slope crude is $7.91 per barrel at the wellhead. Atlantic Richfield Company bases its sales of North Slope crude on a substantially lower estimate of its market value. Although we do not know in detail how the Department of Revenue estimate was derived, it should be possible to identify differences by comparison with the following itemization for reporting production taxes.

		$/BBL
Los Angeles Market for North Slope Crude		13.44
Less: Vessel Transportation	0.88	
Pipeline Transportation	6.05	
State and Federal Spill Funds	0.11	
North Slope Gathering	0.25	
Sub Total Expenses		7.29
Net Value for Tax Base		6.15

The tanker rate above is the one actually used by Atlantic Richfield Company in establishing its wellhead price. At times actual cost to the Company could vary both above and below the 88¢ per barrel figure depending on the tanker market, the vessel used and the many other expenses which can fluctuate on a short term basis. In fact, we have paid more than 88¢ for our movements involving chartered vessels, but the wellhead price was not correspondingly lowered for tax and royalty purposes.

The pipeline tariff is currently being reviewed and is in litigation. Obviously, any change here would affect the wellhead price.

In additional argument, the Department of Revenue offers support for the tax proposal by stating the earlier oil company estimates of anticipated wellhead price were higher than are now actually being realized. However, it would be inappropriate to ascribe the difference solely to transportation costs. For instance, one important additional factor in the wellhead price of North Slope crude is the competing price of imported crude oil. A year ago it seemed quite reasonable to expect that OPEC would carry out its announced intention of raising crude oil price substantially. There was also hope then that Alaskan crude would be allowed better access to markets through alternatives proposed by the oil companies to reduce transportation costs. These anticipated

changes did not take place. However, significant efforts were made and some options are still open.

In summary, we believe it is most unreasonable to establish a floor price for tax purposes which is substantially above market price. If the present floor price is to be amended, we suggest it be pegged to the market price of oil and not to the GNP deflator. Use of the Gross National Product deflator could eventually lead to additional distortion since oil price and GNP deflator do not necessarily have any relationship to each other. It seems more reasonable either to leave the floor price at a set figure as it is today, or to provide a market mechanism such as the one suggested.

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March 23, 1978

The Honorable Alvin Osterback
Chairman
House Resources Committee
Alaska State Legislature
Pouch V - State Capitol
Juneau, AK 99811

Dear Alvin:

Enclosed please find our Notes on Proposed Changes in Alaska's Oil Production Tax. Again, I am sorry that we were unable to testify before your House Resources Committee on this matter last week, but I expect that you may want to have actual testimony and an opportunity for your Committee members to ask questions on the occasion of our next visit.

I am taking this opportunity to make our Notes available to other interested persons as indicated below.

Cordially,

Milton Lipton
Executive Vice President

/pt
enclosure

Distribution to:
The Hon. John Rader
The Hon. Hugh Malone
The Hon. Kay Poland
The Hon. John Sackett
The Hon. Steve Cowper
Mr. Jack Doyle
Mr. Gregg Erickson
Mr. John Messenger

AGO 547745 +

A Note on

PROPOSED CHANGES IN ALASKA'S OIL PRODUCTION TAX

W. J. Levy Consultants Corp.
New York, N. Y.
March, 1978

AGO 547746

A Note on

PROPOSED CHANGES IN ALASKA'S OIL PRODUCTION TAX

1. In this Report for the Alaskan Legislature, we review changes in Alaska's oil production tax recommended by the Department of Revenue and incorporated in Senate Bill No. 532 and House Bill No. 878.

2. In 1977, Alaska's production tax was amended to eliminate automatic escalation in cents-per-barrel tax rates.* At the same time, the amended law provided for annual review of cents-per-barrel and cents-per-MCF tax rates by the Department of Revenue, with a written report and recommendations for changes to be submitted to the Governor. The Governor, then, submits the proposed changes to the Legislature.

3. The Department of Revenue's Report for 1978 recommended (and SB532/HB878 incorporate) the following changes --

> An increase in the cents-per-barrel tax rate for other-than-old crude oil from 80 to 96.8 cents, which corresponds to raising the floor price (i.e., the price below which the cents-per-barrel rather than the percent-of-value tax applies) from $6.53 to $7.90 per barrel;
>
> An increase in the cents-per-barrel tax rate on old crude oil from 60 to 63.4 cents per barrel, raising the floor price from $4.90 to $5.18 per barrel; and

* Prior to this change, cents-per-barrel tax rates had increased or decreased with percentage changes in the Wholesale Price Index for crude petroleum published by the Bureau of Labor Statistics of the U.S. Department of Labor.

Re-introduction of automatic escalation in cents-per-barrel tax rates, tying rates to percentage changes in the Gross National Product Deflator published by the Bureau of Economic Analysis of the U. S. Department of Commerce.*

4. In reviewing these proposed changes in the oil production tax rates, the Legislature will want to consider carefully two things. First, the reasoning behind the Department of Revenue's recommendations, as set out in the Department's report to the Governor.** Second, that any changes in production taxes be reviewed in conjunction with proposed changes in other taxes that the State assesses on the oil and gas industry, notably the corporate income tax.

The Floor Price
for Prudhoe Bay Crude

5. The Department of Revenue report finds that the current floor price (and thus also the cents-per-barrel tax rate) is "inadequate." The Department calculates that the "market value" of Prudhoe Bay oil on the North Slope is significantly above the prices being reported by the companies for severance tax (or royalty) purposes. Furthermore, the floor price, which is designed to protect the State's severance tax revenues in the event that prices reported by companies are artifically depressed, is also below the computed market value. The conclusion: the floor price is too low to do its intended job of protecting revenues. The recommendation: raise the floor price for other-than-old oil to the level calculated by the Department as the market value ($7.90) of Prudhoe Bay crude on the North Slope.

* Changes in tax rates would be based on changes in the Deflator from the First Quarter of 1978.

** Recommended Changes in Alaska's Oil and Gas Production Tax Rates for 1978, a Report to Governor Jay S. Hammond by the Alaskan Department of Revenue.

6. Our firm has always regarded increasing the severance tax as the ultimate recourse for the State in the event that wellhead values are artifically depressed by the actions of tax-paying companies. The question the Legislature must consider now is whether the current circumstances of wellhead pricing warrant taking such a major step at the present time in the light of available evidence. This can best be judged by looking, as the Department has, at the various elements that enter into Prudhoe Bay oil prices -- i.e., pipeline tariff rates, tanker charges, and prices in markets to which the oil moves.

TAPS Tariff

7. The major factor serving to lower wellhead values below earlier expectations is the high level of TAPS pipeline tariffs filed by the companies with the ICC (now FERC) and used by the companies in their netback calculations. These tariff rates average out to some $6.20 per barrel.* In contrast, the interim tariffs allowed by the ICC average some $4.83 per barrel, or $1.37 per barrel less. The State of Alaska, in its protest to the ICC, set out tariff rates that averaged around $3.96. FERC is now in the process of conducting an investigation (with Alaska Pipeline Commission participating) into TAPS rates in order to establish lawful permanent tariffs. Pending the final outcome, the Courts have allowed the companies to continue to charge their initial filed tariffs.

8. Thus, the question of what are reasonable interstate tariff rates for TAPS is being reviewed and will eventually be resolved by the appropriate regulatory body. Whatever rates are eventually approved by the FERC will be those actually charged for transportation of the bulk of oil moved via TAPS and will thus bear on the value of oil on the North Slope. These rates would be appropriate to the calculation of oil values for severance tax and royalty purposes.

* A weighted average calculated by the Department of Revenue based upon pipeline ownership.

9. If finally approved TAPS rates are below the initially filed company rates -- and lower ICC interim rates would certainly point in this direction -- the effect would be to raise North Slope values and severance taxes to which the State was entitled. The State would obviously want to take whatever steps are necessary to ensure that it is in a position to collect back taxes in the event that this were to happen. Assuming that the State does have this protection, it would seem inappropriate for the State now to raise the floor price for production tax purposes to reflect what the State judges will be the (lower) tariff finally approved. This puts the State in the position of prejudging a complicated issue which is being subject to extensive hearings, later careful regulatory consideration, and probably also eventually review in the Courts.*

Tanker Charges

10. The Department of Revenue's report also takes issue with the tanker charges being submitted by the companies. The Department points out that the reported charges (e.g., $.81-$1.08 to the West Coast) are substantially above what had been estimated by many third-party observers and by company spokesmen themselves earlier on. In contrast to pipeline tariff rates, tanker charges are not regulated. Thus, the State will not have regulated rates to provide guidelines.

11. In the circumstances, we certainly feel that Legislative inquiry into the question of tanker charges is warranted, in course of hearings on the proposed changes in Alaska's production (severance) tax. Many factors affect tanker costs -- e.g., tanker size, timing of charters, bunker costs,

* Note that the proposed increase in floor price from $6.53 to $7.90 (+$1.37) is the same as the difference between average ICC interim ($4.83) and company posted tariffs ($6.20). Thus, although other aspects of wellhead valuation are at issue, the pipeline tariff is pivotal.

safety and environmental standards, etc. Thus, ocean transportation costs may have increased substantially since earlier estimates were made. However, the companies transporting North Slope crude via tanker should explain how they arrive at the charges they are reporting to the State. With a better understanding of the factors underlying those charges, the State should be in a better position to judge their reasonableness for purposes of valuation.

12. The State might also want to consider the possibility of establishing some norm for transportation rates at which North Slope crude could be moved in substantial and continuous volume to major markets -- rather than continuously monitoring charges for each and every company's transportation. This rate would presumably be one which a company could match on the basis of prudent transportation commitments. Companies who are particularly astute in their tanker operations could hope to do better -- and would benefit therefrom by not having North Slope oil values and thus production taxes raised by their lower-than-average tanker costs. Other companies who make less astute business decisions on tanker coverage would have to bear the consequence without the State picking up part of higher-than-average costs through lower severance taxes.

13. In this connection, we note that the average transportation cost of oil moving in international trade in foreign flag tankers has been calculated since 1954 by an independent London Tanker Brokers' Panel. Their estimates, Average Freight Rate Assessment (AFRA), are widely used as proxy for companies' actual transportation costs both in commercial contracts where delivered prices require a freight component and in c.i.f. values for Government administration and tax purposes. Some such approach might be considered for tanker movements of North Slope crude. This could avoid potential conflicts over tanker charges. In the event, companies would be completely free to make their own decisions as to how they cover their tonnage requirements, but tanker charges for purposes of wellhead valuation would reflect objective criteria as to ocean transportation costs.

Market Prices

14. The Department has also questioned the companies' data on market prices received for oil, particularly on the West Coast. The Department calculates a value for North Slope oil at a refinery destination in Los Angeles. This estimate of $13.44 is based on the Official Government Selling Price for Saudi Arabian Medium (31°) crude f.o.b. plus LR2 (80,000-159,999 dwt.) AFRA tanker transportation. It finds this estimate to be at the upper end of the range of West Coast market prices reported by the companies ($13.16-$13.44).

15. The problem, here, is that there are many factors that bear on market prices and it is difficult to come up with a precise objective estimate. First, there are questions of crude quality. The Department's estimate of refinery value, for example, is based on a 31° Saudi crude, when North Slope crude is in fact around 27°. If Saudi Heavy crude (27°) were used, the Department's estimate would have been $13.14 -- or below the low end of the companies' range. On the other hand, Saudi Heavy crude (as also Saudi Medium crude) contains substantially more sulphur than North Slope crude, which enhances the value of North Slope relative to these crudes.* Furthermore, the relative value of various crude qualities varies from refiner to refiner, depending on his processing facilities, market requirements, etc. At least as important, there are other aspects to crude sales than selling price that also affect the value to the buyer and seller -- e g., credit terms, obligations for the seller to offtake crude from the buyer,** etc.

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* As against 1-percent sulphur for North Slope, Saudi Heavy is 2.8 percent and Medium 2.4 percent.

** The major third-party purchaser of North Slope crude is Socal for its Los Angeles and San Francisco refineries. Press reports indicate that at least some of Socal's contractual purchases of North Slope crude involve commitments by sellers to lift Middle East crude that Socal would have otherwise processed on the West Coast. Sellers of North Slope crudes are reportedly moving this Middle East crude to East-of-Rockies refineries.

16. The State will obviously want to continue to monitor whatever relevant information it can obtain on sales prices for North Slope oil. However, given the range of difficulties in assessing an appropriate market price, the selling prices reported by the companies, in our judgment, do not look to be obviously out of line.

17. Finally, we note that companies have calculated severance tax values by netting back from the markets to which North Slope oil actually moves. Owing to much higher transport costs, netbacks from Gulf Coast shipments are obviously significantly lower than from the West Coast. The Department of Revenue, in its assessment of a market price netback for a severance tax floor price, has used only the West Coast as a reference point. On this basis, companies forced to ship North Slope crude to the Gulf Coast would have to pay a severance tax based on a higher netback calculated by the Department for the West Coast rather than actual netback from the market to which their crude moves.

18. In a report we prepared for the Legislature in 1970 on valuation of Alaskan crude oil,* we took the position that limited volume shipments of Alaskan crude to distant markets, which may reflect individual company economics, would not normally bear on the valuation of Alaskan crude. Valuation should be based on market prices in refining centers "where there is a substantial and continuous movement of Alaskan oil by the industry in general." At present, substantial volumes of North Slope crude move to the Gulf Coast; when production reaches 1.2 million barrels daily, approximately two fifths (500,000 barrels daily) is likely to be moving to the Gulf Coast. In these circumstances, it is not inappropriate that the value of Alaskan crude on the North Slope takes into account the fact that a substantial portion of production cannot realize the higher netback values obtainable on the West Coast, owing to limitations on the absorptive capacity of West Coast refineries for North Slope crude.

* Economic Considerations Bearing on Valuation of Alaskan Crude Oil and State Policy on Pipelines, December, 1970.

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Cents-per-Barrel Escalation

19. In addition to raising floor prices, the Department has also recommended re-introduction of automatic escalation in floor prices with an index of inflation. Escalation with the GNP deflator would almost inevitably result in progressive increases in severance taxes where cents-per-barrel and not percent-of-value is the operative tax.

20. Last year's severance tax revision was presumably designed to establish schedules of severance taxation appropriate to the producing circumstances of Alaska and with regard also to rates of severance taxation in other producing states. No doubt wellhead values and hence severance tax revenues have worked out below expectations; and we discussed above whether an increase in floor prices ought now to be considered as offset to protect Alaska's interests.

21. Escalation of floor prices with inflation, however, could have the effect of increasing producing companies' effective severance tax rates without regard to wellhead values. We have noted in the past that previous escalation with the Wholesale Price Index for crude petroleum imposed a progressively increasing severance tax burden on Cook Inlet producers whose old oil prices were held down by Federal price ceilings whilst average crude prices and hence their cents-per-barrel tax moved upward. The adverse effect (i.e., rising cents-per-barrel severance taxes relative to wellhead values) could be even more incongruous when escalation is triggered by a GNP deflator that reflects price behavior for the U.S. economy as a whole.

22. To the extent that crude oil prices advance in the future -- notably foreign oil prices into Alaska's Lower 48 markets, but also domestic oil prices that directly or indirectly affect the competitive evaluation of North Slope crude -- that would tend to raise wellhead values and severance tax revenues. Similarly, changes in transportation charges would be reflected in wellhead values and severance tax revenues. And to the extent that percent-of-wellhead value is the operative severance tax, there is a meaningful relationship between severance tax liability and production values.

23. Cents-per-barrel may be a necessary floor for protection of Alaska's interests in appropriate circumstances. Escalation of cents-per-barrel would not seem to be an appropriate device to raise severance taxes or severance tax income. If that is at issue, the Legislature could more cogently address the question whether established percents-of-value ought to be raised.

RECOMMENDED CHANGES

IN

ALASKA'S OIL AND GAS PRODUCTION TAX RATES

FOR 1978

A Report to Governor Jay S. Hammond
by the Alaska Department of Revenue

AGO 547756

"At the present level of cents-per-barrel rates, the State's production tax income would have to suffer considerable reduction as the result of oil prices artificially lowered below the free-market price before the cents-per-barrel tax would begin working . . . ."

--State of Alaska, Department of Revenue, Alaska's Oil and Gas Tax Structure (February 1977), p. VI-21

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INTRODUCTION AND BACKGROUND

Concern over very low wellhead prices for Alaska's nonrenewable oil and gas resources is not a recent development. In 1972, faced with spiralling costs for the Trans Alaska Pipeline and correspondingly, rapidly sinking wellhead values for the oil wealth at Prudhoe Bay, Alaska turned to a cents-per-barrel production tax as a means to protect its revenues from that field, as well as others. By allowing a credit against the cents-per-barrel tax for royalty payments, the net effect of that legislation was to set a floor on the State's combined royalty and tax revenues, regardless how low the wellhead price might have gone. This floor corresponded to the combined revenues that would have been received with a wellhead price of $2.65 a barrel. The specific cents-per-barrel rates were: 45.8 cents-per-barrel, 51.1 cents-per-barrel, 53.8 cents-per-barrel and 59.1 cents-per-barrel and applied to oil production at specified incremental amounts.

During the First Special Session of 1973, the cents-per-barrel rates were changed, raising the effective floor for production tax income to a level corresponding to a wellhead price of $3.375 for Prudhoe-type oil (27° API gravity). This floor increased and decreased, depending on whether the API gravity was above or below 27°. In addition the entire cents-per-barrel mechanism was tied to an escalator -- the

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Wholesale Price Index for crude oil published by the Bureau of Labor Statistics of the U. S. Department of Labor.

In that 1973 session the cents-per-barrel rates were set at: 16.875 cents-per-barrel for the first 300 barrels of oil production, 20.25 cents-per-barrel for the next 700 barrels, and 27 cents-per-barrel for oil production over 1,000 barrels. These rates corresponded to percentage rates of 5 percent, 6 percent and 8 percent. The continuing concerns over low wellhead prices during 1973 were so strong that the House Finance Committee during the special session went so far as to propose a production tax based solely upon a cents-per-barrel basis with an escalation feature (CS HB4). The major proponent of this approach was the then Speaker of the House of Representatives, Tom Fink. He and others were concerned about the continued reduction of projected Prudhoe Bay wellhead values and the then current price discrepancies in reported royalty and production tax values in Cook Inlet. These price discrepancies were the multiple wellhead values assigned to the oil of the same quality produced in the Cook Inlet area.

After the 1973 change in the production tax statute, several changes occured in Wholesale Price Index for crude petroleum so that at the beginning of 1977 the basic cents-per-barrel tax rates set out in the statute had escalated to become: 30.51 cents, 36.62 cents and 48.83 cents. At percentage

rates of 5 percent, 6 percent and 8 percent the cents-per-barrel tax set an equivalent cents-per-barrel floor of $6.10 for 27° crude oil.

In a voluminous review and critique of Alaska's tax laws as applied to the oil and gas industry, the Department of Revenue last year pointed out the following danger in the then-existing production tax:

> ". . . the focus here is on the effectiveness of the tax as a reliable source of revenue for the State and on its safeguards against possible actions that would jeopardize that revenue. The greatest of those dangers is the manipulation of oil price, especially in regard to North Slope oil. There are basically two parties that might want to manipulate the price of Prudhoe oil. One is the oil companies themselves, by inflating transportation costs and similar charges in order to lower the field price of the oil on which the tax is based. The other is the federal government, through price controls.
>
> * * * * * * *
>
> "The Department of Revenue recommends raising the 'floor' from its present level, which corresponds to $6.10 a barrel for Prudhoe Bay oil, to a level more

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closely reflecting the full market value of that oil. At the present level of cents-per-barrel rates, the State's production tax income would have to suffer considerable reduction as the result of oil prices artificially lowered below the free-market price before cents-per-barrel tax would begin working to prevent any further reduction.

State of Alaska Department of Revenue, Alaska's Oil and Gas Tax Structure (February 1977) pp. V-31 and VI-21 (emphasis added).

Acting on the Department's recommendations, Governor Hammond submitted bills (SB 238 and HB 321) to both Houses that would have raised the cents-per-barrel floor to correspond to a $7.50 wellhead price, escalating on the basis of the gauge of national inflation (the deflator for the Gross National Product). While many of the production tax proposals in the Governor's bills were eventually enacted, those relating to rates and the cents-per-barrel floor for oil were not. Instead, the version finally passed and presently in effect specifies a 12.25% rate or $0.80 a barrel for all oil except "old oil", both to be scaled down by the Economic Limit Factor. This sets a cents-per-barrel floor corresponding to a wellhead price of $6.53 -- higher than the old $6.10 floor but still almost a dollar below the $7.50 "full market value" of Prudhoe Bay oil. This floor does not escalate under the new law.

For "old oil" (like the majority of production from Cook Inlet), the cents-per-barrel floor is at a $5.18 price level (for 34° API gravity).

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Federal Pricing Actions.

In its study, Alaska's Oil and Gas Tax Structure (February 1977), the Department of Revenue expressed in some length (at pp. V-37 to V-48) grave concerns about federal intentions and actions and their potential adverse effects on Alaska's price-related revenues from oil and gas, particularly with respect to Prudhoe Bay. By law (15 U.S.C. Sec. 757(g)) North Slope production was (and is) singled out for separate pricing consideration from that of the rest of the country. For reasons set out in that study, the chance that federal price controls could be used to depress the price of Prudhoe Bay crude oil below market levels was a real and ominous possibility.

At hearings before the Federal Energy Administration (FEA) in Washington, D.C. and Anchorage, in March and again in May, the State testified strongly to the need for the marketplace, not price controls, to determine the wellhead price of North Slope oil. In meetings with the Administrator of FEA John O'Leary, and in the White House with James Schlesinger, Governor Hammond brought the State's message home to the federal decision-makers on a personal level.

Fortunately these vigorous efforts were successful.

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On August 17, 1977 FEA adopted a rule-making which sets a price ceiling significantly above the anticipated wellhead price level for North Slope oil. At the same time FEA chose to treat North Slope oil the same as high-cost imported oil for purposes of the special "entitlements" program, which is intended to equalize costs between refiners buying less expensive, price-controlled oil and those buying expensive uncontrolled or imported oil. As FEA said at the time,

> ". . . by providing [North Slope] crude oil with wellhead prices that are as high as possible (consistent with . . . the cost of the imported oil it is replacing), the maximum monetary and psychological incentives are provided for these and other producers to explore aggressively elsewhere in the Arctic and in other frontier regions." [Emphasis added]

42 Federal Register 41567 (August 17, 1977).

Actions by the Oil Companies.

Last year the Department of Revenue also expressed concern about actions by the oil companies themselves that would understate the wellhead value of Prudhoe Bay production. As the Department wrote then,

"A [major] vertically integrated company can, in a very real sense, choose which of its integrated operations -- producing, transportation, refining, or marketing -- will be carried on the books as break-even or losing operations and which will be the sources of the profits of the overall enterprise.

". . . Another influence [on where the company books its profits] can be royalty and production tax payments. If the field price of an integrated producer's production can be lowered as the result of shifting booked profits from production to some downstream phase of operations, the overall enterprise would lose nothing by doing so since it is merely moving money from one pocket to another. In fact it would actually have a net gain since the lowered field price means that less royalty and production tax have to be paid . . . .

"There seem to be three possible opportunities for some . . . companies owning interests in the Prudhoe Bay field to realize most or all of the benefits from the prevailing prices in the world oil market so dominated by OPEC while holding the line, so to speak, on production tax and royalty for that oil. These are in setting the TAPS tariff (or tariffs), in marine transportation costs and in marketing the oil to refiners outside the West Coast area."

Alaska's Oil and Gas Tax Structure, pp. V-32 and V-33.

The bills submitted by Governor Hammond contained a cents-per-barrel floor corresponding to a wellhead price of $7.50, which was in accord with the statements of the oil companies themselves and of other experts. The $6.53 floor in the bill that passed represented an open invitation to the companies to shift profits at least to the extent of the difference between $7.50 and $6.53. As we now see from the record, the companies more than accepted that invitation and, in doing so, belied their own statements. It is worth comparing their actions and their words here to reveal the magnitude by which the companies have altered the expectations they led Alaska and others to believe.

In January 1977 -- the month before the Department of Revenue recommended a cents-per-barrel floor of $7.50 -- Atlantic Richfield Company (ARCO) projected a wellhead price of $7.58, using a TAPS tariff of $5.24 and tanker costs from Valdez to the West Coast of $0.70. ARCO, Crude Oil Postings District V, 1977 Prices, Entitlements Variations (January 3, 1977) cited in University of Alaska Institute of Social and Economic Research, Federal Policies Affecting the Wellhead Value of Prudhoe Bay Crude Oil (March 22, 1977), p. 33.

In a statement presented February 7, 1977 to James R. Schlesinger (then the President's chief energy advisor and now Secretary of Energy), the chairman of the board of The Standard Oil Company (Ohio) Charles E. Spahr said,

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"Assuming for a moment that Prudhoe Bay oil sold at the well for the upper tier average price of $11.63, its delivered price in California would be about $17.50, including about $5.00 for the Alaska pipeline tariff and $.75 for tanker costs from Alaska to California. Obviously, no one would buy Alaskan oil at that price when foreign oil can be purchased at the same place for a little over $13.00. To be competitive, the wellhead price at Prudhoe Bay would have to go down to something on the order or $7.25."

On March 9, 1977 FEA issued a "Notice of Inquiry" about the pricing of North Slope oil and announced hearings in Washington, D.C., San Francisco and Anchorage on March 21, 22, and 23, respectively. At those hearings the following testimony was given:

If North Slope crude does not have an entitlement burden and thus is treated . . . like exempt stripper, or Naval Petroleum Reserves oil, we would expect the wellhead price to be about $7.20 per barrel."

--Herbert H. Zachow, Manager of Crude and Product Supply, ARCO (March 21, 1977)

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"We currently estimate that the TAPS tariff will be approximately $5.60. This tariff is calculated using traditional ICC methodology."

--Atlantic Richfield Company Responses To Questions 1 - 14, Alaska North Slope Crude Oil Pricing and Entitlements Treatment (March 21, 1977, p.2

"Assuming a $5.60 tariff and $.70 vessel cost from Valdez to Los Angeles the following prices would be expected:

TABLE II
ANTICIPATED PRICES

Location	Dec 77	
Wellhead	7.20	. . .
Valdez	12.80	. . .
Puget Sound	13.70	. . .
San Francisco	13.50	. . .
Los Angeles	13.50	. . . "

--Atlantic Richfield Company Responses to Questions 1 - 14, Alaska North Slope Crude Oil Pricing and Entitlements Treatment (March 21, 1977), p. 4

"Until pipelines are in place, the cost to move oil by tanker from Los Angeles to the Gulf Coast through the Panama Canal will be in the range of $2.00 per barrel."

--Richard M. Donaldson, Vice President SOHIO (March 23, 1977); also Frank E. Mosier, Senior Vice President, SOHIO (March 21, 1977)

"Our expectation is that the TAPS tariff will be in the range of $5.00 to $6.00 per barrel from the Prudhoe Bay field to Valdez . . . . The costs of tanker movement of the oil from Valdez to Puget Sound, San Francisco, Los Angeles, and the Gulf Coast are expected to average as follows:

Valdez to Puget Sound	$0.50 per barrel
Valdez to San Francisco	$0.75 per barrel
Valdez to Long Beach	$0.75 per barrel
Valdez to Gulf Coast	$2.75 per barrel"

--SOHIO, Responses to Fourteen Questions Raised by the Federal Energy Administration Notice of Inquiry Dated March 7, 1977 (March 21, 1977), p. 2

"If the present price of oil imported on the West Coast and Gulf Coast is $13.75 per barrel for quality similar to Alaskan North Slope, then the equivalent prices for North Slope crude are as follows:

	Dollars per Barrel			
	Puget Sound	San Francisco	Los Angeles	Gulf Coast
Delivered	$13.75	$13.75	$13.75	$13.75
Valdez	$13.25	$13.00	$13.00	$11.00
Wellhead	$7.25-$8.25	$7.00-$8.00	$7.00-$8.00	$5.00-$6.00"

--Sohio, Responses to Fourteen Questions Raised by the Federal Energy Administration Notice of Inquiry Dated March 7, 1977 (March 21, 1977), pp. 6-7

Later, in hearings at Washington, D.C., San Francisco and Anchorage on May 25, 26 and 27, respectively, the oil companies basically repeated these messages to FEA:

> "under this rulemaking, a North Slope crude producer will receive about $7/bbl. at the wellhead for his production."
>
> --Herbert H. Zachow, Vice President, Crude and Product Supply, ARCO (May 25, 1977)

> "It is anticipated that when production starts this year, North Slope prices will be entering the market at a wellhead price of around $7/bbl."
>
> --William E. Wade, Manager of Resources Planning, Corporate Planning Division, ARCO (May 26, 1977)

> "With such pricing and entitlement treatment [as ARCO had proposed to FEA in March 1977], we expected North Slope wellhead prices initially to be only about $7 per barrel. [Actually, ARCO had said $7.20.] While we continue to favor our recommended pricing and entitlement treatment for North Slope crude, we support the FEA's proposals in the rulemaking under consideration today. These proposals . . . should permit the same initial wellhead price as our earlier recommendations."
>
> --Howard A. Slack, Vice President and Resident Manager, Alaska Division, ARCO (May 27, 1977)

During the question and answer period at the San Francisco hearing, Mr. Wade (quoted above) told Mr. John Muller of FEA that the TAPS tariff was expected to be $5.50 to $6.00, and he told Mr. Boldt of FEA that tankers from Valdez to West Coast ports would be $0.75 to $0.90. Mr. Steve Donaldson, Manager of Regulatory Reports & Analysis for Powerine Oil Company, disagreed with Mr. Wade's tanker figure, suggesting $0.45 instead.

This disagreement is nothing compared to the one between the figures quoted above that were given in the first half of last year and the ones the oil companies were reporting for royalty purposes during the second half. The following table summarizes this abrupt change and speaks for itself.

CONTRADICTIONS BETWEEN THE OIL COMPANIES' PUBLIC STATEMENTS AND THE FIGURES THEY REPORTED FOR ROYALTY PURPOSES TO THE STATE

(Based on December 1977 reports)

	As Stated	As Reported	Difference
1/3/77, ARCO			
Wellhead Price	$7.58	$6.41	(1.71)
TAPS Tariff	5.24	6.15	.91
Tanker to West Coast	.70	.88	.18
2/7/77, SOHIO			
Wellhead Price	7.25	6.14	(1.11)
TAPS Tariff	5.00	6.27	1.27
Tanker to West Coast	.75	.89	.14
3/21/77, ARCO			
Wellhead Price	7.20	6.41	(.79)
TAPS Tariff	5.60	6.15	.55
Tanker to West Coast	.70	.88	.18
3/21 and 23/77, SOHIO			
TAPS Tariff	5.00-6.00	6.25-6.28	0.25-1.28
Tanker to San Francisco or L.A.	.75	.89	.14
Wellhead (net back from San Fran. or L.A.)	7.00-8.00	6.14	(1.86)-(.86)
Tanker to Gulf Coast	2.75	3.61	.86
Wellhead (netback from Gulf Coast)	5.00-6.00	3.53	(2.47)-(1.47)
5/26/77, ARCO			
Wellhead Price	"about 7.00"	6.41	(.59)
TAPS Tariff	5.50-6.00	6.15	.15-.65
Tanker to West Coast	.75-.90	.88	(.02)-.13

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For all Prudhoe Bay owners, the weighted average TAPS tariff (based on volume) reported in December was $6.24 (as opposed to a weighted average tariff based on pipeline ownership percentages, of $6.20), the weighted average tanker cost reported (based on volume) was $1.12, and the weighted average wellhead price was only $5.44. However, the companies did not pay royalties on the basis of that $5.44; instead, they are claiming further deductions for "field costs," which the State believes are unauthorized. These deductions average 61.4 cents a barrel, reducing the average price actually paid for royalty purposes to $4.79.

The purpose of mentioning all these prices and deductions is not to set the ground for any possible legislative resolution of these royalty matters, since the royalty questions are already being litigated. Rather, the point to be made is that the industry's interests and those of the State of Alaska do not always coincide; where they do not coincide, the industry has shown that it will readily part company to advance its own purposes. In royalty and in production tax, the industry's interests are served by low wellhead prices and so it has parted company on this matter, not only from the State, but also from its spokesman who scant months before were unabashedly predicting prices from one to two dollars a barrel higher.

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ELEMENTS AFFECTING FIELD VALUE

Earlier in this report it was mentioned generally how the wellhead value of our oil for production tax and royalty is affected by market prices and transportation charges. This section will describe in greater detail how the projected wellhead value of Prudhoe Bay oil has been affected by pricing decisions and transportation charges.

In general, the value of oil for purposes of computing production tax and royalty is determined by taking the market sales price or value for the oil and netting back any transportation charges from the point of sale to the field. Thus the market prices and transportation costs have an important and direct bearing on wellhead values.

Price Ceilings

In the department's oil and gas tax study, possible effects of federal ceilings for North Slope oil were discussed. Alaska's Oil and Gas Tax Structure (February 1977), pp. V-37 to V-48. At that time the President had not yet recommended to Congress what price ceilings would be applicable to North Slope oil. The danger existed at that time that the federal government could establish a wellhead price ceiling substantially below that of imported crude or even other categories of new oil. That in itself apart from corporate price manipulation

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could have substantially reduced severance tax and royalty revenues over time.

Subsequently, however, as stated earlier in this report, the FEA adopted regulations which placed North Slope oil under upper tier price ceilings and gave it exempt entitlement's treatment. 42 Federal Register 41567 (August 17, 1977). This essentially gave favorable pricing and entitlement treatment to North Slope production since the beginning price ceilings would be substantially above what was projected to be a wellhead value for North Slope oil and no entitlement penalties would be assessed against North Slope oil.

Market Prices

The starting point in any determination of wellhead value is market price received for the oil, which is then reduced by the transportation charges between the place of sale and the field where the oil is produced.

In the case of North Slope oil, some oil has been sold right at the mouth of the Trans Alaska Pipeline system (LACT meter) so that no net back of transportation charges is necessary. The market price of that oil in the field, in fact, becomes a value for computation of severance tax purposes assuming that the prices are truly arms-length

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sales. Those sales taking place at the wellhead as reported in December Royalty reports are as follows:

Company	Sales Price
Getty	$6.38
Mobil	6.23

Other companies have made sales at Valdez which include tariff charges on the transportation of the oil from the North Slope to Valdez. These sales are as follows:

Company	Sales Price
Amerada Hess	$12.60
Exxon	12.30
Hunt Group	12.62
Sohio	12.53

The majority of the oil, however, has been transported by the producing companies and marketed in various locations outside the state. These sales prices and their destinations are:

Company	Sales Price	Destination
ARCO	$13.44	West Coast
Exxon	13.16	West Coast
Phillips	13.38	West Coast
Sohio	13.30	West Coast
Sohio	13.42	Gulf Coast

Pipeline Tariffs

The largest element of transportation cost, and therefore the one having the biggest effect on wellhead value is the tariff charge of the Trans Alaska Pipeline System (TAPS)

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which transports the oil from Prudhoe Bay, where it is produced, to Valdez, where it is loaded onto tankers and transported out of state.

During the months of May and June of 1977 the eight owner companies of the Trans Alaska Pipeline System filed with the Interstate Commerce Commission (ICC) initial tariffs for the transportation of oil from Prudhoe Bay to Valdez. Those initial tariffs ranged from $6.04 to $6.44 per barrel and taken together computed a weighted average tariff per barrel of $6.20 based upon pipeline ownership.

Those initial filed tariffs were:

Pipeline Carrier	Filed Tariff
Amerada Hess	$6.44
ARCO	6.04
BP	6.35
Exxon	6.27
Mobil	6.31
Phillips	6.22
Sohio	6.16
Union	6.09

Subsequent to the initial filing of pipeline tariffs, the ICC's Bureau of Investigations and Enforcement, the U.S. Department of Justice, the State of Alaska and Arctic Slope Regional Corporation all filed protests against the initial tariffs [Protest and Petitions For Suspension by the United States Department of Justice, June 15, 1977; Protest/Complaint of the State of Alaska Seeking the Suspension and Investigaiton

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of Initial Rates and Tariff Provisions, June 15, 1977; Protest and Petition of The Bureau of Investigation and Enforcement for Suspension and Investigation, June 15, 1977; Protest and Petition for Suspension of Initial Rates and Tariffs by the Arctic Slope Regional Corporation, June 13, 1977].

The protests sought suspension and institution of a formal investigation of the rates published by the TAPS carriers. In its protest the State of Alaska set forth what it considered reasonable interim tariffs for TAPS as follows:

Pipeline Carrier	Rate
Amerada Hess	(Insufficient information)
ARCO	$3.74
BP	4.42
Exxon	3.80
Mobil	3.59
Phillips	(Tariff had not been filed)
Sohio	4.04
Union	3.85

Protest/Complaint of the State of Alaska Seeking the Suspension and Investigation of Initial Rates and Tariff Provision, June 15, 1977 (p. 4).

On June 28, 1977, the Interstate Commerce Commission (ICC) suspended the initial filed rates for a seven-month statutory period and ordered an immediate investigation of the rates. At the same time that the ICC suspended the filed rates it stated that it would accept for filing a lower schedule of interim rates pending the outcome of the investigation.

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That schedule was as follows:

Pipeline Carrier	Interim Rate
Amerada Hess	$4.85
ARCO	4.91
BP	4.68
Exxon	5.10
Mobil	4.84
Phillips	4.83
Sohio	4.70
Union	4.84

Order of the Interstate Commerce Commission in Investigation and Suspension Docket No. 9164, Trans Alaska Pipeline System (Rate Filings) and No. 36611, Trans Alaska Pipeline System (Rules and Regulations), June 28, 1977.

Thus the initial tariffs, the proposed tariffs by the State of Alaska and the Interim Tariffs allowed by the ICC looked as follows:

Pipeline Carrier	Filed Tariff	Alaska's Proposed Tariff	Interim Tariff
Amerada Hess	$6.44	--	$4.85
ARCO	6.04	$3.74	4.91
BP	6.35	4.42	4.68
Exxon	6.27	3.80	5.10
Mobil	6.31	3.59	4.84
Phillips	6.22	--	4.83
Sohio	6.16	4.04	4.70
Union	6.09	3.83	4.84

Several of the pipeline companies petitioned the Fifth Circuit Court of Appeals contending that the ICC was without authority to suspend the initial tariffs or to suggest maximum interim tariffs. Mobil Alaska Pipeline Company v United States,

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No. 77-2392, (July 6, 1977); BP Pipeline Inc. v United States, No. 77-2412 (July 8, 1977); Exxon Pipeline Co. v United States, No. 77-2421 (July 11, 1977); ARCO Pipe Line Co. v United States, No. 77-2437 (July 14, 1977).

The Fifth Circuit Court, however, dismissed the pipeline carriers petitions concluding that the ICC had acted lawfully. Mobil Alaskan Pipeline Company v United States, 557 P2d 775 (1977).

Some of the companies then filed motions in the U.S. Supreme Court for a stay of the Fifth Circuit decision. Four of the carriers also filed petitions for certiorori. The Supreme Court granted a stay of the Fifth Circuit decision and the certiorori petitions, and at the present time a decision on the seven month suspension and interim rates is pending before the Supreme Court. Order of November 28, 1977 Granting Certiorori in Mobil Alaska Pipeline Co. v United States, No. 77-452; Exxon Pipeline Co. v United States, No. 77-457; BP Pipeline, Inc. v United States, No. 77-551; ARCO Pipe Line Co. v United States, No. 602.

Concurrently with the litigation over interim rates the ICC and now its successor the Federal Energy Regulatory Commission (FERC) has been conducting its investigation of TAPS rates in order to set lawful permanent tariffs.

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The investigation proceedings have separated into two phases. The first phase of the proceedings deals with such issues as the allowable rate base and the appropriate rate of return while the second phase of the investigation will deal with the amount of costs which may be claimed by the carriers as a part of the rate base.

All of the protestants, including the State of Alaska, argue that the TAPS tariffs filed by the pipeline companies are too high for several reasons. Joint Pre Hearing Brief of the United States Department of Justice, The State of Alaska and The Arctic Slope Regional Corporation, (December 30, 1977).

First, for example, it is being argued that the pipeline companies should earn a rate of return on the actual investment in the pipeline system rather than upon an inflated valuation of replacement cost. This approach would be consistent with rate bases used for most public utilities and would insure that pipeline owners would not receive a return on their investment more than once.

It is also being argued that the rate of return allowed to the pipeline companies on TAPS for the debt and equity portions of the pipeline should be no higher than that needed to reflect the relative risks involved and to compensate for the costs of servicing the debt.

In addition, the protestants have argued that the pipeline owners should be allowed only a return on prudent investments and not be allowed to include any costs due to mismanagement or inefficiency.

All of the arguments are aimed at the extremely excessive nature of the tariffs. One illustration of how the tariffs were "pumped-up" as high as they were is shown by the double counting of a rate of return on the pipeline owners debt. In the initial filing, the pipeline carriers computed their proposed tariffs high enough to cover their operating costs (including interest) plus a rate of return on the total valuation of the pipeline. In essence, the pipeline companies were claiming a double rate of return on that portion of the pipeline financed through debt. They were first recovering their interest expense on their debt in addition to a rate of return on the borrowed money itself. The ICC, however, in its order suspending the rates, eliminated the double counting for purposes of setting interim rates by specifying that it would accept, on an interim basis, tariffs based upon a 10 percent rate of return on valuation with interest cost to be paid out of company's rate of return.

The effect of the excessive tariffs for the pipeline companies was extremely high rates of return and substantial profits for the pipeline companies. For example the degree of profit that would be yielded by the pipeline companies using

their originally filed tariffs was illustrated by the Commission as follows:

Pipeline Carrier	on Equity	on Total Investment	on Valuation
Amerada Hess	31.5%	13.8%	13.3%
ARCO	86.2%	13.1%	12.4%
BP	42.5%	14.2%	13.5%
Exxon	31.4%	13.2%	12.5%
Mobil	(no equity)	13.8%	13.1%
Phillips	38.2%	14.0%	13.1%
Sohio	40.6%	13.6%	13.1%
Union	71.1%	13.8%	12.7%
Average	46.0%	13.6%	12.9%

These inflated tariffs substantially reduced severance tax and royalty values and resulted in considerably reduced revenues. For example, shortly after the initial tariffs were filed the Department of Revenue estimated the loss of revenues would be as shown in the following table:

Duration of High Tariffs	Reduced Royalty and Prod. Tax Revenue
6 months	15.6
12 months	41.7
18 months	70.5

These initial tariffs were way beyond what others expected the pipeline companies would claim. Those third party estimates are shown on the following table.

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Date	Source	Amount
11/76	Mortada International, The Determination of Equitable Pricing Levels for North Slope Alaskan Crude, pp. II-18, III-10, III-12, IV-24, VII-6 VII-7	4.20-4.50
4/76	Drexel Burnham & Co., The North Slope: Paradise Lost? pp. IV-11	4.60
1/7/77	Washington Analysis Corp., Entitlements Program Impact on North Slope Profits	5.00
2/28/77	Merrill, Lynch, Pierce, Fenner & Smith, Inc., Institutional Report "Petroleum Notes, Prudhoe Bay Crude Oil, Entitlements Program, p. 4	5.40
4/1/77	Wainright Securities Inc., Industry Review, "Petroleum Industry, North Slope Oil and Gas," pp. 25 (Table 7), 43 (Table 10).	4.28*
	*includes 5¢ for TAPS liabilty fund	
4/15/77	The President of the United States, Report to Congress on the Pricing of Alaska North Slope (ANS) Crude Oil, pp. 63-64 (Table IX-3).	5.10

Even the Department of Revenue's extremely conservative estimate of $5.54 (worst case scenario) of what the companies might claim fell substantially below what was actually filed. As shown earlier in this report the filed tariffs also exceeded substantially the public pronouncements of the companies themselves.

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Tanker Tariffs

Another item having a direct impact on the wellhead value for calculation of the severance tax is the cost of marine transportation from Valdez to various points on the West Coast and Gulf Coast of the United States.

Unlike pipeline tariffs, the oil tanker transportation costs are not regulated by any government regulatory body since the tankers are not operating as common carriers. Instead the transportation charges are set by negotiation between the tanker company and the shipper, which in some cases may be between affiliated companies.

Since production began in June of 1977 tankers have been loading oil at Valdez and transporting it to various locations in the states of California, Washington and on the Gulf of Mexico. The charges claimed for this transportation have varied considerably between shippers and far exceed the expectation of third parties who estimated the amount of the charge.

Those tanker charges that have been claimed during the month of December are as follows:

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Company	Charge	Destination
ARCO	$ .88	West Coast
Exxon	1.08	West Coast
Phillips	.81	West Coast
Sohio	.89	West Coast
Sohio	3.61	Gulf Coast

These tanker charges that have ranged from $.88 to $3.61 are substantially greater than what other third parties thought the charges would be. These estimates were as follows:

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Date	Source	Tanker Cost
11/76	Mortada International, The Determination of Equitable Pricing Levels for North Slope Alaskan Crude, pp. II-18, III-10, III-12, IV-24, VII-6 and VII-7	
	Delivered to Los Angeles	.671*
	Delivered to Puget Sound	.459*
	*Figures in 1976 dollars	
4/76	Drexel Burnham & Co., The North Slope: Paradise Lost?, pp. IV-11	.50
1/7/77	Washington Analysis Corp., Entitlements Program Impact on North Slope Profits	
	Delivered to West Coast	.60
2/28/77	Merrill, Lynch, Pierce, Fenner & Smith, Inc., Institutional Report, "Petroleum Notes, Prudhoe Bay Crude Oil, Entitlements Program," p. 4.	.55
4/1/77	Wainwright Securities Inc., Industry Review, "Petroleum Industry, North Slope Oil and Gas," pp. 25 (Table 7), 43 (Table 10)	
	Delivered to Puget Sound	.50
	Delivered to San Francisco	.80
	Delivered to Long Beach	.70
	Delivered to Houston	2.45
4/15/77	The President of the United States, Report to Congress on the Pricing of Alaska North Slope (ANS) Crude Oil pp. 63-64 (Table IX-3)	
	Delivered to Puget Sound (120 MB/D)	.74
	Delivered to San Francisco (250 MB/D)	.96
	Delivered to Los Angeles (340 MB/D)	1.01
	Delivered to Gulf Coast (490 MB/D)	2.98

The Department of Revenue predicted a weighted average tanker charge of $.59 to the West Coast and it too was much below the tanker charges claimed.

Transportation to more Distant Markets

Another factor complicating the determination of wellhead value is the West Coast surplus. When the new production from Prudhoe Bay combined wi imports and California production, the amount of crude oil exceeded the physical capacity of the refineries on the West Coast to process it. As a result the surplus oil had to be, and still must be transported to other areas of the United States in order to be sold.

Currently, the North Slope surplus oil is being transported by Sohio through the Panama Canal by tanker to market destinations o the Gulf Coast. As production from Prudhoe Bay increases to 1.2 million barrels a day in March of this year, the surplus situation will worsen.

Several possible pipelines to transport surplus oil from the West Coast to eastern markets are on the drawing board, including: The Sohio Pipeline, Atlantic Richfield's proposed "Yoyo" of the Trans-Mountain line, the Kitimat line and the Northern Tier Pipeline. For the short term, however, no relief from the problem is in sight except the costly transshipment through the Panama Canal.

The extra transportation charge claimed by Sohio for shipment through the Panama Canal has been $2.72 per barrel. This in

itself has greatly reduced the wellhead value on a major portion of the North Slope production.

FIELD VALUE

In taking the market prices received for Prudhoe Bay oil and netting back actual claimed transportation charges from the point of sale to the point of production, the producers are reporting wellhead values ranging from $3.53 to $7.70.

The lowest value is reported by Sohio for the oil which it is marketing on the Gulf Coast. Sohio begins with a market price on the Gulf Coast of $13.42. From that amount it is deducting $3.61 for tanker transportation from Valdez to the Gulf Coast and a $6.28 TAPS pipeline charge from Prudhoe Bay to Valdez.

A schedule showing the various reported values for each of the producers follows. These reported values are taken from the December royalty reports as filed by the North Slope producers, and as stated earlier these values taken together produce a weighted average wellhead value for severance tax purposes of $5.44.

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Producer	Quantity	Sale	Market Price	Tanker Cost	TAPS Tariff	Reported Value*
Amerada Hess	119,585	Valdez	$12.60	--	$6.44	$6.16
ARCO	4,507,962	West Coast	13.44	.88	6.16	6.40
Chevron	187,488	--	--	--	--	7.70
EXXON	3,913,000	West Coast	13.16	1.08	6.27	5.81
EXXON	514,699	Valdez	12.30	.15	6.27	5.88
EXXON	41,736	Fairbanks	12.30	--	6.274	6.026
Getty	121,920	Prudhoe Bay	6.38	--	--	6.38
Hunt Group	21,191	Valdez	12.62	--	6.14	6.48
Louisiana Land & Expl.	8,839	Valdez	11.89	--	6.04	5.85
Marathon	11,094	--	--	--	--	6.35
Mobil	465,495	Prudhoe Bay	6.23	--	--	6.23
Phillips	454,632	West Coast	13.38	.81	6.22	6.35
Placid	9,415	Valdez	12.62	--	6.14	6.48
Sohio	4,550,000	West Coast	13.30	.89	6.27	6.14
Sohio	6,097,000	Gulf Coast	13.42	3.61	6.28	3.53
Sohio	1,170,000	Valdez	12.53	--	6.25	6.28

*Not including field cost deductions

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Although clearly not deductible under AS 43.55.140 for severance tax purposes in determining wellhead value, the producers have deducted so called "field costs" in determining wellhead value for royalty payments. These costs or deductions represent the costs of gathering, cleaning and dehydrating the oil from the point where the oil comes out of the ground to the point where it is metered into the Trans Alaska Pipeline. The state has taken issue with these deductions as well as all other producer calculations of wellhead value for royalty purposes in a lawsuit entitled State v Amerada Hess et. al., Superior Ct., No. 77-847, First Judicial District.

The amount of field costs deducted for royalty purposes have varied in amount among the producers and for December those deductions ranged as follows:

Producer	Field Cost Deductions
Amerada Hess	.68
ARCO	.64
Exxon	.53
Getty	.78
Mobil	1.11
Phillips	1.03
Placid	.77
Sohio	.60

Thus for royalty purposes the producers during the month of December repor[illegible] values as follows:

Producer	Royalty Value
Amerada Hess	$5.48
ARCO	5.77
Chevron	7.70
Exxon (West Coast)	5.28
Exxon (Valdez)	5.35
Exxon (Fairbanks)	5.50
Getty	5.60
Hunt Group	6.48
Louisiana Land & Exploration	5.85
Marathon	6.35
Mobil	5.12
Phillips	5.32
Placid	5.71
Sohio (West Coast)	5.48
Sohio (Gulf Coast)	2.87
Sohio (Valdez)	5.62

Thus with claimed field costs, Sohio for example, is claiming a wellhead value of $2.87 for the oil which it is shipping to the Gulf Coast. The weighted average wellhead value of Prudhoe Bay oil for royalty purposes for all producers during the month of December is $4.79 per barrel.

In contrast to the values being reported to the State of Alaska for severance tax and royalty purposes, an objective comparison of the value of North Slope oil using comparable market refining prices on the West Coast and reasonable transportation charges from the market to the North Slope oil field yields a value substantially above the reported values.

First of all, in computing a comparative market wellhead value, we begin with a free market price of oil of like quality to that of North Slope oil. That market price of oil, most comparable to North Slope oil is the price of oil imported to the West Coast and is computed as follows.

VALUE OF 27° ALASKA NORTH SLOPE (ANS) OIL
AT REFINERY DESTINATION

	Los Angeles
Saudi sales price FOB Ras Tanura	$12.32
Class 2 tanker tariff (AFRA)	1.12
Import fee	-0-
Price for Saudi FOB refinery	13.44
Entitlement for Saudi	-2.37
Refiner's acquisition cost for Saudi	11.07
Entitlement given for ANS oil	2.37
VALUE (Max. price refiners would pay for ANS oil)	13.44

Thus the free market value at the refinery of Prudhoe Bay oil is $13.44.

Secondly, reasonable transportation charges need to be computed and subtracted from the market price at the refinery. Again we have used third party bench marks in computing a comparison of wellhead value.

All the TAPS protestants including the State of Alaska, the U.S. Justice Department, the Arctic Slope Native Corporation, and the ICC staff have recommended TAPS tariffs substantially below what the companies originally filed. All of the TAPS

protestants except the ICC staff recommended TAPS tariffs below even the ICC interim tariffs. For purposes of this report, however, we have chosen the ICC interim rates as a bench mark for reasonable pipeline transportation costs even though these tariffs may in fact still be too high as permanent tariffs.

Those interim tariffs were:

Pipeline Carrier	Interim Rate
Amerada Hess	4.85
ARCO	4.91
BP	4.68
Exxon	5.10
Mobil	4.84
Phillips	4.83
Sohio	4.70
Union	4.84

Using the weighted average of these tariffs results in a pipeline transportation cost of $4.85 per barrel.

For tanker transportation to the West Coast we have chosen a conservative estimate of .70 based upon third party calculations of average tanker costs to the West Coast.

Using these third party bench mark figures of refinery prices and transportation costs results in a market price net back to the field of $7.91.

Also in contrast to the reported wellhead values are the projections of values by third parties as shown in the following table. Interestingly enough, however, these third party estimates coincide closely with our construction of an objective determination of a Prudhoe Bay wellhead value.

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Date	Source	Delivered Price	Tanker	TAPS Tariff	Wellhead Price
4/76	Drexel Burnham & Co., The North Slope: Paradise Lost? pp. IV-11	13.00	.50	4.60	7.90
11/76	Mortada International, The Determination of Equitable Pricing Levels for North Slope Alaskan Crude, pp. II-18 III-10, III-12, IV-24, VII-6 and VII-7				
	Delivered to Los Angeles	13.05*	0.671*	4.20-4.50	7.83-8.18
	Delivered to Puget Sound		0.459*	4.20-4.50*	
	Average Case				7.90*
	*Figures in 1976 dollars.				
1/7/77	Washington Analysis Corp., Entitlements Program Impact on North Slope Profits				
	Delivered to West Coast	13.52	0.60	5.00	7.92
2/28/77	Merrill, Lynch, Pierce, Fenner & Smith, Inc., Institutional Report, "Petroleum Notes, Prudhoe Bay Crude Oil, Entitlements Program," p.4				
	Delivered to West Coast	13.40	0.55	5.40	7.45
4/1/77	Wainwright Securities, Inc., Industry Review, "Petroleum Industry, North Slope Oil and Gas," pp. 25 (Table 7), 43 (Table 10)				
	Delivered to Puget Sound	13.27	0.50	4.28*	8.49
	Delivered to San Francisco	13.38	0.80	4.28*	8.30
	Delivered to Long Beach	13.32	0.70	4.28*	8.34
	Delivered to Houston	13.57	2.45	4.28*	6.84
	*includes 5¢ for TAPS liability fund				
4/15/77	The President of the United States, Report to Congress on the Pricing of Alaska North Slope (ANS) Crude Oil, pp. 63-64 (Table IX-3)				
	Delivered to Puget Sound (120 MB/D)	14.53	0.74	5.10	8.69
	Delivered to San Francisco (250 MB/D)	14.53	0.96	5.10	8.47
	Delivered to Los Angeles (340 MB/D)	14.53	1.01	5.10	8.42
	Delivered to Gulf Coast (490 MB/D)	14.83	2.98	5.10	6.75
	Weighted Average	---	--	--	7.77

INFLATION AND CHANGES IN WORLD OIL PRICES

In Alaska's Oil and Gas Tax Structure (p. VI-22), the Department of Revenue recommended last year that

> "[t]o prevent the 'floor' from losing value through time it should escalate"

Suggested escalators then were the Gross National Product (GNP) deflator, which is the primary index of U.S. inflation, and the world market price of similar foreign oil. The GNP deflator during the last year has changed as follows:

GNP Deflator
(1972 = 100)

Index Period	Index Amount	Change from 3rd Quarter 1976
3rd Quarter 1976	134.56	--
4th Quarter 1976	136.35	+1.3%
1st Quarter 1977	138.13	+2.7%
2nd Quarter 1977	140.52	+4.4%
3rd Quarter 1977	142.25	+5.7%

With respect to world oil market prices, 1977 saw a period of two-tier pricing within OPEC come to an end. The split in OPEC developed when Saudi Arabia and the United Arab Emirates (UAE) refused to go along with the rest of OPEC in December 1976 in raising their State Sales Prices by 10 percent. Instead, Saudi Arabia and the UAE raised prices by only about 5 percent. In midyear this breach was closed, when the two nations raised their prices while the rest of OPEC forewent its previously announced increase scheduled

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for that time. Since Saudi Arabian crudes are of all imports, most like Prudhoe Bay crude in refining characteristics, the midyear increase in price for those crudes is relevant to the appropriate cents-per-barrel floor for Alaskan oil production. Accordingly, the exact prices and percentages of change follow:

Changes in State Sales Prices (FOB)
by Saudi Arabia and the U.A.E.
During 1977

Crude Type	1-1-77 $/B	1-9-78 $/B	% Change	
Saudi Arabia				
Berri (39°)	12.48	13.22	+5.9]	
Light (34°)	12.09	12.70	+5.0]	+5.5%
Medium (31°)	11.69	12.32	+5.4]	average
Heavy (27°)	11.37	12.02	+5.7]	
U.A.E. (39°)	12.514	13.26	+6.0	

Source: Platt's OILGRAM Price Service

Besides these indicators, other indices are available and could be used. For example, a Consumer Price Index is calculated for the entire United States, and another one for Anchorage. Their changes are given below.

Changes in Consumer Prices Indices
for the United States and for Anchorage

Index Month	Anchorage Index: Index Amount (1967 = 100)	Anchorage Index: % Change from 10/76	United States Index: Index Amount (1967 = 100)	United States Index: % Change from 10/76
Oct. '76	167.6	--	173.3	--
Jan. '77	169.4	+1.1	175.3	+1.2
Apr. '77	172.6	+3.0	179.6	+3.6
Jul. '77	177.4	+5.8	182.6	+5.4
Oct. '77	177.3	+5.8	184.5	+6.5

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The table on the following page provides a comparison of U.S. price indices for crude petroleum and refined petroleum products, which the Bureau of Labor Statistics of the U.S. Department of Labor prepares and maintains.

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A Comparison of U.S. Price Indices for Crude Petroleum and Petroleum Refined Products, December 1976 and December 1977 (1967 = 100 unless otherwise indicated)

	Index 12-76	Index 12-77	% Change
Crude Petroleum	264.4	288.1	8.96
Petroleum Products, Refined	287.6	313.7	9.08
Gasoline	263.4	279.5	6.11
REGULAR	242.2	255.8	5.62*
Dealer Tank-wagon to Retail Outlets	225.8	238.6	5.67*
Sales to Jobbers	267.1	283.3	6.07*
Commercial Consumers	256.4	267.9	4.49*
PREMIUM	214.9	229.8	6.98*
Dealer tank-wagon to Retail Outlets	204.9	218.7	6.73*
Sales to Jobbers	237.1	254.9	7.51*
Commercial Consumers	242.3	260.0	7.30*
UNLEADED	100.0	99.7	-.3
Dealer tank-wagon to Retail Outlets	100.0	99.9	-.1*
Sales to Jobbers	100.0	99.6	-.4*
Commercial Consumers	100.0	98.6	-1.4*
Light Distillate	323.2	381.2	17.95
Kerosene to Resellers	266.1	303.7	14.13*
Commercial Jet Fuel, Kerosene base	269.9	320.0	18.96*
Middle Distillate	349.8	394.2	12.69
Fuel Oil No. 2 to Resellers	282.0	319.9	13.44*
Diesel to Commercial Consumers	281.6	314.2	11.58*
Residual Fuels	480.4	510.5	6.27
Cargo shipments to Resellers	305.6	328.3	7.43*
Steam Electirc Utilities	100.0	103.4	3.40*
Lubricating Oil Materials	274.3	333.4	21.55
Bright Stock	169.5	203.6	20.11*
Neutral Stock	152.6	192.8	26.34*
Pale Stock	98.0	115.8	18.16*
Finished Lubricants	178.6	197.5	10.58
Automotive Motor Oils	156.5	170.8	9.14
Industrial Oils	167.7	190.9	13.83*
Petroleum Grease	126.5	130.2	2.92*
Petroleum Wax	200.2	247.5	23.63

Source: U.S. Department of Labor
Bureau of Labor Statistics

*base year different than 1967

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The present $6.53 floor for "other oil" is inadequate.

As shown earlier (p. 38) an objective computation of the market value of Prudhoe Bay oil using comparable refinery market prices and reasonable transportation costs (determined from third party sources) yields a wellhead value of $7.91.

Additionally, at the same time as the Department recommended a $7.50 floor, the oil companies were speaking publicly of wellhead prices near and above that level. Numerous informed consulting firms were forecasting prices in this range, too (see p. 40). Aside from inflation and the price increases of Saudi Arabia and the UAE, nothing else has changed during 1977 that would alter the appropriateness of that figure. As such, $7.50 plus 5.7 inflation as measured by he G.N.P. deflator yeilds a value of $7.93.

Accordingly, the Department of Revenue recommends a floor of $7.90. The cents-per-barrel amount that corresponds to this floor at a 12.25 percent rate is .96775 which, when rounded, is $.968. AS 43.55.011(c) should be amended so that $.968 replaces the $.80 figure that is there now.

The Department also believes it is appropriate at this time to adjust the cents-per-barrel rate for "old oil" and the cents-per-Mcf rate only to the extent necessary to offset

AGO 547803

the 5.7 percent inflation. Thus the $0.60 figure in AS 43.55.011(c) should be changed to $0.634, and the $0.064 figure in AS 43.55.016(c) should be changed to $0.068.

While AS 43.55.012(a) requires only that Department of Revenue make the recommendations above, the Department will further recommend a change in AS 43.55.012(a) itself so that a greater degree of stability may be incorporated into the production tax. As that statute reads now, the cents-per-barrel tax rates must come under review each and every year. This needlessly creates an uncertainty from one year to the next, which can eventually harm the investment climate for further oil and gas development. The Department therefore recommends tying the cents-per-barrel and cents-per-Mcf rates to an index to offset the adverse effects of inflation on the meaningfulness of these floors. This would be done by repealing AS 43.55.012(a) in its entirety and enacting the following provision to replace it:

> (a) The amounts set out in sec. 11(c) and sec. 16(c) of this chapter shall be increased or decreased by a percentage equal to the percentage of change in the Gross National Product Deflator published by the Bureau of Economic Analysis of the United States Department of Commerce, using 1972 as the base period for the deflator (1972 = 100). Changes in tax rates will be computed based on changes in the Gross National

Product Deflator from the First Quarter 1978 Gross National Product Deflator. The department shall post the changes in the tax rates periodically and shall notify every person producing oil within the state of the changes.

HB

887

COMMITTEE REPORT

HOUSE

3/15/78

FURTHER: FINANCE

Date: April 17, 1978

Mr. Speaker:

The Committee on RESOURCES has had HB 887
"An Act making a special appropriation to the Dept. of Natural Resources to acquire land for establishment of the Funny River State Wayside; eff. date."
under consideration and (a majority of the committee) (the committee reports it back as follows)

( ) recommends it do pass ( ) recommends it do not pass

( ) recommends it do pass with attached amendment(s)

( ) recommends it be replaced with CS for _____

and _____( ) new title ( ) same title

( ) AND attaches a Letter of Intent ( ) New Fiscal Note

( ) reports it back without recommendation

( ) and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

OTHER RECOMMENDATIONS:

_____
Chairman

H 60 (rev. 6/77)

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 887
Title Special appropriation to DNR for land acquisition for a Funny River-Kayside
Requested by House Resources Committee Date 3/15/78

II. FISCAL DETAIL
Agency Affected Division of Parks, Department of Natural Resources
Program Category Affected Natural Resources and Environmental Conservation
Budget Request Unit(s) Affected Parks and Recreation

EXPENDITURES (Thousands of Dollars)

		FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100	PERSONAL SERVICES	0	0	1.8	2.0	2.2	2.4
200	TRAVEL	0	0.2	0.2	0.3	0.4	0.5
300	CONTRACTUAL	0	1.0	1.7	1.9	2.1	2.3
400	COMMODITIES	0	0.5	2.0	2.2	2.4	2.6
500	EQUIPMENT	0	0	0	0	0	0
600	LAND & STRUCTURES	110.0	0	285.7	0	0	0
700	GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
	TOTAL	110.0	1.7	291.4	6.4	7.1	7.8

FUNDING (Thousands of Dollars)

GENERAL FUND	110.0	1.7	148.6	6.4	7.1	7.8
FEDERAL FUNDS	0	0	142.8	0	0	0
OTHER (Specify)	0	0	0	0	0	0

POSITIONS

APR 14 1978

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	1/3	1/3	1/3	1/2
TEMPORARY	0	0	0	0	0	0

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

It is assumed that the bill will only result in acquisition of the 13.89 acres of private land. Actual opening and operation of the area for public recreation would be dependent upon a future allocation for development of the area. This development would include a boat ramp, parking, toilet facilities, trails, water well, picnic sites, and several tent camping sites. The cost of this development is estimated to be 225.0 dollars and presumably would occur in 1979 or 1980.

It is expected that 50-50 matching funds would be available in 1979 from the federal Land and Water Conservation Fund.

Assuming that development funds will be appropriated by the legislature in 1979, maintenance costs will be reasonably low thereafter due to the provision of low maintenance facilities. Maintenance and operation cost projections also assume that the area will not be open to the public until it is developed. To open the area in an undeveloped condition would lead to high maintenance costs due to random use patterns which would develop.

IV. DATE 4/5/78 PREPARED BY Terry A. McWilliams, Director
AGENCY Division of Parks, Dept. of Natural Resources
Original: Legislative Finance PHONE 465-2421 (Anchorage: 274-4676)

STATE OF ALASKA

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LAND & WATER MANAGEMENT

TO: NEIL C. JOHANNSEN
Chief of Planning
Division of Parks

DATE: December 23, 1977

FILE NO:

TELEPHONE NO:

FROM: DENNIS L. LATTERY C.R.A.
Appraiser

SUBJECT: Letter of opinion of value

As requested this is to provide you with an estimate of the market value of a parcel of land located at the confluence of the Funny River and Kenai Rivers described to me as:

Tract Six, Addition No. Two, Heistand Subdivision NE¼, SE¼ Goverment Lots 12 & 13, Section 28, T5N, R9W, S.M. (Total 13.89 acres)

You will understand that I have not had the benefit of a field inspection of this property nor the comparable sales used to support this estimate. Because of this I am obliged to provide you with a probable range of values rather than a simple "ball park" figure. I will note that I have appraised a number of parcels in this area in the past, including both backlands and river fronting properties,and that I am reasonably familiar with market thinking in the vicinity.

On a basis of five reasonably current sales in this area, including a 47 acre river fronting tract very near the subject, a range in value of $7,500.00 to $8,300.00 per acre is indicated to this property.

I hope this is sufficient for your needs.

105.0 — 116.3

MEMORANDUM

State of Alaska
DEPARTMENT OF FISH AND GAME

TO:
Russ Redick
Regional Supervisor
SF - Anchorage

DATE : November 8, 1977

FROM:
Sid Logan
Area Management Biologist
SF - Soldotna

SUBJECT: Kenai-Funny River
Confluence Land Purchase

This memo is in reference to your request of November 2 concerning the desirability of the state acquiring the McFarland property located at the Funny-Kenai River confluence. We believe the purchase of this parcel would be beneficial to recreational angling public for the following reasons:

1. This site is located 10 miles east of Soldotna adjacent to the Funny River Road. This is a good gravel all weather road which provides for easy access from the Soldotna-Kenai areas. Also, it would be more readily accessible to the Anchorage population center when a bridge is eventually constructed across the Kenai River near Naptowne connecting it with the Sterling Highway.

2. This 14 acre parcel has approximately 1,000 feet of frontage on the Kenai River which would be available as shoreline access to the angling public. Most of the land above and below this site is either private or generally not accessible from the road system. The site also has excellent potential for the construction of a boat ramp or harbor in the sheltered Funny River.

3. This will be the only developed public access site on the south bank of the Kenai River except for the Soldotna City Campground. It will also be located approximately in the center of a 16 mile section of the Kenai River which is only lightly utilized due to the lack of readily accessible developed public access. During the 1977 king salmon fishery this area received only 9.1 percent of the total effort although it comprises 47.1 percent of the stream area open to fishing.

4. The Kenai River is the most popular salmon fishery in the state of Alaska so the demand for improved public access is very high. Total angler effort on king salmon during June and July has increased by 252 percent over a four year period from 23,600 man-days in 1974 to 83,000 man-days in 1977. Effort on silver salmon during August and September was 36,000 man-days in 1976.

TELEGRAM

NOA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

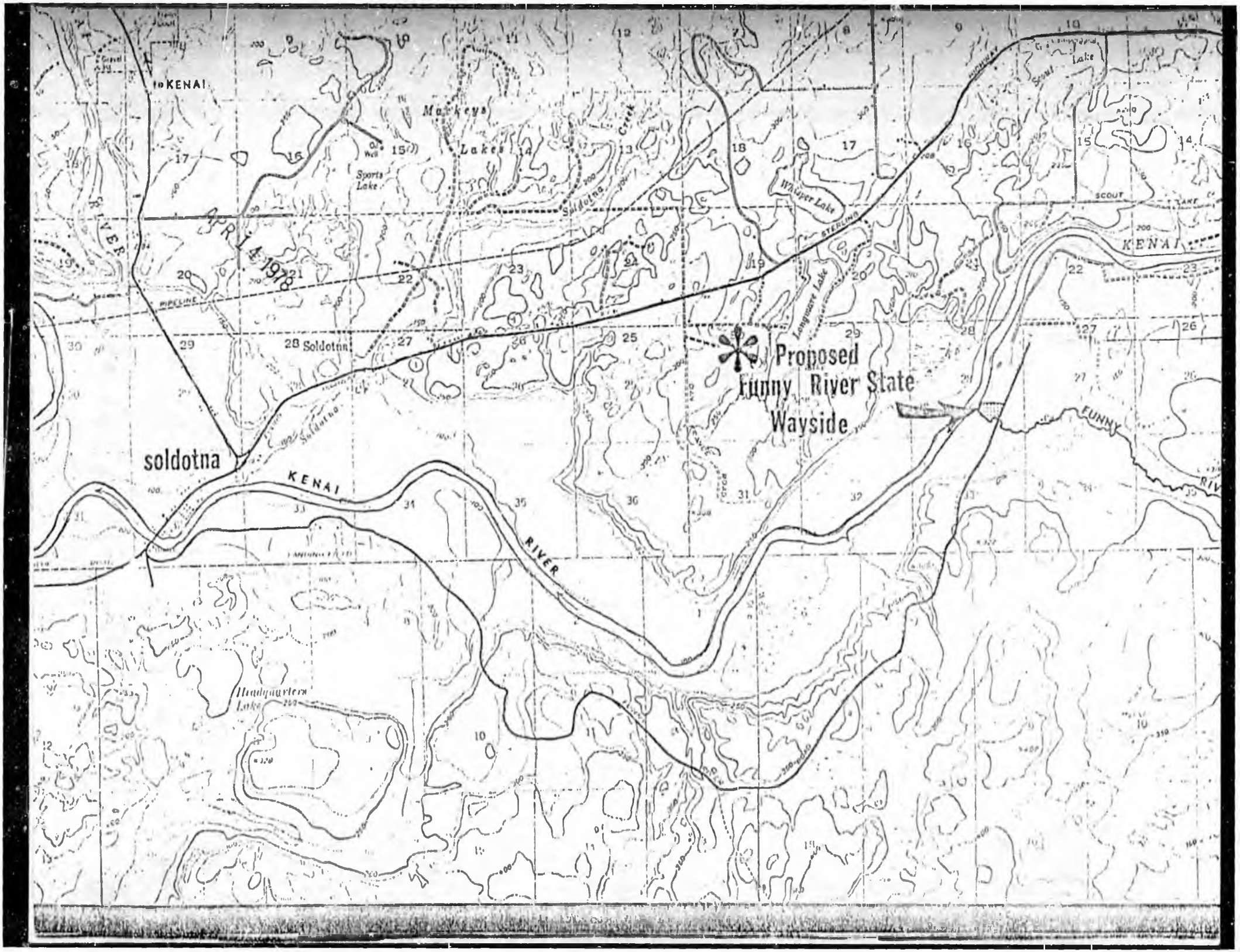
32145 NL ANCHRAGE [illegible] 03/31

PRS REP HUGH MALONE

JUN

PLEASE CHECK WITH REPRESENTATIVE HUGH MALONE AND CO-SPONSOR A BILL TO PROVIDE FUNDING FOR THE FUNNY RIVER PROPERTY BEFORE FILING DEADLINE. THIS EXTREMELY IMPORTANT KENAI RIVER ACCESS WILL PROVE TO BE A VERY HIGH USE PUBLIC RECREATIONAL AREA AND IF NOT FUNDED DURING THIS SESSION WILL BE LOST TO FUTURE GENERATIONS OF ALASKANS FOREVER.

SAM E MCDOWELL PRESIDENT ISAAC WALTON LEAGUE.


to KENAI
Mackeys Lakes
Sports Lake
Soldotna Creek
Upper Lake
STERLING
KENAI
SCOUT LAKE
APR 14 1978
PIPELINE
28 Soldotna
Longmere Lake
Proposed
Funny River State
Wayside
soldotna
KENAI
RIVER
FUNNY
Headquarters Lake

MEMORANDUM

State of Alaska
DEPARTMENT OF FISH AND GAME

NOV 14 1977

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Regional Supervisor
SF - Anchorage

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Confluence Land Purchase

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APR 14 1978

Al Hines
619 Warehouse Drive
Suite 210
Anchorage AK
99501

Proposed Funny River State Wayside

size of parcel: 13.89 acres

Appraised value:$110,000 (based on Alaska Division of Lands estimate of value)

Development potential: (prepared by Alaska Division of Parks)

While the site is capable of supporting a wide variety of recreational uses and development, the following appear most appropriate for the expected user groups and character of the site:

- parking area for 40 vehicles
- toilets (fiberglass vault type)
- single lane boat launch
- water well
- fishing trails along rivers
- 8 picnic sites
- 10 tent camping sites
- interpretive display (salmon)
- signs, road work, misc.

Development costs: 1978 dollars 195,600
1980 dollars 285,700

(note:these figures are based on the above facilities. 1980 dollars are used as this is the Division of Parks estimate as to when the construction of facilities could be undertaken)

APR 1 ≠ 1978

MAR 29 1978

William Schrier
P.O. Box 1051
Soldotna, Alaska 99669

March 27, 1978

Rep. Hugh Malone
House of Representatives
Juneau, Alaska

Dear Hugh;

The south side of the upper Kenai needs an access point and House Bill 887 should provide this. I hope that the House and Senate will expedite this bill to provide funds to acquire this land.

I hope you will accept my letter to Senator Tillion for your use in the House.

Sincerely,

Bill

Bill Schrier

HB
898

PROJECT OUTLINES

1. Formation of non-profit corporation; application to IRS for non-profit status
2. Solicitation of member organizations and member processors
3. Review of submitted project proposals
4. Solicitation of funding for future projects
5. Appointment of executive director and setting up office in Anchorage

BUDGET SUMMARY	Cost	Government Contribution	Industry Contribution
Start-up expenses (18 Committee members, 4 meetings)			
Printing (est.)	$ 200.00		$ 200.00
Travel		$ 2,000.00	$12,700.00
Professional services	$18,000.00		$18,000.00
Telephone (est.)	$ 500.00		$ 500.00
Note: to date memberships have contributed			$ 285.00
Executive Director (salary 12 months)	$54,000.00		
Secretary	$14,400.00		
Travel	$36,000.00		
Phone	$ 9,600.00		
Legal Fees	$12,000.00		
Office Rental and overhead (6 months)	$15,000.00		
		$236,250.00	

(Looking for state funding - $10,000.00/$15,000.00)

$101,250 is requested for FY78 and $135,000 is requested for FY79.

Funds out

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Finds out

Alaska State Legislature

House of Representatives

Committee on Resources

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Al, Should

24 March 1978

AGENDA

HB 811 Advisory vote on use of D-2 lands

HB 898 Appropriation for Alaska Fisheries Development Corp.

Over head = daily
Dick Reynolds = Dud. Rec.

revealing = ✉ ——

revealing Feeds

Al,

Dick Eakins — get Eakins Out

Alaska Fisheries Development Corporation (Informational)

BOX 969
CORDOVA, ALASKA 99574
(907) 424-3116

March 13, 1978

The Honorable Terry Gardiner
House of Representatives
State Capitol Building
Juneau, Alaska 99811

Dear Representative Gardiner,

The Alaska Fisheries Development Corporation (Corporation) is a not-for-profit Alaska corporation recently formed by members of the Alaska fishing industry. The organization has been carefully structured so that its voting membership will equitably reflect both the harvesting and the processing sectors of the industry. Since December 3, 1977, a representative group of fishermen and processors has worked cooperatively to both form the Corporation and to draft a comprehensive bottomfish proposal which would win industry's support. Both goals have been realized.

Though many factors have encouraged this promising effort on th part of historically opposed segments of the industry, the most persuasive has been the promise of 2.7 million dollars in federal funding which the industry was led to believe would be available from Saltonstall-Kennedy Fund monies for the development of the Alaska bottomfish industry. Because it was necessary to have a viable legal entity which could receive and manage such monies and programs, the industry was compelled to coordinate its efforts and form the corporation. The current bottomfish proposal is the first of the research and development projects which the Corporation anticipates it will undertake.

Though early indications from NMFS and NOAA are encouraging the Corporation has been informally advised that contrary to earlier agency assurances the full 2.7 million dollars is not available for Alaska. Concurrently a hard look is being taken at this somewhat surprising cooperative effort on the part of industry. Skeptics lurk at every corner despite the demonstrated ability of this organization to perform well and to be flexible as well as resourceful.*

*Though timely filed with NMFS the proposal was modified by by industry at the urging of both NMFS staff and high-level NOAA personnel. The revised proposal includes the independently submitted proposal of the Aleutian-Pribloff Fisheries Cooperative additional supporting marketing and economic data and a change from a one to a two year time frame.

To date members of the industry have volunteered their time with the understanding that incurred travel, telephone and printing expenses will be reimbursed. Similar organizations in other areas of the United States have and are obtaining funding for such initial activities through federal channels. Alaska's request to NMFS for such seed money was denied, though the Alaska Sea Grant program donated $2000 for travel expenses to insure that working sessions were attended by fishermen as well as processors.

The Corporation is aggressively seeking funding with a membership drive and from donations of supportive components of the industry. Though the response has been excellent the process is a slow one. In order to maintain interest in and committment to the Corporation and the proposal and to attract future funding, it is imperative that the proposed projects are implemented as soon as the money is available. A qualified staff, a solid budget and a base of operations are all prerequisites to the successful management of the projects.

Thus the Corporation seeks a grant of $100,000 from the State of Alaska. It is essential that such funding be appropriated immedeately for two reasons: 1) to indicate to both federal agencies and the industry itself that the State endorses this activity and has confidence in the industry's ability to look after its own needs and 2) to insure that there is a management team in place as soon as possible.

It is crucial that the viability of the Corporation be insured; that it is poised to swing into action as soon as the allocation of S-K funding for Alaska is confirmed so that no momentum is lost. Delay could well result in denial of funding for 1979 and beyond, not to mention the impact that such failure would have on the development of this most important fishery.

Thank you in advance for considering this request for a grant for $100,000. Your concern and support of the fishing industry in Alaska does not go unnoticed. It is the industry of the future for Alaska.

Respectfully,

The Board of Directors
Alaska Fisheries Development
Corporation

Sara S. Hemphill

by:
Sara S. Hemphill

SSH:dd

HB
904

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

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 904

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

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

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

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

ARTICLE 1. PUBLIC AND PRIVATE LAND USE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

minimize public costs and maximize social and economic benefits.

ARTICLE 2. LAND AVAILABILITY FOR PRIVATE USE.

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

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

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

Sec. 38.04.035. CRITERIA FOR PROGRAM SELECTION. In determining

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

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

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

(3) Lease programs should be employed

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 3. INVENTORY, PLANNING, AND CLASSIFICATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and classification for the appropriate area or region.

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

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

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

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

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

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

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

with settlement and development.

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

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

ARTICLE 4. GENERAL PROVISIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* Sec. 3. AS 38.05.300 is repealed.

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

TESTIMONY

REGARDING LAND POLICY BILL

PRESENTED BY

JOINT FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

APRIL, 1978

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Paragraph (2) is self-explanatory.

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

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

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

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

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

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

Sec. .055. Self-explanatory.

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

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

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

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

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

Paragraph (e) is self-explanatory.

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

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

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

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

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

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

Municipality of Anchorage

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

GEORGE M. SULLIVAN,
MAYOR

OFFICE OF THE MAYOR

April 17, 1978

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

Dear Senator Polland:

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

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

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

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

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

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

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

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

Sincerely,

George M. Sullivan
Mayor

Michael J. Meehan
Director of Planning

/sw

FSLUPC
April, 1978

LAND POLICY BILL

Suggested Amendments

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

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

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

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

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

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

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

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

FSLUPC
April, 1978

LAND POLICY BILL

Suggested Amendments

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

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

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

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

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Mal.

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

To: Bush members of the
House Resources Committee

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

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

Date: April 19, 1978

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

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

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

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

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

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

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

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

"March 22, 1973

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

Dear Mr. Speaker:

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

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

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

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

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

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

Land Credit Bill

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

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

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

HB 905

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

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

"An Act establishing an invention awards program."

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

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

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

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

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

"March 22, 1973

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

Dear Mr. Speaker:

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

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

HB 905

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

HB 904

Land Policy Bill

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

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

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

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

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

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

Sincerely,

[signature]

Jay S. Hammond
Governor"

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

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

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

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

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

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

(IDENTICAL TO HB 904)

Senate Bill 562

"An Act relating to Alaska Land Policy

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

The bill contains three major elements:

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

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

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

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

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

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

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

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

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

GENERAL FUND		5,008				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		69				
PART TIME						
TEMPORARY						

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

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

N.B.

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

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

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

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

33-001 (Rev. 12/77)

50,000 acres disposal

COST SUMMARY
LAND POLICY ACT

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

Land inventory/assessment

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

Land Policy Act

(Front-end)

Minus

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

Preliminary

Estimated State Implementation Costs

Alaska Land Policy Act -- HB904, SB562

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

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

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

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

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

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

Personal Services (including 26% benefits)

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

Travel

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

Contractual

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

Commodities

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

Equipment

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

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

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

Personal Services (including 26% benefits)

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

Travel

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

Contractual

Professional Services

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

acres for 332 tracts = $365,760

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

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

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

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

Personal Services

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

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

Travel

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

Contractual

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

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

Commodities

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

Equipment

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

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

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

Personal Services (including 26% benefits)

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

Travel

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

Contractual

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

Commodities - TOTAL $3,040

Equipment

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

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

Personal Services (including 26% benefits)

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

Travel

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

Contractual

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

Commodities - TOTAL $6,200

Equipment - TOTAL $10,200

FISCAL NOTE

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

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

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

GENERAL FUND		5,679				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		84				
PART TIME						
TEMPORARY						

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

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

N. B.

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

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

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

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

33-001 (Rev. 12/77)

COST SUMMARY
LAND CREDIT ACT

1. 50,000 acres disposal

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

2. Credit Administration

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

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

Land Credit Act (Front-end)

Minus

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

March 28, 1978

Preliminary

Estimated State Implementation Costs

Alaska Land Credit Act -- HB905 ← SB565

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

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

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

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

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

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

Personal Services (including 26% benefits)

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

Travel

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

Contractual

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

Commodities

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

Equipment

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

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

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

Personal Services (including 26% benefits)

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

Travel

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

Contractual

Professional Services

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

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

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

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

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

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

Personal Services

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

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

Travel

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

Contractual

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

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

Commodities

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

Equipment

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

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

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

Personal Services (including 26% benefits)

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

Travel

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

Contractual

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

Commodities - TOTAL $3,040

Equipment

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

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

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

Personal Services (including 26% benefits)

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

Travel - No cost

Contractual

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

Commodities

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

Equipment

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

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

100 Personal Services

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

200 Travel

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

Field/Administrative travel (In-State)

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

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

300 Constractual Services (1st year costs)

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

Telephone

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

Postage

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

Centrex - Juneau office only 1,400

SUB-TOTAL $136,900

320 Printing and Advertising

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

330 Rents and Utilities

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

Anchorage

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

Juneau

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

Fairbanks

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

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

NOTIFICATION

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

STATE LAND REPORT

29:

733 W. FOURTH AVE.
ANCHORAGE, ALASKA

FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

STATE LAND POLICY RECOMMENDATIONS

AND

BACKGROUND PAPERS

DECEMBER, 1977

Federal-State
Land Use Planning Commission
For Alaska

December, 1977

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

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

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

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

Sincerely yours,

Esther C. Wunnicke
Federal Co-Chairman

Sincerely yours,

Walter B. Parker
State Co-Chairman

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

JOINT FEDERAL-STATE
LAND USE PLANNING COMMISSION
FOR ALASKA

733 W. Fourth Avenue, Suite 400
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"STATE LAND POLICY RECOMMENDATIONS AND BACKGROUND PAPERS"

December, 1977

PART I

STATE LAND POLICY RECOMMENDATIONS

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

PART II

BACKGROUND PAPERS ON MAJOR LAND POLICY ISSUES

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

PART I

STATE LAND
POLICY RECOMMENDATIONS

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STATUTORY GUIDELINES FOR RETENTION AND DISPOSAL OF STATE LANDS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LEASING OF STATE LANDS

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

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

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

Findings:

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

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

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

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

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

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

Recommendations:

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

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

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

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

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

STATE TRUST LANDS

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

Findings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Recommendations:

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

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

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

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

BUDGETING FOR STATE LAND MANAGEMENT

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

Findings:

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

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

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

Recommendation:

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

PART II

BACKGROUND PAPERS ON MAJOR LAND POLICY ISSUES

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workshop

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WORKSHOP

Introduction

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

Formal Workshop Participants:

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

AGENDA

8:30 Introduction

Briefing on Supply, Location and Accessibility of State Land

9:00 Statutory Guidelines for State Land Disposal

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

10:30 Disposal Methods

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

1:30 Leasing

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

2:30 Trust Lands

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

3:30 Budgetary Implications

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

Workshop Proceedings On
State Land Disposal Policy

Statutory Guidelines for State Land Disposal

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Disposal Methods and Techniques

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

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

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

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

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

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

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

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

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

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

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

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

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

Leasing

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Trusts

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Budget

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

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

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

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

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

Land Availability

L A N D

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Land Availability

Introduction

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

Land Selection Status
January 1, 1978

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

*Selected Acreage also includes lands tentatively approved and patented.

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

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

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

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

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

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

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

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

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

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

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

INFORMATION ITEM

733 W. FOURTH AVE.
ANCHORAGE, ALASKA

FEDERAL-STATE LAND USE PLANNING COMMISSION, FOR ALASKA

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

By Sally Gibert

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

policy

POLICY FOR LAND RETENTION AND DISPOSAL

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Policy For Land Retention and Disposal

Introduction

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

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

The statutes modify this mandate slightly by saying

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

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

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

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

STATEMENT OF POLICY ON THE USE OF BOROUGH-OWNED LANDS

Anchorage Municipality, 1975

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

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

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

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

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

Land Disposal Policy In Other States

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

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

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

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

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

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

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

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

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

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

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

California

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

Idaho

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

Nevada

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

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

Louisiana

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

New Mexico

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

Wyoming

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

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

Montana

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

Colorado

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

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

Utah

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

North Dakota

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

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

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

Oregon

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

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

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

Arizona

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

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

Arizona follows this policy in its land use operating program:

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

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

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

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

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

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

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

Selections: The highest forseeable value and management patterns.

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

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

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

SHORT TITLE

43 USC 1701 note.

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

DECLARATION OF POLICY

43 USC 1701.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(continues)

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

private use

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Making State Land Available For Private Use

Introduction

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

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

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

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

FACT SHEET ON HOMESITES

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

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

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

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

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

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

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

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

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

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

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

OPEN-TO-ENTRY, THE TALKEETNA EXPERIENCE

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

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

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

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

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

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

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

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

He therefore concludes that:

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

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

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

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

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

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

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

C) Two other closely related proposals were:

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

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

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

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

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

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

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

FSLUPC Staff Paper
November, 1977

Disposal Methods

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

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

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

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

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

4. To minimize administrative costs.

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

Case 1

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

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

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

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

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

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

Case 2

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

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

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

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

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

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

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

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

Case 3

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

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

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

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

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

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

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

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

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

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

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

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

Case 4

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

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

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

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

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

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

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

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

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

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

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

Case 5

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

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

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

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

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

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

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

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

On the other hand, the State sees the land needs of these part-time or subsistence farmers as being a legitimate prospective use of State lands, and decides to accommodate their interests wherever it can be done without undue harm to the public interest.

Disposal methods. The State decides to dispose of some lands for this purpose along or near existing roads in areas that are already served by a rural school bus system. Outside of existing school bus routes, the State decides to limit disposal for this purpose to summer recreational use. They feel that it is possible to enforce the summer recreational restriction by locating in areas that are served by summer roads only and developing an agreement with the local government and the Department of Highways to maintain this policy. Zoning before disposal by either the State or the local municipality will reenforce the distinction between areas for summer recreational use and year-round residential use. It is doubtful, however, that zoning will be very effective in this regard unless it is coordinated with the highway maintenance program.

A further criterion in selecting lands for this form of disposal is to avoid large blocks of prime agricultural land, but, instead, to chose lands with lesser or scattered agricultural values. This approach will reserve the State's prime agricultural lands for commercial agriculture.

Once the location is identified, topographic maps are prepared and lots are carefully planned and subdivided to provide access, some agricultural acreage and, if possible, a view from each property.

In selecting the method of conveyance, the State considers home-siting, but decides against this method because it is felt that the prospective purchasers need more flexibility in the timing of their development than is allowable under the Homesite Law. Retirees, for example, may want to acquire their land sometime before they actually retire and build and live on it. Further, the lottery system in the Homesite Law makes it impossible for an individual who has a strong preference for a particular site to assert his preference by out-bidding others.

Instead, the State decides to sell lots of five acres at auction and to offer remaining unsold property-over-the-counter. Speculative acquisition for subdivision purposes will be discouraged by establishing residential zoning before the sale and by including a

covenant in the sales contract prohibiting subdivision and limiting use to accord with the regulations of zoning.

Case 6

The individual who wants an opportunity to live in a remote area. This person's primary objective is the experience of living in isolation in the Alaska wilderness. He is typified by some of the people who filed for land north of Talkeetna under the open-to-entry program, but who expressed dissatisfaction with the program because other people filed next to them. Typically, this person's wilderness experience is not a lifetime project, but a matter of "dropping out" for a year or more. Since he is removing himself from the economic mainstream, the cash resources which he can invest in land and structure are limited.

He respects the integrity of the land and appreciates the historic Eskimo concept that land is for all to use and cannot be divided up into special ownerships. Still, he wants to keep his neighbors at a considerable distance and he needs enough surrounding woodland to supply himself with firewood.

State interests. The State recognizes that, though this individual represents a very small segment of its citizens, he is a legitimate potential user of State lands. Unlike the other types of land users, this individual's needs are not as well met by private lands as by State lands. Private lands are more accessible, costly, and give our individual little guarantee of isolation. Therefore, perhaps the State has a special obligation to accommodate him. Further, the State sees this wilderness buff as a potential user of lands that are so isolated and inaccessible that they will have little use to most citizens. Thus, allowing this individual to use State lands is a way of extending the accessibility and usability of State lands. Cabins and trails in remote areas add to the safety and therefore the accessibility of wilderness areas.

On the other hand, the State does not want to commit land to a few individuals in a way that will be costly to the taxpayer. The State sees little public interest in assuming the considerable expense of surveying remote isolated tracts or of providing schools for small settlements in remote locations. Land appraisal in such areas is costly and uncertain because of the absence of an active market.

Disposal method. The State decides that the best approach to meet the public and private interests in this case would be to retain the land in public ownership and simply give the individual a permit to build and occupy a cabin for a number of years. He would acquire no ownership rights; his permit would not be assignable; and his cabin would be public property to be used by the next permittee. This approach is in keeping with traditional Alaska backcountry views of land and cabin rights.

The cabin location would not be staked or surveyed. Instead, the permit would be tied to a cabin location identified by a dot on an aerial photo. The State would identify a large remote area within which widely separated cabin site locations could be nominated by the prospective permittee. Through regulations, the State would establish certain ground rules for granting a permit, for example:

1. No cabin within a quarter mile of another.

2. Trails, but no roads to the cabin site.

3. Minimal standards for fire safety in cabin construction.

4. Renewable permit granted for a period of 10 years, with a requirement that the State must give the permittee 3 years' notice if it does not intend to renew the permit at the end of its term.

5. Permit is not assignable. If permit is terminated, cabin reverts to State and goes with the land. However, if the State decides to reissue the permit, the prior permittee has the right to nominate his successor and his nominee has a preference right to the permit, assuming he meets all other requirements.

6. Minimal annual permit fee, set in relation to administrative costs, not on the basis of land values.

7. Prospective permittee must attend a day's course at the Division of Lands, covering the concept of public ownership, fire safety, timber cutting to improve rather than harm the forest, etc.

Pros and Cons of Titles and Methods
of Disposal of Surface Interests in State Land
by
Gary Johnson
Alaska Department of Natural Resources, 1976

The first part of the following list will identify general pros and cons of various titles and rights to State land. The second part of this list will identify various pros and cons concerning methods of disposal. Although each of these subjects are very closely related, they are separated here for purposes of analysis. Any method of disposal might conceivably be used for conveying each land title or right listed below. The pros and cons have been determined in view of general public and State interests.

Part I

Titles and Rights

A. Fee Title

PROS	CONS
1. Few if any title questions or future complications	1. Opportunity for control over the use of land is lost (subject to local control such as zoning)
2. Allows highest and best economic use	2. Does not insure immediate use of the land
3. Simplifies land appraisal	3. Excludes public use of the surface
4. Puts land on the local tax roles	4. All surface development rights may be sold at a time and location that does not have optimum development of all rights
5. Gives private managers control over land for economic purposes	
6. Eliminates the responsibility of the State to pay local lien assessments	

7. Reduces the State's management responsibility (fire control)

8. Provides a land base and collateral for economic activity

9. An owner may take better care of the land because his misuse (erosion, dumping and vegetation removal) will subtract from the value when sold

B. Fee Title with real covenants

PROS

1. Controls the use of land without using police powers such as zoning

2.

CONS

1. The burden of proof is placed on the State rather than the land owner in questions of land use when hardship is shown

2. A real covenant will tend to evaporate over the years and no longer be enforceable

3. Very often a court will not enforce a real covenant on equitable grounds

4. Difficulty and cost involved in in administration and enforcement

5. May affect resale financing of the land and its value as collateral

6. Different State administration may interpret covenants differently

C. Defeasible Fee Simple

PROS

1. Strongly controls the use of land without using police powers such as zoning because the title reverts to the State if the condition is breached

CONS

1. Difficulty and cost involved in administration and enforcement

2. Will affect resale, financing and the value of the land as collateral

2. It is possible to clearly prove that breach has occured

3. It will tend to be permanent

4. Equitable conditions will rarely be used to annul conditions creating a defeasible fee

3. Breach of conditions need to be acted on immediately

4. Jurors tend to be reluctant to return adverse judgements to their fellow land owners

5. Conditions which are applicable at the time of conveyance may not be applicable at a future date

D. Title to an interest in land for a specific limited use (easement)

PROS

1. State retains ownership of the land while conveying the use interest

2. Retains other development rights in State ownership

3. Land is taxed only on the development rights transferred

4. Provides for lower priced land sales

5. Additional development rights may still be used

6. The interest may be sold, leased or mortgaged

7. Use of the land is controlled by virtue of trespass rather than zoning or covenant

CONS

1. A use interest title may not be well understood because many uses are not ordinarily conveyed in this way

2. Not as much collateral would associated with the land

3. Some administration and inspection is involved

4. Complicates land appraisal

E. Leasehold

PROS

1. Helps insure use of the land

2. Retains the land in State ownership

3. Provides a continuous State income

CONS

1. Requires substantial administration and management

2. Requires reappraisal every five years

4. Provides for the use of land at lower cost

5. Controls the use of the land through classification or covenant

3. Management costs may outweigh income to State

4. May tend to encourage misuse of the land (erosion, dumping, vegetation removal) because has no right to sell the land

5. Use may conflict with local zoning

6. Title to the land seems to be more desirable to most people

F. Non real property surface interests (leases, permits or resource sales that do not apply to fixed, permanent, or immovable things such as buildings and land)

PROS

1. Allows use of the land for grazing, shore fishery use, timber, material or water

2. Allows use of land or resources without conveying title to the land

3. Other uses cannot be excluded

CONS

1. People cannot be kept off the land if that is necessary to the user

Part II

Methods of Disposal

A. Auction

PROS

1. Fewer administrative procedures

2. Returns highest market revenue for the land

3. Promotes economic efficiency

4. Apportions the land fairly in economic terms

CONS

1. The auction method may bid land beyond its real value

2. Promotes speculative risk

3. State revenue from land is minor compared with other revenue sources

4. Tends to exclude low income people

5. Higher cost of land tends to encourage a more productive use of the land

5. Administrative costs can be fairly high

B. Negotiated

PROS

1. Reduces administrative costs associated with auction
2. Can make land available at a lower price
3. Depending on the objectives of the public administrators, tends to promote economic growth and reduce speculative risk

CONS

1. May place too much discretionary power in the hands of public administrators
2. Can create inconsistency in administrative decisions
3. Lower cost of land tends to increase the likelihood that the land will not be used for its most productive purpose
4. May favor certain classes of people
5. Returns lower revenue for the land

C. Lottery

PROS

1. Provides an opportunity for people of all levels of income or qualifications to obtain land
2. Distributes wealth

CONS

1. Does not promote economic efficiency
2. Places power in the hands of public administrators who may qualify applicants according to certain classes of people

D. Claim (Selected and filed on by individuals)

PROS

1. Reduces State costs of survey
2. Provides an opportunity for people of all levels of income or qualifications to obtain land

CONS

1. Creates ownership boundary problems
2. This is the poorest system in terms of orderly development and proper land management

3. Creates administrative problems

4. Tends to reduce revenue from land

Preference right

PROS	CONS
Protects the interests of an owner while providing opportunity for other buyers and higher land revenue if the preference right holder is limited to meeting high bid	1. Increases administration cost
	2. Increases discretionary power of public administrators
Protects the interests of someone who qualifies under the law if the preference right is negotiated	

Land Exchange

PROS	CONS
Allows the exchange of land that is more appropriate for public ownership for land that is more appropriate for private ownership.	1. Administrative time involved in negotiation
	2. Determination of value
Administrative tool to obtain land that the State couldn't otherwise obtain	3. Complexities involved in a two-way transaction
	4. Agreeing on a piece of ground

Municipal Land Selections

PROS	CONS
Assists local units of government with revenue	1. The land selection program is inequitable among the boroughs
Transfers land for local purposes in some case	2. Opportunity for control over use of land by the State is lost
Incentive to form a borough	3. Has not always been effective in getting borough formed
	4. Legal selection problems

5. Costs the State to maintain land management agreements

6. Many complex legal problems

H. Development Plan Required

PROS

1. Helps insure use of the land

2. Controls use of land while under contract or lease

3. Qualifies people and helps insure use the land according to State objectives

CONS

1. Requires substantial administration and inspection for compliance

2. May be inflexible in terms of changing conditions

3. May conflict with local plans or controls

4. Limits number of people who can qualify and buy

5. Discretionary power to Director may be abused

GJ:dfw

T R U S T L A N D S

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trust lands

Trust Lands

Introduction

Before Statehood, the Federal government granted certain lands to the Territory of Alaska for benefit of the University of Alaska (100,000 acres), the public school system (109,000 acres), and the mental health program (1,000,000 acres). The legislation which granted this acreage established its management in a constructive trust program with certain restrictions. At Statehood, these established trust responsibilities were conveyed to the State of Alaska. Currently, the Alaska Division of Lands (ADL) manages the trust lands for the respective trust boards.

Recently there has been considerable debate over trust land management. One group believes that trust lands should be considered the same for management purposes as any other State lands, and the trust boards should get a fixed percentage of State land revenues. Another course calls for turst land management to be separated from the ADL so the trust boards would be free to contract for land management services with private firms who may be more responsive to their revenue orientation. It is generally agreed that some changes are needed, and this underlines the importance of carefully considering the range of choices available.

The two papers in this section provide excellent background material for the trust land discussion. The first was written by Tom Meacham of the Attorney General's office for the Governor's Ad Hoc Advisory Committee on State Land Practices and Procedures. The second was prepared by land management consultant, Dale Tubbs, who was retained by the Board of Regents to study the University trust land ownership situation. The recommendations made by Tubbs are applicable, for the most part, to all of the trust lands, although his work was performed specifically for the University.

MEMORANDUM State of Alaska

TO: Members, Ad Hoc Land Advisory Panel

DATE: February 8, 1977

FILE NO:

TELEPHONE NO:

FROM: Thomas E. Meacham
Assistant Attorney General
Anchorage - AGO

SUBJECT: Brief Synopsis of School, University and Mental Health Trust Land Statutes

I have been requested by members of the panel to prepare an outline of the legal constraints presently placed upon lands conveyed from the federal government to the former Territory of Alaska, and later the State, for specific support of school, university and mental health programs. This outline will discuss each of the three land grant programs separately, though several of their aspects are similar. An extensive discussion of the legal precedents applicable to administration of these programs will not be attempted, though some significant legal point will be mentioned. Some of the material in this outline was abstracted from Alaska's School, University and Mental Health Lands, by Ronald L. McCowan, a 1975 legal intern with the Division of Lands.

I

UNIVERSITY LANDS

A. Federal Law. University lands were first granted to the Territory of Alaska by the Act of March 4, 1915, 48 U.S.C. Sec. 353, which states at Sec. 353:

> Reservation of lands for educational purposes; proceeds or income set aside; lands excluded. When the public lands of the Territory of Alaska are surveyed, under direction of the Government of the United States, sections numbered 16 and 36 in each township in said Territory shall be reserved for the sale or settlement for the support of common schools in the Territory of Alaska; in section 33 of each township in the Tanana Valley between parallel 64, 65 north latitude, and between the 145th and 152nd degrees west longitude (meridian of Greenwich) shall be reserved from sale or settlement for the support of a Territorial agricultural college and school of mines established by the legislature of Alaska

> upon the tracts granted in Section 354 of this title; provided, however, that if settlement with a view toward homestead entry has been made upon any part of the section reserved by . . . other lands may be designated and reserved thereof in the manner and reserved thereof in the manner and reserved in lieu thereof in the manner provided in sections 851 and 852 of Title 3; provided further, that the Territory may, by general law, provide for leasing said land in area not to exceed one section to any one person, association or corporation for not longer than ten years at any one time; and provided further, that the entire proceeds or income derived from said reserved lands are appropriated and set apart as separate and permanent funds in the Territorial treasury, to be invested and the income from which shall be expended only for exclusive use and benefit of the public schools of Alaska or of the agricultural college and school of mines, respectively, in such a manner as the Legislature of Alaska may by law direct. . . ."

Section 354 of the same act granted Section 6, T 1 South, R. 1 West, Section 31, T. 1 North, R. 1 West, Section 1, T. 1 South, R. 2 West, and Section 36, T. 1 North, R. Two West, Fairbanks Meridian, to the Territory of Alaska, under the express conditions that they ". . . shall be forever reserved and dedicated to use as a site for an agricultural college and school of mines; . . ."

It is clear from the quoted statute that the university lands granted by the federal government to the Territory were to be subject to lease only, and that the "entire proceeds or income derived" were to be appropriated as a permanent fund for the university under the direction of the territorial legislature; and as to the enumerated sections of land transferred by Section 354, they were to be used exclusively as the physical location of the university.

On January 21, 1929, another federal act was adopted which granted additional lands to the Territory of Alaska for university purposes. 48 U.S.C. Sec. 354(a) states:

Agricultural college and school of mines; additional grant of public lands; conditions and limitations. In addition to the provision made by Sections 353 and 354 of this title, for the use and benefit of the agricultural college and school of mines, there is granted to the Territory of Alaska for the exclusive use and benefit of the agricultural college and school of mines, one hundred thousand acres of vacant non-mineral surveyed unreserved public lands in the Territory of Alaska, to be selected, under the direction and subject to the approval of the Secretary of the Interior, by the Territory, and subject to the following conditions and limitations:

(a) the college and school provided for in this section shall forever remain under the exclusive control of the said Territory, and no part of the proceeds arising from the sale or disposal of any lands granted herein shall be used for the support of any denominational or sectarian college or school.

(b) It is declared that all lands granted to said Territory and especially transferred and confirmed to the said Territory and shall be by the said Territory held in trust, to be disposed of, in whole or in part, only in the manner herein provided, and for the objects specified in the granting provisions, and that the natural products and money proceeds of any of said lands shall be subject to the same trusts as the lands producing the same. Disposition of any of said lands or of any money or thing of value directly or indirectly derived therefrom or any object other than that for which such particular lands or the lands from which such money or thing of value shall be derived or granted or in any manner contrary to the provisions of this section shall be deemed a breach of trust.

(c) No mortgage or other encumbrance of said lands shall be valid in favor of any persons for any purpose or any circumstances whatsoever. Said lands shall not be sold or leased, in whole or in part, except to the highest bidder at public auction, notice of which public auction shall first have been duly given by advertisement, which shall set forth the nature, time, and place of the transaction to be had, with full description of the lands to be offered, published once each week for not less than ten successive weeks in a newspaper of general circulation, published regularly at the capital and in a newspaper of like circulation which shall then be regularly published nearest to the location of the land so offered; nor shall any sale or contract for the sale of any timber or natural product of such lands be made, save at the place, in the manner and after the notice is thus provided for sales and leases of the lands themselves; provided however, that nothing herein contained shall prevent said territory from leasing any of said lands referred to in this section for a term of five years or less without such advertisement herein required.

(d) All lands, leasehold, timber and other products of the land before being offered shall be appraised at their true value, and no sale or other disposal thereof shall be made for a consideration of less than a value so ascertained, nor, in the case of the sale of the land, less than a minimum price of $5 per acre . . .

(e) A fund shall be established in the Territorial treasury to carry out the purposes of this section, . . . the Territorial treasurer shall keep all such money invested in sale interest bearing securities . . . the income from said fund may and shall be used exclusively for the purposes of such agricultural and school of mines, providing that no portion of said income shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair or any building or buildings.

> (f) Every sale, lease, conveyance, or contract of or concerning any of the lands granted or confirmed or the use thereof of the natural products thereof, not made in substantial conformity with the provisions of this section, shall be null and void. It shall be the duty of the Attorney General of the United States to prosecute in the name of the United States and in its courts such proceedings at law or in equity as may from time to time be necessary to enforce the provisions thereof relative to the application and disposition of the said lands and the products thereof, and the funds derived therefrom.

This act, unlike the Act of 1915, permitted the sale of university lands received under it, provided that proper notice, appraisal and sale procedures were first used. Like the 1915 act, the 1929 act required the holding of all income derived from university lands or from products of university lands to be placed in trust for the support of the university, with only the income earned by that trust account available for expenditures to support the university.

According to figures compiled in 1975, university lands applied for by the Territory under the 1915 act, (which granted Sections 33 only) totalled 11,000.43 acres with 8,666.8 acres of that total patented to the Territory. Under the 1920 additional university land grant, application had been made for 99,303.3 acres and patent had been received for 99,414.5 acres, the difference in acreage being accounted for by correction of surveys after patent was received.

On July 7, 1958, the Alaska Statehood Act was passed, which stated in Section 6(k):

> Grants previously made to the Territory of Alaska are hereby confirmed and transferred to the State of Alaska upon its admission. Effective upon the admission of the State of Alaska into the Union, Section 1 of the Act of March 4, 1915 [the school and university lands act], as amended, . . . [is] repealed and all lands therein reserved under the provisions of Section 1 as of the date of this Act, shall, upon the admission of said

> state into the Union, shall be granted to such state for the purposes for which they were reserved; but such repeal shall not affect any outstanding lease, permit, license or contract issued under said section 1, as amended, where any rights or powers with respect to such lease, permit, license, or contract, shall not effect the disposition of the proceeds or income derive prior to such repeal from any lands reserved under said section 1, as amended, or derived thereafter, from any disposition of reserved lands or interest therein made prior to such repeal.

This grant to the State of the university lands "for the purposes for which they were reserved" is the grant under which the State of Alaska presently administers the university lands. It is important to note that the "purposes" for which the lands were first reserved were preserved by the Statehood Act, but the explicit conditions under which the Territory was required to manage the lands were not expressly continued into statehood, and were arguably repealed by repeal of the underlying act.

On September 19, 1966 Public Law 89-588, 80 Stat. 811, an act which repealed sections 3 through 7 of the 1929 University Land Grant Act (which include paragraphs (b) through (f) quoted previously). The purpose of this repeal was to give the State and the university more freedom in administering and disposing of lands granted by the 1929 act, without being constrained by the restrictive conditions imposed by the original act, a purpose which was previously achieved by Section 6(k) of the Statehood Act with regard to the 1915 university and school land grant act.

B. State Constitution and Statutes

Article VIII, Section 6 of the Alaska Constitution states:

> State public domain. Lands and interest therein, including submerged and tide lands, possessed or acquired by the state and not used or intended exclusively for governmental purposes, constitute the state public domain. The legislature shall provide for the selection of lands granted to the state by the United States and for the administration of the state public domain.

Article VII, Section 8 of the Alaska Constitution states:

> Leases. The legislature may provide for the leasing of, and the issuance of permits for exploration of, any part of the public domain or interest therein, subject to reasonable concurrent uses . . .

Article VIII, Section 9 of the Alaska Constitution states:

> Sales and Grants. Subject to the provisions of this section, the legislature may provide for the sale or grant of state lands, or interests therein, and establish sale procedures. All sales or grants shall contain such reservations to the State of all resources as shall be required by Congress or the State and shall provide for access to these resources . . .

Article VIII, Section 10 of the Alaska Constitution states:

> Public Notice. No disposal of leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law.

Thus, subject to any reservations prescribed by Congress, university lands are subject to lease and sale under procedures adopted in conformity with the Constitution.

Article VII, Section 2 of the Alaska Constitution states:

> The University of Alaska is hereby established as the state university and constituted a body corporate. It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

AS 38.05.365(16) defines "state lands" as follows:

> 'State lands' or 'lands' means all lands including shore, tide and submerged lands, or resources belonging to or acquired by the state.

AS 38.05.370(20) defines "university lands" as:

> 'University lands' means all Sections 33 reserved to the university under 38 Stat. 1214, as amended, 48 U.S.C. 353 and all lands granted to or reserved for the benefit of the university.

UNIVERSITY OF ALASKA

AS 38.05.020, concerning the authority and duties of the Commissioner of the Department of Natural Resources, contains the following provision:

> (a) The commissioner shall supervise the administration of the land division.

AS 38.35.035 concerning the powers and duties of the Director of the Division of Lands, contains the following provisions:

> (a) The director shall . . . (2) manage, inspect or control state lands and improvements on them belonging to the state and under the jurisdiction of the division . . .
>
> (4) prescribe application procedures and practices for the sale, lease or other disposition of available lands, resources, property, or interest in them; . . .
>
> (6) Under the conditions and limitations imposed by law and the commissioner, issue deeds, leases or other conveyances disposing of available lands, resources, property or any interests in them;
>
> (7) Have jurisdiction over state lands, except for those lands acquired by the Alaska World War II Veterans' Board and the Agricultural Loan Board . . .

Section 38.05.030, which is an exception to the general statutory provisions regarding the sale or lease of state lands, states as follows:

> (a) The sale, lease or other disposal of university lands shall be made by the commissioner in accordance with the provisions of this chapter. University lands may be exchanged for (1) state lands; (2) privately owned lands; (3) vacant, unappropriated and unreserved public lands; and (4) lands owned by a city, borough or other public entity. However, all lands exchanged for other university lands must have the same fair market value as the other university lands. No sale, lease, or other disposal of university lands may be made without the approval of the Board of Regents of the University of Alaska.

AS 14.40.350, regarding the authority of the University Board of Regents, states:

> Sec. 14.40.350. Board of Regents authorized to lease lands. The Board of Regents may execute leases for mining, agriculture, or other purposes to the lands granted for the benefit of an agricultural college and school of mines for Alaska by the Act of Congress approved March 4, 1915, for such time and at such rent or royalty as may seem just and as provided by law.

AS 14.40.360 states:

> Sec. 14.40.360. Board of Regents authorized to select and to sell or lease lands granted by Act of Congress. The Board of Regents may select the lands granted to Alaska by the Act of Congress approved January 21, 1929, and may sell or lease them and deposit the proceeds in the state treasury in conformity with that Act.

Pursuant to the statutes, regulations have been adopted providing for the sale or lease of state land, with appropriate provisions where university lands may be involved. It is evident that the state statutes have been interpreted to require management of the university lands, together with other state lands, by the Department of Natural Resources and the Division of Lands.

II

School Lands

A. Federal Statutes. The federal statute granting surveyed sections 16 and 36 to the Territory of Alaska (48 U.S.C. Sec. 353) has been previously quote with regard to university lands granted by the same act. That statute, as originally enacted in 1915, provided only for the lease of such lands, and did not specifically allow the Territory to sell school lands. Further, the income derived from the lease of school lands was to be appropriated for the permanent fund, and only the income earned by that fund was to be used for school purposes.

Pursuant to the school grant, by 1975 Alaska had applied for 110,905.2 acres of federal lands, and had received patent to 100,202.3 acres.

In 1958, the Alaska Statehood Act was adopted, and provided in Section 6(k), as previously quoted, that grants previously made to the Territory were to be confirmed and transferred to the State of Alaska upon its admission, to the Union, repealing the Act of March 4, 1915 and granting them to the State "for the purposes for which they were reserved".

B. State Constitution and Statutes. The State constitutional provisions regarding the State public domain and the sale and lease of State lands, quoted previously in the context of university lands, are equally applicable to school lands received by the State.

The state statutes at Title 38, pertaining to the duties of the Commissioner of Natural Resources and the Director of the Division of Lands, quoted in the context of the university lands, apply equally to the administration of school lands. In addition, other state statutes specifically concern school lands. AS 38.05.365(14) states:

> 'School lands' means those rectangular sections 16 and 36 within each township surveyed on or before January 3, 1959, and confirmed and transferred to the State of Alaska upon its admission under Section 6(k), Alaska Statehood Act, 72 Stat. 339, and any other lands designated solely for school revenues.

AS 35.05.030(e), pertaining to exceptions to the general sale and lease policy of the State, states:

> The sale, lease or other disposal of school land under the jurisdiction of the Department shall be made by the commissioner in accordance with the provisions of this chapter. However, disposal of school lands, under this subsection, other than disposal by lease for a term of years, shall be made only for sites for school facilities or for public park and public recreation purposes. School lands may be exchanged for (1) state lands; (2) vacant, unappropriated and unreserved public lands, and (3) lands owned by a city, borough or other public entity. In the case of unequal value, cash may be used to equalize land values. If the Department determines that it is in the best interest of the State to dispose of the school lands located in Sections 16 and 36 in an organized borough or city of any class,

the borough or city is authorized, and has preference for six months after notice, to acquire the land at the appraised value by purchase or exchange of land acceptable to the Department. No sale, lease, exchange or other disposal of school lands may be made without the approval of the State Board of Education. The State Board of Education shall act as a trustee of school lands. The Board may obtain private counsel or other professional assistance when necessary, to carry out its duties as a trustee.

AS 38.05.032 states:

SCHOOL LAND DISPOSITION PROCEDURES. (a) Before the sale, lease or other disposal of school land, the director shall

(1) cause the preparation of a development plan which adequately describes the manner in which the land will be developed or utilized; however, no development plan is required for an exchange of school land to a public entity;

(2) make notice under sec. 345 of this chapter of the proposed development plan, stating that a disposal of the land for such use is under consideration, and that interested persons may make comments and submit alternative proposals for development and use within 30 days of the last publication of notice; and

(3) notify municipalities as provided in sec. 305 of this chapter at the same time notice is published or posted under (2) of this subsection; no further notice to municipalities need be given at the time of disposal.

(b) In the case of school land to be disposed of within municipalities, no disposal may be made until the municipal planning authority has held a public hearing on development plans and applications relating to the land

> to be disposed of. The director shall make development plans and applications available to municipal planning authorities for this purpose. No disposition of land may be made sooner than three weeks after a hearing held under this subsection. No disposition of land may be made unless the development plan is approved by the municipal planning authority.
>
> AS 38.05.070(c) states:
>
> A lease may be issued for a period up to 55 years . . . However, a nonrenewable lease for school lands may be issued for a period not to exceed 99 years.

School lands have been subject to lease for a term longer than the ten-year term originally set by the federal law in 48 U.S.C. Sec. 353, and such lands have also been subject to disposal by sale. It is thus clear that the interpretation given Section 6(a) of the Alaska Statehood Act is that upon confirmation of the grants previously received by the Territory for school and university purposes, the federal statute (48 U.S.C. Section 353-354 was repealed in its entirety, and only the purposes of the original grants, and not the conditions limiting the disposal of the original grants remained to govern State administration of these lands after statehood.

III

MENTAL HEALTH LANDS

A. Federal Law. On July 28, 1956, Public Law 830 (70 Stat. 709, 48 U.S.C. Sec. 46-3), entitled "Authority of the Territory of Alaska in the Field of Mental Health", was enacted. Title 2 of that Act made certain special grants to the Territory of Alaska for support of the mental health program, including certain land grants contained in Section 202 of the Act, in the following language:

> (a) The Territory of Alaska is hereby granted and shall be entitled to select, within ten years from the effective date of this Act, not to exceed one million acres from the public lands of the United States and Alaska which are vacant, unappropriated, and unreserved at the time of their selection . . .

(b) The lands authorized to be selected by the Territory of Alaska by Subsection (a) of this section shall be selected in such manner as the laws of the Territory may provide, and in conformity with such regulations as the Secretary of the Interior may prescribe. The authority to make selections shall never be alienated or bargained away, in whole or in part, by the Territory. . . .

(c) All grants made or confirmed under this section shall include mineral deposits; providing, however, that mineral deposits in lands which on January 1, 1956 were subject to Public Land Order No. 82 of January 22, 1942, shall not be included.

(d) Following the selection of lands by the Territory pursuant to Subsection (b), but prior to the issuance of final patents, the Territory shall be authorized to lease and make conditional sales of selected lands.

(e) All lands granted to the Territory of Alaska under this section, together with the income therefrom and the proceeds from any dispositions thereof, shall be administered by the Territory of Alaska as a public trust and such proceeds and income shall be first applied to meet the necessary expenses of the mental health program of Alaska. Such lands, income and proceeds shall be managed and utilized in such a manner as the legislature of Alaska may provide. Such lands, together with any property acquired in exchange therefor or acquired out of the income or proceeds therefrom may be sold, leased, mortgaged, exchanged, or otherwise disposed of in such a manner as the legislature of Alaska may provide, in order to obtain funds or other property to be invested, expended or used by the Territory of Alaska. The authority of the Legislature of Alaska under this subsection shall be exercised in a manner compatible with the conditions and requirements imposed by other provisions of this act.

The Alaska Statehood Act at Section 6(k), quoted previously, confirmed this grant of lands to the State of Alaska. However, the 1956 Mental Health Act was not repealed by the Statehood Act, since at that time Alaska had approximately eight years remaining within which it was permitted to select lands under the Act. As of 1975, Alaska had selected 1,026,147.9 acres of land under its mental health grant, and had obtained patent to 787,532.8 acres. In addition, it had obtained tentative approval to 187,294.1 acres of mental health selections.

Lands selected and tentatively approved to the State under the Mental Health Act have also been selected by various Native Village corporations under the Alaska Native Claims Settlement Act. The Alaska Native Claims Appeal Board has ruled that those Native selections are not valid, since mental health lands did not "pass to" the State of Alaska pursuant to ANCSA, but were a previous grant prior to Statehood, and thus not subject to selection under ANCSA. It is expected that further Court proceedings may be anticipated to resolve this issue.

B. State Constitution and Statutes. The State constitutional provisions applicable to mental health lands, as part as the State public domain, have been previously quoted in the section discussing university lands. State statutory provisions concerning the authority of the Commissioner of Natural Resources and the Director of the Division of Lands, quoted previously, apply with equal force to the management of mental health lands, with some additions. AS 38.05.365(8) states:

> 'Mental Health Lands' means lands granted under Title II, Section 202, of Public Law 830, 84th Congress, 2nd Session, as heretofore or hereafter amended.

AS 38.05.035, regarding the powers and duties of the Director of the Division of Lands, states in subsection (a)(13) that the Director shall:

> select, administer and dispose of mental health lands for the support of the mental health program, except that no mental health lands may be disposed of without the approval of a board composed of the director of the Division of Mental Health, Chairman of the Mental Health Advisory Council, and the Commissioner of Revenue.

IV

COURT DECISIONS

There have been no Supreme Court decisions in Alaska regarding an interpretation of the trust status of school, university or mental health lands. A 1975 Alaska Supreme Court case had the opportunity to examine the specific deed restrictions imposed on university lands granted for the site of the University. U. of Alaska v. National Aircraft Leasing, Ltd., 536 P.2d 121 (1975). A 1964 opinion of the Attorney General, which has some persuasive effect but which does not have the force of law, determined that trust lands, after they are transferred to the State of Alaska, under the Alaska Statehood Act, were subject to the express proviso that they be used for the purpose for which they were originally reserved. A copy of this Opinion of the Attorney General is attached hereto.

State courts in other states have discussed the trust responsibilities of states regarding lands granted to them under the terms of a particular federal act, and have generally held that the administration of the lands must conform to the grant, and to the acceptance of that grant by the State. Magnolia Petroleum Co. v. Price, 206 P. 1033 (Okla. 1922); State Highway Commission v. State, 297 N.W. 194 (N.D. 1941); Application of Dasburg , 1133 P.2d 569 (N.M. 1941). This subject has also been discussed by the Supreme Court of the United States in Lassen v. Arizona, 385 U.S. 458, 17 L.Ed. 2d 515 (1967).

This brief discussion of applicable case law is not intended to be exhaustive or analytical, but merely to indicate that there is general case-law support for the position that the administration of school, university and mental health trust lands is a trust responsibility, and is governed to a degree by the language and conditions of the original statutory grant of lands. The extent to which such original grant still controls details of the methods and terms under which such lands may be leased or sold, however, is not discussed here, as it is a subject upon which there are no clear guidelines in Alaska at the present time.

OF ALASKA

TEM:dr

UNIVERSITY OF ALASKA TRUST LAND MANAGEMENT

by Dale Tubbs, Moening Grey and Associates
December, 1977

Recommended Proposal for Improved Management of University Trust Lands

Management of the University Trust Lands has been a role of the Alaska Division of Lands with little input from University of Alaska Board of Regents. The land management policies developed have been those derived for other state lands with little or no specific direction from the Board. The purpose of this proposal is to formulate policies and directives, define the Board's objectives for university land management, relieve itself of housekeeping tasks by delegating certain responsibilities to the University's administrative officers, and provide the Alaska Division of Lands with specific direction for university land management.

Implementation of the improved land management objectives will require some legislative action to maintain the trust and provide uniformity. The major emphasis will be placed on Board policy from which the Division of Lands will operate.

The proposals being considered are with the assumption the Division of Lands will continue to act as the Board's land management agent.

Recommended Board of Regent Procedural Changes

All transactions involving university land do not warrant full Board involvement. It is recommended the Board delegate to the President of the University of Alaska those transactions similarly delegated to the director of lands and

the Board retain for its action all transactions parallel to those of the Commissioner of Natural Resources. An exception to this delegated authority could be the approval of land classification orders.

The purpose of this change is to relieve the Board from having to consider land transactions with little or no adverse impact on the university lands. It will also speed the process for making lands and resources available to the public. A further modification is to have a committee within the Board provide the approvals comparable to those of the Commissioner. If the disposal request fits within the Board's policy and guidelines, little or no further Board involvement should be necessary.

In regard to the agency relationship with the Division of Lands, the Board is recommened to cancel or revise the existing Management Agreement[1/] entered into on October 12, 1960. The agreement was signed by Wm. R. Wood, then President of the University of Alaska, and Phil R. Holdsworth, then Commissioner of Natural Resources. This agreement has become out dated and the Board's new approach to land management needs to be discussed with the Division of Lands.

The implementation of a revised land management policy is suggested on several fronts. These include: legal research to basic questions involving the trust lands and their use; recommended legislative changes to benefit the trust lands; Board of Regent land management policy directives; and directives to the Division of Lands for land management action. Each are elaborated below.

Legal Research

Obtain legal opinion to determine:

1. If university lands are included in the term state lands as used throughout the text of AS 38. with special emphasis on As 38.05. 365(16).[2/]

2. If the University of Alaska is required to deposit the fair market rental value into the trust fund when it uses its own lands for university purposes.

3. If university lands can be staked under the mineral location laws (AS 38.05.185-.280)[3/] without providing a return to the trust fund.

4. If a lease that is being assigned can be reappraised to establish a new rental fee.

5. If gift, endowment and purchased lands are exempt from disposal procedures as established in AS 38. Also, determine the impact of AS 38.05.030(d)[4/] in regard to endowment lands.

6. If land management costs can be recovered from the trust fund and the applicability of making the funds available to the Division of Land by using a reimburseable services agreement.

7. If Chapter 138 1977 SLA[5] that repealed and re-enacted AS 38.05.085 and .105, violates the fair market return required for trust grant lands.

8. The extent to which the Board of Regents may delegate authority to the President of the University and/or staff members and meet the intent of AS 38.05.030(a)[6] Can a parallel be struck similarly to the Commissioner of Natural Resources and the Division of Lands Director.

Legislative Changes

Existing statutes were identified in the land management study having an effect on reducing the income that can be derived from university trust lands. The following revisions are recommended to benefit the income potential:

1. Revise AS 14.40.350 to conform with AS 14.40.360[7] to allow for disposal other than by lease only.

2. Revise AS 38.05.067, .069, and .321[8] to remove preference rights that limit competition when university lands are offered. This will offer the university land to a larger market.

3. Revise AS 38.05.315(a)[9] to exclude university lands from being included in state lands to be made available at less than market value to governmental entities.

4. Revise AS 38.05.315(b-d)[10/] to exclude university land from being made available to non-profit organizations at less than market value.

5. Revise AS 38.05.185[3/] to exclude university land from being available to mineral location by claim staking but make them available by lease for mineral development. Further, provide for land rental and a royalty for minerals removed.

6. Revise AS 38.05.365(16)[2/] definition of state land to exclude university land unless specifically included by name as used throughout AS 38.

New legislation passed in the 1977 session has brought about a major change in determining land rentals and limitations on the adjustment of rents. (AS 38.05.105)[5/] It is recommended the Board appoint a committee of two or three Regents to meet with representatives of the State Board of Education and the Mental Health Board to determine remedial action to the legislation. Advisors to such a meeting should include an investment counselor and an appraiser in addition to the attorney giving the opinion regarding the law.

Board of Regent Land Management Policies

Written Board of Regent land management policies will assist the land manager and the public. An established policy will also provide uniform treatment to like situations.

The following policies are recommended for adoption:

1. Revise the present policy on leasing land to provide for the sale of university land when it is offered for residential purposes. This policy can also apply to large parcels being offered under a residential development plan concept. The development sale concept would only become final if the land is in fact subdivided and provided with streets, sewer, water and other utilities.

   Included in a policy to sell could be lands dedicated to public use when the topography renders the site undevelopable by reasonable standards. Examples of such areas are swamp land included in state game refuges, rock out crop areas in state parks, and lands within watershed areas prohibiting development or marketable use. Sales in these instances would be an alternative to land exchanges. These sales should also have a reverter clause to return the land to the university if the public use is discontinued or abandon.

2. Provide rights-of-way without cost for development roads and utilities that enhance use and occupancy of university land. Such rights-of-way are limited to underground utilities, above ground utilities and roadways directly servicing the tract. In no instance is the easement to exceed 20 feet in width for utilities or 60 feet in width for roads. Variances to this policy must be submitted to the Board for their action.

3. Provide rights-of-way for other utilities and roads by lease or purchase agreement. Any such purchase agreement is to include a reverter clause to reconvey the right-of-way back to the university without cost

unless the adjacent lands have been sold.

4. Companion easements are required from adjacent property owners for those easements following common property boundaries. Easements granted for roads shall be for public use and have physical access to existing public ways or dedicated public access.

5. Gift, endowment and purchased lands are not subject to AS 38.05.030(a).

6. Provide materials disposed of under AS 38.05.110-.120 to governmental agencies at market value. The market value shall be supported by an appraisal.

7. Provide materials disposed of under AS 38.05.110-.120 to the private sector by competitive bidding only. No negotiated disposals are encouraged because of the limited monetary return vs the administrative cost to monitor the take and regroom the site. No free use permits will be authorized.

8. Negotiated timber sales are not encouraged and will not receive favorable consideration unless the sale results in cleaning up the area, salvaging damaged, dead, or logging waste timber.

9. Land appraisals shall take into account the commercial timber and material value included in the tract evaluation.

10. Land exchanges proposed to remove university land from the readily available market place will not receive favorable consideration from the Board.

11. Mineral development is encouraged on university land where minerals may occur. Mining is to be by lease only with compensation to the university based on an acreage rental and royalty return.

12. Agricultural development is encouraged for Class II and Class III soils when the Board determines it is in the best interest of the university.

13. Greater utilization of existing leases is encouraged by allowing subdividing for subleasing or assignment when the best interest of the university are served. Prior approval of the University is required before subdividing and the development must meet platting standards required by local government.

14. Requests to change the land use as allowed in a lease will require Board approval. Any changes, if granted, shall require a relinquishment of the lease and a re-offering by public auction. No preference right inures to the former lessee.

Division of Lands Directives

It is recommended the following directives be considered for instructing the

Division of Lands in the management of university land.

1. Submit all regulations affecting university land and resources proposed for public hearing to Board of Regent members and the President of the University for review and comment. The same applies to the final form of the proposed regulation prior to being submitted to the lieutenant governor for filing.

2. Policy directives affecting the availability or non-availability of university land or resources be reviewed and approved by the university prior to implementation.

3. The division devise a program of making recreation sites available by lease or permit within the Haines forest management area. A first draft proposal to be available for discussion within 120 days of this request.

4. The division provide the university land staff with a list of delinquent lease contracts to allow prospective assignees to acquire the lease and keep it active.

5. Complete the pending university land exchanges by December 31, 1978.

6. Discontinue the policy of offering university lands classified as agriculture for 10¢ per acre per year as authorized by the University

of Alaska letter dated June 25, 1963 and directed in your Division Order #69 dated October 7, 1963.

7. Provide the University Land Management office with appeal notices, hearing dates, and hearing officer decisions relating to University leases. Prior to making a final decision consultation is to be made with President of the University or his designee.

8. Complete the 100,000 acre land grant selections provided by the Act of 1929, P.L. 679. Submit the proposed selections to the President of the University for concurrance prior to finalizing the selection.

9. Provide the University Land Management office with all actions involving university land as spelled out in AS 38.05.305.[11/]

10. Discontinue offering or making available university lands to non-profit organization or governmental entities at less than market value.

11. Identify and propose land to be considered for exchange for the university lands located within the State Parks and Game Refuge Systems.

12. Provide for a 30 day concellation clause in all special land use permits issued under AS 38.05.330. Such permits shall be for

temporary use, and not have a damaging effect on the land.

13. Provide the University with proposed mineral closing orders and justification for taking the action. President approval will be required for such actions.

14. Budget for manpower, services and contractual money in an identifiable manner to earmark funds that will be spent for university land management.

15. Prepare a land disposal package for university land in the City of Valdez for a 1978 or 1979 offering.

16. Begin preparation of a land use plan for university land within the Willow capital site and present a progress report to University staff in October, 1978.

17. Prepare a report outlining the effect of Chapter 138, 1977 Session Laws of Alaska on existing leases with comments and suggested recommendations.

18. Prepare a report outlining management problems encountered by the Division of Lands in the management of University Trust Lands and discuss same with University staff and Board of Regent land committee.

H O M E S I T E S -
A S S O C I A T E D
P U B L I C C O S T S

homesites

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State Homesites - Associated Public Costs

Introduction

In 1977, the Alaska Legislature amended Title 38 of the Alaska Statutes by adding Chapter 8 which directed that 25,000 acres of State land be made available for homesites. The maximum size of the parcels to be granted to voting age Alaskans with at least 6 years residency was set at 5 acres. Title to the land can only be acquired after an applicant occupies the land for at least 21 months, constructs a habitable, permanent, single-family residence, and reimburses the State for survey and platting costs. Applicants for the limited number of parcels available each year in rotating judicial districts of the State will be chosen by lottery.

The bill requires that public services be available, that the area be zoned residential, that soils have sufficient drainage and be suited for on-site sewage disposal, and that choice of homesite lands avoid agricultural and mineralized lands and fish regeneration areas. Availability of services and the existence of land use guidance regulations implies that the homesite disposals should be near settled areas and within the boundaries of existing political subdivisions. Uncertainty concerning the ultimate conveyance of municipal land entitlements has caused many boroughs to resist State land disposals within their boundaries. In addition, the Legislature did not fund the program sufficiently to allow the provision of access. Where road construction is a municipal subdivision requirement, and State road funds are lacking, disposal of State homesites would require a waiver of existing local requirements.

The combination of these factors has directed homesite activity outside existing municipal boundaries. In the 4th judicial district where activity is centered for the first year of the program, the homesite offerings are scheduled in Delta, Tok, Rex, and Circle. In each case, the lands which have been surveyed for implementation of the program lie outside of the organized governmental boundaries. Therefore, the zoning required by the bill is the responsibility of the Alaska Division of Lands, for they are charged with land use regulation in the unorganized borough. Regulations have been drafted and public hearings produced a generally favorable response to these early State zoning efforts. Final publication and adoption of these regulations will be forthcoming.

Cost figures for disposing parcels of land in the unorganized but accessible and partially serviced portions of the State are not complete. Basic service estimates combined with early actual experience in the first four activity areas offer a glimpse of what these costs might be. An analysis of these figures, administrative costs, and required technical services must accompany the implementation of this bill in order to keep in perspective the financial requirements of State land disposal programs.

Administrative cost scenarios have been developed by the Department of Natural Resources. The manpower and publication costs were estimated for the provision of 300 to 3,000 homesites per year. Acreage limitations in the bill suggest that a total of 5,000 to 10,000 parcels could be conveyed. But in the first year only 188 parcels will be offered. So the high range costs in terms of the scope of the program are probably over-ambitious. But it is clear that in order to achieve an orderly homesite disposal program that can be responsible to rural area land requirements, additional staffing will be necessary. Appendix I outlines DNR's estimates of State administrative costs. It also indicates the approximate value of the lands that the State would dispose in such a program.

Technical services must also be considered in a land disposal program of this nature. The Division of Lands survey costs will average about $600 per lot if the sites are grouped in 20-50 parcel clusters, existing section corners are nearby and monumentation requirements are minimal. This is a bare bones estimate that will limit cadastral engineering efforts to a basic gridiron approach with little sensitivity for existing topography and natural features. An additional $200-400 per lot will be required to contract for soil analysis required by DEC in rural areas to insure on-site water and sewer compatibility.

The costs described so far are those required to make land available for development consonant with program requirements. Early entrymen will face immediate access problems. Rights-of-way will be surveyed and ownership retained by the State, but actual road development will be the responsibility of the new residents. State programs exist to aid these efforts. The primary source of funding will probably be the Local Service Roads and Trails Program which is administered by the Department of Transportation. Currently, these funds are available to communities within established transportation network development plans. The time period between application by a recognized entity and actual construction usually runs about three years. Bob Hainline who directs this program for DOT estimates that per mile costs using State equipment are approximately $75,000 and in those areas where local contractors are available the costs run as high as $125,000 per mile. These figures are for local collector road construction with a completed width of 16 feet. The costs of secondary road access from the primary road net to the subdivisions themselves are pegged much higher at $750,000 per mile. Yearly maintenance of local roads and trails is set at $1,500 per year. Secondary road maintenance is correspondingly more expensive.

There are other costs that must be recognized as well. School transportation costs vary from area to area. In Willow, these costs average $1.65 per mile while near Fairbanks these costs can run as high as $2.18 per mile. Average family size in Alaska exceeds 3 persons so the settlement of 188 parcels could mean an increase in the number of students traveling to school. The peripheral location of these homesite developments will probably require bussing of students. Other services that

are supported by State funding and revenue sharing are police enforcement, fire protection, and parks and recreation expenditures. The exact effect of the homesite disposals on these State programs will not be evident until experience demonstrates whether the availability of land encourages in-migration or a redistribution of local populations.

For purposes of study, an examination of the costs associated with the disposal of 68 tracts in the Tok area was undertaken. These estimates are approximate but should serve to provide a yardstick of those costs that can be expected as the program developes.

Technical services, which are eventually reimbursed by the entryman, ran around $600 per parcel in Tok. Survey costs were low because of existing work that had already been done in the area. Soil analysis costs were kept low too because DEC allowed ADL to utilize core samples and drill logs available from nearby private development. These opportunities and resulting economies will not always be present.

The Tok homesite parcels are bounded on three sides by existing roads. But, in order to develop the interior parcels in the tract, approximately 2.75 miles of collecter roads will be required. At a minimum cost of $75,000 per mile these roads would cost roughly $206,250. With local contractor's equipment being used rather than the State's, these costs will run closer to $343,750. We must remember that these are minimum roadways at best and further widening and surfacing would cost considerably more. So, in order to build the least expensive road at the low cost scenario, an expenditure of around $3,000 per parcel can be expected.

The Alaska Gateway REAA claims that sufficient space is available for the 68 assumed additional students. The cost to transport these students to the school at current rates runs about $15 a day because the Tok homesites are only a little under 3 miles from existing facilities. For a 180-day school year, school transportation costs would increase about $2,750.

State revenue sharing for fire protection is based on population. If we assume an average family size of three and substantial in-migration, the State would pay an increased allotment at $7.50 per capita which at the maximum would mean an additional $1,500 per year. A public water and/or sewer system requires too many assumptions to permit accurate price predictions. At first, such improvements would be unnecessary because lot size permits on site development. However, as development proceeds, these expenditures may be mandatory and should be recognized. Without hydrants, fire insurance costs are exorbitant, even with modern volunteer fire departments.

This summary of costs for the Tok disposal is, of course, sketchy. But it is easy to see that even when homesite disposal is close to developed areas, as required by the bill, and much of the existing service infrastructure has been established, the real costs to the State of Alaska

are high. Where settlement results in a new community with seven or more elementary school aged children and no school is within bussing distance, the State is obligated to provide a school. A minimal 2 classroom structure costs at least $500,000.

Appendix II gives development costs for a range of areas in Alaska. The costs may be reduced to three elements. First, there are the costs associated with making the land legally available for settlement. A second layer of expenditures result from building the roads and other necessary service facilities. Finally, we must recognize the recurring costs associated with providing services and annual maintenance.

These costs will vary from site to site. There are only 20 lots in the Rex disposal area but one way to the school house in Anderson is almost 7 miles. There are 42 parcels near Circle and they will require at least 2 miles of service road. Appendix II contains information about these disposal areas. Accurate record keeping and a joint information effort between State agencies will be required in order to keep track of the financial facts of land diposal programs. As these parcel offerings occur throughout the State, we can develop a meaningful picture of the costs of free land.

Enclosures (3)
1. Appendix I - Homesite Administrative Cost Estimates.
2. Appendix II - CRA estimates of public service costs in southcentral Alaska areas
3. Appendix III - Copy of bill authorizing state land to be made available as homesites.

I. Cost Estimates - Homesite Program

Administrative Costs

The estimated costs of the program are based on the following scenarios: The program, which would be set up on a statewide basis, must furnish homesite lands from existing patented or tentatively approved state lands. These lands would need to be field inspected for their homesite suitability and land planning reports prepared. After being approved by the Planning Section and/or the Land Use Planning Commission, the land would be classified. During this time, systems must be set up to qualify the applicants by checking the application background material against court recordings, title recordings, voter registrations, etc. Once this was accomplished, provisio for choosing recipients would be established. Following this prepara tion, actual management of the program would begin. This would inclu enforcement capability during the three-year residency period.

The following estimates of personnel and travel expenses are based upon the assumptions and the knowledge of time and costs involved in the initiation and management of the past Open-to-Entry Program.

Selections: This phase would require the services of a full time Land Management Officer IV (L.M.O.IV) and a Land Management Officer (L.M.O. II) and a Land Management Assistant I (L. M. A. I) to adequately supervise and coordinate the program on a state-wide basis. The services of a Cartographer II and two Planners would be required. District offices would need additional personnel for initial field examination in the category of an L.M.O. I plus budgetary monies for remote as well as close-in travel and per diem. Land planning reports instigated by thedistricts would need processi thereby necessitating additional classification workload and thus personnel.

Qualifying of Applicants: An adequate, though not necessarily stringent check of the applicant's legal qualification would be necessary requiring adding personnel to existing district's rosters, as well as personnel to set up and oversee the auctions and/or lotteries.

Enforcement of Management: Enforcement for compliance would require that field inspection be a continuing and time consuming item requiring coordination and administration work by people out of the District as well as headquarter offices.

District Office Expenses: The District offices would require two new positions and a substantial increase in travel funding. The estimates set forth below assume a minimum program of 100 and a maximum program of 1,000 homesites per District per year.

District Office Expenses

in Dollars/year

District	Personnel Salaries (a)	Regional Travel Costs			
		100 Units/District		1,000 Units Distric	
		Remote Areas(b)	Close-in Areas (c)	Remote Areas	Close-in Areas
Southeastern					
L.M.O. II	27,224	18,000	3,600	180,000	36,000
L.M.A. I	17,742				
Southcentral					
L.M.O. II	27,224	18,000	3,600	180,000	36,000
L.M.A. I	17,742				
Northcentral					
L.M.O. II	31,516	18,000	3,600	180,000	36,000
L.M.A. I	20,271				
TOTALS	141,719	54,000	10,800	540,000	108,000

(a) Employees' salaries include base salary plus State provided benefit costs.

(b) Remote area refers to any area which cannot readily be inspected, but requires a charter (boat or plane) to inspect. Known costs are transposed with emphasis on flying as the fastest means of verification of compliance. 10/25 inspections per day within a 100-mile radius of the district offices. If areas greater than 100 miles are opened, then inspection time/costs will increase in proportion.

(c) Close-in refers to areas available to highway, railbelt and nearby water access which can be reached with relative ease. After the fact costs are predicated on a monthly check basis, with between 25/50 inspections per day.

Headquarters Expenses: A staff of seven full-time employees to oversee selections, classifications, contracts, lotteries and servicing of the program would be needed in the Anchorage headquarters office.

Headquarters Expenses

in Dollars/year

Position Title	Salary	Travel Costs (a)	
		Remote	Close-in
1 L.M.O. IV	32,058	1,500	300
2 L.M.O. II	54,448	3,000	600
1 Carographer II	21,800	1,200	1,200
1 L.M.A. II	20,271		
2 Planners - 16	23,490		
- 18	27,224		
TOTAL EXPENSES	179,291	5,700	2,100

(a) Travel costs are limited to one trip for three headquarters personnel to District Offices to observe field work. The Cartographer would be expected to make several trips for record coordination purposes.

Advertising Costs: Three days public notice in a major paper would costs $250.00. Such a notice would have to be printed at least twice a year in a paper in each District with a total cots of $1,500.00.

Total Administrative Costs

in Dollars/year

	300 Homesites		3,000 Homesites	
	Remote	Close-In	Remote	Close-In
3 District Offices				
Salaries	141,719	141,719	141,719	141,719
Travel	54,000	10,800	540,000	108,000
Headquarters				
Salaries	179,291	179,291	179,291	179,291
Travel	5,700	2,100	5,700	2,100
Newspaper Costs	1,500	1,500	1,500	1,500
TOTAL COSTS	382,210	335,410	868,210	432,659

Value of State Public Land Given in the Program

Sales in the various districts indicate approximate values which can be used in estimate value lost if the State provides homesite land free rather than at the fair market value. Though great disparity exists between individual values for both remote and close-in properties, the median values have been used for this analysis. Land in remote areas has been valued at $400 to $500 an acre and land close in to settled areas valued at $2,000 to $2,500 an acre. All homesites are assumed to be of the 2-acre lot size.

Values of Homesite Lands

in Dollars/Year

District	100 Sites/District		1,000 Units/District	
	Remote	Close-in	Remote	Close-In
Southeastern	100,000	500,000	1,000,000	5,000,000
Southcentral	80,000	400,000	800,000	4,000,000
Northcentral	80,000	400,000	800,000	4,000,000
TOTAL COSTS	260,000	1,300,000	2,600,000	13,000,000

Summary

Summary of State Homesite Program Costs
(Land Value and Administration Expenses)a

In Dollars/Year

Site Processed Per Year	Remote Areas			Close to Settlement Areas		
	Land Value[d]	Admin	Total	Land Value[e]	Admin.	Tot
300[b]	260,000	382,210	642,210	1,300,000	335,410	1,635,
	2,600,000					
3,000[c]	2,600,000	868,210	3,468,210	13,000,000	432,659	13,432,

a. Does not include ancillary costs to the State for required service such as new schools, etc.

b. 100 sites per District for 3 districts.

c. Maximum number of sites - 1,000 per district for 3 districts.

d. Assumes a cost of $400 to $500 an acre for remote areas.

e. Assumes a cost of $2,000 to $2,500 an acre for close to settlement areas.

State Costs per Homesite Unit

in Dollars/Unit

Location	Per Year	Total Costs	Per Site[a]	Per Acre
Remote	300	642,210	2,140.70	1,070.35
Remote	3,000	3,468,210	1,156.07	578.04
Close-in	300	1,635,410	5,451.37	2,725.68
Close-in	3,000	13,432,659	4,475.55	2,237.77

a. A site is assumed to be 2 acres.

II PUBLIC COSTS - STATE LAND DISPOSALS

SOUTHCENTRAL

ITEM	COST
1. Roads	
DOT/PF:	$800,000/mi., Primary Paved $700,000/mi., Secondary Paved (Engineering & Construction, No ROW) $2200/mi., Maintenance (Secondary Unpaved)
LSR&T:	$110,000/mi., Contracted $65,000/mi., State $1500/mi., Maintenance (Revenue Sharing) (Gravel & ROW Provided by Municipality)
2. Schools	
Buildings	
Transportation	$1.65/mi., (Willow, Talkeetna) $1.55/mi., (Glacier View)
Teacher Salary	
3. Police	
$/Population	$12/capita, Revenue Sharing
4. Fire	
$/Population	$7.50/capita, Revenue Sharing
5. State Troopers	
	$60,000/man, Budgeted - Includes Equipment
6. Parks & Recreation	
	$5/capita, Revenue Sharing

7. Sewer

Construction $/ft.	$50-$60/ft Laterals, $100+/ft. collectors (Engineering and Construction) - Anchorage
Treatment Plant	$4 mill/plant, $800,000/68,000' Interceptor ... mill/57,000' Collector, 5,000-11,000 pop.
Average $/mo.	$100,000/yr., Maintenance

8. Water

Construction $/ft.	$50-65/ft. 12" Main + Service Lines + Hydrant (Engineering and Construction) - Anchorage
Treatment Plant	$180,000/16" Diameter Well + Treatment + Generator; 70,000 - 80,000 population served

9. Electricity

Construction $/ft.	$2500-3500/pole, 1st 165' to House free $1500-2500/lot Underground

10. Telephone

Lines #/ft.

TOK HOMESITES

68 lots

Roads

80' ROW: 22" @660'/" = 14520' secondary roads (2.75 mi.)

LSR&T: $110,000/mi. x $\frac{14,520}{5,280}$ = $302,500; Main $4125/yr.

State: $700,000/mi. x $\frac{14,520}{5,280}$ = $1,925,000; Main $6050/yr.

Sewer Lines

22" @660'/" = 14520' laterals

Laterals: $60/ft x 14,520' = $871,200

Service: $20/ft x 200' x 68 lots = $272,000

Assume collectors present, houses 200' from road

Water

Same as sewer + $1100/hydrant

Assume 6 hydrants: $1,149,800

Telephone

Electricity

No charges levied if under 325' from existing line.

School Transportation

2.8875 mi. one way = 11.55 mi/day = $14.90/day

For a school year of 180 days = $2681.91

Alaska Gateway REAA claims sufficient space available for additional students - no new construction would be needed.

Fire - State Revenue Sharing

Assume average family size of 3; 204 people - 7.50/capita = $1530/yr

PUBLIC COSTS - STATE LAND DISPOSALS

DELTA JUNCTION

ITEM	COST
1. Roads	
DOT/PF:	$800,000/mi., Primary Paved $700,000/mi., Secondary Paved (Engineering & Construction, No ROW) $2200/mi., Maintenance (Secondary Unpaved)
LSR&T:	$110,000/mi., Contracted $65,000/mi., State $1500/mi., Maintenance (Revenue Sharing) (Gravel & ROW Provided by Municipality)
2. Schools	
Transportation	$2.04/mi., $2.18/mi. (1978) - (Fairbanks), $1.98/mi. (Delta Greely REAA)
3. Police	
$/Population	$12/capita, Revenue Sharing
4. Fire	
$/Population	$7.50/capita, Revenue Sharing
5. State Troopers	$60,000/man, Budgeted - Includes Equipment
6. Parks & Recreation	$5/capita, Revenue Sharing

7. Sewer

Construction $/ft	$60/ft Laterals, $20/ft Service, $100-$150/ft Collector & Interceptor; (Fairbanks)
Average $/mo.	$2.00/1000 Gal., Average Cost (Fairbanks)

$800,000 - 70 Homes, Lagoon System (Nenana - PHS)

8. Water

Construction $/ft	$60/ft Laterals, $20/ft Service, $1100/Hydrant (Fairbanks)
Average $/mo.	$2.29/1000 Gal., Monthly Fee (Fairbanks)

$500,000 - 45 Homes, Central Distribution, (Nenana-PHS)

PUBLIC COSTS - STATE LAND DISPOSALS

COPPER RIVER

ITEM		COST
1.	Roads	
	DOT/PF:	$800,000/mi., Primary Paved $700,000/mi., Secondary Paved (Engineering & Construction, No ROW) $2200/mi., Maintenance (Secondary Unpaved)
	LSR&T:	$110,000/mi., Contracted $65,000/mi., State $1500/mi., Maintenance (Revenue Sharing) (Gravel & ROW Provided by Municipality)
2.	Schools	COPPER RIVER REAA
	Buildings	Portable Classroom - $78,000
	Transportation	$1.70/mi.
	Teacher Salary	$25,000 + 15% Benefits/yr.
		ALASKA GATEWAY REAA
	Buildings	Portable $50,000, ($111/sq.ft.) Permanent $200/sq.ft.
	Transportation	$1.29/mi.
	Teacher Salary	$23,000 + 25% Benefits/yr.
3.	Police	
	$/Population	
4.	Fire	
	$/Population	$7.50/capita, Revenue Sharing (Unincorporated also)

5. State Troopers

$60,000/man, Budgeted - Includes Equipment

6. Parks & Recreation

7. Sewer

8. Water

9. Electricity

Construction $/ft — 1st 325' + Pole + Transformer + Drop Line - Free
Estimated Value, $1000 (Copper Valley Electric)

10. Telephone

Lines #/ft. — 1¢/ft/Pr for lines to House
Copper Valley Telephone covers Costs up to 7 times monthly service charge

LAWS OF ALASKA

1977

Source | Chapter No.

SCS CSHB 2 (Resources) am S | 142

AN ACT

Authorizing state land to be made available as homesites.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. PURPOSE OF ACT. The longstanding policy of the state, declared in the Constitution of the State of Alaska (art. VIII, sec. 1) and the Alaska Land Act (AS 38.05.350), has been to encourage the settlement of the state's land and the development of its resources by making them available for maximum use consistent with the public interest. In authorizing the classification of land for settlement as homesites, this Act is intended to further that policy explicitly, by recognizing that the immediate production of revenues to the state through the auction of land to the highest bidder, virtually the only method by which state land has been made available to the public for residential use, is secondary in importance to the primary, and ultimately more beneficial and productive, goal of providing land for Alaskans to settle at a cost reasonably within their means, and that the highest and best use of some land may clearly be for habitation.

* Sec. 2. AS 38 is amended by adding a new chapter to read:

CHAPTER 8. HOMESITES.

Sec. 38.08.010. CLASSIFICATION OF LAND FOR HOMESITE ENTRY. (a) The director shall classify, survey, and plat for homesite entry 25,000 acres of state land which is otherwise vacant, unappropriated and unreserved and is suitable for erection of residential dwellings to use as a permanent abode.

(b) Land classified as homesite entry land shall be divided into parcels not exceeding five acres in reasonably compact form, with boundaries conforming as nearly as practicable to natural geologic and topographic features.

(c) No land may be classified for homesite entry which

(1) lacks drainage sufficient for construction of residential dwellings;

(2) has soil which has been classified and interpreted as appropriate for agriculture in soil surveys conducted by the Soil Conservation Service of the United States Department of Agriculture;

(3) is known to be mineralized with commercially valuable minerals;

(4) is located where homesites would threaten fish regeneration;

(5) is located where existing services provided by the state and political subdivisions of the state would be inaccessible;

(6) lacks sufficient water for a residential dwelling used as a permanent abode; or

(7) is unsuitable for on-site sewage disposal, if other methods of sewage disposal are not feasible.

Sec. 38.08.020. OFFERING OF LAND FOR HOMESITE ENTRY. Following classification of land for homesite entry, offerings of homesite entry land shall be made on a rotating basis from among the four judicial districts of the state. The director shall publish notice of the availability of the land for at least three consecutive weeks through the electronic media and in at least three newspapers of general circulation in the state, at least one of which, if possible, shall be a newspaper of general circulation in the vicinity of the available land.

Sec. 38.08.030. APPLICATIONS FOR HOMESITE ENTRY; FEES. (a) To qualify for a homesite entry permit, an applicant shall

(1) at the time of application have attained the age of 18;

(2) submit proof acceptable to the commissioner that he is a resident of the state at the time of application, and that he has been a resident of the state for not less than six years immediately preceding the date his application was submitted, or that he has been a resident for 20 years cumulatively;

(3) agree to comply with the requirements for obtaining a patent to land set out under sec. 60 of this chapter.

(b) Fees for filing an application may not exceed $10.

Sec. 38.08.040. ISSUANCE OF ENTRY PERMIT. (a) An applicant meeting the qualifications for homesite entry under sec. 30 of this chapter shall be issued a revocable

permit to occupy and improve the homesite in order to qualify for issuance of patent as provided in this chapter. The application fee is the sole rent chargeable on the permit for its duration.

(b) If the number of applicants qualified for homesite entry exceeds the number of available homesites offered, or if several applicants apply and qualify for the same homesite, priority in award of an entry permit shall be accorded to that applicant showing proof of the longest residency in the state.

(c) The permit may not be assigned, conveyed or otherwise transferred, but rights under the permit may devolve by testate or intestate succession. An attempt to assign, convey, or to otherwise transfer the permit, is void and constitutes a substantial breach.

(d) An applicant may apply for more than one available homesite. No person holding a homesite patent may apply for a homesite entry permit, no person may simultaneously hold more than one homesite entry permit, and no person who is a member of the homesite entry permit holder's household may be issued a homesite entry permit while a member of the homesite entry permit holder's household.

Sec. 38.08.050. REVOCATION OF ENTRY PERMIT. (a) The entry permit may only be revoked for failure to erect a dwelling as required under sec. 60 of this chapter, or for other substantial breach of the terms and conditions of the homesite entry permit.

(b) Upon revocation and termination of a permit, improvements or chattels upon the homesite shall be managed, and subsequent issuance of a permit for entry on the homesite shall be conditioned, in the same manner as provided in AS 38.05.090 for removal or reversion of improvements upon termination of leases of state land.

Sec. 38.08.060. ISSUANCE OF PATENT. (a) A person who enters upon homesite entry land under a permit issued by the director shall be issued a patent to the land conveying an unencumbered title if that person

(1) occupies the land for a cumulative total of 21 months within the three-year period following issuance of the homesite entry permit, or five months with 20 years Alaskan cumulative residence;

(2) erects a habitable, permanent, single-family dwelling on the homesite, which meets all applicable state and local regulations, within three years of the date of issuance of the homesite entry permit; for the purposes of this paragraph, mobile homes are not considered to be permanent dwellings unless they are placed on a permanent foundation;

(3) reimburses the state for the survey and platting undertaken in accordance with this chapter; the director shall provide by regulation for installment payments of this reimbursement.

(b) Nothing in this chapter shall be construed to prohibit a person issued a homesite entry permit from residing in a temporary habitable dwelling on the homesite until revocation of the homesite entry permit.

(c) No person may be issued more than one patent during his lifetime, nor may any person who is a member of a patent holder's household be issued a patent while a member of the patent holder's household.

(d) If a dwelling is found to have been substantially completed under sec. 100 of this chapter, patent shall be issued upon completion of the dwelling, notwithstanding (a)(2) of this section.

Sec. 38.08.070. LAND LOCATED WITHIN MUNICIPALITIES. No state land which is located within the boundaries of an organized borough or city may be classified for homesite entry under this chapter until the proposed use of the land has been studied and approved jointly by the director and the local planning authority. Nothing in this section or AS 29.18.190 prevents the director from selecting and classifying for homesite entry land which would otherwise be available for borough or city selection under AS 29.18.-190. If classified for homesite entry, the land shall not be available for city or borough selection.

Sec. 38.08.080. REQUIRED ZONING. No state land which is located within the boundaries of a municipality which exercises planning and zoning authority under AS 29 may be offered by the director for homesite entry under this chapter until the land has been zoned by the governing body of the municipality for residential use only. No state land which is located within a municipality which does not exercise planning and zoning authority, or which is located in the unorganized borough, may be offered by the director for homesite entry under this chapter unless the division of lands has adopted zoning regulations to restrict the use of the land to residential purposes.

Sec. 38.08.090. DISCLAIMER OF INTENT TO PROVIDE SERVICES. Nothing in this chapter obligates the state to provide services to land which is the subject of homesite entry and patent.

Sec. 38.08.100. SUBSTANTIAL COMPLETION OF DWELLING. An entry permit may not be revoked for failure to erect a dwelling in the time required under sec. 60(a)(2) of this chapter if the director finds that erection of the dwelling has been substantially completed and progress toward completion is being made at the expiration of the time required.

Sec. 38.08.110. REGULATIONS. The commissioner shall adopt regulations in accordance with AS 44.62.180 - 44.62.-290 to carry out the purposes of this chapter.

Sec. 38.08.120. DEFINITIONS. In this chapter

(1) "commissioner" means the commissioner of natural resources;

(2) "habitable dwelling" means a dwelling of a permanent nature, together with fixtures and facilities, including sanitary facilities, required or customary in the vicinity of the land made available for homesite entry;

(3) "resident" means a person who is not claiming residence in another state and shows by all attending circumstances that his intent is to make this state his permanent residence.

* Sec. 3. AS 29.33.090 is amended by adding a new subsection to read:

(c) The assembly shall regulate and restrict the use of state land within the borough which is vacant, unappropriated and unreserved and which is found suitable for classification and disposal for homesite entry under AS 38.08.010. Compliance with the provisions of this subsection is a prerequisite to issuance of homesite entry permits for land within the borough.

* Sec. 4. AS 29.13.100 is amended by adding a new paragraph to read:

(37) AS 29.33.090(c) (zoning of state land for homesite entry)

* Sec. 5. No land may be classified and made available for homesite entry under AS 38.08.010 - 38.08.120 within any portion of the new capital site established under AS 44.06 before July 1, 1982.

Approved by the Governor: June 18, 1977
Actual Effective Date: September 16, 1977

L E A S I N G :

A G A P I N M E T H O D O L O G Y

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leasing

Leasing: A Gap In Disposal Methodology

Introduction

Leasing was selected as an area for special focus of staff study. News stories and interviews with opinion leaders indicated that the new leasing statute for State land passed in the 1977 session deserved a closer examiniation. It was a featured topic of the Workshop, and the proceedings indicate the variety of comments received on the topic of leasing.

On one hand, an increasing number of people believe that the State should make more extensive use of leases to satisfy the demands for use of State land while retaining underlying ownership for the benefit of the general public. On the other hand, there is considerable recognition that leasing requires sophisticated techniques and knowledgeable management personnel in order to be successfully implemented.

This section of the report contains some of the background information that the Commission consulted in forming their recommendations. The first paper is a copy of the current statute. It is followed by an excerpt from the final report of the Governor's Ad Hoc Advisory Committee on State Land Practices and Procedures. The third paper was prepared by the Commission staff and was circulated among the participants in the Workshop for background and discussion purposes. The final item is a news paper clipping describing the filing of a lawsuit to test the validity of the new leasing statute as it pertains to some of the trust lands and the response of some current leaseholders.

Sec. 38.05.085. TERM OF LEASE. (a) The lease shall provide that

(1) for the initial 25-year period of the lease, the lessee shall pay the state a fixed base annual rent to be agreed upon by the parties in compliance with the provisions of this chapter;

(2) the fixed base annual rent to be paid by the lessee shall be readjusted when the initial 25-year period of the lease has expired and, thereafter, every 10 years; and

(3) the readjusted annual rent may not exceed 10 per cent of the value of the property as determined in (b) of this section or 50 per cent more than the amount paid each year during the initial period or the preceding 10-year period, whichever is lower.

(b) When it becomes necessary to determine the fair market value of property as required by (a) of this section, the lessee shall appoint an M.A.I. appraiser and the state shall appoint an M.A.I. appraiser. The two appraisers so appointed shall, within a specified period of time agreed upon by the parties, make their appraisals of the property in question. If the two appraisers agree upon the fair market value, the determination is absolutely binding on the parties. In the event the two appraisers are unable to agree, they shall together appoint a third M.A.I. appraiser who shall then make his appraisal of the property in question. When the third appraisal is completed, the two of the three appraisals which are nearest each other in their determination of the fair market value shall be averaged and the resultant sum shall be the fair market value of the matter in question and absolutely binding on the parties. All costs incurred in making the appraisals provided for in this subsection shall be borne by the state and the lessee equally.

(c) The lessee shall make advance payments of the annual rent or portion of it as the director, with the approval of the commissioner, may require.

(d) A preference right lessee of grazing or forest land may follow the payment schedule established in his cancelled federal lease or grazing permit if he so desires.

(e) Notice of all actions by the department affecting the rights of a lease or lessee shall be given to the lessee.

(f) A violation of a provision of this chapter or of a term or provision of a lease subjects the lessee to appropriate legal action, including, but not limited to, a forfeiture of the lease.

(g) In this section,

(1) "annual rent" means the amount of rent paid annually determined by multiplying the fair market value by the rental rate computed at the time of the initial 25-year

period of the lease or of each subsequent 10-year period of the lease;

(2) "rental rate" means the rate, expressed as a percentage of fair market value, which a comparable class of privately owned property would bring in the open market with the same conditions of lease as offered by the state.

* Sec. 10. AS 38.05 is amended by adding a new section to read:

Sec. 38.05.103. RIGHTS OF HOLDER OF SECURITY INTEREST. (a) If there is a breach or default of a term of a lease or of the provisions of this chapter relating to a lease, the division shall provide written notice of the breach or default by personal service or by registered or certified mail to the lessee and to any holder of record having a security interest in the leased property. The notice shall also make demand upon the lessee to cure or remedy the breach or default within 60 days from the date of receipt of the notice and demand. If a lessee fails to cure or remedy the breach or default within 60 days, or within the additional time which the division may allow for good cause, the state may, subject to (b) of this section, exercise any right which it may have at law or as set out in the lease.

(b) If a lessee fails to cure or remedy a breach or default within the time allowed in (a) of this section, a holder of a security interest who has received notice under (a) of this section may cure or remedy the breach or default if the breach or default can be cured by the payment of money or, if this cannot be done, by performing or undertaking in writing to perform the terms, covenants, restrictions and conditions of the lease capable of performance by the holder. The holder shall act within 60 days from the date of receipt of notice under (a) of this section, or within an additional period as the director may allow for good cause.

* Sec. 11. AS 38.05.105 is repealed and re-enacted to read:

Sec. 38.05.105. PERIODIC RENT ADJUSTMENTS. (a) Each lease shall stipulate that at the conclusion of the initial 25-year period of the lease and at intervals of 10 years thereafter the annual rent payment is subject to adjustment. Charges or adjustments shall be based primarily on an adjusted fair market value. However, if the director of the division of lands determines that single-family residential development is the best use of the land, the reappraisal period may be lengthened or the readjustment waived in accordance with regulations adopted by the department. Before a waiver of rent adjustment is issued, the land shall have a current reappraisal. A waiver is valid only if single-family residential development actually occurs. The regulations adopted under this section shall ensure that the state receives a fair return from the land.

(b) The provisions of sec. 85(b) of this chapter are applicable to reappraisals of leases required by this section, except that, in determining an adjusted market value,

(1) changes in property value due to governmental actions, including zoning reclassifications, shall be included; and

(2) changes in property value due to private improvements made to the property or other privately owned or leased property since originally entering into the lease shall be excluded.

* Sec. 12. CONVERSION OF LEASES. The provisions of secs. 9 - 11 of this Act are applicable to state leases which are in existence on or before the effective date of this Act if a lessee under a lease elects, in writing, to be bound by this Act. When a lessee elects to be bound by the provisions of this Act, the state shall enter into a new lease with the lessee for a term equal to the remaining period of the original lease which is being terminated that is consistent with the provisions of this Act. However, for purposes of determining the annual rent by the state, the fair market value of the property which is used to establish the fixed base annual rent for the initial period of the lease may not exceed the fair market value as it was last appraised on or before January 1, 1975, brought forward to January 1, 1976, at the rate of 10 per cent a year, or, if the lease was entered into after January 1, 1975, on the basis of the fair market value at the time the lease was entered into.

* Sec. 13. The provisions of sec. 12 of this Act expire on January 1, 1979.

IV. FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

The findings of the committee were numerous but can be grouped into major categories:

1) State lessees are dissatisfied with the state interpretation of lease contract terms, especially those relating to appraisal. Many lessees testified before the committee as to their grievances.

2) The Division's regulations covering sales and leases are often outdated and conflicting with statutes in some cases.

3) The State's lease contract form is not in line with commercial contracts and has many ambiguities in it.

4) Some state statutes in Title 38.05 are vague and unclear.

5) Payment methods for state sales contracts do not match those used in the private sector and may contribute to ballooning land values.

These findings outline the basis for the committee's recommendations which follow.

The recommendations of the committee concern statute, policy, and regulation changes, and can be grouped by topic.

The following five items are of <u>general concern</u>:

1. The committee wishes to note that in the course of public testimony it was apparent that Division of Aviation lessees had significant problems with their current leases. This subject was not within the scope of the committee's deliberations and, therefore, not addressed.

2. To comply with new statutes the committee recommends a major overhaul of Division of Lands regulations. The committee has found many of the regulations now in effect to be outdated and superseded by statutes.

3. The committee recommends that the Legislature apply the provisions found in Title 38 to those in Title 3, Title 19, and Title 35. The rationale would be to make land laws uniform among the Division of Aviation, Department of Highways, and Division of Lands.

4. Looking to the future, when the Division appraisal workload gets even heavier, the committee recommends that all (or all significant) appraisals be done by contract appraisers, with the Division appraisers functioning as review appraisers.

5. The committee stands opposed to Senate Bill 234, since the needs as outlined in this bill are covered by present legislation; the committee finds SB 234 not in the best interests of the State or the land management of the State.

In order to provide predictability in appraisals and reappraisals, for the benefit of the State and the public, the committee recommends the following:

1. At present many lessees are suffering hardship due to rent increases of several hundred percent. To provide for this relief and as a curative for such future increases the statutory provisions found in section nine of the attached bill are recommended. Provision for optional conversion of present leases to ones that will place a ceiling of 100% on rental increases every five years will largely prevent future hardship cases and resolve satisfactorily the present cases. With a rent ceiling, lease rental increases will be more predictable resulting in more financial stability for the lessee. (The Alaska Industrial Subdivision hearing panel recommends insuring predictability by placing some control over the size of the rental increase through utilization of a ceiling on the size of the increase in rental every five years.)

   Sections 8 and 9 of the attached bill will accomplish the above recommendations.

2. The committee recommends that land offered over the counter be reviewed at 90 to 120 day intervals to determine if an increase in value has occurred. This review is desired so that parcels are not undervalued by progressive changes in the market.

   Section 10 of the attached bill would accomplish this.

3. Since public notice is covered in AS 38.05.345 the change to "appraisal" for AS 38.05.310 is warranted by its present content. The committee recommends that land may be appraised 120 days in advance of a sale or lease. The change from 90 to 120 days would be desirable in that minimum bid information could be given to the public well in advance of the actual sale or lease auction. In addition 11 AAC 54.140 should be repealed.

   Section 10 of the attached bill will accomplish this.

4. In order to provide a workable solution to the problems of confidentiality of appraisal data, the committee recommends that the Director of the Division of Lands refrain from including confidential information in any appraisal prepared for the Division of Lands use.

5. The committee believes that the word "primarily" may imply special consideration to some lessees. In order to treat all lessees fairly and equitably the committee recommends that the word "primarily" be stricken. Deleting "primarily" would clarify the basis for reappraisal. (This was also recommended by the Alaska Industrial Subdivision hearing panel.)

   Section 8 of the attached bill will accomplish this.

To improve <u>accounting policies</u> and <u>administrative procedures</u>, and to protect the State, the purchaser and the lessee, the following are recommended:

1. The committee recommends that the Division of Lands have the option of requiring all sales contracts over $400.00 per year to be paid in quarterly installments instead of annual installments. It is the committee's belief that this would ease the financial strain on the buyer and yet not add significantly to the State's administrative costs. To provide quarterly payments would require a change in AS 38.05.065 with the present annual payments deleted and the quarterly payment provision adopted in its place.

   Section 3 of the attached bill would accomplish this.

2. The committee recommends that a $10.00 fee charge to cover administrative costs be given to those who make sale or lease payments with checks that are returned. It is a standard business practice to provide for such charges and is recommended to protect the State's interests.

3. The committee recommends instituting default charges for late sale or lease payments. At present, there exists no penalty and many payments are late. The form of penalty recommended is notification charges to all delinquent payments and penalty charges to payments delinquent more than 30 s. The notification charge would be $5.00 for the t tice, $20.00 for the second notice and a pc rge of 6 percent of the payment.

It is suggested that the rges be adopted as a regulation under authori 38.05.035(4)(5) as follows:

11 AAC 54.365. Delinquent Payments.

In the event of a delinquent payment, the following charges will apply:

1. A $10.00 penalty for payment with a check that is returned.

2. A $5.00 penalty for notification of payments over thirty-five days late.

3. A $20.00 penalty for a second notification of payments more than fifty days late.

4. A penalty of 6 percent of the rental or sale payment for payments delinquent by more than thirty days.

4. The committee recommends adding the following to the end of 11 AAC 54.190: Upon execution of the contract of sale the director shall cause the original copy of the contract to be recorded in the recording district wherein the property is located.

5. The committee recommends that 11 AAC 58.490 have a section .495 added: Upon execution of the lease the director shall cause the original copy of the lease to be recorded in the recording district wherein the property is located.

6. The committee recommends adding in 11 AAC 58.830 Recordation of Assignments, Modifications, Changes in Rental or Cancellations: Upon any assignment, modification, change in rental or cancellation, the director shall cause to be recorded an original document which recites the changes made in the recording district in which the property is located.

7. The committee recommends that somewhere in 11 AAC 58 a section be added: Fees for Recordation. The Division of Lands shall absorb any expense of recording all existing contracts of sale, leases, assignments, modifications, changes in rent; hereafter the director shall collect the necessary fee for recording any contract of sale, lease, or change of application from the contract purchaser or lessee at the time of execution.

8. The committee recommends that the Attorney General draft for introduction to the next session of the Legislature a statute which will require all state agencies dealing in lands to record any such transaction (including any transaction dealing with plats and subdivisions) and further stating that failure to so record does not impose any liability on the State.

In order to achieve more flexibility and simplicity in handling land disposal transactions, the following are recommended:

1. The committee recommends that the State charge a market rate of interest in its sales contracts. The interest rate, at present 6%, is below market levels and may have contributed to inflated prices at state land sales. By setting interest rates at market levels, the State would help prevent inflated land prices and at the same time return more income to the State. To provide for a market rate of interest in sales contracts, no change in AS 38.05.065 would be required. The addition of a statement of market rate in this statute would be desirable, however.

   Section 3 of the attached bill would accomplish this.

2. The committee recommends that the State adopt a system of level payments in place of declining payments in its sale contracts. The system of level payments is in common use in the business world, and the payment figures are easily set forth in a contract. The disadvantage of the present method is that interest must be recalculated every year and the payments decrease each year. From both the State's and the buyers' viewpoints, the level payment method would be preferred. The State would receive slightly more in interest payments over the contract terms and the buyer would not have to make as high initial payments. To provide level payments would require a change in AS 38.05.065 with the present system deleted and the level payment system adopted in its place.

Sections 2 and 3 of the attached bill would accomplish this.

3. The committee recommends that in Title 38.05 the term "fair market value" be used in place of "fair appraised market value" and "market value." The meaning is felt to be the same in all cases. The committee would like to see one standard term used to avoid confusion and misunderstanding.

   Sections 4, 5, 7, and 13 of the attached bill would accomplish this.

4. The current procedures for informing the public of state lands transactions are covered in AS 38.05.305 and AS 38.05.345. The two procedures do not mesh in a clear manner. The committee recommends that the procedures be clarified in a manner that will be flexible enough to inform the public fully and yet not require multiple advertising for minor negotiated transactions.

   Section 11 of the attached bill will accomplish this.

5. The committee recommends that the Director be given the authority to set the payment period from one to twenty years. This type of flexibility would allow the State and buyers greater market possibilities. To provide for this would require that the installment clause in AS 38.05.065 be deleted and replaced by the one to twenty year provision.

   Section 3 of the attached bill would accomplish this.

6. The committee recommends that the State be given more flexibility to resolve contract of sale violations. This is necessary to prevent foreclosures as the only remedy for minor contract violations.

   Section 3 of the attached bill would accomplish this.

To institute improvements in the <u>leasing system</u>, the following are recommended:

1. To implement the new lease provisions recommended by this committee new lease forms for various types of leases will be required. It is the committee's recommendation that the Division draft new lease forms to comply with the statutes adopted, and that the new forms be reviewed by this committee.

The recommended lease form and attachments in Appendix C accomplish this.

2. The committee recommends that all state leases to other public agencies be at the normal fair market value rate of payment.

   This reflects a regulation change.

3. The committee recommends that state government agencies get out of residential leasing.

   This reflects a policy change.

4. To provide the lessee insurance against a land boom or unexpected increase the committee recommends that rental increases at the five year reappraisal periods not exceed 100 percent of the prior existing annual rental rate. This action would increase the predictability of the lessee's payments. The stability thus created would add significant borrowing power for the lessee to finance improvements on the leased ground.

   Section 8 of the attached bill would accomplish this.

5. The duration of a lease and the economic life of substantial improvements, such as stores or factories, may not coincide. In order to see that state leased land is used in a rational, economically productive manner the committee recommends that lessees of long-term leases be given a renewal option for up to fifteen years. This type of option would grant the lessee more flexibility in maximizing his investment returns, especially during the final years of his lease. It would also increase the lessee's planning possibilities for use of the leased ground. This action would also soften the impact of termination of the lease. Specifically, this would permit a lessee to make substantial repairs to a building when the remaining term of the lease would not otherwise justify it.

   Section 6 of the attached bill would accomplish this.

6. The committee agrees that a lease should be converted at its present classification, and the leaseholder should then have the option to change classification subject to Division of Lands approval.

This is made possible under the attached lease document so that a conversion (assuming passage of HB 383) to a new lease form would permit the leaseholder to change classification at his option.

7. The committee recommends that a level term for recreational leases not be provided.

8. The Alaska Industrial Subdivision hearing panel recommends that in accord with the provisions of the lease, lessees should be encouraged to record expenses incurred in site preparation so that the "original condition" can be more adequately ascertained.

   The Ad Hoc committee concurs. This recommendation is handled in the attached lease document.

9. The Alaska Industrial Subdivision hearing panel recommends that lease language should be clarified to remove any possible inconsistencies with 11 AAC 58.520 (Adjustment of Rental).

   The Ad Hoc committee concurs.

10. The Alaska Industrial Subdivision hearing panel recommends eliminating the floating easement. The State could exercise the right of eminent domain to condemn. The condemnation would probably result in greater compensation for damages to the lessee, especially in view of the Supreme Court decision in State v. Hammer, 550 P.2d 830, thus the lease would be more attractive to the leasing market. Additionally, the language in the current lease is ambiguous as to damages compensable. This ambiguity only encourages litigation.

    The Ad Hoc committee concurs. This has been accomplished in the attached lease form.

11. The Alaska Industrial Subdivision hearing panel states that, if its recommendations are adopted, the State would be assured a competitive position in the lease market. The recommendations would encourage development of the leaseholds consistent with the intent of the leasing regulations and would be equitable to the lessee. The hearing panel also believes the State should be able to obtain a good return on its land. Accordingly, the rental rate should be changed to reflect the removal of the undesirable aspects of the state lease.

The Ad Hoc committee concurs. Continuing to include rate as an appraisal element will accomplish this objective.

This change is found in the attached lease form.

12. In order to set a fixed rental rate on a lease, the committee recommends an addition to A.S.38.05.085:

> amend to add the following sentence after ". . . to protect the interests of the state. The lease rental rate shall remain fixed for the term of the lease and any permitted extensions thereof, unless the leased premises or a portion thereof is reclassified pursuant to provisions of this chapter. A violation of any provision of this chapter . . . ."

To provide a vehicle for arbitrating protests and appeals involving land transactions, the following is recommended:

1. The Division of Lands has had many protests from private parties over the past few years leading the committee to believe that a board of appeals is highly desirable and needed at this time. At present there exists no arbitration board or board of appeals to handle appeals allowed by Division of Lands regulations. The creation of a board of appeals would effect a responsive mechanism for solving most problem cases arising from Division of Lands transactions that affect private parties. The board of appeals would be faster and less costly to private parties than legal recourse, which would still be available. The board is structured to maintain adequate expertise while attempting to eliminate bias in favor of the Division of Lands. This binding appeals board would substitute for the Commissioner in the present appeal process. (The Alaska Industrial Subdivision hearing panel also recommends such an appeal process.)

   Section 14 of the attached bill would accomplish this.

The committee recommends the following to improve trust land management:

1. The committee believes that state trust lands (school, mental health, and university) are now and have been managed at low intensity. These lands may be returning only a fraction of their potential value that could be

realized by a small, full-time management staff. The Division manages these lands at no charge to the various trust funds and receives no reimbursement for its services. Therefore, it has traditionally placed low priority on management of these lands. This committee recommends that the State Legislature authorize each trust board the authority to freely contract with any agency or private firm for the management of its lands for revenue production in accordance with the State's land act.

Section 1 of the attached bill would accomplish this.

2. In order to provide a uniform 55-year limit for all long-term leases the committee recommends deletion of the 99-year provision found in A.S.38.05.070(c) for school lands.

Section 6 of the attached bill would accomplish this.

FSLUPC Staff Paper
November, 1977

Leasing

The objective of this staff report is to make available information about State surface leasing policy, to analyze that policy as it has operated in the past, and to make suggestions which might promote thinking that will lead to more effective use of this land management tool in the future.

Unencumbered owner-operatorship seems to be the foremost goal in American land-tenure policy. This premise was the theme of western development. But an examination of the present tenure situation in the United States shows that at least 63 percent of the residential units are tenant occupied. Even in agriculture we find that tenants operate one out of every eight farms. If the analysis includes the fact that a high proportion of the pepole who do own property hold their rights subject to a real estate mortgage, it appears that unencumbered owner-operatorship is more a goal than a reality.

Is this an unhealthy situation? Not if we see property ownership as the end goal in a dynamic process or recognize that for many the end isn't even ownership but profitable use of the land. Millions of families find it both expedient and wise to use leasing or credit financing as a means to the attainment of their ownership goals. The tenant relationship can also be healthy when we consider that some tenants prefer long term leases to the alternative of actually buying their sites. Many valuable locations in large metropolitan centers have been developed by tenants operating under long-term leases. In these cases, the leases represent a method of real estate financing in which the tenant enjoys a 100 percent loan of the value of the landlord's property. So leasing arrangements can provide a valuable and serviceable function in enhancing the interests of both landlords and tenants. Landlords can lease surplus lands to others and receive a monetary return from properties they do not wish to occupy or operate. Tenants can acquire use and possession rights to the properties held by others.

The policy purpose behind State direction of the land settlement and disposal process is basically a desire to achieve rational, productive management of Alaska's lands. Land disposal regulations are lengthy and complex. But an emphasis is placed on classification and land use planning. The mineral estate can only be leased and never sold, and this disposal program is handled separate of the surface leasing and sales program. The Director of ADL decides which lands will be made available for sale or lease and the limitations, conditions, and terms are set by this officer. Generally land is sold or leased to the highest bidder at public auction, and the appraised value is the basement of acceptable prices. The framework is a rational one, and adequate authority has been placed in the hands of the administrator. Leasing policy is outlined in statute. Maximum term of leases is set at 55 years and they may be renewed for a like term. Until the last Legislature, the annual

rental payment on State leases was subject to adjustment at 5-year intervals based on a current appraisal of rental value. The Director can negotiate small size leases, under $250 annual rental, without the bother of a public sale or auction. Leases may be assigned and/or subleased with the Director's approval, but subleases are limited to improved properties. Finally, lands that are valuable for surface values of a Statewide interest are available only through leasing from the ADL. Tidelands, timber and grazing lands fall into the category of surface classifications which may never be permanently alienated from State ownership.

A review of State leasing activity shows that this tool has been actively used in the 15 years since Statehood.

Classification of Land	1961-71	1972	1973	1974	1975	Leases As Of Dec. 31, 1975
Commercial-Industrial	171	1	0	1	1	152
Residential	65	15	0	2	0	47
Agricultural	25	2	0	1	0	14
Grazing	84	3	8	14	0	66
Private Recreation	638	40	52	39	12	509
Reserved Use	69	2	0	4	0	37
Utility	66	12	12	51	11	127
Commercial	33	5	2	1	2	32
Industrial	41	9	4	22	21	69
Unclassified	35	8	3	9	6	42
Open To Entry	1,469	851	899	574	16	3,161
Resource Management	0	0	8	9	1	17
Total Leases	2,696	948	994	727	70	4,273

The figures terminate as of 1975 because recent data was not immediately available from ADL or published in its annual report. However, 26 new leases were issued in 1976 while 350 were closed, most by OTE. The value of the leases to the State of Alaska has shown a steady growth as well. The face value of State land leases is derived by capitalizing annual rental at 6 percent.

Effective On December 31	Leases Acreage	Value
1971	238,423	$10,589,083.00
1972	256,232	11,470,066.00
1973	182,854	14,868,867.00
1974	214,155	21,361,641.00

Figures for 1975 and 1976 were not available from ADL. The above values came from the 1974 ADL annual report.

The amount of acreage under lease can be compared to that under State land sales contract to put these figures in perspective. Since 1960, only 138,000 acres have been sold by the State while almost twice as many acres are under lease. This is not the perception of the average Alaskan citizen. For instance at the recent Anchorage meeting of the Statewide Public Forum there was wide support for leasing of State lands. But the supporters of leasing favored it as a "new deal", a method not currently used that could be useful in combatting certain abuses. The primary problem that drew attention at the Forum was land speculation. Forum attendees advocated leasing because it could curb speculation and return unearned value increments through the State to the people.

There are a number of reasons that leasing is a valuable tool for land use management. We have discussed some benefits to both the owner and the users of certain property. A primary appeal of leasing to State land management officers is that the State continues to own the land. This means that the State collects a steady stream of revenue from the use of its land, but most important of all, the State maintains some say over how the land is to be used. In comparison to all known methods of land use control, whether through suitability classification, local zoning powers, sale contract covenants, or reversionary clauses, there is no method more effective than ownership. The authority to direct land use is of considerable value to the State.

As Division records indicate, people are willing to lease land for a variety of uses in Alaska. Most of the school, mental health, and university lands in the State are leased rather than sold because the goal is a continuing source of revenue for the trustee. Under the old statute of 5-year reappraisal of lease rental, speculation in leased State land was frustrated because the State eliminated lease interest equity when they regularly readjusted the rental to current market value. To further discourage speculation, unimproved lands cannot be subleased according to the regulations.

These factors should add up to a sucessful program. There are benefits for both parties and a good deal of public acceptance of leasing as a disposal technique for public lands. Financial institutions who were slow to advance financing on land leased from the State have broadened their outlook and even residential development of considerable magnitude has been constructed on leased State lands in Anchorage. Certain adjustments to State land lease contracts would make bankers even more comfortable, but general acceptance of leasing as a land management tool in Alaska appears to be good.

Or so it appeared until the 1977 session of the Legislature. In this session a new land lease law was proposed. It came primarily as a response to ADL's efforts to perform its 5-year reappraisal task in the Alaska Industrial Subdivision near downtown Anchorage. ADL attempted to bring lease rates up to their current market value, and in some cases,

these increases amounted to more than 4,000 percent. This caused considerable consternation among the lease holders. When similar raises shocked lessees in other parts of the State, the political interest was strong enough to focus attention on ADL's leasing program and bring about sweeping changes in the manner in which leaseholds were revalued for rental purposes.

The statutory changes have sparked interest in State leasing policy. The Alaska Advocate quoted real estate consultant Ken Gain as calling the new legislation, "a speculators dream". If this is the effect of the new law, it clearly opposes public sentiment against land speculation in the State, and it certainly doesn't represent the purposes of legislators who responded to the demand for changes in the State leasing program. The amended statute has worried the governing boards of Alaska's trust lands who went so far as to postpone action on a planned disposal in the Fairbanks area. The trust boards are analyzing the effect of the new law on their responsibilities at this time. With this level of interest and concern on the part of the administration, and a leasing program that promotes speculation rather than dampening it as was intended, the issue will provoke additional attention in future Legislative sessions.

What went wrong with the State leasing program? The key issues appear to be day-to-day management of the program and inappropriate application of the leasing technique. Earlier we reviewed the positive reasons for leasing State lands. They included increased public control of land use, a steady income stream, public capture of land value appreciation, and benefits to the lessee in reduced front-end costs and relatively low yearly rentals. But when the State retains ownership in land, it also retains an administrative obligation to manage the property in a competent fashion. This is particularly important with regard to lease management. Uncertainty is the bane of the business world. It has been suggested that State efforts to reappraise property were often executed in a casual manner. This resulted in land valuations that did not reflect current market situations. While lessees are often pleased when reappraisals are late and reflect little increase in value, they are also led into decision making patterns that are economically unrealistic. At first the lease lands are unfair competitors in the midst of property subject to the market system. But when they are finally evaluated in real current market terms, the results are chaotic. A leaseholder who develops property as though it were worth $.25 per foot is placed at a considerable disadvantage when a reappraisal jumps the value per foot to $4.

Property managers who had entered a series of subleases on developed properties based on below market land values were left holding the bag. Squeezed from the top and the bottom they went to Juneau. The rapid inflation of prices in Alaska, chronicled by writers in both of Anchorage's Daily newspapers, produced a situation of extremely volatile land values. In an active market of this kind, lease administrators are severely tested. ADL's response fell short. One reported example is the lease

of State school trust lands for the refinery at North Pole. The reappraisal was completed more than 18 months late. Further, it was arbitrarily halved at the suggestion that the soil conditions on the site were poor. However, soil conditions were never actually evaluated by the appraisal officer. A good leasing program requires good management in order to be effective. Reappraisals must be accurate reflections of current market conditions and they must be timely. Financial centers are understandably wary when a volatile market and ineffecient administration combine to promote uncertainty. When the State retains ownership, they assume an obligation to keep the leaseholder apprised of current conditions and value of the lands he will develop. The public deserves as much, too.

One frequently raised objection to State lease policy is that a lessee spends his money to improve the land, and then the State adds these improvements to the value and charges the lease holder even more at annual rental time. But, in fact, statute requires the State to appraise lands as though they were in their original condition. Often the increase in value will come from public expenditures for roadways, drainage, or sewer projects. Such improvements at public expense should be reflected in property value increases. But, actual site improvements cannot be counted against the developer. Yet memories are often short, and the exact "original conditions" are recollected differently by each side. Another probability is that a market for particular soil conditions will develop because their location is so valuable. As development techiques are mastered, comparable sales on well located bog lands become available and more accurate appraisals are possible. Each of these conditions require competent administration.

The number and caliber of ADL appraisal employees has not kept pace with this increasing responsibility. The appraisal section appears to be understaffed and underpaid if compared to similarly charged sections at the Department of Transportation and appraisers in private industry. This situation has been pointed out before, and thin staffing cannot assume the complete responsibility. It could be more appropriate for policy to spell out that the State will assume the value of site improvements over a 15 or 20 year period. This would provide sufficient time to amortize fill and drainage projects and other site improvements of this nature. It would also relieve ADL of the obligation to "remember" original condition long after the character of a locality might change.

The North Pole refinery lease program points up the arrangement between the trust boards and the Alaska Division of Lands. ADL serves as the management agent for the trust boards. Many have argued that the free services the trust boards receive are a bad deal for both sides. The trust boards believe they have an effecient setup because appraisal, survey, and other management tasks are provided to them at little or no cost. The ADL enjoys the role of servicing the trust lands because it provides a margin of control over lands that would otherwise be a wild card in the State's land ownership pattern. Mental health and university lands which represent most of the 1.2 million acres of trust lands was

to provide revenue for the mental health program, the common school trust fund, and the University of Alaska. The quality of management services available from ADL do not satisfy a revenue maximizing goal. In addition, ADL bears a broader administrative burden from which they earn no revenue, leading to the manpower problems we have already discussed. It appears that either ADL should be paid for their services to the trust boards, or that the trust board should obtain their management services from the private sector.

Another common feeling about leases is that by the end of the lease period, the lessee will have paid more for the land by installment than it would have cost him to buy it outright. This argument has certain red herring aspects. In the first place, few people actually buy land outright, instead they rely on credit arrangements to make purchase feasible. The fact is that, in land sales, interest payments can often exceed the actual price of parcel by the time a payoff period is completed. So this comparison can be misleading. If not interest costs, then opportunity costs must be considered. It is often a benefit to the lessee to be able to avoid large front-end committments of capital. If the lessee does not have to tie up his money in land, then he has the opportunity to put it to more productive use. A farmer might buy equipment or a developer might add another floor to his building. Leasing provides certain tax advantages as well. A lease can be depreciated over its term while fee simple land used for business purposes cannot.

Land ownership is repeatedly mentioned as the land use planners strongest hole card. Unfortunately, this strength has led the ADL to exercise the leasing option in areas unsuited for this technique. Leasing is a excellent means for land management in an active, lively market where land will be intensively used. Areas best suited for leasing are those classified for commercial and industrial purposes. Established residential neighborhoods and high demand recreational areas can also be good opportunities for leasing activity, but the strongest requirement is for good demand, and an active market. Leasing large parcels of rural lands where market activity and economic demand is limited will be less worthwhile. About the only action available to a leaseholder when the rent increases in this situation is minimum development followed by subdivision in order to make payments. (Then the State is forced with a large number of subleases and further administrative woes.) Large tracts are often leased in rural locations when a small tract lease would probably serve the needs of the lease holder. The situations caused by leasing improperly sized tracts for "utility" purposes are unnecessary. Leasing is good policy in the right place, (i.e. where there is an active market for use of the property.)

Another opportunity for leasing is in the area of agricultural land. There is a limited amount of land which is actually suitable for agricultural activity in Alaska. Historically, agriculture has faced stiff competition from sources outside the State. It is often difficult to develop a market for agricultural production sufficiently lucrative to justify the use of the land for that purpose. But while current market

conditions are not particularly receptive to Alaskan agricultural efforts, it would be unwise to allow this fact to lead to the conversion of all of the soils which are suited for farming to other uses. If the State were to lease only the agricultural rights to land, it could accomplish two desired goals. First, by limiting the amount of development latitude available to the leaseholder, the market value of the property is reduced and the State can make suitable lands available for agriculture at a reduced or subsidized annual rental. This could foster agricultural activity at the present time while preserving the lands for agricultural use in the future as well. By leasing the State forecloses the conversion option and retains such a decision for public appraisal at some time in the future. The marketing of limited rights is a relatively new technique. Appraisal of only one of the bundle of rights presents new challenges to the administrators of State lands. The management requirements take on considerable importance in light of the problems caused by poor administration in the past.

Under the requirements of the new lease law, managers of State lands have evidenced reluctance to utilize the leasing tool. In the new leasing statute reappraisal comes after the first 25 years. While this may reduce the appraisal load by reducing the frequency of reappraisal, it also creates a situation in which the State will be unable to adjust lease rental to even keep pace with the rate of inflation. In the current case, the readjusted annual rental shall not exceed 50 percent more than the amount paid yearly during the highest of the initial or preceeding period. People familiar with the rate of inflation in Alaska can see that a 50 percent limitation after 25 years will effectively curb rental adjustments to even less than the rate of inflation. An example of this situation can be demonstrated if we look at what happens to a parcel of land leased by the State in 1977. Appraisal sets the present value at $10,000, and with a lease rate of 6 percent, the annual rental would be $600. The first reappraisal and annual rental adjustment would occur in 2002. If we assume a moderate rate of inflation of 4 percent, the inflated value of the parcel in 2002 would be $26,658. Now this is the value increase caused by inflation alone and does not take into account social overhead expenditures or any other factor which might have also enhanced the value. The annual rental at 6 percent of $26,658 would be approximately $1,600. But the 50 percent increase limitation would prevent the readjusted rate from exceeding $900. Thus, under current statute, the rental adjustment could not even keep pace with a moderate rate of inflation. This does not take into account the other factors which lead to the appreciation of land values. The new State lease law will not only hinder the expansion of the use of the leasing technique, but it will render current leases even less useful for avowed State purposes.

There are many reasons we can expect renewed interest in the leasing statute in upcoming legislatures. As a land management tool, leasing of surface lands demands our attention. The benefits of an active leasing program are many and when properly administered, such a program can

promote economic development that is compatible with the public interest. The thought of leasing public property does not have the same rhetorical zing as that associated with owning private property. But tenancy is common in the United States for a variety of healthy reasons. Additional support for the use of this technique can be heard when assembled Alaskans debate State land disposal policy and discuss means for curing certain abuses. Agriculturists, fighting an uphill battle against climate, market, and reality, want leases of limited land rights for both subsidy and conservation reasons.

However, inappropriate use of the leasing technique has limited its effectiveness in some cases. Oversize parcels leased in areas of limited market activity have led to leasehold abuses. Casual reappraisal and limited staffing have led to inappropriate development on certain lease parcels, and left businessmen uncertain and finally outraged. Over reliance on the lease rather than emphasis on strengthening local land use control institutions has misled administrators as well. Leasing is only one tool of many available to the manager of public lands. Let us take it out, dust it off, and develop policy that will ensure that it is properly used.

The comments, opinions, and facts represented in this report are drawn from a variety of sources. Conversations with a number of ADL officers and review of the Divisions annual report were useful. David McCabe, Don Karibullnikof, and Dr. G. Hayden-Green presented the leasing picture from the private sector. State statutes concerning land and the respective regulations were reviewed as was Commission publication, "Agenda For State Lands".

ANCHORAGE DAILY NEWS December 29, 1977

Education board sues over land lease law

By ROSEMARY SHINOHARA
Daily News Staff Writer

The state Board of Education went to court Wednesday to challenge a land lease law which the board believes threatens a trust fund for schools in Alaska.

The law, passed by the 1977 legislature at the urging of state leaseholders, limited the amount of money the state can charge for state land leases, particularly the amount the base rent can be increased.

The Board of Education lawsuit in state Superior Court said the law is unconstitutional because it would now allow the school trust to receive full market value and compensation for the leases.

CERTAIN state lands are set aside to benefit schools, others benefit mental health programs and universities, and others are "general grant" lands which benefit the state treasury.

The state Division of Lands has not yet converted any leases to comply with the new law. Ted Smith, director of the state Division of Land and Water Management, said he had expected to begin signing the long-awaited lease conversion forms by today.

An assistant state attorney general promised in court Wednesday that the Division of Lands will not process any applications from leaseholders to convert their leases until a decision is made in the Board of Education case.

THE COURT ACTION leaves a group of leaseholders in an industrial subdivision in Mountain View in the middle of a battle between two state entities.

The Mountain View leaseholders spearheaded the drive to change the law in the 1977 legislature, after they were hit with rent increases of as much as 800 percent in 1976.

In November, the leaseholders complained the state was too slow at implementing the law, and held a meeting to discuss what to do about it.

AT THE TIME, Smith said he was waiting for the Attorney General's Office to approve forms for converting the leases. Smith said Wednesday the forms were now at the printer's, and he was prepared to begin processing them until the court action occurred.

To further complicate the issue, the state Attorney General's Office has a conflict in the case, and it has hired a private attorney to argue it on behalf of the state Division of Lands.

When the new law was passed by the legislature, the state attorney general issued an opinion that it was unconstitutional, and recommended the governor veto it. The legislation became law without the governor's signature.

TOM MEACHAM, an assistant attorney general who represented the state Division of Lands in court Wednesday, said the state agreed to withhold converting any leases on school trust lands, including the Mountain View leases, to assure that the private attorney who will handle it would have adequate time to prepare for the case.

A hearing on a move by the Board of Education for a preliminary injunction to prevent the state from implementing the law has been scheduled for Jan. 30 in Anchorage.

Smith said there are about 100 applications from leaseholders seeking to convert their leases, and the bulk of them are on school trust lands in the Anchorage area.

Lowell MacNutt, spokesman for the Mountain View leaseholders, said he's certain the group will move to protect its members' interests, but the leaseholders haven't had time to decide what to do yet.

ANCHORAGE DAILY TIMES, December 29, 1977

State Lease Changes Await Court

By PATTI EPLER
Times Staff Writer

The state division of lands yesterday agreed to hold off issuing or converting leases on school trust land for about a month until a challenge of land lease laws is brought to court.

The state Board of Education yesterday filed suit in Anchorage Superior Court challenging the constitutionality of a land lease law passed by the legislature this year.

That law limits the amount of money the state can charge for lessees and limits the amount of appraised increase. It gives lessees the option of converting their current lease to a new one with more favorable terms including 25 years between appraisals and a maximum lease increase of 50 percent.

The suit, filed shortly before lease conversions by the division were to begin, asks that the law be declared unconstitutional and alleges that the law does not allow the school trust to receive full compensation and fair market value for any sale or lease of school land.

Lease conversions were expected to be approved by the state before Jan. 1, said a division of lands letter on file in court records.

Judge Justin Ripley yesterday heard arguments on a motion by the board to temporarily halt the conversion process. But attorneys for the state agreed to stop the proceedings until preliminary hearings can take place. Those hearings are scheduled for the week of Jan. 30.

Tom Meacham, assistant attorney general who represented the state, said the state has hired private attorney to handle the case because of an apparent conflict. The state agreed to stop the conversions so the attorney would have time to familiarize himself with the case, he said.

Attorney General Avrum Gross said earlier this year that the land lease law might be unconstitutional and recommended that Gov. Jay Hammond veto the bill. However, the bill passed into law without the governor's signature.

The board, a state agency usually represented by the attorney general's office, also was forced to hire a private attorney to argue its case since the lawsuit was directed at the state itself.

(See Page 2, Col. 2)

Board Challenges Lease Law For Creating 'Unfair' Effects

(Continued From Page 1)

B. Richard Edwards, who is representing the board, said yesterday it is the schools themselves, not the board, that will lose money under the new law. But the board, as land trustee, is responsible for the schools financial welfare regarding leases.

An affidavit filed on behalf of the board indicates that large amounts of potential revenue will be lost if leases are converted. Paul Dirksen, a real estate appraiser, said the fixed base annual rent established by the new law "will result in far less than fair market value being received by the state.

"Under prior lease provisions of school land leases, the lease rental was based on appraised fair market value and it was required that the land be reappraised every five years. This process is much more in tune with determining a reasonable return and fair market value for school lands," he said.

Dirksen cited examples of lost revenue in his affidavit. Under the new law, one section of land that would rent for $28,000 per year in the market place, is leased by the state for $6,305 per year. That amount would remain the same for 25 years —until the year 2001 — at which time the lease could increase up to 50 percent or about $9,400. However, in the market place, rental would be about $120,000 in that year, Dirksen said.

ANCHORAGE DAILY NEWS January, 6, 1978

Leaseholders plan suit to implement law

People who hold state land leases in an industrial subdivision in Mountain View plan to file a lawsuit to attempt to require the state to implement a law passed by the 1977 legislature which will result in lower rental rates for them, a spokesman for the leaseholders said Thursday.

At the same time, the leaseholders plan to intervene in a lawsuit between the state Board of Education and the State Division of Land and Water Management, according to Lowell MacNutt of John Bagoy and Associates, spokesman for the leaseholders.

THE LEASES in Mountain View are on school trust lands, and the proceeds from them are earmarked for state educational purposes.

The Board of Education went to court in late December, just as the State Division of Land and Water Management was preparing to convert the leases to conform to the 1977 law.

The education board lawsuit in state Superior Court said the new lease law threatens the school trust fund, and is unconstitutional.

MacNUTT said leaseholders met Wednesday, and decided to intervene in that courtsuit to protect their interests.

The leaseholders believe that Ted Smith, director of the Division of Land and Water Management, tried to get the education board to file suit against him, MacNutt said.

"We feel Smith is arbitrarily dragging his feet."

SMITH WAS attending meetings in Juneau Thursday night and could not be reached for comment.

MacNutt said the leaseholders' hands are tied until the rental situation is resolved. Many of them protested increases assessed by the state before the legislature changed the law, and continued paying their pre-increase rates.

The question of whether they must pay the increased amount for any period of time is unresolved.

The question of how much the leaseholders must pay for the period after which the increase is still unresolved.

As a result, businesses that want to expand, or go out of business, can't do it, MacNutt said.

The Joint Federal-State Land Use Planning Commission for Alaska was created by Congress and the Alaska Legislature to provide a statewide land use planning process that will insure the economic development of the State in a manner that is compatible with the social and economic well-being of the public, their interests, and the environment.

The Commission also is to improve coordination and resolve conflicts between the State, Federal government, and private landowners in the State, and recommend laws, policies and programs to the President, Congress and the Governor of Alaska for a coordinated comprehensive statewide land use planning process.

The Commission, created by the Alaska Native Claims Settlement Act of 1971, is headed by the Governor of Alaska or his full-time Co-Chairman, and by a Federal Co-Chairman appointed by the President of the United States. Four Commissioners are appointed by the Secretary of the Interior, and four by the Governor of Alaska.

HB
907

STATE
of ALASKA

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES

TO: House Resources Committee

DATE: 4/27/78

FILE NO:

TELEPHONE NO:

FROM: Alice L. Iliff ALI
Research Analyst

SUBJECT: HB 907: Repeal of AS 34.10 (Land Registration Act)

This vestige of territorial law requires that for any land situated outside a borough or city where local land ownership records are kept, its owner must file a "statement of real property ownership". The statute may have had a legitimate purpose as a temporary transitional device accompanying the installation of a recording system in territorial days, as it encouraged the introduction of land ownership information into the public record. Today, its reason for being is much more speculative.

To induce compliance with the filing requirement of the statute, it provides for modest financial penalties in the event of a failure to file. Once assessed, a penalty becomes a lien against the property. The lien is subject to foreclosure under the statute, but if (as is usually the case) the landowner fails to respond to the lien foreclusure action by answering the petition, the land owner may "redeem" the property during the first year following its "foreclosure". After the expiration of this one-year redemption period, the procedure departs from the usual foreclosure model. Instead of selling the property to satisfy the lien and turning the overage in proceeds back to the owner, the State simply keeps the property. The land may be "repurchased" by its owner, but that right of repurchase is extinguished if the land is disposed of into private ownership by the State or is held by the State for and devoted to a "public purpose" and improvements are constructed upon it. Since the existence of these rights of repurchase makes management of the land as public domain difficult and expensive (administrative costs exceeding $30,000 per year for approximately 140 parcels with negligible return), the State can only derive a benefit from this forfeited land by disposing of it into private ownership by sale. The parcels usually have changed hands since foreclosure, resulting in time consuming administrative problems for both the State and the innocent victims.

There is no longer any public purpose served by this statute. From the beginning, the only legitimate purpose of the law was to compel landowners to identify their land holdings and place them on the record. But where recordable transactions (conveyances, mortgages, and the like) take place, the advantages of recording alone induce the new owner or mortgagee to record. Another purpose commonly attributed to the law, that of providing a record of land ownership in the unorganized borough to satisfy various public and private information needs, is illusory. The recording system itself satisfies this purpose - incompletely, albeit, but just as effectively as the superfluous statement file requirement does.

Assume that there were some legitimate public policy served by a law requiring land owners to file statements of real property ownership. It is clear that the penalty and lien foreclosure devices in the statute have not been effective in securing compliance with that filing requirement.

Filing a statement (or, more to the underlying objective, getting private land holdings on the record) can be encouraged by a "carrot", by a "stick", or by a combination of the two. The "carrot" in this case is the recording law itself - the landowner whose interest is recorded enjoys an important priority over he who does not record. This legal protection is a "carrot" sufficient to induce all who are aware of the recording law to use it, irrespective of the existence of any penalties for nonuse of the system.

The "stick" to induce filing is a penalty fee backed up by the lien foreclosure mechanism. This has apparently not been effective. People file because they want the benefits of the recording system; people fail to file because they are unaware of the existence of the system and the benefits which would inure to them from using it. A penalty mechanism will only encourage compliance by those who are already aware of the system but would not otherwise use it - a negligible class of persons.

A principal problem with the foreclosure action as a compliance mechanism is that it is only inflicted upon those landowners whose land holdings have been discovered due to the recordation of a conveyance. The recording of the conveyance itself, with or without an accompanying ownership statement, fulfills the legislative goal of getting land onto the public records. In these cases, the need for a statement is superfluous and the idea of penalizing the person for failing to file one borders on the absurd. In other words, when scrutinized against the actual operation of the statute, the reasoning underlying the foreclosure mechanism is seen to be circular: (1) the objective of the law is to get land holdings on the record; (2) the foreclosure process exists to encourage compliance with the law in order to satisfy that objective; (3) the only lands which are subjected to foreclosure are those whse existence comes to the attention of the Division of Lands when they are recoreded; (4) at that point, the lands have entered into the recording system and the legislative objective has been met.

In summary,

1. There is no valid public purpose served by the land registration statute. To the extent that there is any need to have a public record of land holdings in the unorganized borough, that need is fully met by the existing recording system, supplemented by the land status records of State and Federal governments.

2. The filing requirement of the land registration law imposes an undesirable paperwork burden and expense upon private landowners. This burden should not exist without some countervailing public policy.

3. Administration of the law costs the State $30,000 to $50,000 every year in employee time that could be better utilized for other efforts. Trying to administer AS 34.10 in light of Native lands conveyances, homesites, and any other upcoming programs of land disposal will be impossible due to lack of staff and monies, as well as inequities of this law that have been perpetrated for years to the disadvantage of the public. There is consensus among all agencies involved that the statute is unnecessary.

4. Because of the existence in perpetuity of rights of repurchase on foreclosed lands, the State cannot effectively manage these properties as public land. It can only derive benefit from them by disposing of them back into private ownership at the expense of innocent holders of repurchase rights.

5. Taking a person's land away for failure to file a superfluous piece of paper is bad public policy. It is even worse when the person failed to file simply because the person was ignorant of the filing requirement.

For all of these reasons, the statute should be repealed.

HB 907

March 24, 1978

The Honorable Hugh Malone
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska tution, and in accordance with AS 23.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill repealing the Land Registration Law, AS 34.10.

The Land Registration Law is a vestige of territorial days which requires that private owners of land outside cities and boroughs file statements of real property ownership. Modest penalties are imposed for failure to file. These penalties become liens against property which may be foreclosed, resulting in forfeiture of the land to the state. After foreclosure, the land may be redeemed for a period of one year, but it is also subject to a continuous "right of repurchase" by the former owner and his assigns. This right to repurchase is extinguished only by disposal of the land or construction of a public building upon it. These repurchase rights inhibit effective management of land gained by foreclosure and have been the subject of abuse by industrious opportunists who, although they have never had any relationship with either the foreclosed land or its owners, obtain some colorable interest in the land and attempt to reap a windfall by repurchasing it.

The requirement of filing statements of real property ownership is somewhat obscure and often ignored by landowners. It does not enhance the existing recording system and government records which, according to the Division of Lands, fully meet any need for public record of land holding outside of municipalities. Penalizing an individual for failure to file a superfluous document is, in my view, bad public policy, especially when the individual probably does not know of the requirement to file.

Administration of the Land Registration Law costs the state $30,000 - $50,000 per year with negligible return. Costs could easily triple with the huge amounts of land soon to be placed in private ownership, including native selections and state and municipal land disposals. It seems senseless to continue the burden of this law on taxpayers, land owners, and state agencies.

State agencies and staff involved concur in the desirability of repealing this law and incurring the substantial time and money savings which would result.

This bill would repeal the entire Land Registration Law (AS 34.10), except for one provision (AS 34.10.170) which states that land obtained by foreclosure under the chapter may be administered and disposed of in the same manner as other state land. The bill also includes a provision which continues, for three years after enactment, current rights to repurchase land lost by foreclosure; then, after published notice, those rights of formerly indefinite duration are terminated, thus clearing the state's title to that land.

The Land Registration Law is outdated, nearly universally unpopular, costly and burdensome to administer, often unfair, and yields little, if any, benefit to the state. Therefore, I urge its repeal by passage of this bill.

Sincerely,

JSH

Jay S. Hammond
Governor

TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HOUSE BILL NO. 907

Title Repeal of Land Registration Act

Requested by Governor Date 3/23/78

II. FISCAL DETAIL

Agency Affected Department of Natural Resources

Program Category Affected NRMEC

Budget Request Unit(s) Affected Land & Water Mgmt.

EXPENDITURES (Thousands of Dollars)

		FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Repeal of this law will not incur additional funds. It is estimated that approximately $30,000 to 50,000 will be saved by the various agencies which administer this statute, including the Dept. of Natural Resources, the Depatment of Law, the District Recrder's Office, and the Court System. These savings will be reallocated to existing programs.

IV. DATE 3/23/78 PREPARED BY Patrick W. Conbeady

AGENCY Department of Natural Resources

PHONE 465-2400

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/77)

for use of certain apartment or apartments to the exclusion of the other apartments;

(12) "majority" or "majority of apartment owners" means the apartment owners with 51 per cent or more of the votes in accordance with the percentages assigned in the recorded declaration, to the apartments for voting purposes;

(13) "property" means the land, the building, all its improvements and structures, all owned in fee simple absolute or qualified or by way of a periodic estate, or in any other manner in which real property may be owned in the state, and all easements, rights, and appurtenances belonging to it, none of which shall be considered as a security or security interest, and all articles of personalty intended for use in connection with it, which have been or are intended to be submitted to this chapter. (§ 1 ch 44 SLA 1963)

Sec. 34.07.460. Short title. This chapter may be cited as the Horizontal Property Regimes Act. (§ 1 ch 44 SLA 1963)

Chapter 10. Land Registration Law.

Article
1. Administration (§§ 34.10.010 — 34.10.030)
2. Registration (§§ 34.10.040 — 34.10.060)
3. Enforcement (§§ 34.10.070 — 34.10.170)
4. Redemption (§§ 34.10.180 — 34.10.240)

Article 1. Administration.

Section
10. Administration
20. Collection of penalties
30. Funds for administration

Sec. 34.10.010. Administration. (a) The Department of Natural Resources shall administer this chapter. The department shall make rules and regulations considered necessary to carry out this chapter.

(b) The department has custody of all land registration records assembled under this chapter, and of those records in the Department of Revenue pertaining to or arising from the levying of a general property tax. The department shall have access to other public records which relate to its duties under this chapter. (§ 3 ch 134 SLA 1953; am § 1 ch 135 SLA 1955)

Am. Jur. and C.J.S. references. — 1 Am. Jur., Acknowledgments, § 1 et seq.; 16 Am. Jur., Deeds, § 1 et seq.; 26 Am. Jur., Husband and Wife, §§ 34 to 224, 274 to 325; 36 Am. Jur., Mortgages, § 1 et seq.; 42 Am. Jur., Property, § 1 et seq.; 45 Am. Jur., Records and Recording Laws, § 1 et seq. 91 C.J.S. Vendor and Purchaser § 1.

Sec. 34.10.020. Collection of penalties. (a) The Department of Natural Resources shall collect all penalties due under this chapter and transmit them to the Department of Revenue for deposit into the general fund.

(b) The department may appoint the recorder of each recording district as its agent for purposes of collecting penalties from the persons

who are subject to the penalty payment and who personally file a statement in the office of the department. When the appointments are made, the recorder shall collect the penalty, if possible, issue receipts for the payment in duplicate, attach the duplicate receipt to the original filing statement, and, transmit to the department at the time of transmitting the monthly ownership statements 90 per cent of the penalty collected. The recorder shall retain 10 per cent of the penalty collected as his commission.

(c) For the purpose of this chapter an error in the description, area or acreage of property does not invalidate the assessment of the penalty against the property if the description is sufficiently accurate to identify the property. (§ 6 ch 134 SLA 1953; am § 4 ch 135 SLA 1955)

Sec. 34.10.030. Funds for administration. Funds for administration of this chapter are those provided in the appropriation for the department. (§ 10 ch 135 SLA 1955)

Article 2. Registration.

Section
40. Filing statement
50. Penalty and lien for failure to file statement
60. Duties of recorder

Sec. 34.10.040. Filing statement. (a) The owner of real property in the state but outside an incorporated city, public utility district, school district or other political subdivision where record of ownership of real property is kept shall file in the office of the recorder of the recording district in which the property is located, before January 1, 1956, a sworn statement in duplicate giving his name, his post office address, an accurate legal description of the tract of land, its area or acreage, the date acquired, and other information necessary for the purposes of this chapter.

(b) The provisions of (a) of this section do not apply to

(1) an owner who acquired title to his property before July 1, 1949, and has complied with the registration provisions of § 22-2-1, ACLA 1949;

(2) an owner who has complied with this chapter before March 28, 1955; or

(3) property to which the United States or the state holds title.

(c) Upon transfer of title to real property after December 31 1955, within the localities described in (a) of this section where filing is required, a similar statement must be filed by the owner of the newly acquired tract before January 1 of the year after the transfer occurs.

(d) An owner of real property who has filed the statement required by this section need not file another statement under this chapter. (§ 4 ch 134 SLA 1953; am § 2 ch 135 SLA 1955)

Revisor's note. — Section 22-2-1 ACLA 1949 was repealed by § 2 ch 134 SLA 1953 but was referred to in (b) (1) of the above section which was § 4 ch 134 SLA 1953.

Am. Jur. and C.J.S. references. — 45 Am. Jur., Records and Recording Laws, § 1 et seq.

91 C.J.S. Vendor and Purchaser § 1 et seq.

Sec. 34.10.050. Penalty and lien for failure to file statement. (a) Upon failure to file the statement required in § 40 of this chapter, the owner is subject to a penalty of $5. For property acquired after December 31, 1955, the owner is subject to a penalty of $10 for failure to file each required statement. A penalty for failure to file a statement becomes a lien upon the property on January 1 of the year after the failure to file. The lien is subject to collection as provided in §§ 70 — 170 of this chapter.

(b) If a penalty is not paid before the date the delinquent list is published in accordance with § 70 of this chapter, a penalty of $5 attaches to each tract listed in the delinquent list of September 1, 1956, and a penalty of $10 attaches to each tract listed in the delinquent list compiled after September 1, 1956. (§ 4 ch 134 SLA 1953; am § 2 ch 135 SLA 1955)

Sec. 34.10.060. Duties of recorder. (a) When a statement is filed, the recorder shall file a duplicate copy or prepare and enter a copy in a special registration law book to be provided by him for that purpose. The recorder shall enter the name of the owner in an alphabetical index together with the date and hour of filing the statement. The recorder shall number the original filing statements in consecutive order, and enter on the statements the date received and customary filing information, and shall, before the eleventh day of each month, transmit to the department all original statements filed with him for the preceding calendar month together with 90 per cent of the receipts collected for penalty payments as provided for in § 20 of this chapter.

(b) When a recorder receives a document for recording evidencing a transaction of real property for which a filing statement is required by § 40 of this chapter, he shall notify the new owner of the filing requirements, and if not so filed, he shall notify the department on a special form provided for the purpose. (§ 5 ch 134 SLA 1953; am § 3 ch 135 SLA 1955)

Article 3. Enforcement.

Section		Section	
70.	Procedure for foreclosing lien	120.	Procedure for foreclosure sale
75.	Release of prior liens	130.	Deed directed by judgment
80.	Redemption	140.	Right to possession
90.	Affidavits in foreclosure action	150.	Conveyance in lieu of foreclosure
100.	Burden of proof	160.	Answer.
110.	Powers and duties of the court	170.	State administration of lands

Sec. 34.10.070. Procedure for foreclosing lien. (a) The department shall file in the office of the clerk of the superior court in the judicial district in which the property subject to the lien is located a list of all parcels of property subject to the lien, and upon which penalties are

unpaid for a period of at least one year after they are due and payable.

(b) The lien on the parcels contained in the list shall be foreclosed by appropriate proceedings by the department in the name of the state in the manner provided in §§ 70 — 170 of this chapter. The parcels affected by the lien shall be numbered serially. The department shall (1) post a certified copy of the list in its office; (2) mail to the last known owner at his last known address a registered letter advising him of the lien; (3) either post a notice of the lien upon the real property involved, or post notice of the lien in the nearest post office, whichever the department determines is best calculated to provide actual notice to the owner of the land; and (4) publish the list once each week for four consecutive weeks in a newspaper of general circulation in the judicial district in which the property is situated. The action shall be entitled "In the matter of foreclosure of liens under the Land Registration Law of 1953, as amended."

(c) The filing of the list, the mailing of notice to the lienee, and the posting of the notice on the land involved or in the nearest post office constitute and have the same effect as the filing of a separate complaint and service of summons to foreclose a lien. (§ 7 ch 134 SLA 1953; am § 5 ch 135 SLA 1955; am § 3 ch 179 SLA 1959)

Sec. 34.10.075. Release of prior liens. A lien or lien right on property which accrued under this chapter before March 28, 1955, is released, and no action to enforce the lien may be sustained. (§ 8 ch 135 SLA 1955)

Sec. 34.10.080. Redemption. (a) A person who has a right, title or interest in or lien upon a parcel described in the list of delinquent penalties may redeem the parcel by paying to the Department of Revenue the amount shown in the list of delinquent penalties within 60 days from the date of the filing of the list in the office of the clerk of the court, or may serve a verified answer upon the attorney general, setting out in detail the nature, character and amount of his interest and a defense or objection to the foreclosure of the lien.

(b) The caption of the answer shall contain a reference to the serial number of each parcel concerned. The answer must be served on the attorney general or filed in the office of the clerk of the judicial district within 20 days after the last day for redemption.

(c) If a person fails to redeem or answer, the person is in default and is barred from all his right, title and interest in the parcel described in the list of delinquent penalties, and a judgment of foreclosure may be taken as provided in this chapter. Upon redemption the person redeeming is entitled to a certificate from the Department of Revenue describing the property in the same manner as it is described in the list of delinquent penalties. Upon the filing of the certificate with the clerk of the court, the clerk shall note the word "redeemed" and the date of filing opposite the description of the parcel on the list. The notice operates to cancel the notice of pendency of action with respect to the

parcel. (§ 22-2
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parcel. (§ 22-2-9 ACLA 1949; am § 1 ch 106 SLA 1949; am § 9 ch 134 SLA 1953)

Sec. 34.10.090. Affidavits in foreclosure action. Affidavits of filing, publication, posting, mailing or other acts required by this chapter in connection with an action to foreclose liens shall be filed in the office of the clerk of the superior court in the judicial district in which the property subject to the lien is situated and shall, together with all other documents required by this chapter to be filed in the office of the clerk, constitute a part of the judgment roll in a foreclosure action. (§ 22-2-10 ACLA 1949; am § 1 ch 106 SLA 1949; am § 9 ch 134 SLA 1953)

Sec. 34.10.100. Burden of proof. (a) It is not necessary for the plaintiff to plead or prove the various steps, procedures and notices for the assessment of the penalties or other lawful charges against the lands set out in the list of delinquent penalties. The penalties or other lawful charges and the lien for them are presumed valid. A defendant alleging an irregularity in the lien must particularly specify in his answer the irregularity and must affirmatively establish the defense.

(b) This chapter applies to all defendants even though one or more of them are infants, incompetents, absentees or nonresidents of the state. (§ 22-2-12 ACLA 1949; am § 1 ch 106 SLA 1949; am § 9 ch 134 SLA 1953)

Sec. 34.10.110. Powers and duties of the court. (a) The court may determine and enforce the priorities, rights, claims and demands of the parties to the action as they exist according to law, including those of the defendants as between themselves.

(b) In a proper case the court may direct a sale of the lands and the distribution or other disposition of the proceeds of the sale.

(c) The court shall make a final judgment, in relation to a parcel included in the list of delinquent penalties,

(1) directing the sale of the parcel when an answer is filed by a party, and the court determines that the party has a right, title, interest, claim, lien or equity of redemption in the parcel;

(2) awarding to the state the possession of a parcel when no answer is filed and the parcel is not redeemed. (§§ 22-2-13, 22-2-14 ACLA 1949; am § 1 ch 106 SLA 1949; am § 9 ch 134 SLA 1953)

Sec. 34.10.120. Procedure for foreclosure sale. (a) A sale directed by the court shall be a public auction by the Department of Revenue.

(b) Public notice of the auction shall be given once a week for at least three successive weeks in a newspaper published in the judicial district. The notice shall be posted in a conspicuous place at the United States post office nearest the land to be sold.

(c) The description in the notice of the parcel offered for sale shall be the description contained in the list of delinquent penalties, with the other descriptions the court directs. (§ 22-2-13 ACLA 1949; am § 1 ch 106 SLA 1949; am § 9 ch 134 SLA 1953)

Sec. 34.10.130. Deed directed by judgment. (a) A judgment directing a conveyance under this chapter shall contain a direction to the Department of Revenue to prepare, execute and have recorded a deed conveying full and complete title to the parcel

(1) to the grantee in a foreclosure sale;

(2) to the state when the state is awarded possession of an unredeemed parcel.

(b) Upon the execution of the deed the grantee or state is seized of an estate in fee in the land, and all persons (including infants, incompetents, absentees and nonresidents) who may have had a right, title, interest, claim, lien or equity of redemption in the land are barred from the right, title, interest, claim, lien or equity of redemption. (§§ 22-2-13, 22-2-14 ACLA 1949; am § 1 ch 106 SLA 1949; am § 9 ch 134 SLA 1953)

Sec. 34.10.140. Right to possession. A party who acquires title to premises under this chapter is entitled to possession as if the person had obtained a judgment in an action for forcible entry and detainer of the property. (§ 22-2-15 ACLA 1949; am § 1 ch 106 SLA 1949; am § 9 ch 134 SLA 1953)

Sec. 34.10.150. Conveyance in lieu of foreclosure. Instead of prosecuting an action to foreclose a lien on a parcel, the state may accept a conveyance of the interest of a person having a right, title, interest, claim, lien or equity of redemption in the parcel. (§ 22-2-17 ACLA 1949; am § 1 ch 106 SLA 1949; am § 9 ch 134 SLA 1953)

Sec. 34.10.160. Answer. (a) If a verified answer is served upon the attorney general within the period specified in § 80 of this chapter, the court shall immediately hear and determine the issues raised by the complaint and answer in the same manner and under the same rules as it hears and determines other actions, except as provided otherwise in this chapter.

(b) Upon trial, proof that the statement required by § 40 of this chapter was filed when due or that the penalty was paid, together with interest due, constitutes a complete defense.

(c) When an answer is filed as provided in this section, the defendant has an absolute right to the severance of the action as to a parcel of land in which he has an interest, upon written demand filed with or made a part of his answer. (§ 8 ch 134 SLA 1953)

Sec. 34.10.170. State administration of lands. The Department of Natural Resources may sell, lease or administer all real property to which the state obtains title under this chapter in the same manner as it is authorized to sell, lease or administer other state land. Proceeds derived from the sales, leases or administration shall be remitted to the Department of Revenue and deposited into the general fund of the state. (§ 10 ch 134 SLA 1953; am § 6 ch 135 SLA 1955)

Section
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Article 4. Redemption.

Section		Section	
180.	Right of redemption	220.	Repurchase by record owner or assigns
190.	Procedure for redemption	230.	Definitions
200.	Redemption before judgment	240.	Short title
210.	Redemption after order of court		

Sec. 34.10.180. Right of redemption. It is the intent of the legislature to enact into the "Land Registration Law of 1953" a true right of redemption in the owner and in a lienholder or other person having an interest in property affected by that law. (§ 1 ch 17 SLA 1957)

Sec. 34.10.190. Procedure for redemption. Property subject to §§ 80 and 110 — 130 of this chapter may be redeemed before or after foreclosure by the owner of the property, or by a person having an interest in it by paying to the department all penalties, interest and costs due on the property

(1) before the entry of an order by the court awarding possession of the property to the state and directing the deeding of the property to the state, or

(2) within one year after the entry by the court of the order (§ 2 ch 17 SLA 1957; am § 1 ch 179 SLA 1959)

Sec. 34.10.200. Redemption before judgment. Upon redemption of property before the entry of an order by the court, the department shall execute a certificate of redemption to the owner of the property. The certificate shall identify the property redeemed and shall state that all penalties, interest and costs are paid. (§ 3 ch 17 SLA 1957)

Sec. 34.10.210. Redemption after order of court. Upon redemption of property after the entry of an order by the court but before the expiration of the one-year redemption period, the Department of Natural Resources shall, on behalf of the state, execute and deliver a quitclaim deed to the former owner of the property. (§ 4 ch 17 SLA 1957; am § 2 ch 179 SLA 1959)

Sec. 34.10.220. Repurchase by record owner or assigns. (a) The record owner at the time of the entry of the order of foreclosure or his assigns may, at any time before sale of the foreclosed property by the state, repurchase the property and the property shall be resold by the state to the former record owner, or his assigns, for the full amount applicable to the property under the judgment and decree, with interest at the rate of eight per cent a year from the date of entry of the judgment and decree of foreclosure to the date of repurchase, together with other charges imposed on the property.

(b) No right of repurchase attaches to property, after the termination of the redemption period, which has been sold by the state or which is held by the state for and devoted to a public purpose authorized by law

with the public purpose. (§ 5 ch 17 SLA 1957; added by § 4 ch 179 SLA 1959)

Sec. 34.10.230. Definitions. In this chapter (1) "department" means the Department of Natural Resources;

(2) "real property" includes patented land and other land in which the owner has a fee simple title. (§ 7 ch 135 SLA 1955)

Sec. 34.10.240. Short title. This chapter may be cited as the Land Registration Law. (§ 1 ch 134 SLA 1953)

Chapter 15. Conveyances.

Article
1. Form and Effect (§§ 34.15.010 — 34.15.140)
2. Acknowledgment and Proof (§§ 34.15.150 - 34.15.250)
3. Recording (§§ 34.15.260 — 34.15.350)

Article 1. Form and Effect.

Section
10. Manner of executing conveyances
20. Conveyance by nonresident married woman
30. Form of warranty deed
40. Form of quitclaim deed
50. Effect of quitclaim
60. Passage of fee
70. Passage of grantor's entire estate
80. Covenants not implied
90. Covenant not implied in mortgage
100. Conveyance of lands held adversely
110. Conveyances construed as creating tenancy in common
120. Remedy of tenant in common
130. Joint tenancy abolished
140. Tenancy by the entirety

Sec. 34.15.010. Manner of executing conveyances. (a) A conveyance of land, or of an estate or interest in land, may be made by deed, signed and sealed by the person from whom the estate or interest is intended to pass, who is of lawful age, or by his lawful agent or attorney, and acknowledged or proved, and recorded as directed in this chapter, without any other act or ceremony whatever.

(b) In a deed or conveyance of the family home or homestead by a married man or a married woman, the husband and wife shall join in the deed or conveyance.

(c) The requirement that a spouse of a married person join in a deed or conveyance of the family home or homestead does not create a proprietary right, title or interest in the spouse not otherwise vested in the spouse.

(d) Failure of the spouse to join in the deed or conveyance does not affect the validity of the deed or conveyance, unless the spouse appears on the title. The deed or conveyance is sufficient in law to convey the legal title to the premises described in it from the grantor to the grantee when the deed or conveyance is otherwise sufficient, and (1) no suit is filed in a court of record in the judicial district in which the land is located within one year from the date of recording of the deed or conveyance by the spouse who failed to join in the deed or conveyance to have the deed or conveyance set aside, altered, changed, or reformed, or (2) the spouse whose interest in the property is affected does not file,

HB

960

COMMITTEE REPORT

HOUSE

5/2/78

FURTHER: FINANCE

Date: May 2, 1978

Mr. Speaker:

The Committee on RESOURCES has had HB 960'

"An Act relating to fish and game management."

under consideration and (a majority of the committee) (the committee reports it back as follows)

( ) recommends it do pass ( ) recommends it do not pass

( ) recommends it do pass with attached amendment(s)

( ) recommends it be replaced with CS for _____

and _____ ( ) new title ( ) same title

( ) AND attaches a Letter of Intent ( ) New Fiscal Note

( ) reports it back without recommendation

( ) and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Mike Ginder Do pass if Amended

Chairman

H 60 (rev. 6/77)

Introduced: 5/1/78
Referred: The Special Committee on Subsistence, Resources and Finance

BY THE RULES COMMITTEE BY REQUEST (for the Special Committee on Subsistence)

IN THE HOUSE

HOUSE BILL NO. 960

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to fish and game management."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. INTENT. The legislature finds that there is a need to develop a statewide policy on the utilization, development and conservation of fish and game resources, and to recognize that those resources are not inexhaustible and that preferences must be established among beneficial users of the resources. The legislature further determines that it is in the public interest to clearly establish subsistence use as the priority beneficial use of Alaska's fish and game resources and to recognize the needs, customs and traditions of Alaskan residents. The legislature further finds that beneficial use of those resources by all state residents should be carefully monitored and regulated, with as much input as possible from the affected users, so that the viability of fish and game resources is not threatened and so that resources are conserved in a manner consistent with the sustained-yield principle.

* Sec. 2. AS 16.05.020(1) is amended to read:

(1) supervise and control the department, and, except as provided under sec. 93 of this chapter, he may appoint and employ division heads, enforcement agents, and the technical, clerical, and other assistants necessary for the general administration of the department;

* Sec. 3. AS 16.05.090 is amended by adding a new subsection to read:

(c) There is established in the Department of Fish and Game a division of subsistence hunting and fishing.

* Sec. 4. AS 16.05 is amended by adding new sections to read:

Sec. 16.05.093. DIRECTOR OF THE DIVISION OF SUBSISTENCE HUNTING AND FISHING. The division of subsistence hunting and fishing shall be administered by a director appointed by the governor.

Sec. 16.05.094. DUTIES OF DIVISION OF SUBSISTENCE HUNTING AND FISHING. The division of subsistence hunting and fishing shall

(1) compile existing data and conduct studies to gather information on all aspects of the role of subsistence hunting and fishing in the lives of the residents of the state;

(2) ~~quantify~~ the amount, value, and extent of dependence on food acquired through subsistence hunting and fishing;

(3) make information gathered available to the legislature in a form suitable for use in developing legislation relating to land ~~and~~ water ~~management~~;

(4) assist the legislature to determine what uses of fish and game, as well as which users and what methods, should be termed subsistence uses, users, and methods;

(5) evaluate the impact of state and federal laws and regulations on subsistence hunting and fishing and, when corrective action is indicated, make recommendations to the governor and the legislature;

(6) make recommendations to the Board of Game and the Board of Fisheries regarding adoption, amendment and repeal of regulations relating to subsistence hunting and fishing.

* Sec. 5. AS 16.05.221 is amended to read:

Sec. 16.05.221. BOARDS OF FISHERIES AND GAME. (a) For purposes of the conservation and development of the fishery resources of the state, there is created the Board of Fisheries composed of nine [SEVEN] members appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The [APPOINTED] members shall be residents of the state and shall be appointed without

regard to political affiliation [OR GEOGRAPHICAL LOCATION OF RESIDENCE]. Membership of the board shall include one user of fish for subsistence from each of the four judicial districts of the state, two holders of sport fishing licenses who are not users of fish for subsistence, two holders of commercial fishing licenses, and one member at large. The commissioner is not a member of the Board of Fisheries, but shall be ex officio secretary.

(b) For purposes of the conservation and development of the game resources of the state, there is created a Board of Game composed of nine [SEVEN] members appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. The [APPOINTED] members shall be residents of the state, and shall be appointed without regard to political affiliation [OR GEOGRAPHICAL LOCATION OF RESIDENCE]. Membership of the board shall include one user of game for subsistence from each of the four judicial districts of the state, two holders of hunting licenses who are not users of game for subsistence, two master guides, and one member at large. The commissioner is not a member of the Board of Game, but shall be ex officio secretary.

* Sec. 6. AS 16.05.251 is amended by adding a new subsection to read:

(b) The Board of Fisheries shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) permitting the taking of fish for subsistence uses unless the board determines, in accordance with the Administrative Procedure Act, that adoption of such regulations will jeopardize or interfere with the maintenance of fish stocks on a sustained-yield basis. Whenever it is necessary to restrict the taking ~~or other consumptive uses~~ of fish in order to assure the maintenance of fish stocks on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use.

If further restriction is necessary, the board shall establish restrictions and limitations on and priorities for these consumptive uses on the basis of the following criteria:

(1) customary and direct dependence upon the resource as the mainstay of one's livelihood;

(2) local residency; and

(3) availability of alternative resources.

* Sec. 7. AS 16.05.255 is amended by adding new subsections to read:

(b) The Board of Game shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) permitting the taking of game for subsistence uses unless the board determines, in accordance with the Administrative Procedure Act, that adoption of such regulations will jeopardize or interfere with the maintenance of game resources on a sustained-yield basis. Whenever it is necessary to restrict the taking or other consumptive uses of game in order to assure the maintenance of game resources on a sustained-yield basis, or the continuation of subsistence uses of such resources, subsistence use shall be the priority use. If further restriction is necessary, the board shall establish restrictions and limitations on and priorities for these consumptive uses on the basis of the following criteria:

(1) customary and direct dependence upon the resource as the mainstay of one's livelihood;

(2) local residency; and

(3) availability of alternative resources.

(c) No regulations permitting the taking of game may be adopted unless the game is edible at the time of year when the taking is to be permitted.

* Sec. 8. AS 16.05.257(a) is amended to read:

(a) The Board of Game, at its regularly scheduled annual meeting,

shall consider and may adopt regulations providing for subsistence hunting in a game management unit or subunit or a portion of a unit or subunit upon

(1) recommendation of the department, based on biological evidence;

(2) the recommendation [MAJORITY VOTE] of the active local advisory committees for that game management unit or subunit or a portion of a unit or subunit;

(3) the written petition of not less than 100 interested residents of that game management unit or subunit or a portion of a unit or subunit; or

(4) the written petition of not less than 25 interested residents of an area which is requested for establishment as a subsistence area within a game management unit or subunit or a portion of a unit or subunit.

* Sec. 9. AS 16.05.257(c) is repealed and re-enacted to read:

(c) No regulations may be adopted by the Board of Game under (a), (b) or (f) of this section unless, in addition to the requirements of AS 44.62.180 - 44.62.290, the department

(1) holds public hearings, after reasonable notice, at least 30 days before the meeting at which the regulation is to be adopted, with at least one of the hearings being held in close proximity to the area potentially affected;

(2) presents at the hearings the information provided for in (e) of this section;

(3) makes the information provided for in (e) of this section available to the appropriate advisory committees and to petitioners if consideration of adoption of regulations was prompted by petitions under (a)(3) or (4) of this section; comments shall be received by the board

until 10 days before any adoption of regulations.

* Sec. 10. AS 16.05.257(d) is amended to read:

(d) A petition submitted under (a)(3) - (4) of this section shall contain a complete description of the area requested as a subsistence area and a specification of the species within the area considered necessary for subsistence use. A petition or request made under (a)(2), (3) or (4) of this section must be filed with the department at least 75 days before the next scheduled meeting of the board.

* Sec. 11. AS 16.05.257(e) is repealed and re-enacted to read:

(e) The department shall investigate every petition or request made under (a)(2), (3) or (4) of this section and provide the following information: (1) the concentration and carrying capacity of the species to be affected; (2) the concentration of other species; (3) the extent of competition of other species with the affected species in the area; (4) the current hunting practices in the area, including numbers of animals taken and by what methods and means, whether the take is subsistence or recreational, and characteristics of the hunters; (5) the past and present dependence of persons in the area for subsistence use of a species; (6) the biomass of the species to be affected; (7) the population trends in the area; and (8) whether the population is able to support a nonsubsistence harvest. No decision denying, creating or changing a subsistence hunting area may be made unless based on specific written findings of fact regarding all the information provided in accordance with this section. No subsistence hunting area may be created if the board determines that creation of such an area will jeopardize or interfere with the maintenance of game populations on a sustained-yield basis.

* Sec. 12. AS 16.05.257(h)(1) is amended to read:

(1) "subsistence hunting" means the taking of game animals by

a state resident for subsistence uses by means defined by the Board of Game [FOOD OR CLOTHING FOR PERSONAL OR IMMEDIATE FAMILY USE];

* Sec. 13. AS 16.05.257(h)(2) is repealed and re-enacted to read:

(2) "subsistence hunting area" means an area in which only subsistence hunting of the affected species is permitted and which is managed for maximum food potential.

* Sec. 14. AS 16.05.257 is amended by adding a new subsection to read:

(i) The Board of Game may make no decision denying, creating or changing a subsistence hunting area unless based on specific written findings of fact regarding all the information provided in accordance with (e) of this section. No subsistence hunting area may be created if the board determines that creation of such an area will jeopardize or interfere with the maintenance of game populations on a sustained-yield basis.

* Sec. 15. AS 16.05.290 is amended to read:

Sec. 16.05.290. COMPENSATION OF BOARD MEMBERS. Each member of a board is entitled to travel expenses, [AND $100] per diem, and $100 in compensation for each day going to and from and for each day in actual attendance at board meetings and other meetings or conferences authorized by a board.

* Sec. 16. AS 16.05.345 is amended to read:

Sec. 16.05.345. MUSK OXEN. The department shall issue big game tags for the taking of musk oxen if an open season is declared. The cost of these tags is $500 for residents and $1,000 for nonresidents unless the musk ox is to be taken for subsistence by a person residing in the vicinity of the habitat of the musk ox, in which case the tag shall be issued at no charge. Public notice to the general public, drawings for subsistence musk oxen permits shall be held in villages in the vicinity of the musk oxen habitat. The department shall conduct a drawing for permits to take musk oxen.

No person is eligible for more than one permit a year. Each application for a permit shall be accompanied by a $10 fee.

* Sec. 17. AS 16.05.930(b) is amended to read:

(b) This chapter does not prohibit a person from taking fish or game during the closed season for religious purposes or in a case [, IN CASE] of dire emergency, as defined by regulation promulgated by the appropriate board.

* Sec. 18. AS 16.05.930 is amended by adding a new subsection to read:

(e) This chapter does not prevent the traditional barter of fish and game taken by subsistence hunting or fishing, except that the commissioner may prohibit the barter of subsistence-taken fish and game by regulation, emergency or otherwise, if a determination on the record is made that the barter is resulting in a waste of the resource, damage to fish stocks or game populations, or circumvention of fish or game management programs.

* Sec. 19. AS 16.05.940 is amended by adding new paragraphs to read:

(26) "subsistence uses" means the customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter or sharing for personal or family consumption; for the purposes of this paragraph, "family" means all persons related by blood, marriage, or adoption, and any person living within the household on a permanent basis;

(27) "barter" means the exchange or trade of fish or game taken for subsistence uses for valuable consideration other than money.

* Sec. 20. AS 24.20 is amended by adding new sections to read:

Sec. 24.20.600. SUBSISTENCE COMMITTEE ESTABLISHED. The Subsis-

lature when attending sessions, except that members of the committ receive no per diem during the legislative sessions other than th er diem allowance paid to other members of the legislature.

Sec. 24.20.650. STAFF. The Legislative Affairs Agency shall provide the Subsistence Committee with professional and clerical assistance under the auspices of the Legislative Council.

Sec. 24.20.660. DUTIES. The Subsistence Committee shall

(1) gather information on all aspects of subsistence hunting and fishing and the role of subsistence in the lives of the residents of the state;

(2) monitor the activities of state officers and agencies which affect the use of subsistence resources;

(3) evaluate the impact of federal laws, regulations, and policies which affect subsistence;

(4) receive public comment on governmental action affecting subsistence;

(5) review regulations adopted by the Board of Fish and the Board of Game which affect subsistence.

Sec. 24.20.670. POWERS. (a) The Subsistence Committee has the following powers:

(1) to organize and adopt rules for the conduct of its business;

(2) to hold public hearings;

(3) to call upon all state officials, agencies, and institutions to give full cooperation to the committee and its staff by collecting and furnishing information, conducting studies and writing recommendations;

(4) to sponsor legislation in accordance with AS 24.30.-060(b), including resolutions annulling regulations.

tence Committee is established as a permanent interim committee of the legislature. The establishment of the committee is a recognition that continuous and intensive legislative study and involvement in the subsistence lifestyle is necessary to insure that the subsistence lifestyle remains a viable way of life for those who live it through choice or necessity.

Sec. 24.20.610. MEMBERSHIP. The Subsistence Committee is composed of three members of the house appointed by the speaker of the house, and three members of the senate appointed by the president of the senate; however, two of the three members from each house shall be the chairman of the standing resources committee or his designee and one other member of the committee. The membership from each house shall include at least one member from each of the two major political parties. The committee elects a chairman from among its members.

Sec. 24.20.620. TERM OF MEMBERSHIP. The Subsistence Committee shall be organized within 15 days after the organization of each legislature. Members serve for the duration of the legislature during which they are appointed. If they are reelected or their term of office extends into the next succeeding legislature, they continue to serve until reappointed or the appointment of their successor.

Sec. 24.20.630. VACANCIES. When a vacancy occurs in the membership of the Subsistence Committee, the presiding officer of the house incurring the vacancy shall choose a successor.

Sec. 24.20.640. MEETINGS. The Subsistence Committee may meet during sessions of the legislature and during the interim between sessions at such times and places in the state as the chairman may determine. Members may receive, for the minimum time required to get to and from meetings and for the period while attending meetings, the same travel and per diem allowances provided by law for members of the legis-

(b) Nothing in secs. 600 - 680 of this chapter authorizes the referral by the presiding officer of either house of legislation to the committee at regular or special sessions of the legislature.

Sec. 24.20.680. REPORTS. The Subsistence Committee shall submit a summary report of its findings and recommendations to each legislature.

* Sec. 21. AS 24.30.060(b) is amended to read:

(b) Bills introduced by the Legislative Council shall be delivered with a letter of explanation to the rules committee of either house and bear the inscription "Rules Committee by Request of the Legislative Council"; <u>bills introduced by the Subsistence Committee shall be delivered with a letter of explanation to the rules committee of either house and bear the inscription "Rules Committee by request of the Subsistence Committee";</u> bills introduced by the Administrative Regulation Review Committee shall be delivered with a letter of explanation to the rules committee of either house and bear the inscription "Rules Committee by Request of the Administrative Regulation Review Committee"; bills introduced by the Legislative Budget and Audit Committee shall be delivered with a letter of explanation to the rules committee of either house and bear the inscription "Rules Committee by Request of the Legislative Budget and Audit Committee." Bills presented by the governor shall be delivered with a letter to the rules committee of either house and bear the inscription "Rules Committee by Request of the Governor"; bills so presented and inscribed shall be received as bills carrying the approval of the governor as to policy and budget impact. The governor may submit a statement of purpose and effect with each bill and appear personally or through a representative before any committee considering legislation.

* Sec. 22. The permanent interim Subsistence Committee established in AS 24.20.600, enacted in sec. 20 of this Act expires December 31, 1984.

Delete

* Sec. 23. Notwithstanding any other provisions of law, the terms of all persons appointed to the Board of Fisheries and the Board of Game under AS 16.05.221 and serving on the boards on the effective date of this Act expire on that date. The governor shall appoint persons to seats on the boards as reconstituted under AS 16.05.221, as amended in sec. 5 of this Act, within 30 days of the effective date of this Act.

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 960
Title An Act Relating to Fish and Game Management
Requested by Representative Anderson Date 5/1/78

II. FISCAL DETAIL
Agency Affected Fish and Game
Program Category Affected NRMEC
Budget Request Unit(s) Affected Boards of Fish and Game
plus New BRU for Division of Subsistance

EXPENDITURES (Thousands of Dollars)

		FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100	PERSONAL SERVICES		749.7	749.7	749.7	749.7	749.7
200	TRAVEL		36.5	36.5	36.5	36.5	36.5
300	CONTRACTUAL		93.4	93.4	93.4	93.4	93.4
400	COMMODITIES		4.5	4.5	4.5	4.5	4.5
500	EQUIPMENT		35.3	3.0	3.0	3.0	3.0
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL No Inflation Adjustment		919.4	887.1	887.1	887.1	887.1

FUNDING (Thousands of Dollars)

GENERAL FUND		919.4	887.1	887.1	887.1	887.1
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		24	24	24	24	24
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

SEE REVERSE SIDE FOR DETAILED EXPLANATION

IV. DATE May 2, 1978 PREPARED BY Bill Morrison
AGENCY Fish and Game
PHONE 465-4120

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/77)

I. Sections 2-4 establish a Division of Subsistance.

In addition to a Headquarters staff of director, deputy director, secretary, and administrative assistant, work would be accomplished by regional positions with clerical support at range 18 in Juneau, Anchorage, Kodiak, Fairbanks, Barrow, Bethel, Dillingham, Galena, Kotzebue, and Nome. Range 18 is the same level as Fisheries or Game Biologist III. This is the project manager level and would be expected to have a broad range of professional experience as well as the ability to interact well with the public. Travel is provided at $3,000 for regional positions, and $4,000 for the director and deputy. Contractual funds are for phones, printing, advertising, and space rental. (Figures assume 600/mo. for regional space and phones; 1,000/yr. for regional printing; 700/mo for HQ space and phones; 3,000/yr for HQ printing and miscellaneous). New equipment is needed for all positions.

Line item costs for the Division of Subsistance are as follows:

100 - 699.9	400 - 4.5
200 - 38.0	500 - 35.3
300 - 93.4	

Line item 500 is reduced to 3.0 for FY '80 and beyond.

II. Section 5 adds two members each to the Boards of Fisheries and Game.

The cost of each additional Fisheries Board member would be $1,500 in travel and $4,500 in per diem. The cost of each additional Game Board member would be $1,000 in travel and $2,200 in per diem. These figures do <u>not</u> include the additional compensation addressed in section 15 of the bill. Total cost of section 5 is $18,400, all in line 200.

III. Section 15 provides additional compensation for Board members.

Board members currently receive $100 per diem per day. The effect of section 15 would be to reduce the per diem to the same as that paid other state employees (this fiscal note assumes an average of $60), and to add compensation of $100 per day for Board members. Actual per diem paid would be reduced from $49,800 in FY '79 (both boards) to $29,900 in line item 200. Compensation of $100 per day would add $49,800 in line item 100

IV. Section 20 creates a permanent Interim Subsistance Committee of the Legislature. There is no fiscal impact of this action in the Department of Fish and Game. However, the Division of Legislative Affairs would be fiscally impacted by this section.

PLEASE NOTE

THE ORGINAL FILE CONTAINS AN OVERSIZED DOCUMENT THAT IS UNSUITABLE FOR FILMING. PLEASE REFER TO THE ALASKA STATE ARCHIVES TO VIEW THE ORIGINAL.

DESCRIPTION:

TUNDRA TIMES, JANUARY 1978

SUBSISTENCE: TRADITION AND A WAY OF LIFE

HB 960 Sectional Analysis

§1 Statement of legislative intent.

§§2-4 Creates a Division of Subsistence Hunting and Fishing in the Department of Fish and Game, with a director appointed by the Governor. The division shall collect information and conduct studies on subsistence hunting and fishing and is to provide information and recommendations to the Governor, Legislature and Boards of Fisheries and Game.

§5 The Boards of Fisheries and Game are increased from seven to nine members. Four members are to be subsistence users; two sports users; two commercial users and one at-large member.

§6 The Board of Fisheries is required to adopt regulations allowing subsistence fishing unless allowing subsistence fishing will make it impossible to maintain fish stocks on a sustained-yield basis. When any restriction on the taking of fish is necessary, subsistence use shall be the preferred use. If restriction of recreational and commercial fishing is not adequate to assure maintenance of fish stocks on a sustained yield basis, subsistence use can be restricted or prioritized by use of the criteria set forth in the bill.

§7 Same as Section 6 but applicable to the Board of Game. In addition, subsection (c) prohibits regulations allowing the taking of game during seasons when the game is inedible.

§8 The Board of Game is required to consider every request to create a subsistence hunting area. The appropriate advisory committee in the area may recommend that such an area be created.

§9 Before on a request for a subsistence hunting area the Board must hold public hearings and provide biological information to the appropriate people.

§10 The request for creation of a subsistence hunting area must be filed with the Department at least 25 days before the next board meeting.

§11 The Department shall investigate the request for creation of a subsistence hunting area and compile specific biological data about the species to be affected and the area. The specific information required is set forth in the bill.

§12 "Subsistence hunting" is defined.

§13 "Subsistence hunting area" is defined.

§14 The Board of Game must make specific written findings of fact whenever it creates or changes a subsistence hunting area or denies a request for such an area. No such area may be created if game populations could not be maintained on a sustained-yield basis.

§15 The compensation of members of the Boards of Fisheries and Game is increased by $100 per day.

§16 A musk oxen tag is to be issued free to subsistence users living near the musk oxen. Drawings for subsistence permits must be held in the local villages, with advance publicity.

§17 Taking of fish and game during closed seasons for religious purposes is authorized.

§18 Barter of subsistence-taken fish and game is authorized unless the commissioner finds that barter is resulting in waste, damage to fish stocks or game populations, or circumvention of fish and game management programs.

§19 "Subsistence uses" is defined. "Barter" is defined.

§20 A permanent interim committee of the Legislature on subsistence is created. The section sets forth the membership, terms of membership and powers and duties.

§21 The Subsistence Committee may introduce bills through the Rules Committee.

§22 The Subsistence Committee created in section 20 terminates in 1984.

§23 Upon adoption of this bill, the terms of all members of the Boards of Fisheries and Game terminate and new members are to be appointed by the Governor.

BASIC ELEMENTS OF

"AN ACT RELATING TO FISH AND GAME MANAGEMENT"

Sec. 1 INTENT Subsistence shall be the priority use

Sec. 2 -Sec. 4 Division of Subsistence

Sec. 5 Composition of Board of Fisheries and Board of Game

Sec. 6 Board of Fisheries regulations

Sec. 7 Board of Game Regulations

Sec. 8- Sec. 13 Subsistence hunting zones

Sec. 14 $100 per day compensation for Board of Fisheries and Board of Game members

Sec. 15 Fish or game can be taken out of season in case of dire emergency or for religious purposes

Sec. 16 Barter

Sec. 17 "Subsistence uses" defined

Sec. 18-Permanent interim Subsistence Committee
Sec. 20

AMENDMENT #1 Adopted by

Offered in the HOUSE

By the Special Committee on Subsistence

TO: HOUSE BILL NO. 960

Page 3, line 27: delete "or other consumptive uses" and "in order"

Page 3, line 28: after "basis, or" insert "to assure"

Page 4, line 15: delete "or other consumptive uses" and "in order"

Page 4, line 16: after "basis, or" insert "to assure"

Page 5, lines 10 - 11: delete "or a portion of a unit or subunit"

Page 5, lines 14 - 15: delete "or a portion of a unit or subunit"

Page 7, line 27: delete "Drawings" and substitute in its place "After notice to the general public, drawings"

AMENDMENTS TO HB 960

PROPOSED TO RESOURCES COMMITTEE MAY 2

1) Page 2, line 6 after"data" add "including data from subsistence users".

2) page 2, line 9 after "amount," add "nutritional"

3) page 2, linell after "to" add "other appropriate agencies and the"

4) page 2 line 12 after "developing" add "policies" and delete "legislation". change "land and water management" to "land, water or resource use".

5) page 2 line 14 after "legislature" delete "to determine" and replace with "or the Board of Fisheries or the Board of Game in determining".

6) page 2 after line 22 add two new subsections to read:

"(7) Contract with rural organizations or individuals which could provide information or services beneficial to the division .

(8) Participate with other divisions in the preparation of statewide and regional management plans to assure that those plans recognize and incorporate the needs of subsistence users of fish and game."

7) page 3 after line 1 delete new language and replace with "and shall include at least two subsistence users."

8) page 3 line 14 after "RESIDENCE" delete new language and add "and shall include at least two subsistence users."

9) page 8 line 5 after "for" add "traditional"

10) page 6 line 21 after "harvest." delete rest of section.

Tundra Times

Alaska's Oldest Statewide Newspaper

— Den Nena Henash Our Land Speaks — Unanguq Tunuktaug The Aleuts Speak — Ut Kah neek Informing and Reporting — Yupit Kanlautcia

FAIRBANKS, ALASKA APRIL 19, 1978

Editorial

State abandons front of subsistence support

For the better part of a year now, Alaska Native leaders have become at home in America's airspace, jetting between Barrow, Kotzebue, Bethel, Dillingham and other regional centers, and points south and east: Anchorage, Juneau and Washington, D.C.

Thousands of miles have been logged in pursuit of a pathetically simple notion: that Alaska Natives who still rely directly upon the land for their livelihood and cultural identity should be able to continue doing so. They have accepted that never again will they be totally free to pursue game without limits and restrictions. They have gone out of their way to explore with other parties ideas for dividing Alaska's fish and wildlife resources among all users, urban and rural. For their sincere efforts to cooperate with competing user groups in Alaska in developing responsible management plans, they have been repaid with condescension, suspicion

PLEASE TURN TO PAGE TWO

State abandons subsistence

CONTINUED FROM PAGE ONE

and betrayal of the trust they placed in their adversaries to also be reasonable and sincere.

Natives Stung

Natives have been particularly stung by the complete abandonment by the Hammond Administration of even a pretense of what the subsistence needs of Alaska Natives are and how they should be met by state management policies. In a press conference last week, Hammond backed up comments made by Fish and Game Commissioner Ronald Skoog in Washington, D.C. to the effect that the State of Alaska would no longer support federal oversight of state subsistence management as set forth in the draft Alaska lands bill approved by the House Interior Committee earlier this year. Hammond's statement, coupled with similar statements made by the Board of Game and the Alaska Legislature recently have only increased, not diminished, the need for federal recognition and protection of the subsistence lifestyle.

Gruesome Detail

But let us tell the story in a little more gruesome detail.

Three state administrations–Egan's, Hickel's and Hammond's–have stated publicly their willingness to preserve the option of Native people to live basically as they have for years. This commitment strongly implied active state efforts to protect fish and wildlife resources from over-exploitation by urban users and to protect the land base so critical to the survival of wild species.

Hickel and Egan never lifted a finger to fulfill their commitments. This is borne out by the angry testimony of rural Alaskans who told U.S. Congressmen last summer they needed federal assistance not only to protect them from pressures exerted by the dominant urban population and its regular shooting sprees in the Alaska bush, but from the very state government which had pledged itself to perform that protective duty. At the very least, rural Alaskans demanded, the federal government should keep an eye on the state because historically the state had proven unwilling or unable to implement management schemes necessary to divide wildlife resources equitably among competing users.

The reluctance of the state to permit subsistence to enter the realm of everyday management of the resources is clearly demonstrated by the unwillingness of regulatory authorities to designate seasons and bag limits compatible with Native game use patterns, the lack of technical and financial support for the local advisory committees, failure to commit money from the General Fund to fish and game management and the open refusal of the Board of Game to honor the intent of a 1975 bill to restrict urban traffic to critical subsistence areas. State Fish and Game officials, from top to bottom have consistently portrayed the state's local and regional subsistence economies to this writer in the most derogatory terms, characterizing Native cultural aspirations as shallow and insincere, and forecasting the ultimate demise of subsistence cultures as progress marches on, as if there was no need to make an effort to bolster the rural lifestyle against those forces. Earlier this month, State Fisheries Biologist Ray Baxter, of Bethel, was quoted in the Los Angeles Times as saying subsistence culture has become "so twisted and distorted in the past 100 years that you can't really recognize it as a culture.

"There's no word or concept for conservation in the Eskimo language. They exterminate any resources they can get their hands on."

Enter Hammond

So much for explaining why ruralites are hostile to state management. Enter now Jay S. Hammond, a man whose heart even now we do not wish to doubt. Hammond decided last year to put some teeth in his own administration's pledge to balance fish and game management to accomodate subsistence and sport users.

Hammond told us he was going to undertake a reorganization of the Dept. of Fish and Game in an effort to make it more responsive to the needs of subsistence users; he wanted to correct some of the more chronic proolems, such as lack of rural input in policy-making. He planned to carry out this effort administratively, knowing that most state legislators like the department just the way it is–catering to the whims of trigger-happy sportsmen.

Hammond's proposed reorganization was also advanced for another reason. Rural Alaskans convinced Congressman John Seiberling and his Subcommittee on General Oversight and Alaska Lands last summer that nothing more than the barest minimum of lip service had been paid by the state to subsistence needs, even falling short of state promises, and that they could only expect a fair shake from the federal government. The Congressmen made it clear that they saw the debate over Alaska's federal land as an excellent opportunity to honor the Congressional commitment to subsistence protection made at the time the land claims act was passed in 1971. Although Congress maintained Alaska Natives would no longer enjoy an untouchable right to pursue game, it did assert that the Alaska Native subsistence lifestyle would not be allowed to die an unnatural death as a result of hostile neglect or a one-sided battle with detractors of Native culture.

Land Bill

When the Congressmen returned to Washington, they wrote a land bill for Alaska that said, among other things, that the federal government shall have the authority to oversee state management of subsistence resources. The idea is that the state should submit a plan explaining how it intends to meet federal subsistence guidelines. Hammond's departmental reorganization IS that plan, one that is being field-tested throughout the state. The fact that the plan has not been particularly well-received by

State abandons subsistence

CONTINUED FROM PAGE TWO

Agriculture, with delegated authority to the state upon compliance with requirements of the Act and the appropriate secretary. Unfortunately, the state's position on this title has been misrepresented by some implying that we endorse this concept. We do not! Governor Hammond has made that position quite clear, as indicated earlier in this testimony. I might add as well that most if not all state wildlife management agencies do not support this concept either, and are strongly in favor of maintaining states' authorities and responsibilities for resident fish and wildlife."

In a phone call from Skoog to a joint meeting of the Boards of Fish and Game, Skoog elaborated on the state's reversal:

"We feel we should not deal with subsistence in this bill–but our previous recognition of it makes it difficult to back off now."

Incomprehensible

Director of the Rural Alaska Community Action Program, Phil Smith telegrammed Hammond after the governor called a press conference to confirm that he endorsed the thrust of Skoog's jagged d-2 blades, incredulous at the executive's action:

"What is incomprehensible, at best, at this point in the development of the d-2 legislation that the state would unilaterally, and without prior consultation with either AFN or RurAL CAP, so completely turn the tables on this issue.

"2. Secondly, I believe the state has generally ignored the benefits to its management regime that Title VII presently offers. At the very least, we see (and have strongly encouraged) the following: . .

"A. State management on all federal lands, under a state plan, and with assurance of cooperative management where indicated.

"B. Federal statutory guarantees, subject only to limited federal oversight, of the state's right to manage fish and wildlife on those federal lands.

"C. Federal financial participation (beyond Pittman-Robertson and Dingle-Johnson funding) of up to 50 percent of the costs of implementing the management regime adopted by the state.

"D. Federal statutory support to the state's oft-stated priority of subsistence being the number one priority consumptive use of fish and game resources.

"By assuming the posture that Title VII abrogates the tenets of the Statehood Act and violates the principle of "state's rights," we are afraid the state is risking the loss of all the above gains. In my opinion, any alternative to Title VII as presently written would further polarize the people of Alaska on the d-2 issue."

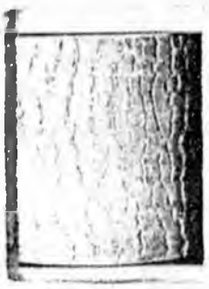
Ted Stevens

Amen. We would only add that contrary to misinformation recently issued by states rights advocate Senator Ted Stevens, in no instance does Title VII mandate actual federal day-to-day management of Alaska's fish and game resources on federal land, UNLESS the state refuses to comply with federal guidelines. We are at a loss to understand why the guidelines are so offensive, considering that most are consistent with the frequent promises by the state to accomodate subsistence use of wildlife resources in management plans.

Frustration

What makes this whole question of federal oversight so frustrating is that Native detractors insist that in demanding oversight of state game management, Natives are asking for the sun and moon. In fact, they are asking the feds for what the state has so long denied them: protection of a fair share of game and fish resources, consistent with their proveable need for those resources, against poorly managed access by other user groups to those same resources.

Those who are most eager to steal away the land and life that Alaska Natives have fought so hard to retain control of argue that Native acculturation into the mainstream of Western Civilization is inevitable. They cannot be blind to the fact that if they can successfully strangle Native efforts to gain a greater voice in the disposition of land and subsistence resources, they will have destroyed one tool that Native people can use to protect their life. Federal



urban or rural resource users, in our view, strengthens the need for federal oversight until state management competence is demonstrated.

But there is more.

In an unpublished interview with the Tundra Times on February 9, Hammond actually endorsed the federal oversight concept. Referring to Title VII, the subsistence section of the Alaska Federal land bill ultimately adopted by the full House Interior Committee, Hammond said his reaction to the subsistence language was:

"Generally favorable. I'm a little concerned with one portion of it, which would be Section 705(b) which might create a rather difficult administrative problem area in that it sets forth a prescribed procedure whereby a single regional council might compel the Secretary to go through a very lengthy process of hearings.

"I think that's perhaps overly complex. I think section (a) accomodates concerns of the regional councils that might feel boards of fish and game are not complying with the mandate of the Act, without going into that type of organized, formalized structure.

"I am not stating that the State's regional council proposal is the best answer to the question, but it does provide a means where we could implement administratively something that apprently now Congress has deemed adequate, and the Natives, to meet their concerns. I am pleased to that extent."

When we asked if his administration would continue to support the language of the committee's Title VII, Hammond replied:

"Well yes. I was back in Washington and conveyed to Congressman Seiberling and all the other parties there what our views were in that regard and they pretty well accomodated this. So I would have no reason not to support something that we pretty well initiated.

"My only concern is that what appears to be an administrative complexity that doesn't appear necessary. I have a little concern about that particular section, but aside from that, fine."

The section of Title VII he referred to was not related to the concept of federal oversight and in fact, the committee accepted a Hammond sponsored amendment to alter Sec. 705(b).

Another Committee

This month, yet another Congressional committee took up the Alaska land issue. Fish and Game Commissioner Ronald Skoog flew to Washington, D.C. to tell the Subcommittee on Fisheries and Wildlife Conservation and the Environment that the Hammond Administration has had a change of heart:

"Within Title VII of the House Interior and Insular Affairs Committee has selected to adopt language which would revamp considerably the fish and wildlife management system for federal lands in Alaska. Under this "Subsistence Title" in H.R. 39 the authority to manage all fish and wildlife on all federal lands is vested in the Secretary of the Interior and/or the Secretary of

PLEASE TURN TO PAGE ELEVEN

eporting — Yupit Kanlautciat The Way Eskimos Talk

TWELVE PAGES

better care

e Nome child en found the answer; you can too.

vell in contest

evens took second place in the men's division Old Time Fiddlers Championship Contest, on March 25-25. Bill won a beautiful trophy

oversight of subsistence management by the state gives Alaska Natives a fighting chance to preserve their way of living, a way of living with far more cultural integrity than many critics are able to perceive.

We know that if Native people have anything to say about it, their rural lifestyle, based squarely upon the taking of fish and game, with its various regional and ethnic variations in tradition, social structure and technology, will be preserved. Not as a stopping place on the way to cultural extinction, but as a way to live freely chosen by the people, as other Americans expect to choose their paths through life; a lifestyle cherished for its simplicity, its closeness to the essential sources of all living things, its vitality in nourishing a strong sense of identity and closeness of spirit among people.

The point is, federal oversight of state subsistence management gives Alaska Natives a chance to preserve that which is rightfully theirs to keep or surrender. Unrestricted state management, considering past and present experience, virtually guarantees that Alaska Natives will lose what is rightfully theirs whether they wish to give it up or not.

[illegible] really be better? "I sure hope so," said one 48-[illegible]ear resident of Nome, who asked to remain anonymous. "We have to improve. We can't go on the way we [illegible] of [illegible]

HCR

23

ALASKA STATE LEGISLATURE - HOUSE OF REPRESENTATIVES

REPRESENTATIVE RICK URION
4222 PINNACLE CIRCLE
ANCHORAGE, ALASKA 99504

POUCH V
JUNEAU, ALASKA 99811

February 10, 1977

Rep. Alvin Osterback
Chairman
House Resources Committee
Pouch V
Juneau, AK 99811

Dear Chairman Osterback:

Our Subcommittee on Game has given cursory review to House Concurrent Resolution No. 23 and find that it is worthy of consideration by the Committee as a whole. We are reporting it back with a Do Pass recommendation by a majority of the committee.

Rep. Urion, Chairman

Rep. Smith — NO Rec.

Rep. Bennett

Introduced: 2/8/77
Referred: Resources

IN THE HOUSE BY SCHAEFFER

HOUSE CONCURRENT RESOLUTION NO. 23

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

Requesting an earlier opening of the caribou season in the arctic game management units.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS many villages in the state's arctic game management units have always utilized the meat of the caribou as their primary wild meat food source; and

WHEREAS, due to a serious depletion of the Western-Arctic herd in recent years, state regulations have reduced the allowable take of caribou in Units 23, 24, 26A and 26B from fifteen a year to one bull by permit only, with a change of the opening of the season from July 15 to October 1; and

WHEREAS the October 1 opening date fails to recognize that in most cases bull caribou have started rutting by that date and their meat is unfit for human consumption; and

WHEREAS, with so few animals available for human use, wastage of this nature is intolerable;

BE IT RESOLVED by the Alaska State Legislature that the Board of Game is respectfully requested to change the opening date for the caribou season in Units 23, 24, 26A, and 26B from October 1 to September 1. August 1.

#

HCR

41

STATE OF ALASKA
DEPARTMENT OF FISH AND GAME
OFFICE OF THE COMMISSIONER
JAY S. HAMMOND, GOVERNOR
SUBPORT BUILDING – JUNEAU 99801

April 8, 1977

The Honorable Alvin Osterback
Chairman, House Resources Committee
Alaska State Legislature
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Mr. Osterback:

This is in reply to your letter of March 21, 1977 requesting information on the proposed Arctic National Wildlife Range resolutions.

The Department supports the passage of HCR 41 Arctic National Wildlife Range Protection and HJR 34 Environmental Defense of the Arctic National Wildlife Range. The resolutions are consistent with the intent of the withdrawal which established the Range to preserve the "unique wildlife, wilderness and recreational values" of the area.

During the Gas Line Public Hearings, the Department opposed development within the Arctic National Wildlife Range. The Range is unique in that it is the United States' last example of virtually undisturbed arctic ecosystems-- coastal plain, foothills, mountains and the plant and animal species that exist there.

The Arctic National Wildlife Range provides habitat for caribou, bears, wolves, musk oxen and other mammals. It is a nesting, molting and staging area for waterfowl, gulls, terns and other birds.

Caribou are probably most dependent upon the Range not being disturbed by development. The Porcupine caribou herd has an estimated population of 100,000 - 120,000 animals which makes it the largest caribou herd in the state. The Porcupine herd's calving grounds are within the boundaries of the Range. Although the herd uses different ranges and migration patterns from time to time, the calving areas tend to remain constant and are critical to the caribou's existence. Development in the calving areas would be extremely detrimental to the herd.

The Range is also a scientific laboratory and asset and a recreational resource. Development within the Arctic National Wildlife Range would diminish the value of these activities and would destroy some of the Range's most important values. The Arctic National Wildlife Range's primary value is as an essentially pristine area that contains the entire sweep of natural ecological communities from the Brooks Range to the Arctic Ocean. This value can be protected only by maintaining the integrity of the Range.

The Department believes the term "commercial development" needs clarification. Although the Department opposes industrial types of development, we have no objection to guiding and related activities. It should be made clear that the guide industry will not be adversely affected by the resolutions.

The Department is not submitting a fiscal note at this time. Although it is not anticipated that additional funds will be necessary, the actions taken by the Governor and the President of the United States will be the determining factor in this regard.

If additional information is needed please let me know.

Sincerely,

for James W. Brooks
Commissioner

HCR

43

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

20 April 1977

Bob LeResche, Commissioner
Department of Natural Resources
Pouch M
Juneau, Alaska 99811

ATTENTION: Pat Conheady

Dear Commissioner,

The House Resources Committee will be reviewing HCR 43 Approving the extension of the Tesoro-Alaskan Petroleum Company agreement to purchase royalty crude oil taken in-kind on Tuesday April 26, 1977 at 1:15 p.m. in room 118 of the Capitol Building.

Please supply us with a position paper or material you have on this bill by the time of the meeting. If you have any information pertinent to this topic, the Committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have suggested amendments, please supply the staff with copies of that prior to the meeting.

If there is a fiscal implication and a note is necessary, please prepare it and submit it to the Committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

AGO 546588

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

21 April 1977

Sterling Gallagher, Commissioner
Department of Revenue
Pouch S
Juneau, Alaska 99811

ATTENTION: John Messenger

Dear Commissioner,

The House Resources Committee will be reviewing HCR 43 Approving the extension of the Tesoro-Alaskan Petroleum Company agreement to purchase royalty crude oil taken in-kind on Tuesday April 26, 1977 at 1:15 p.m. in room 118 of the Capitol Building.

Please supply us with a position paper or material you have on this bill by the time of the meeting. If you have any information pertinent to this topic, the Committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have suggested amendments, please supply the staff with copies of that prior to the meeting.

If there is a fiscal implication and a note is necessary, please prepare it and submit it to the Committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

AGO 546589

TO: The Senate and House Resources Committees

April 6, 1977

FROM: George C. Silides, P. E. GCS

Notes on SCR 37 and HCR 43 - approving the extension of the Tesoro agreement to purchase royalty crude oil taken in kind.

1. Article XII of the contract between the State and Alaska Oil and Refining Company, to which Tesoro is the legal successor, indicates that the construction and operation of a refinery in Alaska is a pertinent part of the contract. Had the refinery not been built, State reserved the right to cancel the contract to deliver oil.

2. Notwithstanding any FEA mandatory allocation regulations, it can be argued that, in view of the foregoing requirement to construct a refinery as a condition to purchase oil, the State has an obligation to supply an in-state refinery built to process royalty oil - availability of royalty being sufficient and price equal to that of other in-state purchasers.

3. The original contract granted Tesoro the right to extend the contract for two successive three year periods, subject to any new terms and conditions mutually agreed upon by Tesoro and the State.

4. While Tesoro is not willing to give up its allocation rights, it is willing to enter into a temporary, one year, extension until the State gets its act together.

5. The price continues to be the highest average price currently allowed and paid for like oil throughout the field plus 2 cents a barrel for quantities over 15,000 barrels/day. In addition, the State secured an adjustment of 3 cents a barrel instead of 5 cents for each degree API gravity below 40; a net gain of 2 cents/bbl for each degree.

In the event of price deregulation, the price paid to the State under this contract will rise to meet the deregulated price.

6. There is no competing proposal to refine the royalty oil requested.

7. Considering all of the information available and different factors involved, it appears that approving a one year extension of the Tesoro contract is in the best interests of the State.

8. With direct reference to the original contract and manner in which it was entered into, I have found upon examination that, while former Commissioner Tom Kelly might have created

a favored status purchaser, he also drove a hard bargain in favor of the State. The State is well protected in the matter of price, default, and in the matter of the purchaser being required to take, at the option of the State, all royalty taken in kind and surplus to the internal needs of the State, regardless of the available amount.

March 22, 1977

The Honorable Hugh Malone
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a resolution giving legislative approval to a one-year extension of the agreement between Tesoro-Alaskan Petroleum Company for the purchase of royalty crude oil from the Cook Inlet area. AS 38.06.055(a) provides that no sale of state-owned royalty oil may be made unless approved by concurrent resolution of the legislature.

The Alaska Royalty Oil and Gas Development and Advisory Board has reviewed the extension and granted its appoval on March 8, 1977. The Board's declarations and findings are included in the material submitted to each legislator today. We would be pleased to assist you with any additional information which you request.

The present agreement between the state and Tesoro-Alaskan will expire on December 31, 1977. Tesoro-Alaskan has expressed its desire to continue purchasing state royalty oil from Cook Inlet, and I believe it is in the best interests of the state to continue to sell that oil to Tesoro-Alaskan. Tesoro-Alaskan is the largest refiner in the state and supplies a large portion of the Alaskan petroleum market. It supplies a larger quantity of petroleum products to Alaskan consumers than royalty oil purchased.

As you know, the Federal Energy Administration currently controls the ceiling price of all domestic crude oil, including that produced in the Cook Inlet. This Extension Agreement provides for the state to receive the maximum known price for the oil which can be obtained under these regulations.

AGO 546595

HCR

58

Summary and Background for Sale and
Purchase of State Royalty Gas to Alaska
Pipeline Company and for related
Agreement with Phillips Petroleum Company

This contract entitled "Gas Purchase Contract", dated April 11, 1977, between Alaska Pipeline Company (Buyer) and the State of Alaska (Seller) is regarding the sale and purchase of State royalty gas. To accomodate delivery of gas under the above contract it was necessary to enter into an agreement dated April 11, 1977 between Phillips Petroleum Company (Lessee) and the State of Alaska. The above contracts will supercede the contract entitled "Gas Purchase Contract", dated June 4, 1976 between Alaska Pipeline Company and the State of Alaska and was approved by the legislature. The new agreements are necessary because certain of the provisions of the old agreement have proven unworkable.

The following exhibits are submitted in support of these agreements:

1. Gas Purchase Contract dated June 4, 1976 between APC and the State.
2. North Cook Inlet Field Royalty Gas, Commissioner's Proposal in Concept.
3. House Concurrent Resolution No. 142, introduced May 4, 1976.
4. Letter dated April 30, 1976 to the Speaker of the House from the Governor.
5. Findings and Conclusions for Non-Competive Sale.

The reasons that the Contract entered into last year could not become operational are as follows:

1. Article 2.1 of that agreement required that Buyer was to purchase all royalty gas available at the point of delivery (wellhead). Buyer does not have adequate demand to take all of the gas all of the time. Buyer agreed that all gas purchased under the contract will be used to meet the requirements of its customers within the State of Alaska. One solution to Buyer's inability to use all of the royalty gas might have been for Buyer to sell its surplus gas back to Phillips Petroleum. Had Buyer done that it may have been in breach of last years contract because Buyer agreed to use the gas for its customers and the sale was for in-state use. Phillips, however, sells the gas out-of-state.

2. The point of delivery of the gas was at the wellhead on the Lessee's offshore platform in the North Cook Inlet Field. Buyer was required, at its own expense, to arrange to accept the gas at the point of delivery. However, Buyer has been unable to do so because it is not economically feasible to construct a pipeline to the point of delivery and because Buyer has been unable to reach agreement with the Lessee to use Lessee's existing pipeline to deliver the gas to a point on the North Kenai Road where Buyer could receive the gas. Lessee has been unwilling to transport the gas for Buyer

because to do so would place Lessee under the jurisdiction of the Alaska Public Utilities Commission and Lessee does not wish to become a public utility.

Current agreements provide for several provisions which deserve special consideration. They are as follows:

Quantity

The Buyer presently does not have markets for all royalty gas produced nor does the Lessee have the production capacity to produce enough gas to maintain required production at his LNG plant, in addition to producing all royalty gas. The Buyer and Lessee have therefore agreed that they will both use their "best reasonable efforts" to accomodate the other and that Lessee will produce and Buyer will sell that gas which is available.

If this agreement is not completed, the Buyer's market will have to be satisfied from reserves in the Kenai gas field which would be unnecessarily depleted, and royalty gas produced from Lessee's field would be delivered to his market outside the State of Alaska.

The Lessee will be installing compressors to maintain current production rates and to accomodate production of royalty gas. However, as the field well pressure continues to decline, the ability to produce the total required gas will correspondingly decline. Since the Lessee is required to maintain [illegible]duction for the LNG plant, the Buyer has agreed to allow an[illegible]duction shortfall to be taken from that quantity of gas dedi[illegible]d to Buyer.

However, it is also reasonable to expect that productivity in the field will be sufficient to accomodate the needs of the Buyer for most of the life of these agreements.

Delivery - Compression

The Lessee has agreed to deliver the gas purchased by Buyer, by utlitzing Lessee's pipeline facilities, to a point near the North Kenai road. The compression facilities necessary to increase field production will be installed by Lessee to accomodate this increased demand.

The Buyer previously agreed with Lessee that the cost of delivery shall be 10¢ per MCF and that the cost of compression shall be an additional 10¢ per MCF. These costs are paid directly from Buyer to Lessee for the account of the State. Should additional compressors be required during the life of these agreements the new charges must be agreed to or the contracts will terminate. It is further understood that Buyer's alternative source of gas would cost the same as royalty gas delivered to the same point.

Price

The State will at all times during the life of the agreements receive at least as much and perhaps more for its royalty gas as it would have received if it had taken its royalty in-value.

Public Utilities Commission/Alaska Pipeline Commission

A major reason the previous agreement failed was because Lessee would be subject to the jurisdiction of the above

mentioned regulatory agencies. The current agreements have been designed to avoid this problem as the only way that the producer would agree to transport the gas. The legal opinions relating to this matter were requested from the Attorney General and are enclosed to support these agreements.

The regulatory agencies would normally audit such costs as the delivery and compression charges to be paid by the Buyer to Lessee. However, in this case the Buyer and Lessee had agreed to these charges prior to the development of the current agreements. It is evident that had the previous agreement become operational, these same charges would have been applied to this gas.

E X H I B I T

1.

Gas Purchase Contract

dated June 4, 1976 between

Alaska Pipeline Company

and

State of Alaska

Gas Purchase Contract

This Contract, made and entered into this 4th day of June 1976, by and between the Alaska Pipeline Company ("APC") herein referred to as "Buyer" and the State of Alaska, hereinafter referred to as "Seller" :

WITNESSED

WHEREAS, Buyer owns and operates a natural gas pipeline system in areas of Alaska for the delivery of natural gas for ultimate consumption within the State of Alaska, and

WHEREAS, Seller has the right under each of the leases identified at Exhibit "A" attached hereto to be paid by the lessee thereunder a royalty of twelve and one-half percent in kind or in value of the natural gas produced and saved and used off of the lands covered by each such lease, and

WHEREAS, Seller is authorized by AS 38.05.183 to sell royalty gas; and

WHEREAS, Buyer represents to Seller that all gas purchased under this contract will be used to meet the requirements of its customers within the State of Alaska;

NOW, THEREFORE, in consideration of the representations, covenants, and conditions herein contained, Buyer and Seller hereby agree as follows:

ARTICLE 1

Seller's Royalty Gas

1.1 Seller hereby agrees that within 30 days after the execution and approval of this agreement as required by the laws of the State of Alaska, Seller shall notify the lessee under the leases set forth at Exhibit "A" of this agreement of Seller's election to take its royalty gas in kind. Said notice will provide that the lessee shall commence the delivery of said royalty gas to Seller (or to Seller's designee) upon a receipt of notice from Seller that all facilities necessary to enable Buyer to receive and market said gas are ready; provided, however, in no event shall lessee be required to commence the delivery of royalty gas to Seller (or its designee) prior to six (6) months following lessee's receipt of notice of Seller's election to take its royalty gas in kind.

1.2 In order that Seller can give its lessee as much advance notice as possible of the date it will start receiving its royalty gas in kind, Buyer shall notify Seller, and Seller shall notify its lessee, at least 60 days prior to the date Buyer will receive gas from Seller pursuant to this contract.

ARTICLE II

Quantity

2.1 It is understood and agreed by the parties that the volume of gas available to Seller from the leases covered by this contract depends upon the production from the leases over which Seller has no control. Buyer hereby agrees to purchase on each day commencing with the date of first delivery

AGO 935908

hereunder and continuing during the term of this contract all of Seller's royalty gas available at the point of delivery described in Article III hereof.

ARTICLE III

Delivery Point and Delivery Pressure

3.1 The point of delivery of all gas delivered hereunder shall be at the same point of delivery that Seller receives delivery of its royalty gas from its lessee in the North Cook Inlet Field.

3.2 Buyer, at its own expense, shall arrange to accept Seller's gas at the point of delivery.

3.3 Seller will deliver gas received by Seller from lessee at the pressure at which the gas is received by Seller from its lessee.

ARTICLE IV

Quality

4.1 The gas to be delivered by Seller to Buyer at the delivery point shall be gas of the same quality as is delivered to Seller by the lessee at the point of delivery.

ARTICLE V

Price and Billing

5.1 The price to be paid by Buyer to Seller for gas delivered shall be as follows:

a. Commencing on the date of first deliveries hereunder, assuming that this date occurs prior to July 1, 1977 and continuing until the first day of July 1977, the price shall be 55.5 cents per MCF.

b. Commencing on the first day of July 1977 and continuing until the first day of July 1978 the price shall be the higher of (i) 60.36 cents per MCF, (ii) the price Seller would have received from Phillips Petroleum Company had it not elected to receive its royalty gas in kind, (iii) the highest price paid by any purchaser in the upper Cook Inlet area for gas of similar quality and similar conditions of delivery; with due regard to appropriate factors including, but not limited to, difference of BTU content, delivery pressure, term of the contract and connection charges.

c. For each succeeding 12 month period commencing July 1, 1978 the price shall be increased to the higher of (i) the previous year's price plus 2 cents per MCF, (ii) the price Seller would have received had it not elected to take its

royalty in kind, (iii) the highest price paid by any purchaser in the upper Cook Inlet area for gas of similar quality and conditions of delivery; with due regard to appropriate factors including, but not limited to, difference of BTU content, delivery pressure, term of the contract and connection charges.

5.2 Thirty days prior to the date of each annual price change, Seller, at its option, may determine the price which it would have received from its lessee had it not elected to take its royalty gas in kind and the highest price being paid for gas of similar quality and similar conditions of delivery; with due regard to appropriate factors including, but not limited to, difference of BTU content, delivery pressure, term of the contract and connection charges in the upper Cook Inlet area and submit the same to Buyer along with suitable supporting evidence as to such prices. Buyer shall have the right to submit other evidence within the 30 day period.

5.3 After the delivery of gas has commenced Buyer shall, on or before the 20th day following the end of each month, render to Seller a statement showing the quantity of gas delivered during that month and shall therewith pay Seller the amount due for all such gas.

5.4 Each party hereto shall have, at its expense, the right to examine the books and records of the other party to the extent necessary to verify the accuracy of any statement, charge, computation, or demand made under or pursuant to this

contract. Any statement shall be final as to both parties unless questioned in writing within two (2) years after payment thereof has been made.

5.5 The terms "upper Cook Inlet area" as used here in shall mean the area encompassed in a radius of 100 kilometers from the Phillips Petroleum North Cook Inlet platform.

ARTICLE VI

Term

6.1 This contract shall become effective upon the execution hereof and the approval of the Alaska Royalty Oil and Gas Development Advisory Board and the State Legislature and shall continue and remain in effect until July 1, 1984, unless terminated prior to such date by mutual agreement of the parties, or pursuant to Article VII.

ARTICLE VII

Conditions Precedent

7.1 Buyer shall have the right to terminate this contract upon 30 days written notice to Seller if Buyer is unable to make satisfactory arrangements to take delivery of the gas. Buyer shall exercise this right to terminate on or before January 31, 1978, thereafter Buyer may not exercise this right to terminate.

ARTICLE VIII

Notices

8.1 Notices required to be given under this contract shall be deemed sufficiently given and served when and if

deposited in the United States mail postage prepaid and certified or registered addressed to Seller at:

Commissioner

Department of Natural Resources

Pouch M, Juneau, Alaska 99811

or to Buyer at:

Alaska Pipeline Company

P. O. Box 6288

Anchorage, Alaska 99502

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in four (4) original counterparts on this day and year first above written.

"BUYER"

STATE OF ALASKA

ATTEST:

ATTEST:

E X H I B I T

2.

AGO 935914

North Cook Inlet Field Royalty Gas
Commissioner's Proposal in Concept

The Commissioner of Natural Resources has recognized that the increasing growth of the Cook Inlet area of Alaska with its resultant increase in the use of natural gas requires that additional natural gas reserves be allocated for that purpose from State of Alaska royalty gas. From the standpoint of size of uncommitted gas reserves, geographical location and possible pipeline access, the North Cook Inlet field royalty gas appears the best available supply at this time. Pursuant to AS 38.05. 182 the Commissioner proposes that it is in the best interest of the State to take in kind the State's royalty share of the gas production from the North Cook Inlet gas field and requests the consent of the Alaska Royalty Oil and Gas Development Advisory Board for this change.

The Commissioner further proposes to dispose of the North Cook Inlet field royalty gas to Alaska Pipeline Company and its subsidiaries through a negotiated contract. The proposed contract will contain the following provisions:

1. Purchaser agrees to take 1/8 of daily production from the North Cook Inlet gas field on an if and as deliverable basis for the contract period. The State will report to the Purchaser each month the amount of royalty gas produced by Phillips during the prior months.

The approximate average daily royalty gas share of the production from Phillips' North Cook Inlet field platform is 17,000 MCF. Gas production from the platform varies as LNG plant needs dictate therefore no daily amount can be specified.

2. Point of delivery will be the wellhead.

3. Purchaser is responsible for measurement costs, and any compression or dehydration costs if or when necessary.

4. The contract expires on June 1, 1984, unless extended by mutual agreement for a period not to exceed one year.

5. The price of the gas will be equal to the price the State otherwise would have received from Phillips for its royalty gas for export as LNG to Japan; but not less than the highest price paid by any purchaser in the Cook Inlet area for a similar sale of gas of similar quality. The price will be adjusted yearly on the anniversary date of the contract.

6. The contract shall not be effective until

-all necessary permits and authorizations by governing bodies are obtained

-all transportation or exchange arrangements have been completed to the satisfaction of the parties involved.

-six month's notice required under lease

The Commissioner request approval of the above proposed conceptual plan by the Alaska Royalty Oil and Gas Development Advisory Board.

E X H I B I T

3.

RECEIVED
MAY 05 1976
ALASKA ROYALTY
OIL & GAS BOARD

Introduced: 5/4/76
Referred: Resources and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE CONCURRENT RESOLUTION NO. 142

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

Relating to the taking of state-owned royalty oil or gas in-kind and its disposal by sale.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS the legislature by enactment of the Alaska Royalty Oil and Gas Development Board statute, AS 38.06. et seq., has established a clear policy of favoring the taking of state-owned royalty oil or gas in-kind and making that royalty available for in-state uses; and

WHEREAS the State of Alaska presently receives a one-eighth royalty on gas produced from the North Cook Inlet Gas Field in value, but has the right to receive this royalty in-kind; and

WHEREAS the commissioner of natural resources has entered into a contract for the sale and purchase of state-owned royalty gas from the North Cook Inlet Gas Field with Alaska Pipeline Company, an Alaskan corporation which sells natural gas in the Anchorage and North Kenai Road areas; and

WHEREAS the contract between the State of Alaska and Alaska Pipeline Company requires as a condition precedent to its becoming effective approval by a majority of each house of the Legislature;

BE IT RESOLVED by the Alaska State Legislature that approval of Alaska Royalty Gas Sale No. 76-1, the contract for the sale of state royalty gas from the North Cook Inlet Gas Field to Alaska Pipeline Company, is hereby approved.

AGO 935919

E X H I B I T

4.

April 30, 1976

The Honorable Mike Bradner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Transmittal of Proposed
Alaska Royalty Gas Sale No. 76-1

Dear Mr. Speaker:

Attached is Alaska Royalty Gas Sale Contract No. 76-1 providing for a sale of State royalty gas from the North Cook Inlet Gas Field to Alaska Pipeline Company pursuant to AS 38.06 et seq., AS 38.05.182-183, and 11AAC26.005-.900. Also attached are all necessary waivers or consents related to this action and required under the law. The contract and all necessary related actions have been approved by the Alaska Royalty Oil and Gas Development Advisory Board pursuant to the above statutes and regulations. Other information pertinent to the proposed sale is also attached, with the intention of supplying you with an adequate record on this matter.

Alaska Pipeline Company, and its subsidiary Alaska Gas and Service Company, supply natural gas to the Anchorage area and a portion of the North Kenai peninsula known as the North Kenai road area. Increased use of natural gas due to growth in both areas is diminishing the gas reserves dedicated to Alaska Pipeline Company faster than anticipated. The company estimates that the contract amount for the North Kenai road area will be exhausted by May of this year and has executed a one year contract with their present supplier to extend their service.

Natural gas from the North Cook Inlet Gas Field, operated by Phillips Petroleum Company, is transported from the offshore platform to the LNG plant in the Nikiski area served by the North Kenai road and liquified for export to Japan.

The proposed contract provides that the State of Alaska will take its royalty share of the North Cook Inlet Gas Field production in kind rather than in value, and sell this gas to Alaska Pipeline Company at the same price that the State would otherwise receive from Phillips Petroleum Company. The amount of gas sold would average 15 to 16 million cubic feet per day and total about 41 billion cubic feet over the term of the royalty sales contract, which would expire June 1, 1984, coincidentally with the expiration of the present Phillips contract for export to Japan. Transportation or exchange provisions will be arranged by Alaska Pipeline Company, as will all necessary regulatory clearances.

The present peak gas demands along the North Kenai road can be as high as 10 million cubic feet per day. Gas excess to these needs can be used to augment the gas supply to Anchorage and extend the life of those reserves.

The total contract amount represents about one and one-half year's supply of gas at Anchorage's present rate of use, and about one year's production of the North Cook Inlet Gas Field.

The Commissioner of Natural Resources and the Alaska Royalty Oil and Gas Development Advisory Board recognize that the proposed sale of royalty gas will somewhat shorten the productive life of the North Cook Inlet Gas Field by approximately one year. Since the LNG contract requires delivery of a specified amount each year it will be necessary to increase the daily production of the field by the amount of the royalty gas withdrawn from the LNG plant. On balance, however, the sale of this royalty gas to supply the North Kenai road area and Anchorage is deemed to be in the best interest of the State, as it returns State royalty gas from foreign export to Alaska consumers at a price which assures all Alaskans a fair return for their resources.

I have, at various times, expressed the belief that section 55 of the Royalty Board Statute (which requires legislative approval by concurrent resolution of any sale of surplus royalty gas) is unconstitutional. The Administration believes that this requirement raises a substantial constitutional question and has concluded that in the future appropriate action will be necessary either by the Legislature to amend the Royalty Board Statute or by the courts to decide the constitutionality of

section 55. Notwithstanding such doubts concerning the constitutionality of this provision, the contract is being submitted to the Legislature for approval. Two reasons support this submission. First, early in this session, the Commissioner of Natural Resources advised the Legislature of his intent as a policy matter to carry out all the requirements of the Royalty Board Statute. I believe it would be less than forthright to pursue any other course for a sale during the closing days of the legislative session. Second, although this sale involves a relatively small quantity of gas, I am anxious to see it consummated at the earliest possible time as it will directly and immediately benefit gas consumers in the Anchorage and North Kenai areas. For that reason, it is undesirable that this contract become entangled in litigation which might extend over a lengthy period of time.

To avoid the choice of either appearing to acquiesce in the requirement of legislative approval or undertaking a perhaps unnecessary confrontation, a term has been included within the contract which provides that the contract will not become effective until approved by concurrent resolution passed by a majority of each house of the Legislature. The Administration always has the right to seek the advice and counsel of the Legislature and I have in this contract sought to make legislative approval a condition precedent to the contract becoming effective. I am submitting this contract to you for your approval pursuant to that term. However, in doing so, I wish to make clear beyond preadventure that my action should not be construed as either approval of or acquiescence in section 55 of the Royalty Board Statute and that I do not feel personally or legally obligated to submit future contracts for the sale of royalty oil or gas to the Legislature for approval by concurrent resolution.

You are aware that this is the first royalty sale contract prepared under the existing Statute, and of the first of its kind in the Nation. The Commissioner of Natural Resources, who is the official responsible for the agreement, is prepared to supply all necessary additional information to assist you in your consideration of this sale contract. Thank you for your consideration.

Sincerely,

Jay S. Hammond
Governor

Attachment

Natural Resources/WCF/dk/tdg

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 22, 1977

ACR 58

The Honorable Hugh Malone
Speaker of the House
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Speaker:

Under authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a resolution giving legislative approval to a sale of royalty natural gas from the North Cook Inlet Field to Alaska Pipeline Company. AS 38.06.055(a) provides that no sale of state-owned royalty oil may be made unless approved by concurrent resolution of the legislature.

The Alaska Royalty Oil and Gas Development Advisory Board reviewed the contract and granted its approval on April 6, 1977. The Board's declarations and findings are included in the material submitted to each legislator today. I would be pleased to assist you with any additional information which you request.

Last year the State of Alaska and the Alaska Pipeline Company entered into a contract for the sale of the same royalty gas to Alaska Pipeline Company. That contract was approved by the legislature last session. However, certain difficulties with volume flexibility and arranging for the transportation of the gas from the offshore platform to shore prevented Alaska Pipeline Company from receiving the gas under that contract. The current agreement has been executed to solve these problems and allow royalty gas to be delivered to Alaska Pipeline Company.

The problems with the previous agreement were:

1. Alaska Pipeline Company was unable to use all of the royalty gas at all times (as required in the contract) due to lack of an adequate market; and yet, because of limitations also included in the contract, is unable to sell the excess gas back to Phillips Petroleum Company for export from the State.

AGO 935925

2. Alaska Pipeline Company was unable to enter into an agreement with Phillips Petroleum Company for transporting of the gas to shore from the production platform due to understandable reluctance of Phillips to expose themselves to the jurisdiction of the Public Utilities Commission or the Pipeline Commission. The new agreement I am submitting to the legislature today remedies these problems.

This new agreement with Alaska Pipeline necessitated that the State itself also enter into an agreement with Phillips Petroleum Company for delivery of the royalty gas from the platform to shore. This agreement requires that the State pay the cost of gathering and compressing the royalty gas to the point of delivery; however, Alaska Pipeline Company in turn agrees to pay these costs to Phillips for the account of the State. The Royalty Board has neither responsibility nor authority to judge the appropriateness of the level of these charges, and has not done so.

Phillips Petroleum Company has operational problems affecting their ability to deliver guaranteed volumes of royalty gas to shore, as does Alaska Pipeline Company affecting their ability to market the gas available. These companies, together with the State, have agreed to use their "best reasonable efforts" to accommodate the needs of one another to produce and market royalty gas.

The contract between the State and Phillips does not strictly require legislative approval since it does not involve a sale of royalty gas. Nevertheless, I have included it in the materials submitted to the legislature because it is an integral part of the sale of royalty gas to Alaska Pipeline Company.

I believe your careful review of the enclosed materials will reveal many questions regarding this approach to resolving the many problmes associated with the acquiring and delivery of this royalty gas. However, I also believe that these agreements are the best possible solution at this time, are in the best interest of the State, and are important to the long-term interest of Anchorage utility customers.

Thank you for your consideration.

Sincerely,

Jay S. Hammond
Governor

Materials for Legislature

Alaska Pipeline Company

List of materials submitted to each legislator.

1. Gas Purchase Contract dated April 11, 1977 between Alaska Pipeline Company and the State of Alaska.

2. Agreement dated April 11, 1977 between Phillips Petroleum Company and the State of Alaska.

3. Reasons for Sale and Purchase of State Royalty Gas to Alaska Pipeline Company and for Agreement with Phillips Petroleum Company.

4. Findings and Conclusions of the Commissioner Pursuant to Alaska Statute 38.01.113(c) (determination not to use competitive bid procedures.)

5. Approvals relating to above by Alaska Royalty Oil and Gas Development Advisory Board dated April 6, 1977.

6. Attorney General's opinions relating to jurisdiction of Public Utilities Commission and Pipeline Commission.

7. Memos relating to gathering and compression charges.

AGO 935928

GAS PURCHASE CONTRACT

This Contract, made and entered into this 12th day of April 1977, by and between the Alaska Pipeline Company ("APC") herein referred to as "Buyer" and the State of Alaska, hereinafter referred to as "Seller":

WITNESSETH

WHEREAS, Buyer owns and operates a natural gas pipeline system in areas of Alaska for the delivery of natural gas for ultimate consumption within the State of Alaska, and

WHEREAS, Seller has the right under each of the leases, identified in Exhibit "A" to this Contract, to be paid by Lessee thereunder a royalty of twelve and one-half percent in-kind or in-value of the natural gas produced and saved or used off of the lands covered by each lease, and

WHEREAS, Seller is authorized by AS 38.05.183 to sell royalty gas; and

WHEREAS, Buyer represents to Seller that the gas received by Buyer under this contract will be used to meet the requirements of its customers within the State of Alaska; and

WHEREAS, this Gas Purchase Contract when executed will supersede and extinguish that certain Gas Purchase Contract executed June 4, 1976 by the parties hereto;

NOW, THEREFORE, in consideration of the representations, covenants, and conditions herein contained, Buyer and Seller hereby agree as follows:

AGO 935929

The "Gas Purchase Contract" dated April 11, 1977, between Alaska Pipeline Company and the State of Alaska is hereby amended by adding this page 1(a) between pages 1 and 2.

ARTICLE I

DEFINITIONS

The following terms when used in this contract shall have the following meanings:

1.1 The term "day" shall mean a period of twenty-four (24) consecutive hours beginning and ending at 7:00 o'clock A.M. The reference date for any day shall be the date of the beginning of such day.

1.2 The term "month" shall mean a period beginning at 7:00 o'clock A.M. on the first day of a calendar month and ending at 7:00 o'clock A.M. on the first day of the next succeeding calendar month.

1.3 The term "Mcf" shall mean one thousand (1,000) cubic feet of natural gas measured as hereinafter provided.

Alaska Pipeline Company

Date: 4-20-77

State of Alaska

Date: 4-19-77

ARTICLE II 4-19-77 RL Dead Line 4-20-77

~~DEFINITIONS~~

Seller's Royalty Gas

2.1 Seller hereby agrees that within 30 days after the execution and approval of this agreement as required by the laws of the State of Alaska, Seller shall notify the Lessee under the leases set forth at Exhibit "A" of Seller's election to take its royalty gas in-kind. Said notice will provide that the Lessee shall commence the delivery of said royalty gas to Seller or to Seller's designee upon a receipt of notice from Seller that all facilities necessary to enable Buyer to receive and market said gas are ready; provided, however, in no event shall Lessee be required to commence the delivery of royalty gas to Seller or its designee prior to six (6) months following Lessee's receipt of notice of Seller's election to take its royalty gas in-kind.

2.2 In order that Seller can give its Lessee as much advance notice as possible of the date it will start receiving its royalty gas in-kind, Buyer shall notify Seller, and Seller shall notify its Lessee, that all facilities necessary to receive and market said gas are ready, at least 60 days prior to the date Buyer will receive gas from Seller pursuant to this Contract.

2.3 Buyer agrees that Seller's royalty gas which is purchased and received by Buyer will be used or resold for use

AGO 935931

within the State of Alaska.

ARTICLE III

Quantity

3.1 It is understood and agreed by the parties that the volume of gas available to Seller from the leases covered by this Contract depends upon the production from the leases over which Seller has no control, and further depends upon the Lessee's gathering capacity installed and available, over which Seller likewise has no control. Buyer hereby agrees to purchase on each day commencing with the date of first delivery hereunder and continuing during the term of this contract up to all of Seller's royalty gas available at the point of delivery described in Section 5.1 hereof, it being understood that Buyer's requirements for its markets may not allow Buyer to purchase the entire amount of Seller's royalty gas on each day it is available; and it being further understood that Buyer will take not less than the amount for which Buyer has demand and delivery facilities available. Buyer shall use its best reasonable efforts to take not less than three (3) billion cubic feet per year of royalty gas at the point of delivery.

3.2 It is recognized that it is impossible to deliver to Buyer each day the exact amount of royalty gas produced from the leases listed in Exhibit "A". Seller agrees that Seller or Lessee will carry an over and short account with respect to the receipts of royalty gas and the delivery of same to Buyer; provided,

however, that the account shall never be required to carry more than a total of 60,000 Mcf over or underdelivery. In the event the takes by Buyer on a cumulative basis shall ever be more than 60,000 Mcf less than the amount of royalty gas available to Buyer at the point of delivery, Buyer shall not be allowed to make up for any such underdelivery and Seller may sell the undelivered quantity of royalty gas to Lessee.

ARTICLE IV

Quality, Pressure, and Odorization

4.1 The gas to be delivered by Seller to Buyer at the delivery point shall be gas of the same quality and pressure as delivered to Seller by the Lessee at the point of delivery. Seller shall have no obligation to improve the quality or pressure of gas beyond that quality and pressure at which Lessee delivers the gas to seller.

4.2 Gas delivered hereunder will not be odorized and if Buyer so utilizes the gas delivered hereunder for purposes which require odorization of such gas, the full responsibility for such use is Buyer's and Buyer agrees to comply with all laws and regulations respecting the odorization of such gas and hereby indemnifies and holds Seller harmless from any and all claims, injuries, expenses, penalties and damages arising out of or connected with Buyer's failure to observe strictly and comply with all laws, rules and regulations with respect hereto.

ARTICLE V

Point of Delivery, Point of Measurement, Ownership, and Measurement

5.1 Buyer shall install, maintain, and operate a connection into the Lessee's pipeline system at or near Lessee's pipeline tap presently being used to deliver gas from Lessee's pipeline to the Tesoro refinery located in the general vicinity of the Kenai LNG plant on the North Kenai Road, (hereinafter called "the point of delivery"). The point of delivery of all gas delivered hereunder shall be at the same point of delivery that Seller receives its royalty gas from the Lessee.

5.2 Buyer agrees to install, maintain, and operate all pipeline, pressure regulators, and related facilities necessary to receive gas hereunder at and from the point of delivery above specified, to Buyer's metering station(s) also located in the general vicinity of the Kenai LNG plant on the North Kenai Road (hereinafter called "the point of measurement").

5.3 Buyer shall be deemed to be in control and possession of the gas delivered hereunder at and from the point of delivery and responsible for any damage or injury caused thereby. Buyer shall be responsible for any gas lost between the point of delivery and the point of measurement. Buyer shall indemnify and hold Seller harmless as to any injury or damage arising out of the delivery of gas to Buyer and its measurement hereunder.

5.4 Standards of Measurements and Tests

5.4.1 Except for the determination and computation of total heating value, the unit of volume of gas delivered hereunder shall be one (1) cubic foot at an absolute pressure of fourteen and sixty-five hundredths (14.65) pounds per square inch and at a base temperature of sixty (60) degrees Fahrenheit.

5.4.2 The volumes of gas delivered hereunder shall be measured and computed by Buyer in accordance with the methods prescribed in Gas Measurement Committee Report No. 3, Natural Gas Department, American Gas Association, including the Appendix thereto, dated April, 1955, except that the atmospheric pressure shall be assumed to be fourteen and seven-tenths (14.7) pounds per square inch. The method used for correcting such volumes for deviation from the Ideal Gas Laws shall be the procedure recommended in the most current Report of the American Gas Association or by any other method mutually agreeable to the parties hereto.

5.4.3 The specific gravity of the gas delivered hereunder shall be determined by Lessee utilizing the method prescribed in American Petroleum Institute Code No. 50-A at the beginning of delivery hereunder and once during each month thereafter. The results of each such determination shall be used in computing the volume of gas delivered hereunder until the effective date of the next succeeding test.

5.4.4 The flowing temperature of the gas delivered hereunder shall be determined by means of a continuous recording thermometer installed by Buyer so that it will properly record

the temperature of the gas flowing through the meter. The arithmetical average of the hourly temperatures recorded each day shall be used in computing the volumes of gas delivered during such day.

5.4.5 If the gas delivered hereunder is solely from the 16-inch pipeline serving the North Cook Inlet Field, the total heating value of the gas shall be the average of that recorded on the recording calorimeter for Lessee's gas at the inlet to Kenai LNG Plant during the billing period corrected to thirty (30) inches of Mercury and sixty (60) degrees Fahrenheit dry.

5.5 Measurement

5.5.1 Seller or Lessee may at their option and expense, install check meters upstream or downstream of Buyer's meter station provided that such check meters will be installed so as not to interfere with the operation of Buyer's facilities. The calibrating and adjusting of meters and the changing of charts and the reading of charts on meters shall be done by the party who installed the meters.

5.5.2 Buyer, Lessee, and Seller shall have access at all times to Buyer's metering equipment including all other instruments used by Buyer in determining the measurement and quality of the gas delivered hereunder, but the reading, calibrating and adjusting thereof, and the changing of charts shall be done only by the employees, agents, or representatives of Buyer. Upon

request of Lessee or Seller, Buyer shall submit to Lessee or Seller records and charts from such equipment subject to return by Lessee or Seller within thirty (30) days after receipt thereof Buyer hereby agrees to assure Seller and Lessee ingress and egress at the point of measurement and between the point of delivery and the point of measurement without charge for all purposes necessary hereto.

5.5.3 At least once a month Buyer shall test its above mentioned metering equipment or cause the same to be tested and shall give Lessee or its representative reasonable prior notice of the time all such tests are to be made so that Lessee may, if desired, have its representative present to observe such tests and any adjustments made upon such metering equipment. Following any test, any of Buyer's metering equipment found to be inaccurate to any degree shall be adjusted immediately to measure accurately. If upon any test such metering equipment is found to be inaccurate by two percent (2%) or more, registration from said metering equipment and any payments based upon such registrations shall be corrected at the rate of such inaccuracy for any period of inaccuracy which is definitely known or agreed upon, but in case the period is not definitely known or agreed upon, then for a period extending back one-half of the time elapsed since the last previous test, not exceeding however, fifteen (15) days.

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RL 4-19-77

5.5.4 If for any reason Buyer's meter is out of service or is found registering inaccurately and the error is not determinable by ordinary test such that the volume of gas delivered

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through such meter cannot be ascertained or computed from the readings thereof, the volume of gas so delivered during the period the meter is out of service or registering inaccurately shall be estimated and agreed upon by the parties hereto upon the basis of the best available data, using the first of the following methods which is feasible:

(a) By correcting the error if the percentage of error is ascertainable by calibration, special test, or mathematical calculation;

(b) By using the registration of any check measuring equipment of Lessee if installed and registering accurately;

(c) By estimating the volume by comparing it with deliveries during preceding periods under similar conditions when the meter was registering accurately.

ARTICLE VI

Price and Billing

6.1 The price to be paid by Buyer to Seller for gas deliveries shall be as follows:

(a) Commencing on the date of first deliveries hereunder assuming that this date occurs prior to July 1, 1978 and continuing until the first day of July, 1978, the price shall be 64.65 cents per MCF.

(b) Commencing on the first day of July, 1978 and continuing until the first day of July, 1979 the price shall be the higher of (i) 66.65 cents per

MCF, (ii) the price Seller would have received from Lessee had it not elected to receive its royalty gas in kind, (iii) the highest price paid by any purchaser in the upper Cook Inlet area for gas of similar quality and similar conditions of delivery; with due regard to appropriate factors including, but not limited to, difference of BTU content, delivery pressure, term of the contract and connection charges.

(c) For each succeeding 12 month period commencing July 1, 1979 the price shall be increased to the higher of (i) the previous year's price plus 2 cents per Mcf, (ii) the price Seller would have received had it not elected to take its royalty in-kind, (iii) the highest price paid by any purchaser in the upper Cook Inlet area for gas of similar quality and conditions of delivery; with due regard to appropriate factors including, but not limited to, difference of BTU content, delivery pressure, term of contract and connection charges.

(d) In addition to the price otherwise payable hereinabove, for gas delivered to Buyer at the delivery point Buyer shall pay to Lessee, for the account of Seller, a gathering charge of ten cents (10.0¢) per Mcf from the date of first delivery hereunder. The above stated charge shall increase six percent (6%) compounded annually on each anniversary of the date of this contract.

(e) It is recognized by the parties hereto that it will be necessary for Lessee to install compression facilities

during the term of this Agreement. At the time the first compressor unit is installed and first used, Buyer shall pay to Lessee, for the account of Seller, in addition to the price and gathering charge otherwise payable hereinabove, a compression charge of ten cents (10.0¢) per Mcf for all gas delivered to Buyer at the delivery point. Such charge shall increase by six percent (6%) per year compounded annually, commencing on the first anniversary of the date such compression facilities are installed and ready for operation. Nothing herein shall be construed by either party as an obligation on Lessee to install any compression facilities whatever or to operate any compression facilities already installed.

(f) In addition to the price provisions stated herein, Buyer hereby agrees to pay Seller as part of the total purchase price of the royalty gas any costs not otherwise stated herein incurred by Seller in transporting that gas to the point of delivery specified in section 5.1 of this agreement including but not limited to any amount which Seller is obligated to reimburse Lessee for a proportion of new or increased fees, imposts, duties, charges, excises or taxes. RL 4-19-77 Acc 4-20-77

RL 4-19-77 Acc 4-20-77

6.2 Thirty days prior to the date of each annual price change, Seller, at its option, may determine the price which it would have received from its Lessee had it not elected to take its royalty

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gas in-kind and the highest price being paid for gas of similar quality and similar conditions of delivery; with due regard to appropriate factors including, but not limited to, difference of BTU content, delivery pressure, term of the contract and connection charges in the upper Cook Inlet area and submit the same to Buyer along with suitable supporting evidence as to such prices. Buyer shall have the right to submit other evidence within the 30 day period.

6.3 On or before the 15th day of each month after the delivery of gas hereunder has commenced Buyer shall furnish Seller and Lessee with a full and complete statement reflecting the quantity of gas delivered at the delivery point during the preceding month and the total amounts due hereunder. Payment under sections 6.1(d), 6.1(e) and 6.1(f) of this Contract shall be made to Lessee on account of Seller at Lessee's office in Bartlesville, Oklahoma within ten (10) days after delivery of each such statement. Payment under sections 6.1(a), 6.1(b) and 6.1(c) of this Contract shall be made to Seller on the day of delivery of each such statement by direct wire transfer of federal reserve funds through the Federal Reserve Bank wire transfer system to the following address:

BANK OF AMERICA, NA + SA
San Francisco, California
Securities Department 3255
Credit to: State of Alaska Investment Account

or to such other address as the Commissioner of Revenue may designate.

6.4 Each party hereto shall have, at its expense, the right to examine the books and records of the other party to the extent

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necessary to verify the accuracy of any statement, charge, computation, or demand made under or pursuant to this contract. Any statement shall be final as to both parties unless questioned in writing within two (2) years after payment thereof has been made.

6.5 The terms "upper Cook Inlet area" as used herein shall mean the area encompassed in a radius of 100 kilometers from the Lessee's North Cook Inlet platform.

ARTICLE VII

Termination

7.1 This contract shall become effective upon the execution hereof and the approval of the Alaska Royalty Oil and Gas Development Advisory Board and the State Legislature and shall continue and remain in effect until June 1, 1984 unless terminated or extended prior to such date by mutual agreement of the parties, or pursuant to this Article or Article VIII.

7.2 Seller's obligations hereunder are contingent upon Seller arranging with Lessee for satisfactory transportation of royalty gas sold hereunder to the point of delivery specified in section 5.1 of this agreement. If, after exercising Seller's best efforts, Seller is unable to arrange such transportation on terms satisfactory to Seller, Seller shall give notice to Buyer and this agreement shall terminate 30 days after said notice.

7.3 The parties hereby agree that in the event that any govenmental agency declares that Lessee's activities hereunder subject Lessee to regulation as a utility, then either party shall have the option to give notice to the other and this agreement shall terminate 30 days after said notice.

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7.4 In the event of default by Buyer in making the payments required by this Contract, Seller shall give notice to Buyer and if the default continues for a period of 30 days after such notice, Seller shall have the option of terminating this Contract.

7.5 In the event that Lessee installs or causes to be installed compression facilities in addition to the first compressor unit mentioned in section 6.1(e) of this contract, Seller shall give Buyer written notice at least six (6) months prior to the time Lessee anticipates placing such additional facilities in operation to maintain capacity in its gathering system. Such notice shall also terminate this agreement at the end of the six (6) month period unless within ninety (90) days of the date of such notice a new compression charge is agreed upon by the two parties to be applicable when the additional facilities go into operation. If a new compression charge is agreed upon, this agreement shall not terminate but shall continue in full force and effect as amended to include the new compression charge.

7.6 If the agreement between Seller and Lessee attached hereto as Exhibit "B" is terminated for any reason, this agreement may be terminated by either party upon thirty (30) days notice.

7.7 If deliveries to Buyer hereunder have not commenced on or before June 30, 1978, then this Contract shall immediately terminate.

ARTICLE VIII

Representation, Condition Precedent and Force Majeure

8.1 It is expressly recognized and agreed that the gas gathering system utilized for deliveries hereunder is operated and maintained by Lessee for its own purpose and that Lessee will not dedicate any facilities or otherwise undertake to render any service to or for the public. This Agreement is being undertaken solely to effectuate the delivery of royalty gas which Buyer is purchasing from the State of Alaska, and the parties hereto make the material representation that neither this Agreement nor Buyer's use or disposition of the gas delivered hereunder will subject Lessee to regulation by the Federal Power Commission or the Alaska Public Utilities Commission or the Alaska Pipeline Commission.

8.2 Force Majeure

8.2.1 No liability shall result to either party from delay in performance or non-performance of any obligation hereunder (except Buyer's obligation to make payment hereunder) caused by circumstances reasonably beyond the control of the party affected, including, but not limited to, acts of God, fire, flood, storm, war (declared or undeclared), repair of facilities, breakage or accident to machinery or lines of pipe, repair, redrilling or reworking of wells, governmental regulation, requisition or direction, labor strikes or lockouts or breach of contract by Lessee.

8.2.2 The party claiming relief under this Article VIII shall advise the other party with reasonable promptness in writing

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giving full particulars of the cause or causes relied upon and shall also give prompt notice in writing of the cessation of any such cause or causes. The party claiming force majeure shall exercise due diligence in undertaking to remedy and overcome the cause of delay hereunder, but neither party shall be required to agree to any demand of labor to settle any strike or labor dispute except in the sole discretion of the party subject to such strik or labor dispute.

ARTICLE IX

Miscellaneous

9.1 The terms and provisions of this Agreement shall extend to and be binding upon the parties hereto, their assigns and successors in interest. It is understood, however, that Buyer may not assign its rights and interest in this Agreement without the written consent of Seller, except as may be necessary to Buyer to conform with its various financing documents or as may be desirable to Buyer as to its commonly owned affiliate or subsidiary. No assignment shall relieve any assignor of this Agreement of its obligations hereunder without the written consent of Seller.

9.2 In the event Buyer does not receive or purchase all of said royalty gas which is available to Buyer, then Seller may receive and dispose of that portion not taken by Buyer provided Seller does not burden Buyer with any cost therefor including Lessee's charges for gathering and compression on the gas not taken by Buyer.

ARTICLE X

Notices

10.1 Except as herein otherwise provided, any notice, request, demand, statement or bill provided for in this Contract, or any notice which either party may desire to give to the other, shall be in writing and shall be considered as duly delivered when mailed by registered mail to either of the parties hereto as the case may be at the following address:

Commissioner of Natural Resources
State of Alaska
Pouch M
Juneau, Alaska 99811

Alaska Pipeline Company
P. O. Box 6288
Anchorage, Alaska 99502

or at such other address as either party shall designate from time to time by formal written notice. Routine communications, including monthly statements and payments, shall be considered as duly delivered when mailed by either registered or ordinary mail except payments for royalty gas from Buyer to Seller which must be made by wire transfer under section 6.3 of this Contract.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed in two (2) original counterparts on this day and year first above written.

BUYER

STATE OF ALASKA

ATTEST:

ATTEST:

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EXHIBIT "A"

Attached to and Made a Part of a Gas Purchase and Sales Agreement dated April 11, 1977, Between ALASKA PIPELINE COMPANY "Buyer" nd the STATE OF ALASKA "Seller" With Respect to Certain Royalty Gas Owned and Taken in Kind by SELLER Under the Leases Described Herein Covering Lands in the State of Alaska.

Each of the Following described Leases reserves to the State of Alaska a one-eighth royalty interest.

Lease Serial No.	Legal Description	Gross Acres
ADL-17589 2/1/62	T.12N., R.9W., S.M. Sec. 31: All; Sec. 32: All. T.11N., R.9W., S.M. Sec. 5: All; Sec. 6: All; Sec. 7: All; Sec. 18: N 1/2. T.11N., R.10W., S.M. Sec. 12: All; Sec. 13: N 1/2.	4,375.50
ADL-17590 3/1/62	T.12N., R.9W., S.M. Sec. 21: W 1/2; Sec. 28: W 1/2.	640.00
ADL-18740 9/1/62	T.12N., R.10W., S.M. Sec. 35: SE 1/4. T.11N., R.10W., S.M. Sec. 2: E 1/2; Sec. 11: E 1/2.	800.00
ADL-18741 9/1/62	T11N., R.9W., S.M. Sec. 9: N 1/2, SW 1/4. T.12N., R.9W., S.M. Sec. 33: NW 1/4.	640.00

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ADL-37831 9/1/62	T.12N., R.9W., S.M. Sec. 29: All; Sec. 30: All; Sec. 19: SE 1/4; Sec. 20: NE 1/4, S 1/2. T.12N., R.10W., S.M. Sec. 36: All; Sec. 25: SE 1/4. T.11N., R.10W., S.M. Sec. 1: All.	3,326.00

Exhibit "A"

AGREEMENT

This Contract, made and entered into this 11th day of April, 1977, by and between the State of Alaska, herein referred to as "State", and Phillips Petroleum Company, herein referred to as "Lessee",

W I T N E S S E T H

WHEREAS, Lessee is the holder of certain mineral leases from the State in the North Cook Inlet area of Alaska, said leases identified in Exhibit "A" to this Agreement; and

WHEREAS, the State has the right under the terms of said leases to receive in value or in kind a 1/8 (one-eighth) royalty share of natural gas produced from said leases; and

WHEREAS, the State desires to receive its in kind royalty share of natural gas at a point other than at Lessee's production platform; and

WHEREAS, Lessee operates a gas pipeline to gather natural gas from the said leases to the LNG facility at Kenai, Alaska (hereinafter referred to as Kenai LNG Plant), which Lessee operates; and

WHEREAS, Lessee is willing to deliver to the State its in kind royalty share of the natural gas from said leases at a point near the Kenai LNG Plant; and

WHEREAS, the State desires to receive its royalty share of the natural gas from said leases at such a point

and has agreed with Alaska Pipeline Company to sell such gas to Alaska Pipeline Company (herein referred to as "APC") for resale and use within the State of Alaska according to the terms of that certain Gas Purchase Contract attached hereto as Exhibit "B".

NOW, THEREFORE, premises considered, the State and Lessee hereby mutually agree as follows:

ARTICLE I

DEFINITIONS

The following terms when used in this Agreement shall have the following meanings:

1.1 The term "day" shall mean a period of twenty-four (24) consecutive hours beginning and ending at 7:00 o'clock A.M. The reference date for any day shall be the date of the beginning of such day.

1.2 The term "month" shall mean a period beginning at 7:00 o'clock A.M. on the first day of a calendar month and ending at 7:00 o'clock A.M. on the first day of the next succeeding calendar month.

1.3 The term "Mcf" shall mean one thousand (1,000) cubic feet of natural gas measured as hereinafter provided.

ARTICLE II

The State's Royalty Gas

2.1 Within 30 days after the execution and approval of this Agreement as required by the laws of the State of Alaska, the State shall notify the Lessee under the leases

set forth at Exhibit A, the State's election to take its royalty gas in kind. Said notice will provide that the Lessee shall commence the delivery of said royalty gas to the State (or to the State's designee) upon a receipt of notice from the State that all facilities necessary to receive and market said gas are ready; provided, however, in no event shall Lessee be required to commence the delivery of royalty gas to the State (or its designee) prior to six (6) months following Lessee's receipt of notice of the State's election to take its royalty gas in kind.

2.2 In order that the State give Lessee as much advance notice as possible of the date it will start receiving its royalty gas in kind, the State shall notify Lessee that all facilities necessary to receive and market said gas are ready, at least sixty (60) days prior to the date on which Lessee shall be required to commence delivery pursuant to this Agreement.

ARTICLE III

FACILITIES

3.1 Lessee is presently operating and maintaining a natural gas gathering system between the North Cook Inlet Field and the Kenai LNG Plant.

3.2 The State or its designee shall install, maintain and operate all pipeline, pressure regulators, and related facilities necessary to receive gas hereunder at the point of delivery hereinafter specified. Said point of delivery shall be at or near the existing pipeline tap being presently used to deliver gas from Lessee's pipeline to the

Tesoro refinery located in the general vicinity of the Kenai LNG Plant on the North Kenai Road.

3.3 The State or its designee shall install, operate and maintain all necessary equipment at the point of delivery and at the State's or its designee's measuring station(s) (hereinafter called the "point of measurement") to properly control, odorize, and measure the volumes of gas delivered hereunder.

3.4 Lessee hereby grants the State or its designee ingress and egress at the point of delivery without charge for all purposes necessary hereto, and the State and its designee hereby agree to assure Lessee ingress and egress at the point of measurement and between the point of delivery and the point of measurement without charge for all purposes necessary hereto.

ARTICLE IV

QUANTITY OF GAS

4.1 Subject to the availability of capacity in its facilities to handle volumes in excess of its own needs and to the extent of such availability, and upon proper written notice from the State under Article II hereof, Lessee shall gather the royalty gas in the North Cook Inlet Field and deliver same to the State at the point of delivery specified herein. The State is entitled to receive at the wellhead 1/8 (one-eighth) of the natural gas produced from the leases listed in Exhibit "A", and to the extent that Lessee gathers and delivers more or less than the amount of royalty gas to which the State is entitled,

that difference shall be carried in the over and short account described below or Lessee shall purchase same on the basis provided in Section 4.3 below.

It is recognized that it is impossible to deliver to the State or for the State or its designee to receive the exact amount of royalty gas produced from the leases listed in Exhibit "A". Lessee agrees that it will carry an over and short account with respect to the receipts of royalty gas and the delivery of same to the State, provided, however, that Lessee shall never be required to carry more than a total of 60,000 Mcf over or under delivery. In the event the takes by the State on a cumulative basis shall ever be more than 60,000 Mcf less than the amount of royalty gas available at the point of delivery, the State shall not be allowed to make up for any such underdelivery, and Lessee shall purchase the excess undelivered quantities of royalty gas over 60,000 Mcf from the State at the wellhead on the basis provided in section 4.3 below.

4.2 Subject to (i) the availability of royalty gas at the platform and (ii) to the State's or its designee's requirements, and (iii) the State's or its designee's ability to take such requirement, Lessee shall use its best reasonable efforts to deliver to the State or its designee at the delivery point specified herein on an annual basis not less than three (3) billion cubic feet of royalty gas; provided, however, that in using such best reasonable efforts, Lessee shall not be required to install or operate any pipeline, compression or other facilities which, when operating as a reasonably prudent operator, it would not otherwise install

and/or operate.

4.3 The parties recognize that the State contemplates selling such royalty gas to Alaska Pipeline Company and that such purchaser may be unable from time to time to take and deliver to its customers the full volumes of gas attributable to the State's royalty interest although it is committed to purchase that volume from the State. In such event, Lessee agrees to purchase from the State from time to time those volumes which APC is unable to take. For such volumes which it purchases from the State, Lessee will pay the State a price equal to that amount which Lessee would have otherwise paid to the State as royalty if the State had not elected to receive its royalty gas in kind, and Lessee will not charge the State for gathering or compressing such volumes of gas or for other charges under this Agreement.

ARTICLE V

POINT OF DELIVERY AND OWNERSHIP

5.1 The point of delivery to the State for all gas gathered and delivered hereunder by Lessee shall be at the juncture of APC's facilities and Lessee's facilities located near the pipeline tap serving the Tesoro refinery as mentioned in Section 3.2 of this Agreement.

5.2 Lessee shall be deemed to be in control and possession of the gas deliverable hereunder and responsible for any damage or injury caused thereby until said gas shall have been delivered to the State or its designee at the point of delivery, after which delivery State or its designee shall be deemed to be in exclusive control and possession of

the gas and responsible for any injury or damage caused thereby.

5.3 Measurement of royalty gas shall be the responsibility of the State or its designee subject to Lessee's right to verify such measurement or to install and operate check metering equipment, and shall be done at a metering station(s) on the North Kenai Road, called the "point of measurement". The State or its designee shall be responsible for any gas lost between the point of delivery and the point of measurement.

ARTICLE VI

QUALITY, PRESSURE, AND ODORIZATION

6.1 Lessee shall deliver gas hereunder at the pressure existing from time to time in its facilities at the point of delivery.

6.2 Lessee agrees that the quality of gas, when delivered at the point of delivery hereunder, shall be the quality of gas existing in its gathering system from time to time and the State agrees to accept such gas.

6.3 It is understood that the gas delivered hereunder will not be odorized by Lessee, and if the State or its purchaser so utilizes the gas delivered hereunder for purposes which require odorization of such gas, the full responsibility for such use is the State's. Lessee shall have no responsibility for odorizing such gas irrespective of the State's disposition of same.

ARTICLE VII

STANDARDS OF MEASUREMENT AND TESTS

7.1 Except for the determination and computation

of total heating value, the unit of volume of gas delivered hereunder shall be one (1) cubic foot at an absolute pressure of fourteen and sixty-five hundredths (14.65) pounds per square inch and at a base temperature of sixty (60) degrees Fahrenheit.

7.2 The volumes of gas delivered hereunder shall be measured and computed by the State or its designee in accordance with the methods prescribed in Gas Measurement Committee Report No. 3, Natural Gas Department, American Gas Association, including the Appendix thereto, dated April, 1965, except that the atmospheric pressure shall be assumed to fourteen and seven-tenths (14.7) pounds per square inch. The method used for correcting such volumes for deviation from the Ideal Gas Laws shall be the procedure recommended in the most current Report of the American Gas Association or by any other method mutually agreeable to the parties hereto.

7.3 The specific gravity of the gas delivered hereunder shall be determined by Lessee's utilizing the method prescribed in American Petroleum Institute Code No. 50-A at the beginning of delivery hereunder and once during each month thereafter. The results of each such determination shall be used in computing the volume of gas delivered hereunder until the effective date of the next succeeding test.

7.4 The flowing temperature of the gas delivered hereunder shall be determined by means of a continuous recording thermometer installed by the State or its designee so that it will properly record the temperature of the gas flowing through the meter. The arithmetical average of the

hourly temperatures recorded each day shall be used in computing the volumes of gas delivered during such day.

7.5 If the gas delivered hereunder is solely from the 16-inch pipeline serving the North Cook Inlet Field, the total heating value of the gas shall be the average of that recorded on the recording calorimeter for Lessee's gas at the inlet to Kenai LNG Plant during the billing period corrected to thirty (30) inches of Mercury and sixty (60) degrees Fahrenheit dry.

ARTICLE VIII

MEASUREMENT

8.1 As agreed in Section 5.3 hereof, the State or its designee shall be obligated to and be responsible for all metering of gas hereunder.

8.2 The State or Lessee may, at their option and expense, install check meters upstream or downstream of the State's or its designee's meter station provided that such check meters will be installed so as not to interfere with the operation of the State's or its designee's facilities. The calibrating and adjusting of meters and the changing of charts and the reading of charts on meters shall be done by the party who installed the meters.

8.3 The State and Lessee shall have access at all times to the State's or its designee's metering equipment including all other instruments used by the State or its designee in determining the measurement and quality of the gas delivered hereunder, but the reading, calibrating and adjusting thereof, and the changing of charts shall be done

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only by the employees, agents, or representatives of the State or its designee. Upon request of Lessee, the State or its designee shall submit to Lessee records and charts from such equipment subject to return by Lessee within thirty (30) days after receipt thereof.

8.4 At least once a month the State or its designee shall test its above-mentioned metering equipment or cause the same to be tested and shall give Lessee or its representative reasonable prior notice of the time all such tests are to be made so that Lessee may, if desired, have its representative present to observe such tests and any adjustments made upon such metering equipment. Following any test, any of the State's or its designee's metering equipment found to be inaccurate to any degree shall be adjusted immediately to measure accurately. If upon any test such metering equipment is found to be inaccurate by two percent (2%) or more, registration from said metering equipment and any payments based upon such registrations shall be corrected at the rate of such inaccuracy for any period of inaccuracy which is definitely known or agreed upon, but in case the period is not definitely known or agreed upon, then for a period extending back one-half (1/2) of the time elapsed since the last previous test, not exceeding, however, fifteen (15) days.

8.5 If for any reason the State's or its designee's meter is out of service or is found registering inaccurately and the error is not determinable by ordinary test such that the volume of gas delivered through such meter cannot be ascertained or computed from the readings thereof, the

volume of gas so delivered during the period the meter is out of service or registering inaccurately shall be estimated and agreed upon by the parties hereto upon the basis of the best available data, using the first of the following methods which is feasible:

(a) by correcting the error if the percentage of error is ascertainable by calibration, special test, or mathematical calculation;

(b) By using the registration of any check measuring equipment of Lessee if installed and registering accurately;

(c) By estimating the volume by comparing it with deliveries during preceding periods under similar conditions when the meter was registering accurately.

ARTICLE IX

GATHERING AND COMPRESSION CHARGES AND TAXES

9.1 For all gas delivered by Lessee to the State at the delivery point, the State or its designee shall pay to Lessee a gathering charge of ten cents (10.0¢) per Mcf from the date of first delivery hereunder. The above-stated charge shall increase by six percent (6%) compounded annually, on each anniversary date of the date this Agreement.

9.2 It is recognized by the parties hereto that it may be necessary for Lessee to install compression facilities during the term of this Agreement. At the time the first compressor unit is installed and first used, the State

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or its designee shall pay Lessee in addition to the gathering charge set forth in Section 9.1, a compression charge of ten cents (10.0¢) per Mcf for all gas delivered by Lessee to the State at the delivery point. Such charge shall increase by six percent (6%) per year, compounded annually, commencing on the first anniversary of the date such compression facilities are installed and first used.

9.3 In the event that Lessee installs or causes to be installed from time to time compression facilities in addition to the first compressor unit mentioned in Section 2, above, Lessee shall give the State and its designee written notice at least six (6) months prior to the time Lessee anticipates placing any additional unit or units in operation in order to maintain capacity in its gathering system. Such notice shall also terminate this Agreement at the end of such six (6) months period. If, within ninety (90) days of the date of such notice the parties shall agree upon a new compression charge to be applicable when such additional compression facilities go into operation, then this Agreement shall not terminate but shall continue in full force and effect as amended to include the new compression charge.

9.4 Lessee shall pay all ad valorem taxes on its pipelines and facilities employed in delivering gas hereunder. In addition to the price and payments hereinabove provided, the State shall reimburse Lessee in the proportion of deliveries made to the State by Lessee, an amount equal to the aggregate total of any new or increased fee, impost, duty, charge, excise or tax levied or imposed in addition to the rates at which those, if any, are levied, assessed, or

fixed as of the date hereof, with respect to the gathering of the royalty gas delivered hereunder (including compression) prior to its delivery to the State that Lessee may be required to pay for directly or indirectly.

ARTICLE X

BILLING AND PAYMENTS

10.1 On or before the 15th day of each month during the term hereof the State or its designee shall furnish Lessee with a full and complete statement reflecting all gas delivered by Lessee during the preceding month and the total amount due hereunder pursuant to Article IX hereof. Payment hereunder shall be made to Lessee at its office in Bartlesville, Oklahoma within ten (10) days after delivery of each such statement.

10.2 On or before the 30th day of each month during the term hereof Lessee shall furnish to the State or its designee a full and complete statement reflecting the total amount of royalty gas produced by Lessee during the preceding month. Deducting the quantity taken by the State for such month, Lessee shall determine the amount of royalty gas not taken by the State for such month and shall make payment therefor to the State together with said statement.

10.3 Each party hereto shall have, at its expense, the right to examine the books and records of the other party to the extent necessary to verify the accuracy of any statement or invoice made under or pursuant to this contract. Any statement shall be final as to both parties unless questioned in writing within two (2) years after payment

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thereof has been made.

ARTICLE XI

REPRESENTATION AND CONDITION PRECEDENT

11.1 It is expressly recognized and agreed that the gas gathering system utilized for deliveries hereunder is operated and maintained by Lessee for its own purpose and Lessee does not, by entering into this Agreement, dedicate any facilities or otherwise undertake to render any service to or for the public. This Agreement is being undertaken solely to effectuate the delivery of royalty gas to the State, and the State makes the material representation that neither this Agreement nor the State's use or disposition of the gas delivered hereunder will subject Lessee to regulation by the Federal Power Commission, the Alaska Public Utilities Commission, or the Alaska Pipeline Commission.

11.2 In the event that any governmental agency shall declare that Lessee's activities hereunder subject Lessee to regulation as a utility, then either party shall have the option to terminate this Agreement upon thirty (30) days' notice in writing.

ARTICLE XII

ALASKA PIPELINE COMPANY

12.1 The State has entered into a Gas Purchase Agreement with Alaska Pipeline Company, under the terms of which APC will purchase the State's royalty gas after same has been delivered by Lessee to the State. Under such contract, APC has agreed to make for the State's account all

AGO 935962

payments required by Articles IX and X hereof. Lessee agrees to accept such payments by APC as satisfaction of the State's obligations under Articles IX and X hereof. In the event of default by APC in making such payments, Lessee shall promptly notify the State and if such default continues for a period of thirty (30) days after such notice, Lessee shall have the option of terminating this Agreement in its entirety.

12.2 Lessee agrees to accept the State's designation of APC as the State's designee hereunder for the performance of any other obligations which the provisions hereof place on the State.

12.3 By its execution hereof APC ratifies all of the terms, covenants, conditions, and representations hereof.

ARTICLE XIII

FORCE MAJEURE

13.1 No liability shall result to either party from delay in performance or non-performance of any obligation hereunder (except the State's obligation to make payment hereunder) caused by circumstances reasonably beyond the control of the party affected, including, but not limited to, acts of God, fire, flood, storm, war (declared or undeclared), repair of facilities, breakage or accident to machinery or lines of pipe, repair, redrilling or reworking of wells, governmental regulation, requisition or direction, or labor strikes or lockouts.

13.2 The party claiming relief under this Article XIII shall advise the other party with reasonable promptness

in writing giving full particulars of the cause or causes relied upon and shall also give prompt notice in writing of the cessation of any such cause or causes. The party claiming force majeure shall exercise due diligence in undertaking to remedy and overcome the cause of delay hereunder, but neither party shall be required to agree to any demand of labor to settle any strike or labor dispute except in the sole discretion of the party subject to such strike or labor dispute.

ARTICLE XIV

TERM

14.1 This Agreement shall become effective upon the execution hereof and the execution and approval of the Alaska Royalty Oil and Gas Development Advisory Board and the State Legislature of the Contract attached as Exhibit "B" hereto and shall remain in effect until June 1, 1984, unless terminated or extended prior to such date by mutual agreement of the parties, or pursuant to this Article or Article XI or XIII.

14.2 In the event that the Agreement attached hereto as Exhibit "B" is terminated, this Agreement may be terminated by either party upon thirty (30) days notice.

14.3 If deliveries to the State or its designee hereunder have not commenced on or before June 30, 1978, then this Agreement shall terminate immediately.

14.4 In the event of termination of this Agreement or of deliveries of royalty gas hereunder, the parties agree that such termination shall have the effect of revoking the State's election to receive its royalty gas in-kind

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as of the date of termination and Lessee shall immediately commence such royalty payment under the terms of the leases listed in Exhibit "A" to assure the state of its full royalty share on all gas produced from the leases.

ARTICLE XV

MISCELLANEOUS

15.1 Except as herein otherwise provided, any notice, request, demand, statement or bill provided for in this Agreement, or any notice which either party may desire to give to the other, shall be in writing and shall be considered as duly delivered when mailed by registered mail to either of the parties hereto as the case may be at the following address:

Commissioner of Natural Resources
State of Alaska
Pouch M
Juneau, Alaska 99811

Phillips Petroleum Company
Attn: Gas and Gas Liquids Division
Bartlesville, Oklahoma 74004

Alaska Pipeline Company
P. O. Box 6288
Anchorage, Alaska 99502

or at such other address as either party shall designate from time to time by formal written notice. Routine communications, including monthly statements and payments, shall be considered as duly delivered when mailed by either registered or ordinary mail.

IN WITNESS WHEREOF, this Agreement is executed as of the day and year first above written.

STATE OF ALASKA

By _____

~~ATTEST~~:

PHILLIPS PETROLEUM COMPANY

_____
~~Assistant Secretary~~

By _____
~~Vice President~~
ATTORNEY IN FACT

ATTEST:

Lee P. Vehlewald
Assistant Secretary

ALASKA PIPELINE COMPANY

By _____
President

ALASKA PIPELINE COMPANY

Contract to Purchase State Royalty Gas

Findings and Conclusions of the Commissioner
Pursuant to Alaska Statute 38.05.183(c)

Alaska Statute, AS 38.05.183(c), requires that the Commissioner of Natural Resources make public, in writing, the specific findings and conclusions upon which a determination not to use competitive bid procedures is based for a sale of Alaska royalty oil or gas. Publication is to follow approval of the determination by the Alaska Royalty Oil and Gas Development Advisory Board. On April 6, 1977, the Royalty Board did approve the Commissioner's determination to waive the competitive bidding requirement for sale of royalty gas to the Alaska Pipeline Company by approving the contract entitled "Gas Purchase Contract" for gas, dated April 11, 1977, between the State of Alaska and Alaska Pipeline Company. Accordingly, these written findings and conclusions are submitted in fulfillment of the requirements of AS 38.05.183(c).

The Contract entitled "Gas Purchase Contract" dated April 11, 1977, between the Alaska Pipeline Company and the State of Alaska, as well as the agreement between the Phillips Petroleum Company and the State of Alaska, have been entered into because the Contract entitled "Gas Purchase Contract" dated June 4, 1976 could not become implemented.

The Findings and Conclusions for Non-Competive Sale for the previous Contract is appended to support the current Findings and Conclusions of the Commissioner not to use competive bid procedures for these contracts.

The current agreements have been executed solely to solve these problems and allow royalty gas to be delivered to the Buyer.

The reasons for this determination not to use competitive bid are the same as the previous determination.

Findings and Conclusions for Non-Competitive Sale

Pursuant to AS.38.05.183 and AS.38.06 the findings and conclusions which form the basis for the decision that the sale of North Cook Inlet Gas Field royalty gas to Alaska Pipeline Company should be non-competitive sale are summarized.

1. Alaska Pipeline Company formerly Anchorage Natural Gas Company, is in need of additional natural gas supply. The present contract of 10 billion cubic feet to supply the North Kenai road area will be exhausted during the first half of 1976. Alaska Pipeline has executed an agreement recently with their supplier which enables them to use gas from the Anchorage contract reserves to supply the North Kenai area for one additional year. Projections of the present growth rate of Anchorage and use of natural gas indicate that the Anchorage contract dedicated gas supply could be exhausted several years before the contract termination at the end of 1992.

2. The proposed sale amount of royalty gas is sufficient to meet the needs of the North Kenai area for the term of the agreement. Present use of the North Kenai area is 10 million cubic feet per day. About 90% of this gas is used by the Bernice Lake electric generating plant of Chugach Electric Association. The difference between winter and summer loads is small. The North Cook Inlet Gas Field royalty gas share averages 15 to 16 million cubic feet per day. Gas in excess to the North Kenai area demand can be used to augment the Anchorage contract gas supply. The total volume of gas which would be sold under the proposed agreement is approximately 40 to 41 billion cubic feet.

3. North Cook Inlet Gas Field gas furnishes 70% of the gas supply of the Nikiski LNG plant, the remaining 30% is supplied by Marathon from the Kenai Gas Field. The LNG is shipped to Japan in cryogenic tankers and revaporized for use by Tokyo Gas and Tokyo Electric. At this time, the State is taking its royalty share in value and this gas brings the greatest return to the State of any royalty gas.

4. Proposed sale of this royalty gas will not diminish State revenue. Alaska Pipeline has agreed to pay the State the same price that the State otherwise would have received

from Phillips. Price terms in the proposed agreement are based on Phillips prices plus an agreement to pay a price equal to the highest price paid in Upper Cook Inlet for gas of similar quality and similar conditions of delivery.

5. The proposed action may reduce the productive life of the field equivalent to one year at the present rate of production. The total amount of gas sold under the agreement will be about 40 to 41 billion cubic feet per year. The present LNG contract dedicated reserves are 647,543 million cubic feet. Estimated original recoverable reserves were 1,500,000 million cubic feet. The estimated remaining gas reserves not committed to contract are about 834 billion cubic feet.
The proposed sale involves about 5% of the remaining uncommitted reserves. Because the LNG sale contract requires delivery of 50,750 million cubic feet of gas per year to Tokyo, it will be necessary for Phillips to increase the field production by the amount withdrawn for royalty sale. While this increased production will shorten the producing life of the field, the amount of decrease is small and amounts to less than one year's production.

6. During the period of review of Alaska Pipeline Company's application for purchase of royalty gas applications were also made by Homer Electric Association, Pacific Alaska LNG and Phillips Petroleum.

Homer Electric wished to buy the Bernice Lake generating facility from Chugach Electric and wanted to use the North Cook Inlet Gas Field royalty gas to supply the generator. This would be the same use proposed by Alaska Pipeline. Homer Electric subsequently advised the Alaska Royalty Oil and Gas Development Board that HEA had made satisfactory arrangements with the City of Kenai for a gas supply in the event it would be needed.

Pacific Alaska LNG made a statement that they would be interested in bidding for the North Cook Inlet royalty gas if it were offered in a competitive bid sale.

Later, Pacific Alaska advised the Board both by mail and in person that they were not making application for the North Cook Inlet royalty gas but rather a general statement applicable to possible future sales of other royalty gas.

Phillips Petorleum made a firm offer to purchase the royalty gas with an increase in price of five cents per thousand cubic feet (MCF) the first year, a similar increase the second year, and an annual escalation of two cents per MCF thereafter for the life of the present contract.

The withdrawals of Homer Electric and Pacific Alaska LNG left Phillips Petroleum as the only viable alternate to Alaska Pipeline's application.

CONCLUSION:

The decision to hold a negotiated sale rather than a competitive sale was based on several factors: end use, price to consumers, and future gas supply for Alaska.

The export of LNG to Japan has created a substantial market for Alaska's natural gas converting a non-revenue producing resource into a valuable asset with substantial revenues to the State.

The exported LNG produces about 75% of the State revenue from natural gas. While there was a reluctance to alter the use of the royalty gas and possibly necessitate additional costs to the LNG project, the use of the gas by the Kenai and Anchorage consumers was deemed to be a higher and better use.

Alaska Pipeline agreed to pay the State the same price the State otherwise would have received for the gas thereby maintaining the same revenue from the gas. While a competitive sale might have resulted in more revenue for the State it would also result in the gas being exported from the State and not available for Alaskan use. Alternately, if an Alaskan comapny was the successful high bidder it likely would set a new high price to the Alaskan consumer.

The present sale represents a balance of public values regarding this series of issues. The proposed non-competitive sale of North Cook Inlet Gas Field royalty gas appears to be in the best interest of the State as a whole and of the Kenai and Anchorage area gas consumers more directly. There is no loss of revenue to the State; the gas sale will be the gas supply for the North Kenai road area and add to the Anchorage area gas reserves; the slight lo s of productive life of the North Cook Inlet Gas Field is offset by the continued service to the Alaskan gas consumers.

APPROVAL OF THE AGREEMENT FOR THE PURCHASE AND SALE OF STATE ROYALTY GAS FROM THE NORTH COOK INLET FIELD BETWEEN THE STATE AND ALASKA PIPELINE COMPANY

WHEREAS, Alaska Statutes 38.06.050(a) and 38.05.183 require that the Alaska Royalty Oil and Gas Development Advisory Board ("Board") grant to the Commissioner of Natural Resources ("Commissioner") written approval for the sale, exchange or other disposition of royalty oil or gas, and

WHEREAS, Alaska Statute 38.05.182 requires that the Board grant its consent to the taking of royalty oil or gas in-kind, and

WHEREAS, the Board has been advised by the Commissioner of the progress of negotiations and has heard testimony, both in public sessions and working sessions, from the purchaser, and

WHEREAS, the Commissioner has now concluded his negotiations with the purchaser and has presented to this Board for its approval an agreement for the sale of royalty gas from the North Cook Inlet field (which gas is identified more specifically in the Contract), and

WHEREAS, This Board has carefully reviewed the proposed agreement and has received public comment on the agreement, and

WHEREAS, This Board finds that the taking of royalty gas in-kind to meet the obligations under the agreement will serve an important public purpose and be of general benefit to the public interest,

NOW THEREFORE, the Alaska Royalty Oil and Gas Development Advisory Board hereby grants its approval of the "Gas Purchase Contract" between the State of Alaska and Alaska Pipeline Company and further approves the taking in-kind of the royalty gas dedicated to this agreement.

This approval relates to that certain agreement entitled "Gas Purchase Contract" between the Alaska Pipeline Company and the State of Alaska dated this day of April 11, 1977.

Approve	Disapprove
Ken M Tompleton	Vincent D. Wright

Date: April 6, 1977

AGO 935972

APPROVAL OF REQUEST OF COMMISSIONER OF NATURAL RESOURCES
TO WAIVE REQUIREMENT OF COMPETITIVE BIDDING

WHEREAS, Alaska Statutes 38.06.050(c) and 38.05.183 (a) and (c) require the Alaska Royalty Oil and Gas Development Advisory Board ("Board") grant written approval to the Commissioner of Natural Resources ("Commissioner") to waive the requirement that royalty oil or gas be sold by competitive bid, and

WHEREAS, the Commissioner has submitted to this Board a request to waive the requirement of public bidding with respect to royalty gas from the North Cook Inlet Field, and

WHEREAS, the Board has considered the request of the Commissioner and finds the Commissioner's reasons sufficient to justify a waiver of the requirement for public bidding in the public interest;

NOW THEREFORE, the Alaska Royalty Oil and Gas Development Advisory Board hereby grants to the Commissioner of Natural Resources its approval of his request to waive public bidding.

This waiver relates to that certain agreement entitled "Gas Purchase Contract" between Alaska Pipeline Company and the State of Alaska dated this day of April 11 _____ 1977.

Approve	Disapprove
R. M. Tupper	Vincent D. Wright
Ross Gilmore	
V. E. Lesche	

Date: April 6, 1977

AGO 935973

APPROVAL OF REQUEST OF COMMISSIONER
OF NATURAL RESOURCES
TO REJECT APPLICATIONS

WHEREAS, Alaska Statute 38.06.050(b) prohibits the rejection of applications for the purchase of royalty oil or gas by the Commissioner of Natural Resources ("Commissioner") without the approval of the Alaska Royalty Oil and Gas Development Advisory Board ("Board"), and

WHEREAS, the Commissioner in conjunction with his request for the sale of royalty gas to Alaska Pipeline Company requests that he be allowed to reject applications in conflict with the proposed sale, and

WHEREAS, this Board has reviewed all other applications for the purchase of royalty gas and heard public comment thereon,

NOW THEREFORE, this Board hereby grants its approval to reject applications to the extent such applications are rendered infeasible or impossible by the contracts for the sale of royalty gas approved by this Board on this date.

This approval relates to that certain agreement entitled "Gas Purchase Contract" between Alaska Pipeline Company and the State of Alaska dated this day of April 11, 1977.

Approve	Disapprove
[signature]	[signature]
[signature]	
[signature]	

Date: April 6, 1977

AGO 935974

APPROVAL OF THE AGREEMENT FOR THE TAKING AND GATHERING OF STATE ROYALTY GAS BETWEEN THE STATE OF ALASKA AND PHILLIPS PETROLEUM COMPANY

WHEREAS, Alaska Statutes 38.06.050(a) and 38.05.183 require that the Alaska Royalty Oil and Gas Development Advisory Board ("Board") grant to the Commissioner of Natural Resources ("Commissioner") written approval for the sale, exchange or other disposition of royalty oil or gas, and

WHEREAS, Alaska Statute 38.05.182 requires that the Board grant its consent to the taking of royalty oil or gas in-kind, and

WHEREAS, the Board has been advised by the Commissioner of the progress of negotiations and has heard testimony, both in public sessions and working sessions, from the Lessee, and

WHEREAS, the Commissioner has now concluded his negotiations with the Lessee and has presented to this Board for its approval an Agreement for the sale of royalty gas from the North Cook Inlet (which gas is identified more specifically in the Agreement), and

WHEREAS, This Board has carefully reviewed the proposed agreement and has received public comment on the agreement, and

WHEREAS, This Board finds that the taking of royalty gas in-kind to meet the obligations under the agreement will serve an important public purpose and be of general benefit to the public interest,

NOW THEREFORE, the Alaska Royalty Oil and Gas Development Advisory Board hereby grants its approval of the Agreement between the State of Alaska and Phillips Petroleum Company and further approves the taking in-kind of the royalty gas dedicated to this agreement.

This approval relates to that certain "Agreement" to take in-kind royalty gas from the North Cook Inlet between the State of Alaska and Phillips Petroleum Company. Dated April 11, 1977.

Approve	Disapprove
Don M. Taylor	Vernon D. Wright
J. LeResche	

Date: April 6, 1977

AGO 935975

STATE
of ALASKA

MEMORANDUM

Jur: APUC
Phillips
Ak Pipe Co.

TO: Guy Martin, Commissioner
Dept. of Natural Resources

DATE: March 7, 1977

FILE NO:

TELEPHONE NO:

FROM: Wilson Condon
Deputy Attorney General

SUBJECT: Jurisdiction of the APUC over Phillips Petroleum Pipeline

This is in response to your memorandum of February 24, 1977, in which you ask if the Alaska Public Utilities Commission would have jurisdiction over a pipeline operated by Phillips Petroleum if State-owned royalty gas is transported over that pipeline to North Kenai Road, where it would be sold by the State to Alaska Pipeline Company, a wholly owned subsidiary of Alaska Gas and Service. My conclusion is that the APUC would not have jurisdiction over the Phillips Petroleum Company pipeline.

The Alaska Public Utilities Commission has jurisdiction over "public utilities" which are defined by AS 42.05.70(2) as follows:

> "public utility" or "utility" includes every corporation (whether public, cooperative, or otherwise), company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that owns operates, manages or controls any plant, pipeline or system for
>
> * * *
>
> (D) furnishing by transmission or distribution of natural or manufactured gas to the Alaska public for compensation;
>
> * * *

"Public" is defined by AS 42.05.701(5) as follows:

> "public" or "general public" means
>
> (A) any group of 10 or more customers that purchase the service or commodity furnished by a public utility as defined in (2) of this section; and
>
> (B) any utility purchasing the product or service or paying for the transmission of electric energy, natural or manufactured gas, or petroleum products which are resold to a group included in (A) of this paragraph or which are used to produce the service or commodity sold to the public by the utility.

If Phillips delivers royalty natural gas to the State at the wellhead, and the State contracts with Phillips for transportation of that gas to North Kenai Road, Phillips will be rendering a utility-type service because it will be engaged in the transmission of natural gas. Phillips, however, will be neither a "utility" nor "public utility" within the meaning of the Public Utilities statute because it will not be furnishing transmission service to the "public" or the "Alaska public." Phillips would be furnishing transmission service to the State. This would make it a public utility if 1) the State is the 10th customer to purchase transmission service (our assumption is there are less than 10 purchasers of transmission service), or 2)if the State is a "utility. . . paying for the transmission of. . . natural. . . gas. . . which is resold to [any group of 10 or more customers that purchase the service or commodity furnished by a public utility. . .]." The State would not be a utility (because it does not fit within the definition of AS 42.05.701(2)), thus Phillips could not be a public utility subject to the jurisdiction of the APUC when it furnishes transmission service to the State.

WLC:FHB:bvd

cc: Frederick H. Boness
Assistant Attorney General

Robert E. Stoller
Assistant Attorney General

STATE
of ALASKA

MEMORANDUM

TO: Don Wold
Executive Director
Alaska Royalty Oil and Gas
Development Advisory Board

DATE: March 29, 1977

FILE NO:

TELEPHONE NO:

FROM: Wilson Condon
Deputy Attorney General

SUBJECT: Jurisdiction of the Alaska Pipeline Commission Over Phillips East Cook Inlet Gas Line

This is in response to your memorandum of March 11, 1977 in which you ask if the Alaska Pipeline Commission (APC) would have jurisdiction over a pipeline operated by Phillips Petroleum if State-owned royalty gas is transported over that pipeline to North Kenai Road, where it would be sold by the State to Alaska Pipeline Company, a wholly owned subsidiary of Alaska Gas and Service. My conclusion is that the APC would not have jurisdiction over the Phillips Petroleum Company pipeline.

The Alaska Pipeline Commission has jurisdiction over "pipelines", "pipeline facilities" and "pipeline carriers". AS 42.06.630(10) defines "pipeline carrier" as:

> . . . the owner, including corporations . . ., of any pipeline, as the term is defined in this section, or any interest in it;

AS 42.06.630(9) defines "pipeline" or "pipeline facility" as:

> . . . all the facilities of a total system of pipe . . . in this state used by a pipeline carrier for transportation, for hire and as a common carrier, of oil or gas for delivery, storage, or further transportation, and including all pipe, pump and compressor stations, station equipment, and all other facilities used or necessary for an integral line of pipe to effectuate the transportation from point to point, excluding, however, gas processing plant, heaters and separators;

The salient portion of the above definition is written in the conjunctive, i.e., to be a "pipeline" or "pipeline facility" under the Alaska Pipeline Commission Act, AS 42.06 et seq., a pipeline facility must be used ". . . for transportation, for hire and as a common carrier . . ." (emphasis added).

Of course Phillips, in the arrangement described at the outset of this memorandum, will be using its pipeline for "transportation" of gas. However, since the subject pipeline is neither operated by Phillips "as a common carrier" nor is it subject to the "common carrier" covenant requirement of AS 38.35.120 due to the fact that the lease of state lands for the subject pipeline pre-dates the enactment of that statute, the subject pipeline would not fall within the jurisdiction of the APC were the proposed arrangement to be entered into by Phillips.

WLC:RMB:jec

ALASKA PIPELINE COMPANY

General Offices Located at 3000 Spenard Road
P.O. Box 6288 Anchorage, Alaska 99502 / Phone (907) 277-5551
Telex 25-187

April 15, 1977

Mr. Don Wold, Executive Director
Alaska Oil and Gas Development Advisory Board
Department of Natural Resources
State Office Building
Juneau, AK 99811

Dear Don:

In response to your requests this week, we are writing to summarize and describe the essence and the effect of the contract(s) executed by the State and Phillips and Alaska Pipeline Company (APC) regarding the taking in kind of the State's royalty gas (1/8th) from the North Cook Inlet Gas Field.

By way of background, APC's supply until now has come entirely from the Kenai gas field, which is owned by Union and Marathon. We have had two supply contracts: one for Anchorage, in which delivery to us is at the Kenai gas field; and one for the North Kenai Road ("Nikiski") area, in which delivery to us is at or near the Kenai LNG plant.

The "Anchorage" contract is for a total of 550 BCF (billions of cubic feet) to be taken (take or pay for) at 26 BCF/year (which is 72,000 MCFD--72,000 thousand cubic feet per day) by December 31, 1992, but with deliverability of 160,000 MCFD on any day through December 31, 1985. The basic price for this gas is 24¢ per MCF until January 1, 1981, then 27¢ until January 1, 1986, and then the defined "area price" for the remainder of the contract term. In addition to this basic price we pay 19.5¢ per MCF for the extra deliverability described above, and the

ALASKA PIPELINE COMPANY

General Offices Located at 3000 Spenard Road
P.O. Box 6288 / Anchorage, Alaska 99502

19.5¢ is adjusted each January 1 by the ratio of the published Wholesale Price Index (WPI) of the preceding November to the WPI of November, 1974. At present, the total cost for gas under this "Anchorage" contract is 45.1¢ per MCF.

The "Nikiski" contract was for 10 BCF to be delivered from May 1, 1967 to April 30, 1977, with deliverability of 10,000 MCFD, no take or pay, and priced at 1.5¢ higher than the basic price for "Anchorage" reserves as described above. We used the last of the 10 BCF under this contract in August of 1976, and thereafter we began taking "Anchorage" reserves at Nikiski, priced at the total price of "Anchorage" reserves plus 1.5¢ per MCF, temporarily (one year was agreed) pending resolution of a longer term supply. We had expected to be using North Cook Inlet royalty gas as the replacement for "Anchorage" reserves at Nikiski, and still expect to be doing so upon the implementation of the royalty gas contracts as revised this year.

We selected North Cook Inlet royalty gas because we believed, and still believe, this gas will be available to us and our customers at a lower price than any other "new" reserves. This gas is under contract (as LNG) to June 1, 1984 for export to Tokyo and its cost to us is approximately 75¢ per Mcf immediately, rising to 85¢ when compressors are installed, with certain escalation as described in the revised contracts. In comparison, Pacific Alaska LNG is offering $1.45 for similar gas from Cook Inlet (without the same deliverability of our "Anchorage" reserves), with escalations. We do not have proof of the $1.45 pricing, but it can be verified by the State. Thus, we see the royalty gas to be available

to us at less than half the going price of "new" gas in the Cook Inlet area, delivered on the North Kenai Road.

Our alternative to competing at the $1.45 price level is to continue to utilize "Anchorage" reserves at Nikiski, as we are now doing, but to pay the same price we would have paid for royalty gas. We have verbal assurance that we can operate on this basis at Nikiski while we install the facilities necessary to shift to royalty gas, and we are proceeding with preparations to do so at the earliest possible date following legislative approval of the royalty contracts as revised. We hope to begin taking royalty gas as early as June, 1977.

Several questions arose over the two years it has taken to reach agreement of the several parties as to our use of royalty gas, and I will try to comment as information for those who review the actions taken. First, the royalty gas contract signed last year, and approved by the legislature, was contingent on APC working out an arrangement with Phillips to obtain delivery of the royalty gas through their pipeline from the platform to the Kenai LNG plant, and it required "take or pay" of 100% of the royalty gas. These elements led to problems which had to be resolved as has been done in the revised contracts which were executed last week. The differences are (1) that the delivery to shore will be made by Phillips for the State, with APC paying Phillips for the account of the State, at prices negotiated by APC with Phillips, and (2) that there will be no "take or pay": Phillips will make a best effort to deliver at least 3 BCF per year (roughly 55% of the total royalty), and APC will make a best effort to take all of the royalty which Phillips

can deliver, but neither party will be obligated to make extra investment or incur unreasonable extra operating cost.

Without obligation, APC expects Phillips to deliver essentially all the royalty and expects to take all the royalty, but only experience will tell the outcome of this expectation. Phillips may install one or more units of compression, and APC may install a pipeline to connect the royalty gas into its pipeline to Anchorage. Various factors outside the respective control of Phillips and APC have made it necessary to develop a best-efforts arrangement rather than the original "take or pay" of 100% of the royalty.

APC's royalty pipeline, if built, would provide several advantages:

1. It would essentially assure APC's ability to take all of the available royalty, all of the time, and gain the maximum benefit from royalty gas.
2. It would provide "back-up" for APC's North Road customers while royalty gas may not be available due to downtime of the LNG plant, the platform, or the Phillips pipeline or compressors.
3. It would provide APC with access to other than royalty gas in the vicinity of the Kenai LNG plant, which is at the center of several streams of natural gas--supplies to Swanson River for repressurizing, ammonia/urea manufacture, Pacific Alaska LNG, etc. Thus, the pipeline could give APC additional options on "new" gas from various sources.

4. It would provide an independent supply of gas to APC for emergency in the event of catastrophic failure of the Kenai gas field--well operations, dehydration, or compression--or of APC's pipeline from the field to Mile 16 of APC's pipeline to Anchorage.

Feasibility of the royalty pipeline depends on the possibility of exchanging royalty gas with Union-Marathon, final rate decisions of the Alaska Public Utilities Commission (APUC), final quantification of the amount of royalty gas to be delivered, flow through of the extra cost of royalty gas, and other factors including availability and cost of right of way. At present it appears that there is sufficient benefit from the royalty line to justify the investment by APC.

APC's experience with the APUC is such that royalty gas is particularly attractive: the flow through of its extra cost to end users has been authorized by the APUC, whereas no other purchase by APC can be made with flow through except by further hearings. This fact, plus the fact that it appears royalty gas will always be available (for the contract term) at less cost than any other likely "new" gas, make the royalty most advantageous to APC and its customers. Further, the precedent of this purchase of this royalty gas by APC should be helpful at a future date when other royalty gas may become available and feasible for purchase by APC.

It is clear that APC's action to purchase royalty gas is in the public interest. The price is the lowest available to APC and its

ALASKA PIPELINE COMPANY

General Offices Located at 3000 Spenard Road
P.O. Box 6288 / Anchorage, Alaska 99502

customers; the price is qualified to be not less than the State would have received by its continued export to Japan or by any comparable sale during the contract term within 100 kilometers of the Phillips platform; and a relatively modest investment is required by APC even including the royalty pipeline. Other "new" gas could involve meeting the currently competitive price of Cook Inlet gas ($1.45) and could involve pipeline costs or take or pay costs many times that for royalty gas. The quantity of this royalty gas is rather ideal for APC's present requirements. In 1976, APC's total purchases were 28.6 BCF compared to the required take or pay quantity of 26 BCF per year at the Kenai gas field. As structured, the royalty gas contracts would allow APC (and Phillips) to match their investment to market developments and thus provide the optimum conditions for such investment.

Clearly, Phillips has been a reluctant party in these contracts but has acted responsibly and reasonably and consistent with the public interest. Phillips preference has always been to retain the royalty gas and increase its value by liquefaction for export to Japan. That contract was originally 52¢ FOB Tokyo, but now is $1.95. Clearly the increase ($1.43) contains a substantial increase of profit (which is shared by the State through its royalty price). Clearly the 20¢ revenue which Phillips will realize by bringing the royalty gas on shore does not compare with the revenue and income Phillips would realize by its export.

The 20¢ delivery/compression charge is obviously the most Phillips could charge, because it is the most APC would pay. The State is realizing the most it can from the royalty gas, because APC will not pay more for this gas. To suggestions, if any, that APC should not have accepted the delivery charge as contracted, APC would respond that it would be no more logical to require Phillips to accept less than their required price than for the State to accept less than it deems to be necessary for this gas.

APC will not increase its income by purchasing this royalty gas--it will simply recover most (not all) of its costs, by flow through. APC's objective in making this purchase is to prolong the life of its gas reserves and thus the availability of its "old" gas at "old gas pricing" for its customers.

APC firmly believes that the merit of its purchase of royalty gas has been established already in various arenas.

1. The APUC considered the subject in extensive hearings in 1975 and its order clearly contemplates the purchase and in fact, deemed the matter to be of urgent importance.
2. The Royalty Board and the Commissioner of Natural Resources have reviewed this matter at great length and have approved and authorized its present form.
3. The Attorney General has reviewed jursidictional aspects and agreed it is not contrary to the public interest or the laws of Alaska.

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4. The legislature, in its prior approval, has endorsed the concept and pricing of this purchase by APC.

Previously, support for this purchase by APC was given by the City of Anchorage, Chugach Electric Association, and Homer Electric Association. APC is not aware of any opposition to its purchase of this royalty gas (opposition by Pacific Alaska LNG was withdrawn in 1976, at the insistence of APC). When these various governmental and business approvals are considered, and when the alternative can only be that this gas would continue to be exported to Japan, APC believes that ample justification for the contracts has been made.

At present, APC has about 415 BCF of gas remaining under contract at the Kenai gas field. At 30 BCF per year, there would be 14 years of reserves now remaining. The royalty gas potentially available to June, 1984 is about 40 BCF, which is less than a 10% increase. APC is and has been attempting to reduce the growth rate of its gas sales through conservation measures such as waste heat recovery by power plants and by opposing and reducing the use of gas-generated electric heat. However, it is very likely that unavoidable growth will shorten APC's reserve life to 10 years or less. APC must look to the long term aspects of its gas supply in order to avoid future shortages and problems with the long-term (20 year) financing APC requires. Purchase of the royalty gas is a step, but only a step, in this direction. Royalty gas at 75¢ or 85¢ will be helpful to APC in its negotiations for additional "new" gas reserves, viewed in the context of competitive offerings at $1.45 or possibly a price equivalent to oil in future years.

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Delays in obtaining royalty gas can only diminish its benefit to APC and its customers because of the quantity available as well as the timing and impact of the purchase.

Very truly yours,

Dale Teel
President

DT/pm

Phillips

February 25, 1977

Mr. John Horn
Phillips Petroleum Company
Gas and Gas Liquids Division
Bartlesville, Oklahoma 74004

Dear Mr. Horn:

As you know, the State of Alaska entered into an agreement with the Alaska Pipeline Company on June 4, 1976 for the sale of the State's royalty gas produced from your company's North Cook Inlet Gas Field. The Alaska Pipeline Company and Phillips have been unable to work out a mutually satisfactory arrangement for delivery of the gas. The State of Alaska, through the Department of Natural Resources, is continuing to explore various ways this can be accomplished in the interest of all parties.

The Alaska Pipeline Company has proposed that the State enter into an agreement with your company to take delivery of royalty gas from your pipeline at a mutually agreeable point near the North Kenai Road. The State is presently exploring this possibility and your cooperation has been greatly appreciated. Several questions have been raised regarding this procedure. They are:

1. Will the Alaska Public Utilities Commission have jurisdiction over the Phillips pipeline if the State takes delivery at this point? The State's Attorney General has been asked for an opinion.

2. What charges would be made by Phillips for delivery of the gas to this point? What is the detailed justification of these charges?

3. We understand that as the field pressure declines, compressors will be installed to maintain production rate. What costs will be incurred by the State and what is the detailed justification of these costs?

4. What is your best forecast of the dates of installation of the first and future compressors and how will the cost to the State change with installation of additional compressors?

5. What is your best forecast of future production from this field? Will you share with the State your future production plans so that the State may plan accordingly to utilize its royalty gas?

6. The State understands your need to maintain production of your LNG plant and that your ability to deliver royalty gas to the State will change as the field pressure changes. Would you please explain this procedure and give us your best forecast of your ability to make delivery in the future?

Your response to the above would be greatly appreciated together with any further information that you may feel to be pertinent to the solution of this problem.

Would you please review the draft agreement prepared by Alaska Pipeline Company between Phillips and the State and recommend changes that may be of interest to your company?

Thank you for your cooperation. Your early response to the above will be greatly appreciated.

Very truly yours,

Donald G. Wold
Executive Director

DGW/jl

PHILLIPS PETROLEUM COMPANY
BARTLESVILLE, OKLAHOMA 74004 918 661 6600

NATURAL RESOURCES GROUP
Gas and Gas Liquids Division

March 3, 1977

Royalty Gas
North Cook Inlet Field

File: 1-Ho-115-77-C&GL

Mr. Donald G. Wold, Executive Director
Royalty Oil & Gas Development Advisory Board
Department of Natural Resources
Pouch M
Juneau, Alaska 99811

Dear Sir:

In your letter of February 25, 1977, you have requested certain information regarding whether Phillips could make the royalty gas from the North Cook Inlet Field available at an onshore location on the North Kenai Road, rather than in the field as provided in our lease with the State of Alaska. Information is listed by the numbers used in your letter:

2. Q. What charges would be made by Phillips for delivery of the gas to this point? What is the detailed justification of these charges?

   A. Since we had previously negotiated a place differential of 10¢ per Mcf starting with the calendar year of 1977 and increasing 6% per year thereafter with Alaska Pipeline Co., Phillips would be willing to utilize this approach with the State. Although this is a negotiated figure, the data supporting same is shown on Table I.

3. Q. We understand that as the field pressure declines, compressors will be installed to maintain production rate. What cost will be incurred by the State and what is the detailed justification of these costs?

   A. For the first compressor unit (approximately 3800hp) installed, compression charge would be 10¢ per Mcf increasing 6% per year from the year of installation. As later units are added, the compression charge will be agreed upon at that time. The above charge is the result of negotiations with Alaska Pipeline Company and is on the condition that Royalty gas would be handled only when there is surplus capacity in our gathering system and compressors. The above charge would be substantially higher if based on adding sufficient additional compressor capacity to assure the availability of capacity and would also entail a substantial minimum annual payment to cover these additional costs. Our calculations are attached as Table II.

4. Q. What is your best forecast of the dates of installation of the first and future compressors and how will the cost to the State change with installation of additional compressors?

4. Continued.

A. This is dependent on the amount of royalty gas taken by the State and also on other factors, such as, whether LNG in addition to current deliveries to Japan is sold to the south 48 states. Based on present information, we estimate that the first unit would be installed in 1978 or 1979.

5. Q. What is your best forecast of future production from this field? Will you share with the State your future production plans so that the State may plan accordingly to utilize its royalty gas?

A. Production has averaged 43 to 45 Bcf annually over the last several years. We visualize that production could increase to 55 Bcf or more per year including royalty gas taken in kind.

6. Q. The State understands your need to maintain production of your LNG plant and that your ability to deliver royalty gas to the State will change as the field pressure changes. Would you please explain this procedure and give us your best forecast of your ability to make delivery in the future?

A. Without compression, the volume available from North Cook Inlet Field will decline rather rapidly commencing in 1979. Producing at the 43 to 45 Bcf per year rate and with the installation of compressors, these rates are estimated to continue until 1983, after which the volume declines approximately 10% per year. If the higher rate of 55 Bcf per year is maintained, the volume will commence declining in 1984 at the rate of approximately 10% per year.

You will appreciate that, due to the number of unknown factors, the information provided above is based on our best estimates of the situation as it now exists. New developments could change these estimates.

John Horn

JH:jaw

cc: R. I. Swetnam

T A B L E I

PIPELINE

Estimated Present-Day Replacement Cost	at least	$25,000,000
Estimated Present-Day Replacement Cost Depreciated to 1977		17,300,000

ESTIMATED COSTS

	$/Year
Depreciation (20 Years)	$1,100,000
Rate of Return 15% on Depreciated Investment	1,520,000
Income Tax @ 52.9% (State & Federal)	1,700,000
Operating Expense	2,750,000
TOTAL	$7,070,000

Cost/Mcf @ 43 Bcf/Year = 16.4¢

Cost/Mcf @ 55 Bcf/Year = 12.9¢

TABLE II

COMPRESSORS
(FIRST UNIT)

To maintain capacity in the gathering system and compressors to handle the full 12.5% royalty gas volume, it will be necessary to install compressors at an earlier date. Also, it is estimated that to maintain this capacity it will be necessary to install an additional compressor unit over and above that required for maintaining deliveries without the State taking its royalty gas in kind. Estimated differential in compressor investment is $5,000,000.

Cost of Compression

	$/Year
Depreciation (10 Years)	$ 500,000
Rate of Return 15% on Average Investment	375,000
Income Taxes @ 52.9% (State & Federal)	420,000
Operating Expense	715,000
TOTAL	$2,010,000

Minimum Annual Payment	= $2,010,000
Royalty Gas Volume @ 43 Bcf/Year	= 5.4 Bcf
Royalty Gas Volume @ 55 Bcf/Year	= 6.9 Bcf
Cost/Mcf @ 5.4 Bcf	= 37.2¢
Cost/Mcf @ 6.9 Bcf	= 29.1¢

Phillips agreed with Alaska Pipeline Company's request to a compressor charge of 10¢/Mcf on a space-available basis and no minimum annual charge.

General Offices Located at 3000 Spenard Road
P O Box 6288 / Anchorage, Alaska 99502

March 10, 1977

Memo to: File

Subject: Rationale for Accepting Gathering and Compression Charges Proposed on North Cook Inlet Royalty Gas

By telephone March 10, 1977 Mr. Don Wold asked us to rationalize the acceptance of a 10¢/MCF charge for "gathering" and a 10¢/MCF charge for compressing royalty gas we have negotiated to purchase from the State of Alaska.

The State will escalate the price we pay for royalty gas to the highest price paid by other purchasers within 100 kilometers for similar quality and similar delivery conditions. We had offered to pay no more than the price the State would otherwise have received through the continued export of the royalty gas to Japan as LNG.

It thus is clear that the State places the State's interest above the interests of our ratepayers to the extent we have to pay more than would result from export of this gas. It does not follow that the Lessee who has made the investment required for production, gathering, and compression of royalty gas can be or should be held responsible to deliver the royalty gas at less cost than the Lessee determines to be necessary, fair, and reasonable. In fact, efforts by the State to do so will simply result in there being no agreement and no delivery of royalty gas by the Lessee.

The Lessee cannot be treated as a regulated operator under Alaska law, and the Lessee has the right to determine whether or not, and at what price, it is willing to share its facilities and install new facilities for the benefit of our ratepayers rather than for its shareholders. Clearly, the Lessee prefers not to share these facilities and will not do so if effort is made to assert that delivery of royalty gas onshore could have equal or greater priority than its contractual duty to delivery LNG to Tokyo, regardless of the revenue (price) received by Lessee.

The Lessee has provided (letter of 3-3-77) some cost estimates, reluctantly, to show the reasonableness of the prices accepted by us:

Table I: Pipeline (Gathering)

Annual cost is reported to be $7,070,000. Assuming all this cost is carried by 43 BCF or 55 BCF, the average cost is 16.4¢ or 12.9¢. The selection of 10¢ as being appropriate for gathering

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royalty gas is less than these average costs, but clearly more than the incremental cost, as it must be. There is no way for a third party to impose a different price on the Lessee, and the price of 10¢ is far below any alternative available to us. In fact, there is no such alternative except not to take royalty gas, and we are not obliged to do so. We bear all the risk that the cost of this gas will remain competitive and will be recoverable through our revenues.

Table II: Compressors (first unit)

Annual cost is reported to be $2,010,000. Assuming all this cost is carried by 43 BCF or 55 BCF, the average cost is 4.67¢ or 3.65¢. While the compression is not required except to deliver royalty gas (but all the gas must be compressed), the incremental cost here would be 37.2¢ or 29.1¢. However, the Lessee recognizes that during the contract term compression will be required even if royalty gas is not being delivered to us. The selection of 10¢ as being appropriate for the compression is less than the short term incremental cost but well more than the average cost. Again, there is no way for a third party to impose a different price on the Lessee, and we bear all risk that the cost of this gas will remain competitive and will be recoverable through our revenues.

If the two components are combined, the results are:

$9,080,000 annual cost @ 43 bcfy

21.12¢ average cost

versus 20.00¢ price requested

The price requested is below the reported average cost. Assuming no incremental cost for gathering (pipeline) however, the price requested is well above the incremental cost. In fact, there is an incremental cost for gathering (as to dehydration), and other down-hole expenses which are a function of production rate. We are not equipped to quantify these costs and there is no reason to do so. The essence of this matter is that the Lessee has offered us a price below average cost and above incremental cost which is acceptable to us and that we are the only party at risk.

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There are only two beneficiaries of this contract. We do not benefit, since we will simply recover our added costs from our rate payers. We believe Phillips will not benefit since they are reluctant and clearly prefer to process and ship the gas to Japan. We believe their profits in processing and selling the royalty gas to Japan would be much greater than the amount of income from the proposed compression and transmission charges net of incremental expenses. The State takes no risks and may benefit from a higher wellhead price. Our ratepayers benefit from the increased life of our committed reserves. If the transaction is not consummated then, the losers are the State and our ratepayers, which (through power distribution) include more than half of the State's population, from Homer and Seward to Talkeetna.

There is no way to require the Lessee to deliver royalty gas (at any price) and no way to disagree with the price(s) now offered. Clearly the end objective -- obtaining of royalty gas -- is in the public interest, and the State should place that interest foremost.

dh

HCR
95

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
HB 95	2/3 & 2/6/78	Rep. Schaeffer	2/7/78
	2/3 & 2/6	Dept. of Fish and Game (Lois Weeks)	2/7
	2/3 & 2/6	Commissioner, Dept. of Commerce	2/7
	2/3 & 2/6	Leah Taylor, Div. of Occupational Licensing (Commerce)	2/7
	2/3 & 2/6	Lily Frederickson Alaska Professional Hunters Assn.	2/7
	2/3 & 2/6	Geoff Haynes	2/7

To: The House Resources Committee

From: Jim Keeline, Registered Guide

RE: HCR 95

Since I have had the opportunity to do some research on HCR 95, there have been a few things brought to my attention.

1) The guides that have an area already expect some type of monetary exchange, for another guide to use that area, even though they are not using it at that time. I have run across this situation several times.

2) It appears to me that the guides that have one area will not be willing to let a new guide use it and those that do have areas are the lucky ones. It will be difficult for those who want to get into the business as they will not be able to do so without a great deal of expense.

Due to the above reasons, I urge you to reconsider either HCR 95 or some other form of relief for this inequitable situation.

Thank you,

Jim Keeline

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

POUCH D
JUNEAU, ALASKA 99811

March 31, 1978

Honorable Alvin Osterback
Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Chairman Osterback:

I am taking the liberty of replying to your letter of this date to Commissioner H. Phillip Hubbard concerning the minutes of the meeting of the Guide Licensing and Control Board, because Commissioner Hubbard is in Anchorage.

The information which you received from Pam Knode concerning the availability of these minutes was relayed from me.

The board convened in Fairbanks on Monday, March 27 at 1:30 p.m. and adjourned in the evening on March 30. The days of March 28-30, were convened at 8:00 a.m. each day and board business was considered and recorded on tape.

Due to airline scheduling, the board's recording secretary will return to Juneau on an evening flight today, carrying with her the tape recordings and notes of the meeting. She will begin preparing the pencil draft of the minutes on Monday, however, with some thirty hours of tape recordings to review, it is my opinion that a draft of the minutes will not be available by Tuesday afternoon.

We will, of course, provide you with the tapes and do our best to extract relevant parts by Tuesday, if possible. Since I have not had an opportunity to discuss the proceedings with anyone attending the meeting, however, I have no way of knowing how much of the meeting was devoted to the subject of exclusive guiding areas.

I hope this more fully explains our situation. We do our best to comply with legislative requests for information, but in this instance, I don't believe we can do so within the time constraints imposed.

Very truly yours,

Sharon Andrew

Sharon Andrew
Director

SA/val16
cc: Honorable Hugh Malone
Honorable Mike Miller

08-H8LH

TELEGRAM

ROA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

#

20176 TDA JUNEAU ALASKA 24 84-03 515P AST

PKS DEP AL OSTERBACK A65-3781

JUN

IT HAS COME TO OUR ATTENTION THAT THE ALASKA BOARD OF GAMES IS CONTEMPLATING THE OPENING OF THE PIPELINE CORRIDOR TO THE TAKING OF BIG GAME. WE FEEL THAT THIS ACTION WOULD PUT THE OIL PIPELINE IN GRAVE DANGER OF BEING UNINTENTIONALLY DAMAGED BY WEAPONRY USED BY SUCH TAKING. YOUR IMMEDIATE ATTENTION TO THIS MATTER THROUGH A TELEGRAM TO THE ALASKA BOARD OF GAME FAIRBANKS INN, FAIRBANKS, ALASKA, APPRAISING THEM OF YOUR CONCERN TO NOT ALLOW THIS TO HAPPEN WOULD BE GREATLY APPRECIATED.

WILLIAM S (BUD) WILLIAMS, PRESIDENT TANANA CHIEFS CONFERENCE,

GORDON JACKSON, PRESIDENT OF RURAL CAP,

REP. NELS ANDERSON, JR.

21-23 = strike = CS 2/22/78

Introduced: 2/1/78
Referred: Resources

IN THE HOUSE BY SCHAEFFER AND ANDERSON

HOUSE CONCURRENT RESOLUTION NO. 95

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

Annulling an administrative regulation adopted by the Guide Licensing and Control Board providing for the registration of camps.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS under AS 44.62.320 the legislature by concurrent resolution adopted by a vote of both houses may annul a regulation of an agency or department; and

WHEREAS using AS 08.54.040(a)(6) and AS 08.54.050 as authority, the Guide Licensing and Control Board established a camp registration regulation for the purpose of effectuating exclusive big game guiding areas surrounding registered camps; and

WHEREAS clear legislative direction and authority exists for establishing quotas of guides within designated geographical games units or subunits of the state, but no apparent authority exists for creating exclusive areas for particular individuals within those units or subunits; and

Strike

WHEREAS the creation of such exclusive areas tends to reduce healthy competition and works to insulate and perpetuate abuses by unscrupulous and unsportsmanlike guides;

BE IT RESOLVED by the Alaska State Legislature that administrative regulation 12 AAC 38.050 is annulled.

MARK JENSEN:

We have an extra on our agenda, just kind of an open discussion for public input on the question of whether or not these areas that become ah nonusable areas because of a guide passing away or deceased guide, whether the guide board should look at those areas as being closed until they are reassigned or should be used as just a open area for anybody, and ah--ah, I think, ah the question was asked of the board to make a decision as to how we wanted to handle it, but ah for a short period of time here, why, ah the board would receive public input on that one question. Bill?

BILL WAUGAMAN:

Yeah I have something to say on that, ah

CHARLES KEIM:

Mr. Chairman, could we have their names to appear on the minutes?

MARK JENSEN:

Yes, Mr. Waugaman?

BILL WAUGAMAN:

My name's Waugaman, Bill Waugaman, Fairbanks. I have been trying to get this sort of thing going in Alaska for many many years, I'm talking about now assigned guide areas. It's finally come to pass and basically the reason that I wanted to get these assigned guide areas is because ah in prior years, there were no incentive for a outfitter or a guide to build up his area with camps, strips, trails, corrals, whatever. With assigned guide areas, you've got this incentive, and a lot of people have done alot work and a lot of money, have facilities out there and many instances, this is during the asset, or one of their main assets, and if anything should happen to them, that should--that asset isn't worth a heck of a lot without that guide area, going along with it. So, in you deliberations, I think that ah it would be a good idea if you bear this in mind, because it might be that heirs, son, nephew, or it may be that the heirs may want to sell the area to somebody that

is qualified, that, first and foremost, you got to think of the man that is spent his money and his time out there developing his areas.

MARK JENSEN:

Any questions to the board?

MARK JENSEN:

Thanks Bill. Next, just make your statement with your name.

JOE WANT:

My name is Joe Want, Fairbanks. I would like to see these areas left closed when a guide vacates them or dies, it unfortunately happens, until it--until the board has a chance to assign that area to someone else. They either--whatever criteria you decide to establish as far as how you are going to select what applicant can go in there. If you don't, in some areas like Kodiak or even the Brooks Range now your--your creating a situation where there are some guides who are not assigned areas and some guides that were assinged areas could still go in there--you're going to end up as a good possibility ending up with a congestion in that area of guides. And one area that I'm thinking in particular, the game may well not stand it. This one area I'm thinking about probably has a population of roughly 150 sheep, one guide moved in there and apparently took seven or eight and the residents were in there taking seven and eight, like that. If you had two operating in there, its--its disaster, just think what would happen to that population.

CHARLES KEIM:

Who's th s, Mr. Want?

JOE WANT:

This happens to be on the East Fork of Chandler. But this very same situation could arise in other areas where a guide goes in the areas, is not necessarily is not familiar with the amount of game in the area and over harvests. And if--if you have a vacant quide area there, it obviously was lucrative or theorically lucerative to run an operation in there at one time. If you have an influx of of guides, plus the

resident pressure, those resident species in that area are going to suffer. I think that those areas should be closed, and those people interested in hunting in those areas should petition the board, then the board, by whatever criteria you decide, would say, okay, Mr. Jones, you can go in there and hunt for two years or three years or whatever until we see what type of operation you are going to run.

BUD WIESE:

In other words, you say the board should just allow a guide on a temporary deal to use that until which time the board ah does set up some regulations.

JOE WANT:

Well, whatever criteria you finally decide. The thing that I'm concerned about is three different guiding operations going into that area in one year.

MARK JENSEN:

When we leave it open.

JOE WANT:

When it's left open. That's why I would suggest that they be closed and at the next guide board meeting, petitions could be received for allowing someone else to ge in to that area, but not to leave the thing open. Let the board make that decision at the next meeting.

BUD WIESE:

We have been working two years now trying to get some regulations through the bureaucrats above us to transfer areas, and so far we have been shot down.

FRANK CHAPADOS:

We have been making progess though.

BUD WIESE:

Yeah, we are making progress, we getting ah

CLARK ENGLE:

...getting closer.

BUD WIESE:

We only got three pages of corrections to go through now.

FRANK CHAPADOS:

What's your reactions to ah the heirs, for example ah

JOE WANT:

Pardon?

FRANK CHAPADOS:

Take that action in the place of the deceased and--and ah, you know, allowing another guide to in and hunt in the area.

JOE WANT:

I think that you have to look at each individual situation. If you have a situation of, we'll say, that I'm 60 years old now, and by that time, my boys will be, I don't know, ah, you know, they will be 30, and they have been guiding in that area for 12 or 13 years, that certainly should--there should be, you know, that should be taken into consideration.

FRANK CHAPADOS:

Well...

JOE WANT:

Because he--if you--excuse me, but whatever criteria you set up if--if one of my boys happens to become a guide, he's going to have 12 years or 14 years in it, assuming that I live that long.

FRANK CHAPADOS:

Well, I think our regulations are going to deal with that--that situation. My--my question is, during the time that the area is closed, and before it is reassinged, what ah what rights do the heirs have? I mean ah, you know, for example, if they are...after a family ah retains ah whatever property you have, and your assets, and that sort of thing ah you think that they could ah--ah allow hunting in there just as if you were--were alive and ah and granted permission to another guide to come and hunt in the area?

JOE WANT:

Since the guide board meets every ah, roughly, twice a year, I believe...

MARK JENSEN:

Up to four times a year times a year.

JOE WANT:

Well, I'm just saying as a minimum, I can't see where more than one hunting season would go by where the guides and that--where the guide board would not be in a position to react to one of these situations, they may very well be this--some sort of sti--stipulation can be put in there that if his heirs or, you know, providing his heir is a guide, I--I mean, I don't think that if--if my--if I die, my boys are soon be (indisc.)...What this means is if those heirs have been active in that guiding business, well then, yes, they (indisc.) and then the guide board could review it and make their decision from that point.

FRANK CHAPADOS:

Well, in other words, ah...

JOE WANT:

Because...excuse

JOE WANT:

One situation is goint to come up as if the--if the father, whatever, is happens to be dying, and he is going to have some hunts booked, already, and theoretically his son is going to go--he should be able to go ahead and take those hunts out into the forest.

If they had the guides licensed...

FRANK CHAPADOS:

I think the questions in my mind are then are these heirs retain the right to ah--ah--in your mind, do you think the heirs retain the right to ah allow other guides to come in and hunt in the area?

JOE WANT:

I don't think so. I think the only right that you pass on is the right of the heir to guide in there if he is a qualified guide for

that season or whatever until the guide board acts on it. Now, it can be theory if--if he had no heirs other than his wife, I would not like to see the situation arise where the wife could ah say, okay, Johnny Jones, you can go in there. I think that should be--that right should be left to the board.

CLARK ENGLE:

Joe, let me ask this, ah, say that ah--ah a professional had 10 hunts booked for a fall season, he died just before the fall season, ah, what would your ideas be and what should happen to those particular hunters? Should the widow be allowed to go get Joe Blow the guide to come in and run the hunts for her until there--those hunts are taken care of? I think it is consideration that the board should look at it.

JOE WANT:

I don't know.

MARK JENSEN:

I would like to interrupt here a little bit because of time, more than anything else, but, to bring you up to date on what's happening, for a couples of years now, we held public hearings on regulations and had public input and ah brought them back to you for changes, one thing or another, ah, the position that the regulations are in now are in the Attorney General's office, and they have been looked at, the ones that we passed at our last meeting, and some suggestions for word changes for clarification have been made. They have asked us now ah to pass on these ah verbally at this meeting and as quick as we can to get them back down ah so that they can keep being certified and start on their route. Our--I think ask our attorney Liza Fussner here, to ah just kind of go over them and we have..

CLARK ENGLE:

I have a question, Mr. Chairman, while we are talking about this ah we--are we jumping from this one to...

MARK JENSEN:

Yes

CLARK ENGLE:

to these?

MARK JENSEN:

We're going to take this up as an emergency for the simple reason that I have--I have really forgotten to tell the board that the Commerce Department asked me to do this immediately ah on our agenda...

STATE
of ALASKA

MEMORANDUM

TO: Ms. Susan Hunter
House Resource Committee
Pouch V
Juneau, Alaska 99811

DATE: March 3, 1978

FILE NO:

TELEPHONE NO:

FROM: Investigator William N. Bellingar
BY: Katherine Goodell, Admin. Assistant
Guide Investigations
Fish and Wildlife Protection
Anchorage

SUBJECT: REQUEST-EXCLUSIVE/JOINT USAGE GUIDE AREAS

Per your request we are enclosing all available copies of exclusive/joint usage guiding area maps throughout the State; a listing of these areas by the guide's name; and a listing by unit with the criteria used.

We have not yet completed Unit 13 and 14 maps but anticipate finishing them Monday morning and forwarding them to you at that time.

If you require further assistance please do not hesitate to contact this office.

WNB:KEG:LJ

cc: Col. Fred M. Woldstad

Units 1-5: At the February 18-19, 1977 Guide Licensing and Control Board meeting Units 4 and 5 applicants that met the criteria of three years within the last five years of Statements of Financial Remuneration on file with this office as of November 1, 1976 were granted permanent areas. Temporary areas in Units 4 and 5 were granted to those applicants that had at least one year of Statements on file as of that date. Unit 4 was designated for "joint usage" by those guides who had applied and qualified, and Unit 5 was divided into individual areas with joint usage for areas of boundary overlap.

In a poled telephone vote taken by Marcus Jensen, Guide Board Chairman, on February 25, 1977 it was decided that those guides that were granted exclusive guiding privileges in Unit 4 would also be granted exclusive guiding privileges in Units 1-3 on a joint usage basis with those guides who had applied and qualified for Units 1-3.

At the February meeting the Board decided, for purposes of assigning exclusive guiding areas in Southeastern Alaska, Unit 1 would be considered one guiding area, Unit 2 and/or 3 would be one guiding area, and Unit 4 would be one guiding area.

Units 1-4 were advertised in early March as open for any late filings, adjustments of areas, etc. for a period of ninety (90) days from the date of the notice. The Board granted to the additional qualifying guides joint usage privileges in those units at the July 14-18, 1977 Board meeting.

Those applying for areas in Units 1-4 are as follows:

William Bernhardt
Layton A. Bennett (Unit 1 only)
~~Roy Biffle~~ (withdrew)
Chalres Boyd (Unit 4 only)
Les Elkins
John Erickson
Ben Forbes
Duncan Gilchrist (Units 1 & 4 only)
F. W. Ingledue
Marcus Jensen
Tom D. Katzeek
Karl Lane
Vic Lane
Jack O'Donnell
Jimmie Rosenbruch
Kenneth Schoonover
Frank See
Eugene Smith
Tarleton Smith
William W. Peterson

All those that applied were granted joint usage priveleges in Units 1-4. Those guides with notations after their names applied for and received those units only as joint usage (they were offered joint usage of the entirety of Units 1-4 but this was their preference).

Those applying for areas in Unit 5 are as follows:

Mike Branham
Charles R. (Dick) Cox
Robert Eckman
Ken Fanning
A. J. Israelson
John Latham
Jerry H. Nelson

Those receiving areas in Unit 5 are as follows:

Dick Cox	permanent
Mike Branham	temporary
Robert Eckman	permanent
Ken Fanning	temporary
A.J. Israelson	permanent

Unit 6: At the July 14-18, 1977 Guide Licensing and Control Board meeting Unit 6 applicants that met the criteria of three years within the last five years of Statements of Financial Remuneration on file with this office as of November 1, 1976 were granted permanent areas. Temporary areas were granted to those applicants that had two years within the last five years of Statements on file.

For purposes of assignment Unit 6 was divided into three areas: A. East of the Copper River to Icy Bay (boundary between Units 5 & 6). B. West of the Copper River to Mt. Dennison, Hadak Point, Brown Basin, Goose Isl., and Hinchenbrook Isl. C. The rest of Unit 6.

These three areas were designated for "joint usage" by those guides who had applied and qualified.

Unit 6 Applicants:

Roy L. Biffle
Karl Braendel
Eberhard Brunner
Gene Cecil
Don DeHart
Robert V. Dettinger
Bill Ellis
Ralph Ertz
Herbert F. Fassler
Allen W. Faust
Raymond J. Foldager
Jeff Graham
Dick Gunlogson
Richard W. Halford
Bill Holliday
John Kinda
Howard Knutsen
Clarence LaBounty
John Latham
Jack Lee
Dennis O. Lary
Ray McNutt
Austin Meekins
James R. Metheny
Wm. G. Morrow
Gene Needles
George Palmer
Donald G. Sisson
Edward Stevenson
Roland Stickney
Tom Walker
Mark J. Warren
Jess M. Wassom
Gordon Windell
Edward Zimmerman

Those that qualified and received joint usership of Unit 6, Subunit A:

Gene Needles
James Metheny
Roland Stickney
Dick Gunlogson
Bill Ellis
Gordon Windell
Ray McNutt
John Kinda
Ray Foldager

Those that qualified and received joint usership of Unit 6, Subunit B:

Dennis O. Lary
George Palmer
Edward Stevenson
Tom Walker.
Bob Dettinger

Those that qualified and received joint usership of Unit 6, Subunit C:

Herbert F. Fassler
Ralph Ertz (considered by petition & granted special exception)
Jack Lee
Clarence LaBounty (qualified because of grandfather rights)

Unit 7: Areas in this unit were also granted at the July 14-18, 1977 Guide Board meeting to those guides who had at least three years within the past five years of Statements of Financial Remuneration on file with this office for a permanent assignment and two years within the past five years for a temporary assignment.

UNIT 7 APPLICANTS:

Roy L. Biffle
Lee Browning
Gene Cecil
Walter E. Cox
Don Fell
John Kinda
Clarence LaBounty
Charles S. Martin
William L. Miller
Wyman Owens
A.W. Smith
Sherman "Red" Smith
Earl Stevens
Dale R. Wood
Leonard F. Yuknis
Edward Zimmerman

Those that qualified and received areas requested in Unit 7 with joint usage for areas of overlap:

Walter Cox
William Miller
Mike McBride
Wyman Owens
~~Lee Browning~~
Ed Zimmerman

NOTE: As Units 6, 7, 13, 14, & 15 were recently assigned at the July 1977 Board meeting and the minutes have not been received by this office yet the above information may not be totally accurate. Also, those that could not meet the minimum criteria were given the opportunity to have their petitions heard before the Board - these petitions were handled the same way as those for Unit 13 (see Unit 13 information for further details).

UNIT 8: Exclusive guiding areas were granted in this unit at the July 22-25, 1975 Guide Board meeting using the following criteria set by the Board at that meeting: To obtain a permanent guiding area, a registered or master guide must have used the area for 4 consecutive years (except for justified cause(s) approved by the Board) such as a guide with Statements of Financial Remuneration.

UNIT 8 APPLICANTS:

William Bivins
Karl Braendel
Danny L. Brose
Alfred Burnett
Lynn Castle
R.O. Coleman
Don DeHart
Darrel Farmen
Allen Faust
Leon Francisco
Ward Gay
Rick Halford
Lee Hancock
Wayne Hans
Willis Hardy
Dennis Harms
Ron Hayes
Kristjan Helgason
Ed Hendricks
Joe Hendricks
John Hepler
Keith Johnson
Frenchy Lamoureux
Gary LeRose
David Lazer
John J. (Jack) Lee
Larry Matfay
Eli Metrokin
Park Munsey
Robert L. Myers
Gene Needles
Walter Panamroff
Bill Pinnell
George Pollard
Eldon Reese
A.W. Smith
Earl Stevens
Morris Talifson
Joe Want
Charles Wilson
Earl Payne
Andy Runyan

Those that qualified and received areas requested in Unit 8 with joint usage for areas of overlap:

[redacted]
Don DeHart
Leon Francisco
Darrell Farmen
Lee Hancock
Wayne Hans
Dennis Harms
Kristjan Helgason
Ed Hendricks
Joe Hendricks
Frenchy Lamoureux
Gary LaRose
Jack Lee
Larry Matfay
Park Munsey
Earl Payne
Bill Pinnell
George Pollard
Eldon Reese
Andy Runyan
Earl Stevens
Morris Talifson
Joe Want

UNIT 9: At the March 25-27, 1977 Guide Board meeting the Board granted permanent exclusive guiding areas in Unit 9 to those guides who had at least three years within the last five years of Statements of Financial Remuneration on file with this office as of November 1, 1975 and/or three years within the last five years of Bear Camp Registrations. Temporary areas were granted to those applicants who had at least two years of Statements of Financial Remuneration on file as of that date, and/or a signed statement from three registered guides testifying that they have known the applicant to have been guiding in Unit 9 for at least 2 years within the last five years.

UNIT 9 APPLICANTS:

Roy L. Biffle
Stephen Black
Eldon Brandt
Bud Branham
Dennis Branham
James R. Branham
Alfred Burnett
James N. Cann
Paul Carlson
Mario Cerami
Macarlo Christensen
R. O. Coleman
Grenold COllins
C. M. (Bud) Conkle
Robert E. Curtis
Don DeHart (withdrew)
Clifford H. Driskell
Charles Edmonds
Clark Engle
Wm. Erickson
Donald E. Flynn
Howard Flynn
Raymond J. Foldager
Stan Frost
Ward Gay
Jeff Graham
Marlin Grasser
Mel Gillis
Dick Gunlogson
Richard W. Halford
Jay S. Hammond
Lee Hancock
Dennis Harms
Ron Hayes
Ed Hendricks
Joe Hendricks
David Henley
John E. Hepler
Lee Holen
R. H. Jensen
Don Johnson
Martin Kasser
John Kinda
Ed King
George Kitchen
Frenchy Lamoureux
Brad L. Langvardt
Gary LaRose
David L. Lazer
Jack Lewis
Raymond C. Loesche (license revoked)
Charles McLaughlin
Burd McLay
J. H. McLay
Ray McNutt
Joe Mankins (not a resident? - F&WP to determine)
Charles S. Martin
Jerry Meredith
William S. Miller (no map)
Richard Moll
M. W. "Slim" Moore (withdrew)
Wm. G. Morrow
Jay C. Mueller
Park Munsey
Jack Myers
Robert Myers
Gene Needles
Ken Oldham
Pete Owen
John Pangborn
Earl Payne
Alec Pederson
Harry Pederson
George Pollard
Larry Rivers
Lawrence Roberts
Lloyd Ronning
Andy Runyan
Henry B. Rust
Lloyd E. Samsal
Richard A. Sjoden
A. W. Smith
John S. Swiss
Carl Thiele
Reinhold Thiele
Denny Thompson

Michael R. Uttecht
Jess M. Wassom
Ben C. White
Dale R. Wood
Sumner S. Woodman
Mike McBride
Mort Mason
Carol Northcutt
Kirk Gay

Those that qualified and received areas reques' in Unit 9 with joint usage for areas of overlap:

Bud Branham
Dennis Branham
James R. Branham
Alfred Burnett
James N. Cann
Paul Carlson
Mario Cerami
Macarlo Christensen
C. M. (Bud) Conkle
Robert E. Curtis
Clifford H. Driskell
Clark Engle
Wm. Erickson
Donald E. Flynn
Howard Flynn
Raymond J. Foldager
Stan Frost
Ward Gay
Kirk Gay
Jeff Graham
Marlin Grasser
Mel Gillis
Dick Gunlogson
Richard W. Halford
Jay S. Hammond
Lee Hancock
Dennis Harms
Ron Hayes
Ed Hendricks
Joe Hendricks
Lee Holen
R. H. Jensen
Don Johnson
Keith Johnson
Ed King
George M. Kitchen
Frenchy Lamoureux
Brad L. Langvardt
Gary LaRose
David L. Lazer
Jack Lewis
Burt McLay
J. H. McLay
Ray McNutt
Jerry Meredith
Jay C. Mueller
Park Munsey
Jack Myers
Robert Myers
Gene Needles
Ken Oldham
John Pangborn
Earl Payne
Harry Pederson
George Pollard
Andy Runyan
Henry B. Rust
Richard A. Sjoden
A. W. Smith
John S. Swiss
Carl Thiele
Reinhold Thiele
Denny Thompson
Michael R. Uttecht
Ben C. White
Dale R. Wood
Mike McBride
Charles McLaughlin
George Thiele

UNIT 10: There was no criteria set for Unit 10 as all three guides who had applied agreed to share this area as joint usage. They were as follows:

James Branham
Don Johnson
Jack Myers

UNIT 11: At the March 25-27, 1977 Guide Board meeting the Board granted permanent excluisve guiding areas in Unit 11 to those guides who had at least three years within the last five years of Statements of Financial Remuneration on file with this office as of November 1, 1976. Temporary areas were granted to those applicants who had at least two years of Statements of Financial Remuneration on file as of that date or if there were other guides who would verify that that guide had hunted at least 2 years within the last five years in that area.

UNIT 11 APPLICANTS:

Roy L. Biffle (has 3 areas)
Charles A. Boyd
Glenn O. Brewster
Kenneth H. Bunch
Gene Cecil
John Claus
Walter E. Cox
Don DeHart
Robert V. Dettinger
Charles Edmonds
Ralph Ertz
Dennis Harms
Jim Harrower
Ron Hayes
Ed Hendricks
Lee Holen
Don Johnson
Keith Johnson
Garley "Rocky" Keen
Harley King
Howard J. Knutson
Clarence LaBounty
Brad L. Langvardt
Gary LaRose
Al Lee
Charles McLaughlin
Cleo B. McMahan
Charles Moe
Gene Needles
Toney Oney
Harvey M. Packer
Frank Pease
Harry Pederson
Maynard G. Perkins
Loren St. Amand
Donald G. Sisson
Thomas Sperstad
Roland Stickney
Doug Vaden
Thomas Vaden
Gordon Windell
Leonard F. Yuknis
June Moore
Marlin Grasser (withdrew)
Mel Gillis

Those guides qualifying and receiving areas in Unit 11 are:

Charles A. Boyd
Glenn O. Brewster
Kenneth H. Bunch
John Claus
Walter E. Cox
Don DeHart
Robert V. Dettinger
Charles Edmonds
Ralph Ertz
Dennis Harms
Jim Harrower
Ron Hayes
Lee Holen
Don Johnson
Keith Johnson
Harley King
Howard J. Knutson
Clarence LaBounty

Gary LaRose
Al Lee
Cleo B. McMahan
Gene Needles
Tony Oney
Frank Pease
Harry Pederson
Maynard G. Perkins
Don Sisson
Thomas Sperstad
Roland Stickney
Doug Vaden
Thomas Vaden
Gordon Windell
Mel Gillis

UNIT 12: At the March Board meeting the Board granted permanent exclusive guiding areas in Unit 12 to those guides who had at least three years within the last five years of Statements of Financial Remuneration on file with this office as of November 1, 1976. Temporary areas were granted to those applicants who had at least two years of Statements of Financial Remuneration on file as of that date or those who could have at least three registered guides verify that they had guided at least 2 years within the last 5 years in that area.

UNIT 12 APPLICANTS:

Roy L. Biffle
C. M. (Bud) Conkle
Don DeHart
Bill Ellis
Marlin Crasser
Dick Gunlogson
Lee Hancock
Ed Hendricks
John E. Hepler
Elizabeth Hickethier
Bill Holliday
Cleo B. McMahan
Ray McNutt
Charles Moe
Gene Needles
Ken Oldham
Terry Overly
Urban E. Rahoi
Andy Runyan
Kenny Sailors
Jonathan Summar
Donald W. Taylor
Ivan Thorall
Doug Vaden
Thomas Vaden
Lavell Wilson
Gordon Windell
Charles Wirschem
Fred W. Young
June Moore
John E. Erickson

Those that qualified and received areas in Unit 12 with joint usage for areas of boundary overlap:

Bud Conkle
Don DeHart
Bill Ellis
Dick Gunlogson
Lee Hancock
Elizabeth Hickethier
Cleo B. McMahan
Ray McNutt
Charles Moe
Ken Oldham
Terry Overly
Urban E. Rahoi
Andy Runyan
Kenny Sailors
Jonathan Summar
Donald Taylor

Ivan Thorall
Doug Vaden
Thomas H. Vaden
Lavell Wilson
Fred Young
June Moore
John Erickson

UNIT 13: At the July 14-18, 1977 Guide Board meeting the Board granted permanent areas to those guides who had at least three years within the past five years of Statements of Financial Remuneration on file with this office before November 1, 1976. Temporary areas were granted to those guides with at least two years of Statements on file as of that deadline. Those that could not meet the criteria were given the opportunity to file petitions with the Board and were heard before the Board after assignments were made to those guides who met the minimum criteria. Many of the petitions were accepted on the basis that the guide provide within 6 months proof of utilization by any of the following methods. These areas were granted on a temporary basis until such time as they could show at least three years of past usage. If they could not come up with the requisite proof of utilization within the next 6 months the temporary usage permits would be revoked.

Methods of Proving Utilization. Submit the following:

1. Copies of Statements of Financial Remunration
2. Copies of personal contracts
3. Letters from other guides attesting to the fact that the guide in question was guiding in the area that year or those years.
4. Letters from his clients attesting to the fact that they were on guided hunts in the area at that time.
5. Correspondence between guide and client concerning their guided hunt in the area at that time.

UNIT 13 APPLICANTS:

Ray Atkins
Roy L. Biffle
Nick Botner (not licensed)
Eldon Brandt
Glenn O. Brewster
Lee Browning
Kenneth H. Bunch
Gene Cecil
Mario Cerami
R. O. Coleman
C.M. "Bud" Conkle
Don Deering
Robert V. Dettinger
Don DeHart
Charles Edmonds
George Eichholz
Herbert F. Fassler
Allan W. Faust
Ward Gay
Ray Genet
Chris F. Goll
Marlin Grasser
Vern R. Gratias
Dick Gunlogson
Richard W. Halford
Wayne B. Hanson
Ed Hendricks
John V. Ireland
Ross R. Jerome (not a registered guide)
Keith Johnson
Martin Kasser
Garley "Rocky" Keen
Geroge M. Kitchen
Wm. J. Konesky, Sr.
Frenchy Lamoureux
Joseph D. Lanni
Al Lee
John Lester
John Luster
Thomas McElroy
Cleo McMahan
Pat McMahan
Charles Martin
James R. Metheny

June E. Moore
M. W. "Slim" Moore (withdrew)
Austin Meekins
Gene Needles
Carol Northcutt
Mary Oldham
Earl Payne
Maynard G. Perkins
George G. Pollard
Vernon Porter
Eldon Reese
Lloyd Ronning
Andy Runyan
Claude St. Amand
Loren St. Amand
Lloyd E. Samsal
Donald G. Sisson
Richard A. Sjoden
Kent B. Smith, Jr.
Keith Specking
Donald Taylor
Charles B. Wells
Ben C. White
Gordon Windell
Harry F. Witman
Dale R. Wood
Lewis B. Wyman
Roy O. Young
Mort Mason

UNIT 13 - Guides who qualified and received areas:

Ray Atkins
Glenn O. Brewster
Kenneth H. Bunch
R. O. Coleman
Bud Conkle
Don Deering
Don DeHart
Charles Edmonds
Herbert F. Fassler
~~Allan W. Faust~~
Ward Gay
Ray Genet
Marlin Grasser
Vern R. Gratias
Richard W. Halford
Wayne B. Hanson
John V. Ireland
Keith Johnson
Garley "Rocky" Keen
~~George M. Kitchen~~
Frenchy Lamoureux
Joseph D. Lanni
Jack Lee
Al Lee
John Luster
Cleo B. McMahan
Pat C. McMahan
James R. Metheny
June E. Moore
Austin Meekin
Gene Needles
Carol Northcutt
Mary Oldham
Earl Payne
Maynard G. Perkins
Eldon Reese
Lloyd Ronning
Lloyd E. Samsal
Kent B. Smith, Jr.
Keith Specking
Gordon Windell
~~Dale R. Wood~~
Mario Cerami

UNIT 14 - At the July 14-18, 1977 Guide Board meeting the Board granted areas in this unit following the same criteria as that used for Unit 13 (see Unit 13 for details).

UNIT 14 APPLICANTS:

Roy L. Biffle (has 3 areas)
Karl Braendel
Walter E. Cox
Marlin Grasser
Frenchy Lamoureux (?)
Gary LaRose
David L. Lazer
John Lester
Wm. G. Morrow
Claud St. Amand
A.W. Smith
Edward Stevenson
Ray Genet

UNIT 14 - Guides who qualified and received areas:

Walter E. Cox
Marlin Grasser
David L. Lazer
Ray Genet
A.W. Smith (withhold temporarily until we get more info.)
Edward Stevenson
John Luster

UNIT 15: At the July 14-18, 1977 Guide Board meeting the Board granted areas in this unit following the same criteria as that used for Units 6, 7, 13 & 14 (see Unit 13 for details).

UNIT 15 APPLICANTS:

Roy L. Biffle (has 3 areas)
~~Lee~~ Browning
Don Fell
Paul E. Jones
Richard Moll (not licensed)
Dennis Owens
George Pollard
Sherman "Red" Smith
Earl Stevens
Geo. Jess Willard
Dale R. Wood
Sumner S. Woodman
Leonard F. Yuknis
Edward Zimmerman
Mike McBride

UNIT 15 - Guides who qualified and received areas:

~~Lee Browning~~
Paul E. Jones (see letter to Jones)
Dennis Owens
George Pollard
Geo. Jess Willard
Leonard F. Yuknis
Mike McBride

UNIT 16: Exclusive guiding areas were granted in this unit at the July 22-25, 1975 Guide Board meeting using the critera of 4 consecutive years for a permanent area and the Board also accepted "justified cause(s) approved by the Board".

UNIT 16 APPLICANTS:

Richard Betz
Nick Botner
Karl Braendel
Bud Branham
Dennis Branham
James Branham
Mike Branham
John Claus
Joe Delia
Clark Engle
George Faerber
Herbert Fassler
Ray Ferguson
Ward Gay
Ray Genet
Chris Coll
Frank Harvey
Keith Johnson
Martin Kasser
George Kitchen
Richard Lounsbury
Pat McMaham
Graham Mower
Harvey Packer
Geo. Palmer
Gary Pogany
John Swiss
Harry Witman
Dale Wood
Leonard Yuknis
William Zaegel

UNIT 16 - Guides who qualified and received areas:

Richard Betz
Karl Braendel
Bud Branham
Dennis Branham
James Branham
Mike Branham
John Claus
Joe Delia
Clark Engle
George Faerber
Herbert Fassler
Ray Ferguson
Ward Gay
Ray Genet
Chris Goll
Frank Harvey
Martin Kasser
George Kitchen
Richard Lounsbury
Pat McMahan
Graham Mower
Harvey Packer
Geo. Palmer
Gary Pogany
John Swiss
Harry Witman
Dale Wood
Leonard Yuknis
William Zaegel

UNIT 20: Exclusive guiding areas were granted in this unit at the July 22-25, 1975 Guide Board meeting using the criteria of 4 consecutive years for a permanent area and the Board also accepted "justified cause(s) approved by the Board".

UNIT 20 APPLICANTS:

Lloyd Anderson
Ray Atkins
Dallas Benedict
Charles Boyd
Terry Brady
Bill Buzby
Dennis Buzby
Lynn Castle
Robert Elliott
Ken Fanning
Edwin Gelvin
Chalres Gray
William Hardy
Keith Johnson
Willard Lambert
Berl Mercer
Seward Olson
John Pangborn
Lawrence Roberts
Frank Scott
Leroy Shebal
John Thomas
Norman Thomas
William Waugaman
A. F. Wright

UNIT 20 - Guides who qualified and received areas:

Lloyd Anderson
Ray Atkins
Dallas Benedick
Charles Boyd
Terry Brady
Bill Buzby
Dennis Buzby
Lynn Castle
Robert Elliott
Ken Fanning
Charles Gray
Berl Mercer
Seward Olson
John Pangborn
Lawrence Roberts
Frank Scott
Leroy Shebal
John Thomas
William Waugaman
A. F. Wright

UNIT 23: Exclusive guiding areas were granted in this unit at the December 9-13, 1976 Guide Board meeting. No Criteria was set before handling this unit. Each application was reviewed on its own merits.

UNIT 23 APPLICANTS:

Anthony Bernhardt (not licensed since 1974)
Phillip E. Driver
John Elmore
Arthur R. Fields
Berndt Gaedeke
Howard D. Headley
Harmon R. "Bud" Helmericks
Lee Holen
C. Vernon Humble
James Jacobson
Charles Keim
Sherman "Red" Smith
Nelson Walker
Tom Zimmerman

* UNIT 23 - Guides who received areas:

Anthony Bernhardt
Phillip E. Driver
John Elmore
Arthur R. Fields
Berndt Gaedeke
Howard Headley
Bud Helmericks
Vernon Humble
James Jacobson
Charles Keim
Sherman "Red" Smith
Nelson Walker

UNIT 24: Exclusive guiding areas were granted in this unit at the December 9-13, 1976 Guide Board meeting on a permanent basis to those guides who had at least 3 years of Statements of Financial Remuneration within the past 5 years on file with this office as of November 1, 1976. Temporary areas were granted to those guides who had 2 years within the past 5 years of Statements on file.

UNIT 24 APPLICANTS:

Charles P. Allen
Gene Cecil
Paul A. Desrochers
Lester J. Fickes
William P. Fickus
Berndt Gaedeke
Charles L. Gray
John Hankee
James Helmericks
David Jamieson
Charles J. Keim
Fred Meader
Mike Molchan
Rick Reakoff
Dan Rodey

Leroy Shebal
Robert J. Tarnowski
Tom Walker
Mark A. Wartes
Dan L. Wetzel

* UNIT 24 - Guides who qualified and received areas:

Les Fickes
William Fickus
Berndt Gaedeke
Charles Gray
John Hankee
James Helmericks
Charles Keim
Rick Reakoff
Dan Rodey
Leroy Shebal
Tom Walker
Dan Wetzel

UNIT 25: The Board assigned exclusive guiding areas in this unit at the December 9-13, 1976 Guide Board meeting following the same criteria as that for Unit 24.

UNIT 25 APPLICANTS:

Ray Atkins
Paul A. Desrochers
Bill Ellis
Charles L. Gray
John E. Hepler
Howard J. Knutson
Keith Koontz
Mike Molchan
Martin S. Ondra
Rick Reakoff
Larry Rivers
Robert J. Tarnowski
Rudy Voigt
Joseph W. Want
Lavell Wilson
Charles Wirschem
Eugene M. Witt

* UNIT 25 - Guides who qualified and received areas:

Charles Gray
Keith Koontz
Rick Reakoff
Joe Want
Charles Wirschem
Eugene M. Witt

UNIT 26: The Board assigned exclusive guiding areas in this unit at the December 9-13, 1976 Guide Board meeting following the same criteria as that for Unit 24.

UNIT 26 APPLICANTS:

Charles P. Allen
Les Fickes
Berndt Gaedeke
Duncan Gilchrist
Marlin Grasser
Ron Hayes
Howard D. Headley
Bud Helmericks
James Helmericks
Joe Hendricks
Charles J. Keim
M. Edward King
Howard J. Knutson
Pete Owen
Rick Reakoff
Dan Rodey
Lloyd Samsal
Robert Tarnowski

Joseph Want
Mark A. Wartes
Jess M. Wassom
Tom Zimmerman

* UNIT 26 - Guides who met the criteria and received areas:

Les Fickes
Berndt Gaedeke
Marlin Grasser
Bud Helmericks
James Helmericks
Howard Knutson
Rick Reakoff
Dan Rodey
Jess Wassom
Joe Want

UNIT 17: Exclusive guiding areas were granted in this unit at the December 3-9, 1977 Guide Board meeting on a permanent basis to those guides who had at least 3 years of Statements of Financial Remuneration within the past 5 years on file with this office as of November 1, 1976. Temporary areas were granted to those guides who had 2 years within the past 5 years of Statements on file. Those that could not meet the criteria were given the opportunity to file petitions with the Board and were heard before the Board after assignments were made to those guides who met the minimum criteria. Many of the petitions were accepted on the basis that the guide provide within 6 months proof of past utilization. These areas were granted on a temporary basis unitl such time as they could show at least three years of past usage. If they could not come up with the requisite proof of utilization within the next 6 months the temporary usage permits would be revoked. In some instances the permit will not be issued until they submit the proof.

Those applying for areas in Unit 17 are as follows:

Lee Browning
Eberhard Brunner
Paul Carlson
John E. Claus
Grenold Collins
Robert E. Curtis
Clifford H. Driskell
Ralph Ertz
George Faerber
Raymond J. Foldager
Ward Gay
Jeff Graham
Kirk Gay
John E. Hepler
Bill Holiday
C. Vernon Humble
Mark Miller
Richard Moll
Jack Myers
Ken Owsicheck
Gary Pogany
Henry B. Rust
Bill Sims
Richard A. Sjoden
Roland A. Stickney
Carl Thiele
Jerre Willis
Leonard F. Yuknis

Those receiving areas in Unit 17 are as follows:

Eberhard Brunner
Paul Carlson
John Claus
Bob Curtis
Ward Gay
Jack Foldager
Vernon Humble
Gary Pogeny
Henry Rust
Bill Sims
Dick Sjoden
Roland Stickney
Leonard Yuknis

UNIT 18: The Board reviewed applications for this unit at their December 3-9, 1977 meeting, however, no one met the minimum criteria which was the same as that for Unit 17. No areas were granted.

Those applying for areas in Unit 18 are as follows:

Paul A. Desrochers
David "Sandy" Jamieson

UNIT 19: The Board assigned exclusive guiding areas in this unit at the December 3-9, 1977 Guide Board meeting following the same criteria as that for Units 17 & 18.

Those applying for areas in Unit 19 are as follows:

Theodore J. Almasy
Edward "Red" Beeman
Bud Branham
Chris R. Branham
James Branham
Eberhard Brunner
George Eichholz
Clark Engle
Phillip Esai
George Faerber
Don Fell
Stan Frost
Ward Gay
Kirk Gay
Richard Halford
Jim Harrower
John Latham
Pat C. McMahan
Robert L. Magnuson
Jerry Meredith
Mark Miller
Tony Oney
Pete Owen
Ken Owsicheck
George Palmer
Wm. W. Peterson
Gary Pogany
John F. Porter
Harold Schetzle
Pete Shepard
Bill Sims
Richard Sjoden
Jack R. Smith
Earl Stevens
John S. Swiss
Denny Thompson
Carl Thiele
Doug Vaden
Buckey Winkley

Those receiving areas in Unit 19 were:

Red Beeman
Bud Branham
Chris Branham
Eberhard Brunner
George Eichholz
Clark Engle
George Faerber
Stan Frost
Ward Gay
Rick Halford
Phillip Esai
Jim Harrower
John Latham
Pat McMahan
Bob Magnuson
Tony Oney
Pete Owen
George Palmer
Gary Pogany
Bill Sims
Dick Sjoden
Jack Smith
Earl Stevens
Denny Thompson
John Swiss

UNIT 21: The Board assigned exclusive guiding areas in this unit at the December 3-9, 1977 Guide Board meeting following the same criteria as that for Units 17, 18, & 19.

Those applying for areas in Unit 21 are as follows:

William Carlo
David "Sandy" Jamieson
Warren Magnuson
Ken Oldham
Reinhold Thiele
John J. Thomas
Rudy Voigt
Frank Walter

Those receiving areas in Unit 21 were:

Bob Magnuson	Reinhold Thiele
Ken Oldham	

UNIT 22: The Board assigned exclusive guiding areas in this unit at the December 3-9, 1977 Guide Board meeting following the same criteria as that for Units 17, 18, 19, & 21.

Those applying for areas in Unit 22 are as follows:

John Elmore	Reinhold Thiele
Gary Fait	Ken Oldham (contiguous w/Unit 21)

Those receiving areas in Unit 22 were:

John Elmore	Reinhold Thiele
Ken Oldham	

Alaska State Legislature

House of Representatives

Committee on Resources
Alvin Osterback, Chairman

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

31 March 1978

Commissioner Phillip Hubbard
Department of Commerce and
Economic Development
Pouch D
Juneau, Alaska 99811

RE: HCR 95

Dear Commissioner:

I was surprised to learn that your legislative liaison Pam Knode informed my staff that the minutes from the recent meeting of the Guide Licensing and Control Board might not be available for the Committee to review on Tuesday, April 4 when we will be taking up HCR 95.

Both the Speaker of the House and the Majority Leader have requested to review those minutes where they apply to the Board's action on the exclusive guiding areas.

I hereby request that those portions of the minutes that reflect the Board's intentions on the exclusive guiding areas be submitted to the Committee, Room 118, Capitol Building by 1:30 p.m., Tuesday, April 4.

Sincerely,

Alvin Osterback, Chairman
House Resources Committee
House Bush Caucus

AO/sh

cc: The Honorable Hugh Malone
Speaker of the House

The Honorable Mike Miller
Majority Leader

dans mijn hoofd

Mark Miller

House Resource Committee
Chairman Al Osterback
Juneau, Alaska

Feb 29, 1978

Dear Mr. Osterback,

I have been guiding in the state for over 8 years. For the last two years I have guided on my own in unit 19 and have been very successful in my young business as a guide which is over 2/3 of my total income, I am now out of business from the guide boards new decision. What they (the board) has done cannot be constitutional and by all means not fair. Please support the house resolution No 95. My livelihood as well as many new guides depend on it.

Sincerely
Mark E Miller
Mark Miller

Registered Guide & Outfitter Skwentna, Alaska 99667

March 10, 1978

Senator George Hohman
Alaska State Senate
Juneau, Alaska

Dear Senator Hohman;

As discussed at your office in Juneau recently, the entire village of Mekoryuk is backing something you can push through the senate for "exclusive" guiding right on Nunivak (Game Unit 18 A.)

With this self-diterminaton act (B.I.A.) in effect, I think this would be a great step in course of this nature.

There are several of us who will be taking tests for our registered license shortly. It does not hamper or question whether we will be legal or not in the future.

There simply is no reason for someone elee to be coming in from the "outside" and collect capital and leaving very little to our humble community after utilizing what is on the Island which is by virture, ours.

Since you are aware of our problem I think that you may be able to help.

With regards,

Larson King

Larson King
Mayor, City of Mekoryuk

cc: Governor Jay Hammond, Representative Nels Anderson, Rep. Phillip Guy, Alven asterback, Guide Board Mark Jenson.

Signed; Nunivak Guides:

LK/mck

MAR 10 1978

To H Rep

Motor Inn Safety Lane
2550 Cushman
Fairbanks, Alaska 99701

March 6, 1978

Rep. Hugh Malone

I am wrighting in regards to a game guide regulation which I object to. THE EXCLUSIVE TERRITORY LAW.

I think it is unconstitutional. Some guides have as much as three areas with no limit to size. While others have none.

I am in favor of deleting EXCLUSIVE GUIDE TERRITORY from the guide regulations.

A Guide For 30 Years

Rudy Voigt

cc/ I&S

Robert E. Curtis
P.O. Box 1631
Anchorage, Alaska 99510

House Resource Committee
Chairman Al Osterback
Juneau, Alaska

Dear Al:

It has been a long time since we have talked and even longer since we spent some time together on a bear hunt at Volcano Bay. That was in 1963 I believe.

I have been making my living totally from big game hunting and fishing since 1954. I am opposed to the recent action of the Guide Licensing and Control Board in assigning exclusive guide areas. I believe this action is unfair, unconstitutional and was handled very poorly. I urge you to support House Concurrent Resolution No. 95.

Thank you.

Sincerely,

Bob Curtis
Registered Guide

cc: Kay Poland

2/24/78

To Mr. Al. Osterbeck
House Resources Comm.
Juneau Alaska.

I am a registered guide and have been in the guiding profession for 15 years. I support the House Res # 95 to annul the exclusive guide areas as currently assigned by the Guide board. I feel that the Guide boards actions were unethical and unfair and that the Guide Lists were not carried out for the best interests for all the guides. It is my wish that this matter could be resolved by the legislature because the Guide board has shown me no more than negligence, incompetence and insensitivity.

Sincerely

William D. Morrow
William D. Morrow
700 W. 71st. Anch.

TELEGRAM

A ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

1978 MAR 3 PM 5 44

28002 DLCOL COLD BAY AK 81 03-03-78 200P AST

PMS REPRESENTATIVE ALVIN OSTERBACK

HOUSE OF REPRESENTATIVES

JUNEAU AK"

EXCLUSIVE GUIDE AREAS SHOULD REMAIN IN EFFECT. NOT FAIR TO GUIDED HUNTERS TO HAVE SEVERAL PARTIES HUNTING SAME AREA AT SAME TIME, ALSO NOT GOOD GAME MANAGEMENT TO OVERHUNT ANY AREA. BEAR IN MIND THAT FISHING GROUNDS ARE DIVIDED INTO AREAS TO PREVENT OVERHARVEST OF CHOICE GROUNDS. POSSIBLY LIMIT EXCLUSIVE GUIDE AREAS TO NOT OVER TWO OR THREE HUNDRED SQUARE MILES. SOME GUIDES HAVE MUCH MORE THAN I THINK THEY ARE ABLE TO HUNT.

MIKE UTTECHT

BOX 55

COLD BAY

08-H8LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING / POUCH D – JUNEAU 99811

February 23, 1978

Mr. Alvin Osterback, Chairman
House Resources Committee
Alaska State Legislature
Juneau, Alaska

Copy all files

Dear Mr. Osterback:

I would like to thank you and your Committee for the long hours of testimony you listened to on H.C. & R. 95, concerning guide areas. Little does the public realize the long hours many legislators put in. I would also like to add that our Guide Licensing and Control Board has been in somewhat the same position, putting in long hours and working hard to accomplish a good program.

As the meeting concluded I understood you or one of the members to say that unless some inequities were remedied you planned to take the bill up again, after our next meeting. I am sure you are aware that any regulation change first must be identified and then advertised for public hearing. After the public hearing it is formalized by the Board and then goes through the lengthy process of the Attorney General's Office and the Review Board. Some of our regulations have taken over a year, after public hearings, to be formalized.

It might be informative for your Committee to know some of the processes that our Board is now using. Speaking for myself I think the Committee should be cognizant of the fact that our Board has handled over 450 guide area cases and with only four guides objecting at the hearing yesterday, to area assignments, should certainly add some weight to the fact that our regulations have been workable.

If I am going to take a message to my next Board meeting it would be helpful if your Resources Committee could be specific in your recommendations. I am listing below a brief outline of the process our Board is now using:

1. The Board has legal guidance from the Attorney General's Office on all rules and regulations;

2. All regulations are advertised for public hearings;

3. Any guide can petition the Board if he feels he has a special case, and the Board will grant him a hearing;

4. All guides who are involved in the case, or in a boundary dispute, are notified by registered mail before the hearing;

08-HBLH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING / POUCH D – JUNEAU 99811

5. Board meetings are held in Anchorage,Fairbanks and Juneau, with public participation;

6. No guide areas have been transferred;
(This will not occur until regulations are finalized)

7. The Board has worked closely with the Dept. of Game and Dept. of Public Safety in formulating policy;

8. A personal file for every guide has been established in our Anchorage office where his guide-client contracts are kept, and show his activity in the field;

9. No guide can hold an area if he does not show contracts over the current two year period;

10. A professional investigator is assigned immediately to check any violation;

11. At nearly every Board meeting we sit as a jury and hear violation cases that are presented by the Attorney General's Office; disciplinary action is then taken.

As added information I would like to note that the size of the guide area does not relate to the number of animals in that area. Most of the time a small area, with good feed habitat, produces more game.

Our Board would appreciate it very much if you would send us the names of the 21 guides that Mr. Sparks from Bethel spoke of as operating in his area.

Our Board feels that from reports across the nation the State of Alaska has a much better image in the guide field than ever before, and we would still like to improve this, and know that we can, with your help. If I can be of any more assistance please let me know. Hoping to hear from you, I am,

Sincerely yours,

Marcus F. Jensen

Marcus F. Jensen, Chairman
Guide Licensing and Control Board

cc: Minority Leader Rick Mystrom
Board members

TELEGRAM

ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

28002 DLCOL COLD BAY AK 81 03-03-78 200P AST

PMS REPRESENTATIVE ALVIN OSTERBACK

HOUSE OF REPRESENTATIVES

JUNEAU AK"

EXCLUSIVE GUIDE AREAS SHOULD REMAIN IN EFFECT. NOT FAIR TO GUIDED HUNTERS TO HAVE SEVERAL PARTIES HUNTING SAME AREA AT SAME TIME, ALSO NOT GOOD GAME MANAGEMENT TO OVERHUNT ANY AREA. BEAR IN MIND THAT FISHING GROUNDS ARE DIVIDED INTO AREAS TO PREVENT OVERHARVEST OF CHOICE GROUNDS. POSSIBLY LIMIT EXCLUSIVE GUIDE AREAS TO NOT OVER TWO OR THREE HUNDRED SQUARE MILES. SOME GUIDES HAVE MUCH MORE THAN I THINK THEY ARE ABLE TO HUNT.

MIKE UTTECHT

BOX 55

COLD BAY

BILL ANALYSIS

ASSIGNMENT DATE 1/23/78

UNASSIGNED

PARTMENT Public Safety	SPONSOR (PRINCIPAL) Ferguson	BILL NO. SR 70	
VISION POSITION Opposed	CO-SPONSORS OR COMMITTEE SPONSORS	DATE LAST AMENDED	
VISION DIRECTOR Col. Fred Woldstad by Chief Inv. J. Nutgrass	DATE 1/27/78	COMMISSIONER	DATE

VERNOR'S OFFICE USE

SITION NOTED	POSITION APPROVED	POSITION DISAPPROVED
:	DATE:	

MMARY

1) Related bills (similar or conflicting)

Unknown

2) a. Organizations sponsoring and supporting bill

Unknown

(2) b. Organizations opposing bill

Unknown

3) Program effects of bill

Department of Fish and Game would have to reinstate their Bear Camp Registration Program in Unit 9. They discontinued this program with the advent of exclusive guiding area assignments in that unit.

4) Fiscal impact: none X Fiscal analysis attached _____

5) Amendments proposed:

None

6) Comments:

(See attached)

1. First of all, I think that to "annul" the regulation 12AAC 38.050 is a bit premature since the Guide Licensing and Control Board just now concluded the exclusive/joint usage guiding area assignments statewide and are in the process of developing new regulations to replace 12AAC 38.050. A copy of the proposed regulations is attached.

2. This Resolution claims that "no apparent authority exists for creating exclusive areas for particular individuals within those units or subunits;" According to the proposed 12AAC 38.051 GUIDING AREA PERMITS (a) the purpose is "...in order to limit the number of guides allowed to guide for big game animals in that area."

   This, in effect, establishes a "quota" of guides within designated geographical game units or subunits of the state in accordance with Section 08.54.040(8) and Section 08.54.050 of the Alaska Statutes.

3. The Resolution also claims that "creation of such exclusive areas tends to reduce healthy competition and works to insulate and perpetuate abuses by unscrupulous and unsportsmanlike guides;"

   a. First, I'll address myself to "...reduce healthy competition..." There is much competition for these areas since to qualify for one in the first place you must be currently licensed and meet the requirements of 12AAC 38.053.

      Also, in order to retain an area once granted, a guide must comply with 12AAC 38.057 MINIMUM USAGE OF GUIDING AREA.

   b. "...works to insulate and perpetuate abuses by unscrupulous and unsportsmanlike guides;" Although I do not have a revised copy of the proposed regulations (being prepared by Department of Commerce now) the Board, in all likelihood, will adopt 12AAC 38.058 GROUNDS FOR REVOCATION OF GUIDING AREA PERMIT. (See draft copy attached.)

      This proposed regulation is self-explanatory and only serves to point out that "abuses" will not be tolerated and are grounds for revocation of an exclusive/joint usage guiding area permit.

      This also tends to promote "healthy competition".

4. I don't know if it is necessary to point out that exclusive guiding area assignments are beneficial in many ways, however, I will bring out a few points the Senate should be aware of:

   a. This regulation is beneficial to the general public. A specific area assignment promotes sound game conservation practices because, when a guide is assigned an area, this is the only place he can go and, if he wipes out his game, he is out of business. In the past there was nothing to prevent a guide from hunting out an area and then moving on to someplace else.

      With the number of guides currently licensed, the number of additional guides being licensed each year, and growing public concern over game conservation some action must be taken to save the guiding profession while taking into account the need for conservation.

The only alternative to exclusive guiding area assignments as a means of establishing a "quota" of licensed operating guides in a given geographical game unit or subunit is to limit the number of guides who may hold licenses at any one time. This method does not even begin to compare with exclusive guiding areas as a means of promoting sound game conservation.

b. This regulation is beneficial to guides and their clients. [redacted] assignments are also designed to reduce conflicts and friction between guides over hunting areas. A guide cannot use another's area without his written permission according to proposed regulation 12AAC 38.052.

When a guide takes a client into the field it is very disturbing to both the guide and the client to discover that another guide with clients has also chosen that location in which to conduct their hunt. If they choose to stay in the same area, the other hunting party may interfer with the quality of their hunt and, if they have to go elsewhere, it may reduce the actual hunting time available to that client.

By establishing exclusive guiding areas this problem is reduced, if not eliminated, and a client has more of a chance for a pleasant and successful hunt.

c. Exclusive guiding area assignments are also beneficial to State agencies in the performance of their duties. Knowing where a registered or master guide is operating makes it easier for Fish and Wildlife Protection Officers to enforce the law. Also, being assigned an area would tend to make a guide more inclined to report violations in his area.

The Department of Fish and Game is apparently using exclusive guiding area information in lieu of Bear Camp Registrations in Unit 9. I believe this information is used for bear population studies to determine necessary opening and closure dates of hunting seasons.

April 4, 1977

The Honorable Joseph H. McKinnon
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Amended Guide Board Regulations

Dear Representative McKinnon:

This memorandum is in response to your request dated March 25, 1977. You have requested advice on whether the February 25, 1977 amendment to the Guide Board regulations [12 AAC 38.020, 12 AAC 38.040, and 12 AAC 38.050] were actions taken in excess of the statutory authority of the Guide Licensing and Control Board. Specifically, you asked four questions:

"(1) Did the Board exceed the scope of its authority in granting the exclusive guiding areas outside of Units 8, 16, and 20?;

(2) Are any of the exclusive guiding areas that the Board granted valid outside of Units 8, 16, and 20?;

(3) Do any or all of the amended regulation exceed the scope of their statutory authority?;

(4) Did the Board, itself, exceed the scope of its authority by its substantive amendments of the regulations?"

In light of the present provisions of AS 08.54.-040, particularly the recent addition implemented by sec. 1, ch. 133 SLA 1976, the general answer to your inquiry is that the amended regulations of February 25, 1977 are proper with

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM February 22, 1978

SUBJECT: Changes to Legislation in Final Form

TO: Committee Assistants and Secretaries

FROM: Sally McIntire, Legal Editor

The Legislative Employees' Handbook, page 9, paragraph 8, notes that all bills and resolutions prepared by the Legislative Affairs Agency are recorded on mag cards and that to facilitate revisions it is important to use an LAA copy of these measures, when possible, to indicate changes.

In conjunction with this, it is also very important that any changes, no matter how minor, on measures in final form (in blue or orange jackets) be made by the agency to ensure that the mag cards are kept completely accurate. The mag cards are used by the engrossing clerks in the offices of the Chief Clerk and the Senate Secretary and by our editing and enrolling staffs. Any changes (whiteouts, additions, or deletions) made outside those offices will not appear on the mag cards. The result -- confusion and delay for the piece of legislation involved.

Bills and resolutions that require changes before being submitted to the Chief Clerk or Senate Secretary should be brought to the Legal Services office, Room 502, Capitol, and every effort will be made to expedite these changes.

It would also be very helpful if the original and all copies (three carbons which are attached to the original) are returned at the time changes are requested in case it is possible to reuse some of the pages.

Your assistance and cooperation will be appreciated.

cc: Executive Director
Director, Legal Services

Bellinger — Public Safety
Meltgrass — Public Safety

April 4, 1977

The Honorable Joseph H. McKinnon
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Amended Guide Board Regulations

Dear Representative McKinnon:

This memorandum is in response to your request dated March 25, 1977. You have requested advice on whether the February 25, 1977 amendment to the Guide Board regulations [12 AAC 33.020, 12 AAC 38.040, and 12 AAC 38.050] were actions taken in excess of the statutory authority of the Guide Licensing and Control Board. Specifically, you asked four questions:

"(1) Did the Board exceed the scope of its authority in granting the exclusive guiding areas outside of Units 8, 16, and 20?;

(2) Are any of the exclusive guiding areas that the Board granted valid outside of Units 8, 16, and 20?;

(3) Do any or all of the amended regulation exceed the scope of their statutory authority?;

(4) Did the Board, itself, exceed the scope of its authority by its substantive amendments of the regulations?"

In light of the present provisions of AS 08.54.-040, particularly the recent addition implemented by sec. 1, ch. 133 SLA 1976, the general answer to your inquiry is that the amended regulations of February 25, 1977 are proper with

regard to the questions you have raised. Section 1, ch. 133 SLA 1976, effective January 1, 1977, added paragraph (8) to subsection (a) of AS 08.54.040, so that the relevant provisions of that section now read:

> . [T]he board shall . . . (8) establish
> f licensed operating guides who may operate
> gnated geographical game units or sub-
> state and provide for an equitable
> e procedure for limiting the number
> or g[illegible] to that quota; preference shall be given to qualified, available and willing licensed guides who reside within the designated game unit or subunit.

AS 08.54.050 provides that:

> The board shall adopt procedural and substantive regulations, under the Administrative Procedure Act (AS 44.62), required by this chapter as reasonably necessary for its administration.

Therefore, in order to implement AS 08.54.040(a)(8) [& 1, ch. 133 SLA 1976], the board was mandated by statute to:

(1) designate geographical game units or subunits in the state;

(2) establish a quota of licensed operating guides who may operate within those designated geographical game units;

(3) provide for an equitable and reasonable procedure for limiting the number of guides to that quota; and

(4) establish a means of preferring guides who reside within the designated game unit or subunit.

Section 1 of the amended regulations establishes a method by which the board may ascertain who resides within certain game units so that the board could implement the preference mandated by statute. Section 2 of the amended regulations designates geographical game units or subunits. Sections 3 and 4 of the amended regulations is intended to establish a reasonable and equitable procedure for limiting the number of guides in a particular game unit.

Therefore, not only are the board's activities and regulations within the boundaries of AS 08.54, but also the board's actions and regulations were mandated by the addition of AS 08.54.040(a)(8) through § 1, ch. 133 SLA 1976.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By:
Robert M. Maynard
Assistant Attorney General

RMM:md

BILL ANALYSIS

ASSIGNMENT DATE_____

UNASSIGNED_____

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Fish and Game	Schaeffer & Anderson	HCR 95

DEPARTMENT POSITION

The Department opposes this legislation.

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
R.A. Rausch	2/22/78	Ronald O. Skoog	2/22/78

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☐ POSITION APPROVED ☐ POSITION DISAPPROVED

BY: DATE:

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING)

SCR 70

(2) a. ORGANIZATIONAL SUPPORT FOR BILL		(2) b. ORGANIZATIONAL OPPOSITION TO BILL
		Alaska Professional Hunters Assoc. Guide Board

(3) PROGRAM EFFECTS OF BILL

The enactment of this bill would seriously complicate management of some species of big game. For example, the present management program for brown bear on Kodiak Island would collapse, necessitating promulgation of new regulations to protect the resource.

(4) FISCAL IMPACT: kk NONE ☐ FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

(6) COMMENTS:

See attached.

6. COMMENTS:

Although the Department of Fish and Game, and the Board of Game, no longer have responsibility for guiding matters, the actions of the Guide Board and activities of guides still directly impact game resources and game management programs. Therefore, the Department of Fish and Game has an interest in the subject matter of House Concurrent Resolution No. 95.

Mr. Chairman, the Department has experienced many regulatory cycles with the Game Board and its precursor, the Board of Fish and Game. Year after year we received proposals for regulatory changes and listened to public complaints on the subject of guides. Complaints on guiding rather frequently have their basis in the mobility of guides--their ability to operate in the Arctic one week, Alaska Peninsula the next, and so on. To try to control abuses by some guides, various regulations were adopted (which then impacted all hunters). Care had to be taken to insure that seasons opened simultaneously in widely separated units (regardless of different optimum times in those areas) to preclude shifting of guiding pressure.

The assignment of specific guides to geographic areas is another example of the Guide Board's efforts to regulate the industry. When fully implemented, the system will restrict the mobility of guides and facilitate the management of most species of big game. The system already has produced direct benefits to the brown bear management program on Kodiak Island. If the regulation is annulled, less desireable alternative systems will have to be devised.

MEMORANDUM State of Alaska

TO: John Burns
Acting Regional Supervisor
Game Division
Fairbanks

DATE: February 28, 1977

FILE NO.:

TELEPHONE NO.:

SUBJECT: Proposed regulations related to walrus hunting.

Oliver Burris
Regional Management Coordinator
Game Division
Fairbanks

FROM: Carl Grauvogel
Game Biologist III
Nome

John Matthews
Game Biologist II
Nome

COMMUNITY INVOLVEMENT

Since mid-December we have been holding meetings to obtain input from the public in order to develop regulations for the forthcoming spring walrus season. Our purpose was to find a course of action that would be the least objectionable to all concerned. Since time was a limiting factor we concentrated our efforts at those villages which have traditionally taken a large number of walrus, and are the places where we can expect the most problems if and when restrictive regulations are imposed. We held two meetings in Nome-King Island and Savoonga, and one meeting at each of the villages of Gambell and Diomede.

Because comments ranged over a broad spectrum, we are summarizing the material we presented to the public which should help you to understand the synthesis of our ultimate recommendations. At all meetings we covered three basic topics, guiding, ivory permits, and status of walrus in Alaska. The latter subject was further subdivided into two general categories, past and present hunting trends in Alaska, and proposed solution to "our" problems. The following are the major points we discussed under each topic:

Ivory Permits

1. We gave a history of why the permits were established, and how they were being used.

   A. Theoretically the permits help maintain the carver industry by retaining the bulk of the ivory in the hands of the established carvers.

   B. Most permit holders were not complying with the conditions of the permit: they were not recording transactions in ivory, nor were they returning the permit as specified.

2. We pointed out there was significant black market traffic in raw ivory and these acts were illegal by regulation since one or more of the recipients did not possess an ivory permit.

3. In order for the ivory permit to be effective, that is maintain the ivory in the hands of the carvers, it would be necessary to actively enforce the present regulations.

4. If the regulations were not enforced, then it would be possible for anyone to deal in raw ivory. If that's the case, why have the permit in the first place?

We concluded by asking what were the desires of the community. Did they feel it was necessary to regulate raw ivory through a permit, or did they prefer to dispense with the permit and let the market regulate itself?

Guiding

1. Criteria for becoming a registered guide.

2. An explanation of the Guide Board's action to establish registered guides now living in this area. (At St. Lawrence Island we discussed the establishment of Winnie James, Gambell; and Alex Akeya, Savoonga; as registered guides; and how they could assist boat captains in taking out sport hunters).

3. Basic guide regulations and what is expected of a registered guide.

4. Advantages to the community from guiding.

   A. A guide would obtain a significant amount of revenue for a relatively short hunt.

   B. Since no more than one or two walrus would be taken on any one trip, all meat could be easily salvaged, and this would reduce the problems of wastage.

   C. With money coming in from guiding, less walrus would be needed for ivory; and this should result in a decrease of the annual harvest or at least stabilize it.

   D. One could expect other monetary spin offs from guiding such as an expanded tourist industry during the summer.

We concluded the subject of guiding by saying we strongly supported the concept, and would like to see an expansion of this industry principally by local residents. We offered our assistance to meet this goal.

Walrus

Due to the controversial nature of the subject, we frequently went off on diverse tangents discussing a variety of issues. Therefore, it was often difficult to stick to a presentation with some assemblence of order. The following are the salient points usually brought-up sometime during the course of a meeting.

1. A discussion of the Marine Mammal Protection Act passed in 1972, and the subsequent return of walrus management to the State in April, 1976.

2. One stipulation of return of management to the State of Alaska was the annual harvest should not exceed 3000 animals.

3. For the past 15 years the Department of Fish & Game has compiled annual harvest data statewide. During the spring biologists are usually stationed at the communities who traditionally have taken 70% or more of the annual kill.

4. Department records indicate the annual harvest averaged about 1700 animals from 1962 through 1974.

5. The kill in 1976 was nearly 3000, of which a good portion were taken principally for the ivory.

6. The department recognizes the fact that the country is experiencing an inflationary period, and it costs more to purchase food, fuel and the variety of items needed to maintain our present standard of living. Therefore some increase in the annual harvest is expected. However, there is a point where the population cannot withstand an ever increasing harvest. Based on the Federal Guidelines, and the present utilization of walrus, we feel that point is close at hand, if not already here.

7. The large harvest of walrus last year focused attention from all over the world. The Soviet Union sent letters complaining about headless walrus on their beaches. Many concerned citizens throughout Alaska and the lower 48 are asking questions about the method of walrus hunting in Northwest Alaska. Their inquiries are embarrassing.

8. Since it is entirely possible that a few villages could take a harvest of 3000 animals which would then require an emergency closure, we are looking at ways to distribute the kill fairly among all villages.

9. We think one solution is to allocate the harvest based on traditional use. For example if for the last 5 years a village has been killing an average of 200 walrus, perhaps this is an equitable fair share.

10. What we would like to know is how many walrus the community feels it needs; based not necessarily on what happened in 1976, but what is legitimately required in terms of meat and ivory.

11. When the community decides on a figure, we would like it to be kept in perspective with what other villages are doing statewide. In other words if you say you need 400 walrus can you justify that take to another village of equal population who has only been killing 50 animals a year.

12. Finally if a realistic figure is derived, give us some ideas how we can insure each village takes no more than their fair share.

In summary we asked all participants to view the problem on a statewide level and arrive at a recommendation that could be applied not only to their area but to all villages taking walrus.

COMMUNITY INPUT

Reaction from the participants at these meetings ranged from calm acceptance of the problem to outright militancy to any restrictive change whatsoever. There seemed to be a pattern to this attitude. The larger the community and their resultant involvement in "governmental organization" the more outspoken and anti-control were the individuals. Conversely, a small isolated community showed a real willingness to work out a solution that was mutually acceptable. In our opinion many of the comments were not relevent to the subject or to our responsibilities. For instance we were frequently accused of failing to bring in other governmental agencies to assist with the problem. Some went so far as to say that our presentation was an attempt to publicly ridicule the native community, and use it as an excuse to extinguish subsistence hunting rights. Further, the regulation proposals were another example of anglo-saxon government exerting their will over the Alaskan native. It was also stated that the Department of Fish & Game was not morally correct in proposing any restrictions on subsistence hunting until all facets of the subject have been thoroughly studied. This included but was not limited to biological considerations, cultural attrition, economic impact, and alternatives through governmental assistance.

Wading through the rhetoric, several common concerns surfaced at the meetings.

1. Each community was concerned it was they who would suffer the most through restrictive regulation. They felt it would be better if some other area was regulated first. For example King Island representatives complained that the Diomedes killed many more walrus than they could possibly use. Some of these animals should go to areas such as Nome, where more people would benefit. On the other hand the Diomedes said the cost of living was going up, and they required more money to maintain their present standard of living. It seemed fair to the Diomedes that they should be allowed to increase their harvest and larger communities should cut back because there were greater employment opportunities for their residents.

2. All communities expressed fear that a quota system of any sort would prevent them from securing a living from the land and would result in greater dependency on welfare and/or substantial suffering in the family.

3. Most recognized that waste was a problem, but they felt the present situation left no alternatives. Ivory is needed for economic support, concurrently however, meat is acquired far in excess of immediate needs. With inadequate storage facilities to preserve meat through the summer, they see no reason why meat should be returned to the community. Most said they would make a more concerted effort to retrieve meat if and when storage was available.

4. A majority readily admitted that once three or four walrus had been taken their prime concern was no longer for meat but obtaining ivory for their livelihood. Since the spring walrus season is short they say there is relatively little time to stockpile ivory. With this premise some expressed concern that they may not have time to retrieve meat, even if there were storage facilities.

5. Almost to the man, every hunter and/or carver felt that any restriction in the walrus harvest would limit their economic opportunity; and would result in greater dependence on governmental assistance programs. When questioned about the large quantities of ivory both new and old leaving the outlying communitites for Nome and other cities both in Alaska and the lower states, no adequate reasons were given other than the fact that they need ready cash. The village of Diomede thought an ivory"bank" in the village would alleviate the problem of raw ivory being lost to the area. Their inquiry into the feasibility of the project was rejected by the regional corporation as not being economically sound.

5. All communities with schools have programs to instruct ivory carving. The Northwest Community College is even offering such a course. In all cases those individuals that take such courses feel they should be allowed their fair share of ivory. Translating their wishes does not mean dividing up the allotted harvest, but increasing the harvest so that everyone can have a share equal to quantities obtained in the past.

The comments listed above represent views common to one or more communities, but do not necessarily represent the views of every village. The response at Diomede was of significance in that there was no hostility displayed at the meeting. Several of the village elders commented on the recent trends in walrus hunting, and the mayor expressed concern that other villages may look with disfavor at Diomede if current actions continue. A general awareness of the problem is present within this village.

Several individuals commented in private that assistance from the state and federal agencies has alleviated the need for large amounts of marine mammal meat. Declining interest in seal hunting throughout the region has indicated that this trend may be wide spread. A shift in emphasis has also taken place in several of the native stores. In past years ivory, both raw and carved, was accepted "currency" for all commodities. Carvers have found that they can sell their ivory at retail prices even in the village, and consequently ask these prices when trading for food at the stores.

The stores are finding it difficult to resell ivory purchased at retail prices, and are developing a considerable backlog on their shelves. Recently some native stores have cut back or eliminated the amount of ivory acceptable as cash payment. Therefore, the trend is toward an all cash economy. To meet their immediate needs, hunters are selling raw ivory for cash rather than searching for more lucrative markets to peddle their carved products. This problem in itself is not significant, but it is a contributing factor to a complex situation.

Due to the variety of comments, it is difficult to formulate a clear expression of the public's desire on each issue. The following is our best assessment of the majority opinion.

Ivory Permits

All communities were in favor of the idea of retaining as much raw ivory as possible in the hands of local carvers. With that goal in mind, they favored the retention of the ivory permits. However, we detected a reluctancy to abide by the paperwork requirements. When we pointed out that failure to comply with the regulations (such as selling ivory to the bar owners without a permit) would result in citation and possible fine to both parties, ivory permits were less appealing. Citing similar examples further dampened their enthusiasm for the permit system. Hunters who did not carve but had raw ivory for sale, opposed ivory permit regulations. Overall the majority

of constituents wanted to prevent raw ivory from leaving the "area". What method used was subject to debate, but retaining the ivory permit in some form seem to be the least objectionable.

Guiding

Although not entirely unanimous an overwhelming majority favored the guiding concept if they could be involved in some of the financial rewards. Their biggest objection was the lengthy requirements for a registered guides license. The following argument was common: "We have been hunting walrus all our lives. Why must we have an outside guide help us when he doesn't know anything about walrus hunting?" There is some justification to their stand. Villages like Diomede and Wales are relatively isolated, and to date have not attracted the interest of a registered guide. Some hunters in these villages have the expertise to guide walrus hunters, yet they cannot legally do so without a registered guide at their location. To alleviate this catch-22, villages wanted to see a system invoked similar to the permits in lieu of guide licenses issued by the Department of Fish & Game a few years back. Interpreting their wishes in light of our present system, they wanted a special test to obtain a Class A license. This might include but would not be limited to an oral test of the applicant and an examination of this equipment. If he met the minimum qualifications of a registered guide, then he would spend the next few years meeting all the qualifications of a registered guide without the direct assistance of a registered guide. Obtaining this plateau, he would be examined by the Guide Board like everyone else.

If such a "Class A" system was implemented, it would be approved on a species by species basis such as walrus or polar bear; a concept they supported.

We talked about guiding in term, of a quota, and it was agreed that any walrus taken by sport hunters would come out of their allotted village quota. Most wanted to see a close working relationship between the village, and the Department of Fish & Game (and other agencies) to enhance guiding in their area.

Walrus

In most cases it took awhile for the participants at the meetings to admit that a problem existed with the present annual harvest and utilization of walrus. Initially they reacted by saying the walrus population consisted of thousands of animals, and they saw no reason why they should not continue to harvest at a level commensurate with their demands. In essence if their action was biologically sound, it was morally right.

Hunters tended to view their situation from an isolated perspective. Their philosophy seemed to be if the community needs it, take it and all this was done with little thought of the consequences of their action outside their own sphere of influence. Eventually after discussing many ramifications of the issue, particularly from a statewide standpoint, most agreed that they could improve present hunting methods, and could "survive" with an annual harvest something less than 1976. However, they made it perfectly clear that they could not cut-back very far, especially in the immediate future. Their economy and culture are geared to taking a specific number of animals. The following example was cited: If a village has traditionally depended on walrus, and during the last five years has taken an average of say, 400 animals a year, then this figure represents their level of dependency. Any regulation which curtails this dependency would impose a severe hardship on the community. This was perhaps the strongest point argued throughout all the discussions.

When asked how many walrus were required to meet their needs, most villages were able to arrive at a figure which represented the will of the majority. Savoonga and Gambell agree on 450 at each village. Diomede requested 530; the King Island-Nome community had a tough time wrestling with this problem, but settled on a figure of 300.

MANAGEMENT RECOMMENDATIONS

Ivory Permits

During the spring of 1976 meetings were held in most of the important communities (utilizing marine mammals) in Game Management Unit 22 to outline walrus and ivory permit regulations. As a result a total of 336 raw ivory permits were issued from the Nome office, but in spite of our emphasis to comply with the regulations only 96 have been returned as of 25 February 1977. Three radio announcements as well as a discussion of the subject at recent village meetings has not been effective in gaining compliance. There is an apparent lack of interest in using the permit. After a meeting in Nome last spring 44 people signed a list indicating a desire to buy or sell ivory, but less than half the permits were claimed at our office. Several individuals who have tried to conscientiously abide by the regulations have told us they have seen people openly sell ivory without a permit. They know because they asked to see the sellers permit at the time of the transaction.

Currently the issuance of 1977 permits is contingent upon the return of the 1976 permit, however, to circumvent this situation many individuals report the permit as "lost". Even of the 96 permits returned to our office, 30% were blank other than the signature of the permit holder. Compliance in reporting transactions in ivory was greater from residents living outside GMU's 22-26, than areas where walrus are normally taken. Conclusions should not be drawn from this sample size, but it suggests a trend. In areas where raw ivory is scarce, the permit holder is more likely to comply with the regulations; possibly, because he has more to lose if the permit is revoked.

A cursory inspection of the permits returned indicated confusion about how the permit was to be completed. Some individuals addressed and signed their own permit when they purchased ivory, but failed to do likewise on the permit of the person from which the ivory was purchased. Other confusion was evident making it nearly impossible to follow the flow of ivory through the various transactions.

It is obvious to us that the permit has done little to stem the flow of raw ivory from those villages that claim they need this commodity to make a living. Because the permit is not accomplishing the job it was designed to do, we recommend that the permit system be dropped entirely. The many hours expended issuing permits and explaining the reason for the regulations can hardly be justified by the results obtained. We believe non-compliance will continue to plague the present system, and it will tax our budget with precious little results from our efforts.

If we are required to continue issuing raw ivory permits, we suggest an overhaul as outlined in the rewrite of the ivory permit guideline policy which we sent you a couple of weeks ago. The "new" permit system, if adopted, needs to be clearcut, self explanatory, and enforceable!

Guiding

We realize that the guiding profession is a "union-shop" organization, whose membership is limited solely to individuals who meet the specified qualifications. A closed shop may meet the needs of the urban Alaskan who is readily familiar with bureaucratic protocol; however, we do not feel this system can be fairly imposed on a rural community such as Diomede. Several members of this village (and others) have the education and the expertise to conduct a guided walrus hunt; yet, they do not easily fit into the regulatory framework that allows them to do so. Based on their comments at our meetings, we think there are justifiable complaints with the present guiding regulations.

We suggest that the Department of Fish & Game again bring this problem to the attention of the Guide Board, asking them to consider a fair solution.

We proposed they assign a registered guide to villages who wish to promote "local" guiding, and/or they allow interested hunters to take an oral test for a Class A Guide License. Certified annually, that such a Class A guide has the equipment and facilities to conduct a hunt; he would be authorized to function without the direct assistance of a registered guide. Such annual certification would be limited to a maximum of two species of game a year, and applicants would be required to take an oral Class A examination for each category of game.

Once a Class A guide met the minimum time qualification and had a sufficient number of recommendations from past clients, he could apply to take the registered guide test.

Further we recommend that a representative is appointed to assist the rural areas with guiding problems. If it is not feasible to assign a member from the guide board or a registered guide living in the area, we proposed the guide board delegate "organization authority" to the Department of Fish & Game. This would not be a mandate for regulatory authority, rather it would be to act as spokesman for the Guide Board. We envisage principal duties would include advising residents of guid regulations, verification of compliance for Class A guides, and assisting with guiding problems in the villages. Unless the present guiding regulations are substantially improved, we believe the system will promote further confrontations in rural villages.

Walrus

In formulating our walrus recommendations we relied heavily on the premise that our first responsibility as game managers was to provide for the welfare of the resource, and second to do so in a manner that was best for the good of the people. A lot of time and money went into our effort to obtain input from that segment of the public commonly identified with the problem, and we have tried to incorporate their ideas into our proposal.

Our management mandate from the Department of Interior stipulated that no more than 3000 walrus a year should be taken annually in Alaska. All our data, including the Soviet kill, suggests an annual harvest of this magnitude is within the biological carrying capacity of the walrus population. Assuming that our data are accurate our next area of concern is to design regulations that meet the needs of the people. We have weighted our recommendations in favor of those who are most dependent on the resource rather than those who are removed from this level of dependency and may have other motivations.

At our Regional meeting, we discussed and decided to propose a statewide quota system for all villages located in GMU 22, 23, and 26. This type of regulation is a new concept to the affected villages, and their initial reaction, as demonstrated in our recent meetings, is one of outright opposition. Only after a long discourse into the reasons for these regulations and the long term benefits has there been some reluctant acceptance of the idea. In order

to sell the quota concept; and gain some appreciable level of understanding, we believe is it necessary to hold meetings at all the villages. If we do not, there is a good likelihood we would have a regulation which would command a low level of compliance, and which we would be unable to "effectively" enforce due to manpower constraints.

In those 4 communities where we have presented the problem and discussed it in great depth, we received a commitment as to the number of walrus required for their annual needs. These figures were reasonably close to our proposed quota. These villages take nearly 50 of the annual harvest, and if we can reach an effective comprise with them, seemingly we have made a gigantic step towards solving confrontation on the rural level.

Our past field experience indicates the annual harvest at other villages will be limited more by weather and availability of animals, than by actual desire from hunters. From a practical standpoint it is unlikely the harvest at any of these villages will exceed 300 animals, and in most cases it will be less than 50. If "natural" conditions restrict their abiiity to harvest, then it may not be desirable to impose regulations that seem unnecessarily restrictive. It is desirable to formulate regulations that will cause the least number of problems with the using public, yet will meet our immediate management requirements to the resource.

With this objective in mind we make the following recommendations for the 1977 walrus hunting season.

Unit 18: No closed season and no limits.

Justification: The harvest in this area has averaged about 40 animals a year and has never exceeded 100. We need not impose harvest restrictions until this situation changes.

Unit 22: No closed season, a bag limit of 5 females and 10 males per man Maximum annual quota of 1900 animals distributed as follows:

Savoonga	Maximum annual quota	450	
Gambell	Maximum annual quota	450	
Rome-King Island	Maximum annual quota	300	
Diomede	Maximum annual quota	500	
All other areas	Maximum annual quota	200	of which no more than 150 can be taken by any one community.

All hunters would be required to report their kill under some sort of mandatory system, such as a harvest ticket, permit or punch card.

Justification: The quotas assigned to Savoonga, Gambell, Diomede, and Nome were based largely on recommendations from the community as to actual needs. These are a maximum quotas, and would not necessarily be attained every year. Other villages are less dependent on walrus, and could probably meet their subsistence requirements with 200 animals.

Mandatory reporting is necessary to insure that villages take no more than their authorized quota, and that the Unit Quota is not exceeded. It will also provide definitive information as to what classes of people are taking the walrus.

Unit 23 & 26: No closed season. Maximum quota of 600 animals of which no more than 150 can be taken at any one community.
Bag limit: maximum of 5 females and 5 bulls per hunter.

Justification: Alaska Department of Fish & Game harvest data for the last ten years indicates the average annual harvest for this area has been less than 300 walrus. The 1976 harvest which was abnormally high was less than 450 walrus. To meet inflationary costs, the using public indicates they require a number of walrus above recent harvest; 600 animals should more than meet this need.

Final Summary

Under the foregoing regulations the statewide harvest of walrus should not exceed 2600 animals. The combined Unit quota for 22, 23 and 26 is 2500 walrus, and Unit 18 is not likely to take over 100 animals. It is felt GMU 22 should receive a larger quota because communities from this unit have traditionally depended on walrus for a substantial portion of their existence. Communities located in other GMU's do not have the same level of dependency, because walrus are not available and/or there are other wildlife resources which are favored. A mandatory reporting procedure was not proposed for Unit 23 and 26

because the harvest at most locations has been below 150 animals annually. Until these communities are advised of the varied harvest problems, it would be difficult to enforce such a system on a statewide basis.

It is anticipated that the proposals presented here will be adopted only as interm regulations. They are designed to solve the immediate problem of excessive harvest. As hunters become aware of the national and international inplications of their actions, we can work to implement regulations that will meet other objectives; objectives that are perhaps equally important now, but that will take time to solve because of the problems of community castration.

As a final recommendation we suggest the Director or Commissioner of Fish & Game contact other state agencies such as the Department of Community and Regional Affairs, and inform them of problems where they might be able to provide assistance. Aid in the construction of freezer facilities to help alleviate the reoccurring problem of waste might be one example.

cc. Dave Johnson, Kotzebue
Harry Reynolds, Barrow
Pete Shepherd, McGrath

Alaska State Legislature

House of Representatives

Committee on Resources

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

22 February 1978

AGENDA

HCR 95 Annulling an administrative regulation adopted by the Guide Licensing and Control Board on the registration of camps.

The House Resources Committee here in Juneau will take testimony using the teleconferencing network from the remote areas first in the following order:

Ketchikan
Anchorage
Bethel
Fairbanks
Nome

Bob Maynard
Asst. Atty. General

*Testimony will then be taken from Juneau in the following order:

Rick Halford . . .	Guide
Marcus Jensen . .	Chairman, Guide Licensing & Control Board
William Bellingar	Investigator, Division of Fish & Wildlife Protection, Dept. of Public Safety
James Nutgrass . .	Investigator, Division of Fish & Wildlife Protection, Dept. of Public Safety
Sharon Andrews . .	Director of Licensing, Dep. of Commerce
Urban "Pete" Nelson	Member, Alaska Board of Game
Robert A. Rausch .	Director, Division of Game
Ray McNutt	President, Alaska Professional Hunters Association
Phil Driver. . . .	Guide, outfitter from the Arctic
Dr. Charles Keim .	Guide, member of Guide Licensing & Control Bd.
Clark Engle. . . .	Master Guide, member of Guide Licensing Bd.
H. "Glen" Glenzer.	Member, Guide Licensing & Control Board

*Due the high level of participation in the remote areas, as well as in Juneau, it is requested that witnesses keep their comments brief and to the point. This will allow everyone an opportunity to air his opinion.

If necessary, this hearing will re-convene at 7:00 p.m. this evening to finish any work necessary on the bill.

February 15, 1977

Senator Frank Ferguson
Pouch V.
Alaska State Legislature
Juneau, Alaska

Dear Senator Ferguson:

With regard to our conversation yesterday I have notified our Anchorage office in respect to having them bring the necessary records to Juneau, dealing with game units 23 through 26.

I have also asked them to bring a suitable map where guide areas could be pinpointed, showing at least what area the guides were in. The minutes for our December meeting are just being conpleted and we expect to have them ready for our meeting here in Juneau by the end of this week.

I have set aside a time of 10 AM, Saturday, February 19, 1977, in the Conference Room, Subport, Fish and Game Department, and would be happy to have you and any other interested legislators meet with us and discuss questions of mutual interest concerning the Board's activities.

Sincerely yours,

Marcus F. Jensen, Chairman
Guide Licensing & Control Board

cc: Wm. Bellingar

July 29, 1977

Senator Frank Ferguson
Box 131
Kotzebue, Alaska 99752

Dear Frank:

I was talking to the Director of Game, Bob Rausch a few days ago and he mentioned that it was practically certain that the state would be given management of the polar bear and hair seal in the very near future. The habitat of both of these animals is along the Arctic where many of the Eskimo villages are.

In talking to Mr. Rausch I am sure that there will be no more airplane hunting for polar bear. It will probably develop into dog teams and snow-mobiles. No doubt there will be a permit schedule set up where a certain number of animals will be identified for subsistence and a certain number for recreation purposes.

Our Guide Licensing and Control Board has encouraged the Natives on Nunivak and St. Lawrence Island to become interested in the guiding profession. It seems to me that some of the Eskimos at Point Hope and Wainwright and Barrow and also Kotzebue might be interested in the guiding profession for polar bear non-resident hunters. The revenue that they would receive for one hunt would far exceed anything they could get from shooting a polar bear for their own use.

The reason for this letter is to ask you if you have any suggestions on the best way to coordinate interested people in the villages, the guide board members, and the state Game personnel, where all interested parties could get together and have the Department of Game explain what they have in mind on the new program; and also have members of the guide board explain what is needed to qualify as a registered guide and how this could be implemented.

One thought - and that is that I just found out the Alaska Professional Hunters Association have a convention scheduled in Anchorage for the 3rd and 4th of December. It might be possible to get the interested parties to get together for a meeting at that time.

I would appreciate hearing from you, and any suggestions you might have. I will be away until the latter part of September, and will look forward to your reply then.

Sincerely yours,

cc: Guide Board members
Dept. of Game
Wm. Bellinger

Marcus F. Jansen, Chairman
Guide Licensing & Control Board

February 15, 1977

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Alaska State Legislature
Juneau, Alaska

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	Ketchikan	Sandy	Wendte	0
1.	Anchorage	Charity	Kadow	at least 3
4	Bethel	Janet	Schantz	0
2.	Fairbanks	April	Moore	4
3.	Nome	Irene	Haan	possibly 1

*Testimony will then be taken from Juneau in the following order:

Rick Halford . . . .Guide
Marcus Jensen . . .Chairman, Guide Licensing & Control Board
William Bellingar .Investigator, Division of Fish & Wildlife Protection, Dept. of Public Safety
James Nutgrass . . .Investigator, Division of Fish & Wildlife Protection, Dept. of Public Safety
Sharon Andrews . . .Director of Licensing, Dep. of Commerce
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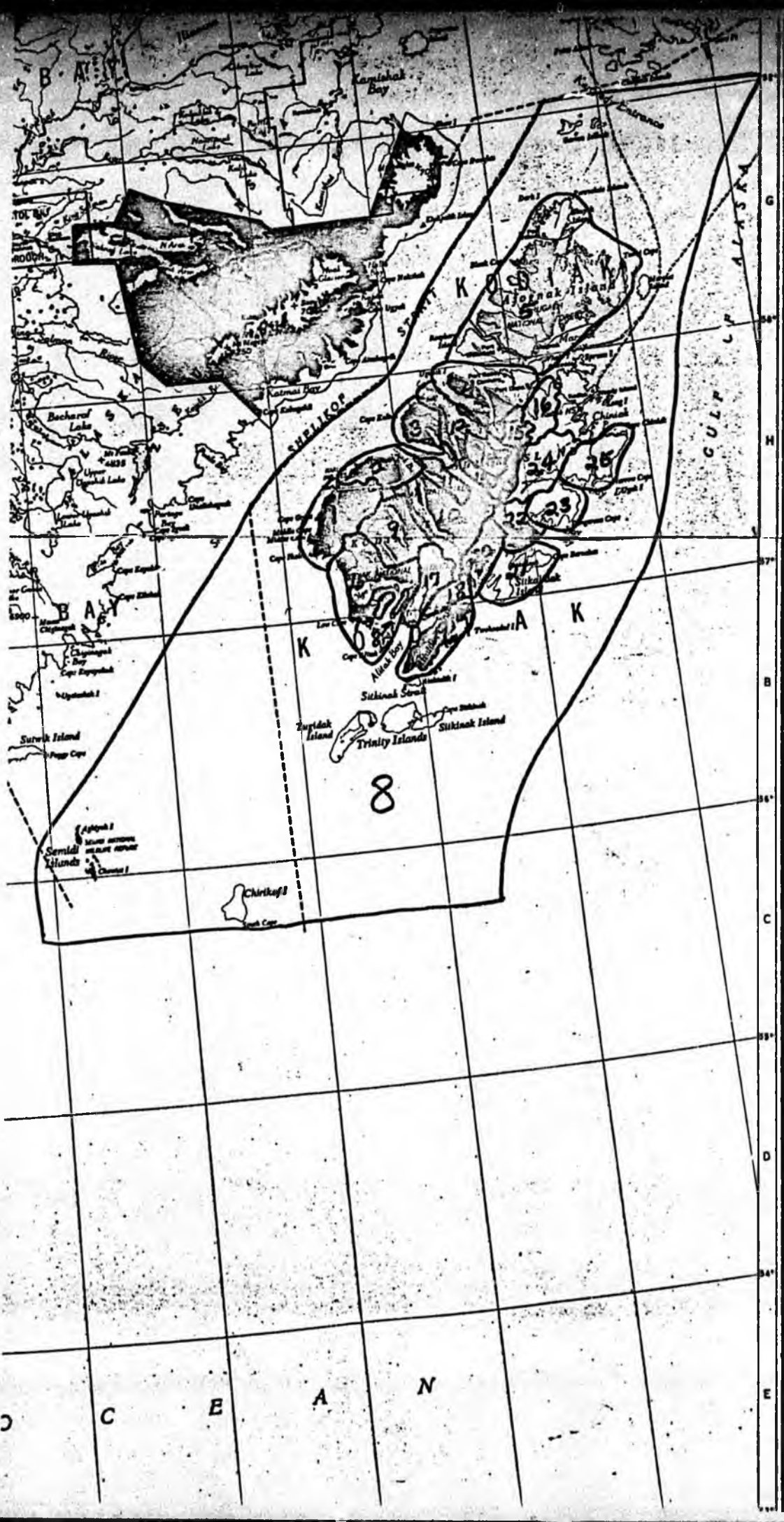
Kamishak Bay
Douglas Lake
Becharof Lake
Katmai Bay
Cape Douglas
Cape Kubugnagak
Cape Kubugnagak
Cape Ukolnik
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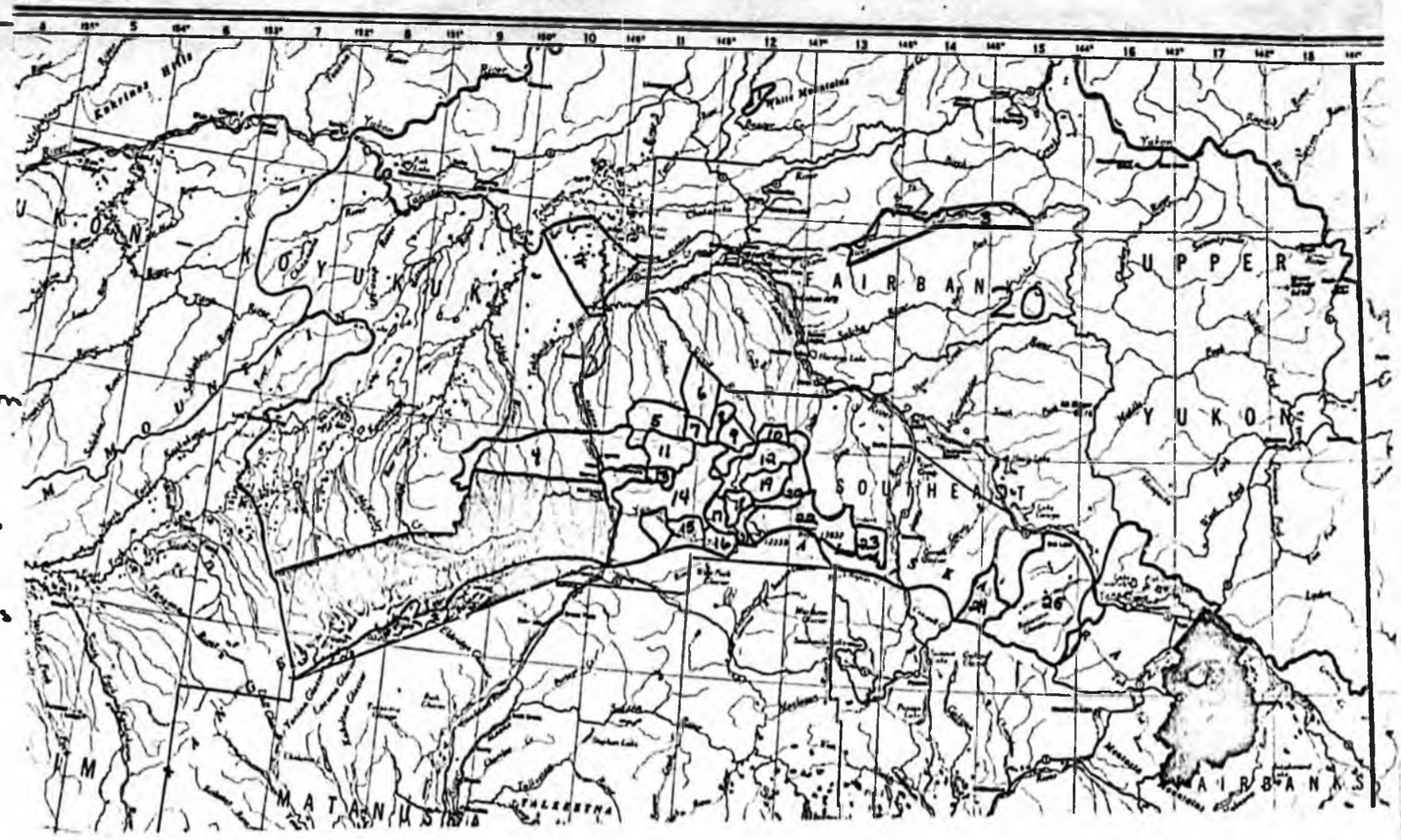
Cape Kuliak
Cape Kuliak
Cape Kuliak

SOUTHWESTERN ALASKA

KOYUKUK
YUKON
MOUNTAIN
WIM
KENAI
COOK INLET
Iliamna Lake
Kamishak Bay
Entrance
Archangel
Chickaloon Bay
Trading Bay
Redoubt Bay
Tuxedni Bay
Kachemak
Kasilof
Kenai
Soldotna
Sterling
Seward
PENINSULA
Mt. Spurr 11,070+
Mt. Redoubt 10,197+
Mt. Iliamna 10,016
Mt. Gordon 11,664+
Mt. Foraker 17,395+
Mt. McKinley 20,320+
Mt. Hayes 13,832+
Mt. Deborah 12,339+
Mt. Hess 11,940+
Mt. Crosson 11,802+
Mt. Dall 11,885+
Mt. Russell 11,670+
Mt. Silverthrone 11,660+
Mt. Huntington 12,240+
Mt. Bona 16,421+
Mt. Blackburn 16,140+
Mt. Sanford 16,237+
Mt. Wrangell 14,163+
Mt. Drum 12,010



UNIT 20

1. L. Shebal
2. R. Atkins
3. J. Olson
4. B. Mercer
5. J. Pangborn
6. F. Scott
7. Scott & Pangborn
8. A. Wright
9. W. Waugaman
10. D. Buzby
12. B. Buzby
11. Mercer & Pangborn
13. Pangborn
14. L. Castle
15. J. Thomas
16. Castle & Thomas
17. W Lambert
18. C. Gray
19. Brady & Roberts
20. L. Roberts
21. K. Fanning
22. R. Elliott
23. L. Anderson
24. C. Boyd
25. D. Benedict

UNITS 1-4 JOINT USAGE *

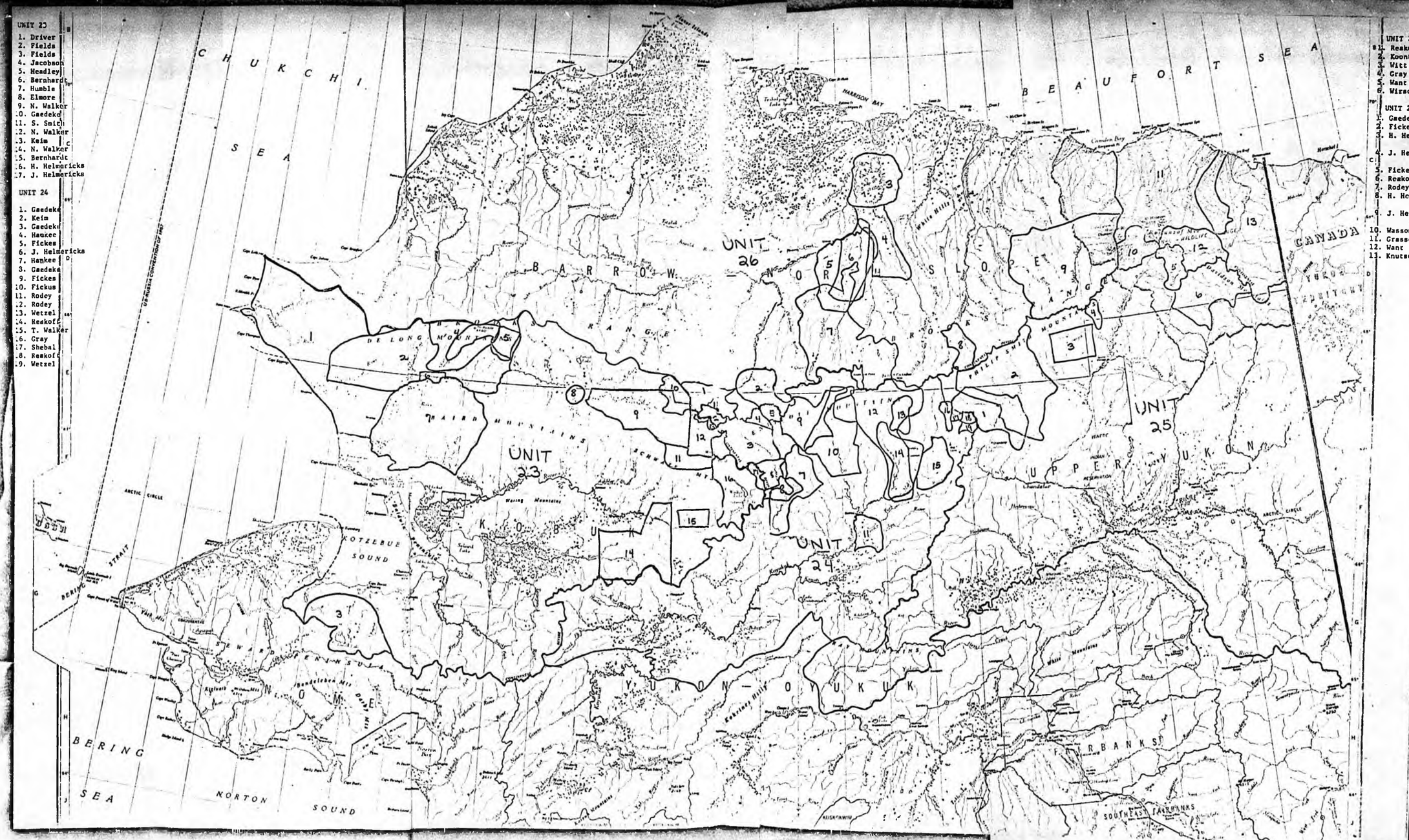
1. Frank Ingledue
2. Wm. Bernhardt
3. Roy Biffle
4. Jimmie Rosenbruch
5. Jack O'Donnell
6. Karl Lane (1,3,4)
7. Victor Lane (1,3,4)
8. Frank See, Sr.
9. Ken Schoonover
10. Wm. Peterson
11. Marcus Jensen
12. John Erickson
13. Tom Katzeek
14. Duncan Gilchrist (1,4)
15. Ben Forbes
**16.

UNIT 5

1. C. Cox
2. M. Branham
3. C. Cox
4. K. Fanning
5. C. Cox
6. K. Fanning
7. R. Rekman
8. A. Israelson
9. A. Israelson

* For Exclusive Guiding "Area" assignment purposes, Unit 1 is consider one area, Unit 2 and/or 3 - one area, and Unit 4 one area.

** Additional applications are still being accepted as of this date (4/1/77) for Units 1-4.


UNIT 23
1. Driver
2. Fields
3. Fields
4. Jacobson
5. Headley
6. Bernhardt
7. Humble
8. Elmore
9. N. Walker
10. Gaedeke
11. S. Smith
12. N. Walker
13. Keim
14. N. Walker
15. Bernhardt
16. H. Helmericks
17. J. Helmericks
UNIT 24
1. Gaedeke
2. Keim
3. Gaedeke
4. Hankee
5. Fickes
6. J. Helmericks
7. Hankee
8. Gaedeke
9. Fickes
10. Fickus
11. Rodey
12. Rodey
13. Wetzel
14. Reakoff
15. T. Walker
16. Gray
17. Shebal
18. Reakoff
19. Wetzel
UNIT 23
1. Reakoff
2. Koonts
3. Wiitz
4. Gray
5. Want
6. Wirschem
UNIT 26
1. Gaedeke
2. Fickes
3. H. Helmericks
4. J. Helmericks
5. Fickes
6. Reakoff
7. Rodey
8. H. Helmericks
9. J. Hendricks
10. Wassom
11. Grasser
12. Want
13. Knutson
CHUKCHI SEA
BEAUFORT SEA
BARROW
BROOKS RANGE
DE LONG MOUNTAINS
BAIRD MOUNTAINS
SCHWATKA MTS.
WAINWRIGHT
HARRISON BAY
WHITE HILLS
SLOPE
CANADA
YUKON TERRITORY
UNIT 26
UNIT 25
UNIT 24
UNIT 23
UPPER YUKON
ARCTIC CIRCLE
KOBUK
KOTZEBUE SOUND
BERING STRAIT
SEWARD PENINSULA
NOME
BERING SEA
NORTON SOUND
YUKON-OYUKUK
FAIRBANKS
SOUTHEAST FAIRBANKS

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

February 16, 1978

SUBJECT: HCR 95 (Work Order No. 4539)

TO: House Resources Committee

FROM: Joel F. Bennett JFB
Legislative Counsel

You have asked for my position on whether AS 08.54.040(a)(8) authorizes the Guide Licensing and Control Board to adopt 12 AAC 38.050 which in effect gives individual guides an exclusive big game guiding area, closed to other guides.

Briefly, I would state that AS 08.54.040(a)(8) is at the very least ambiguous on whether the exclusive area referred to is an established game management unit or subunit (of which there are 26, clearly delineated by map), or a smaller area within a game management unit or subunit, to be designated as necessary by board action. On its face, it is subject to both interpretations. In Senate Resources Committee discussions, this scheme was clearly intended to be a "limited entry system for guides" based on a quota, and providing for reasonable and equitable procedures for limiting the number of guides to that quota. Whether limiting a small area to a quota of one, based on use, occupancy, financial value, and "other considerations" is reasonable, is subject to differing opinion. It very possibly may not be.

Additionally, assuming the sort of system that is presently implementing AS 08.54.040(a)(8) was the sort contemplated by the legislature, it still may be subject to challenge on constitutional grounds as violative of equal protection and due process of the law. In effect, it sets up two classes of guides, and discriminates in favor of one class, presumably on the basis of conservation of the resource. A court would examine the basis for this to determine if it was reasonable and whether a less discriminatory method to effectuate the purpose is possible. Is there a better way to manage game than this, i.e., by adjusting seasons, or bag limits, etc.

A court may very well find that the granting of such a monopoly in an area obstructs competition impermissibly, fails to be a reasonable exercise of resource management, and denies persons similarly situated equal protection of the law.

The issues referred to in this letter will be more extensively treated in a further analysis by Ken Vassar of our office, who has most recently been researching the same problem. Our recent discussions would indicate that we share the opinion that further clarification of AS 08.54.040(a)(8) may be necessary.

JFB:jpd

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M April 4, 1977

SUBJECT: Guide Board Questions

TO: Representative Joseph McKinnon

FROM: Joel Bennett, Legislative Counsel

This is in answer to your questions concerning the validity of the Guide Licensing and Control Board's actions to establish "exclusive guiding areas". As background, I should state that the validity of an administrative regulation depends upon a board or agency's authority to adopt it. Regulations "implement, interpret, or make specific" statutes.

The legislature passed ch. 133 in 1976, which took effect January 1, 1977. It reads as follows:

> "...The board shall
>
> ...(8) establish a quota of licensed operating guides who may operate within designated geographical game units or subunits of the state and provide for an equitable and reasonable procedure for limiting the number of guides to that quota; preference shall be given to qualified, available and willing licensed guides who reside within the designated game unit or subunit." (AS 08.54.040(8))

Prior to this statute, under a regulation adopted in June of 1974, the board began to restrict guides to a total of three guide districts, out of the 26 districts established. I find no authority for that regulation until January 1, 1977, when the legislature authorized the above quota to be established. The quota law clearly was the first statute that contemplated a so-called "limited entry" system for guides.

I do not see that AS 08.54.040(8), authorizes exclusive areas within districts, as the guide board apparently does. In my opinion, 12 AAC 38.050, insofar as it awards exclusive areas to guides (prohibiting use by others) has no statutory

authority. The board cites AS 08.54.050 as its authority, but this is a general statutory authority and I think does not contemplate the scheme adopted in 12 AAC 38.050. As evidence of this, the legislature felt it necessary to pass ch. 133 SLA 1976, giving the board authority to adopt a quota restriction, apparently concluding then, that no authority existed under the board's general statutory authority.

You refer to the latest regulatory amendments (Register 50; am 2/25/77) and question their authority as authorizing exclusive areas outside of Units 8, 16, and 20. I question the validity of 12 AAC 38.050 in the first place --- and can find no statutory authority for it creating the initial exclusive areas --- such action goes far beyond the board's general authority to "regulate guiding activity". Even assuming that 12 AAC 38.050 is valid, granting exclusive areas outside of Units 8, 16 and 20 before the date of the recent amendment (2/25/77) would not have been valid. I understand that this is what you feel has happened.

I would summarize by saying that the implementation of "exclusive guiding areas" has no defensible statutory authority, and that an exclusionary application of 12 AAC-38.050 could be successfully challenged.

Incidentally, my initial memorandum of March 18, 1977, dealt with the relationship between AS 08.54.040(8) and 12 AAC 38.040, not with the question of exclusive areas within districts.

I hope this will be of some assistance to you.

JB:lmk

A PERFORMANCE REVIEW OF GUIDE LICENSING AND CONTROL BOARD DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

October 14, 1977

Commissioner, Department of Commerce and Economic Development	H. Phillip Hubbard
Chairman, Guide Licensing and Control Board	Marcus F. Jensen

A PERFORMANCE REVIEW OF GUIDE LICENSING AND CONTROL BOARD DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

October 14, 1977

Commissioner, Department of Commerce and Economic Development	H. Phillip Hubbard
Chairman, Guide Licensing and Control Board	Marcus F. Jensen

31-01LH

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

FINANCE DIVISION
POUCH WF—STATE CAPITOL

BUDGET AND AUDIT COMMITTEE JUNEAU 99801

October 14, 1977

Members of the
Legislative Budget and Audit Committee:

In accordance with your request and provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review:

A PERFORMANCE REVIEW OF
GUIDE LICENSING AND CONTROL BOARD
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

October 14, 1977

Gerald L Wilkerson

Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE OF THE REVIEW

In accordance with a Budget and Audit Committee request and the provisions of Title 24 of the Alaska Statutes, a performance review of the Guide Licensing and Control Board was conducted to determine if:

1. The Board's organization and operation are in compliance with applicable statutes.

2. Statutory obligations are being met.

3. The Board is effectively aiding the Alaska citizenry.

ORGANIZATION AND FUNCTION

The Guide Licensing and Control Board (GLCB) was established by the 1973 Session Laws of Alaska and succeeds the Board of Fish and Game, Department of Fish and Game, which previously regulated the guiding industry. The seven member GLCB is appointed by the Governor with confirmation by the Legislature and is restricted to having no more than three members as licensed guides.

The GLCB is organized under the Department of Commerce, Division of Occupational Licensing. Two budgeted positions, a Guide Investigator and Administrative Assistant, in the Department of Public Safety, Division of Wildlife Protection, have been provided to assist in the licensure and investigations of guides.

The function of the Board is primarily regulatory, mandated by AS 08.54.040. Accordingly, the Board has the capacity to administer examinations; determine qualifications of guides; establish performance standards and regulate activities; maintain guide registers; prohibit harmful guiding activities; conduct hearings regarding licensure; and establish quotas of guides for specified geographical areas.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

In the assignment of Exclusive Guiding Areas (EGA's), the Guide Licensing and Control Board (the Board) should uniformly apply the criteria established for the Game Management Unit under consideration.

AS 08.54.040(8) requires that an equitable and reasonable procedure be followed in assigning Exclusive Guiding Areas. In the March 25-27, 1977 Board meeting, the following criteria was established for the assignment of EGA's in Unit 9:

1. Permanent Area. At least three years of Statements of Financial Remuneration (contracts) and/or three Bear Camp Registrations on file within five (5) years as of November 1, 1976.

2. Temporary Area. Same as above except only two years of contracts and/or Bear Camp Registrations are required.

We found three applicants who were denied temporary EGA's in Unit 9 on the basis of an insufficient number of contracts on file. From the records on file at the Guide Investigator's Office we determined that these individuals had the required number of Bear Camp Registrations to qualify for a temporary EGA. There are several similar cases where other applicants did not have contracts on file, but did receive a temporary EGA solely on the basis of having the required number of Bear Camp Registrations.

The lack of uniform applications of the established criteria creates the following problems:

1. Affected individuals may initiate legal action against the State of Alaska.

2. The Board's credibility and fairness in the exercise of its authority may be questioned.

Recommendation No. 2

The Guide Licensing and Control Board (the Board) should obtain adequate documentation of previous experience to insure that only qualified applicants are being issued Class-A Assistant Guide Licenses.

We found no record to document that several individuals licensed by the Board in 1976 were qualified to serve as Class-A Assistant Guides.

AS 08.54.120 states in part that to qualify for a Class-A Assistant Guide License, the applicant must have served at least one season as a Licensed Assistant Guide. An applicant may alsc qualify if previously issued a permit in lieu of a Registered Guide License by the Department of Fish and Game.

A Class-A Assistant Guide may essentially perform the same service that a Registered Guide performs, except he is unable to contract for hunts. Therefore, it is essential for the protection of the public that a Class-A Assistant Guide possess the required experience to conduct a hunt in a competent and safe manner. The Board did not obtain the adequate documentation necessary to determine that the aforementioned applicants meet the experience requirement.

Recommendation No. 3

The Department of Law should take prompt action against Guides who violate Guide Board Statutes and Regulations.

The Department of Law has not timely processed accusations against Guides who have been accused of violating Guide Board Statutes or Regulations; or taken action against Guides who have not filed Statements of Financial Remuneration (contracts), as required by Regulation 12 AAC 38.060. This has resulted in the following problems:

1. Several of these accusations are quite old and recently a Hearing Officer recommended dismissal of an accusation because of its age.

2. A large number of Guides are not filing their contracts.

The enforcement of Guide Board Statutes and Regulations are necessary to ensure that:

1. Guide Board Statutes and Regulations are consistently applied.

2. The Guiding Industry is adequately regulated.

3. The public is adequately protected.

Recommendation No. 4

The Guide Licensing and Control Board (the Board) should develop program objectives that state specifically what is to be accomplished in quantitative terms.

Program objectives describe what a Board is seeking to accomplish during a specific fiscal year. Well formulated

objectives are capable of measurement and should include numeric targets so that actual accomplishments can be compared with stated targets.

The State Statutes identify what the goals of the Board are, but the Board has not formulated the objectives necessary to meet these goals or stated them in quantitative terms.

Effective program management and control is best achieved when comparisons can be made between predetermined objectives and actual performance. Variations that result can be analyzed and the necessary corrective action can be taken so that desired program objectives can be obtained.

CURRENT ISSUES

Legality of Exclusive Guiding Areas

The question has been asked, does the Guide Licensing and Control Board (the Board) have the authority to establish exclusive guiding areas?

The Attorney General issued an opinion in April, 1977 stating that the Board has the authority to establish exclusive guiding areas.

In order to clarify this matter, we requested a legal opinion from Legislative Affairs. Legislative Affairs issued an opinion which stated that section one of 133 SLA 1976 - AS 08.54.040(a)(8) - gives the Board the authority to establish exclusive guiding areas.

Game Violations by Guides

We were informed by Investigators for the Department of Public Safety (DPS) and Guides that game violations by certain Guides is a significant problem. They allege that a common practice among certain Guides is the hunting of brown bears the same day airborne, which is prohibited by Regulation 5 AAC 81.070.(a)(6).

We recommend the Guide Licensing and Control Board study the problem of game violations by Guides and take appropriate action to solve the problem.

Equal Opportunity for Alaskan Natives

We found that the Guide Licensing and Control Board has made an effort to increase participation of Alaskan Natives in the Guiding Industry. For example, the Board has:

1. Created two sub-districts in the Arctic (Nunvikak Island and St. Lawrence, King and Little Diomede Island). Before this action, Guides had to qualify for all the Arctic.

2. Visited Native Villages and explained what the Guiding Industry was about.

3. Gave special oral examinations to Alaskan Natives.

However, the Board should increase its effort to ensure that qualified Alaskan Natives are given an opportunity to participate in the Guiding Industry.

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING POUCH D – JUNEAU 99811

November 29, 1977

RECEIVED
DEC 1 1977
LEGISLATIVE AUDIT

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W, Alaska Office Building
Juneau, Alaska 99811

Dear Mr. Wilkerson:

I have received your preliminary report on the Guide Licensing & Control Board. I appreciate this opportunity to make a few comments on the review. My comments will refer to the recommendations that you have made, and I will start by commenting on Recommendation No. 1:

Your concern in this recommendation is that three individuals who had the required number of bear camp registrations did not receive a temporary permit. The reason they did not receive their temporary permit at our first hearing on Unit 9 was because they had over-filed on areas being used by older guides. In examining some of these individual cases the Board's concern was a possible building up of too much hunting impact in a small given area. We told these applicants to continue to examine the map on Unit 9 and see if they could find some areas that would be open and usable in that Unit. At a later meeting, areas for these individuals were being developed. The problem was not a lack of uniform application. I think the problem was the Board's concern of being realistic in trying to protect the resource from over-harvest. In most cases the guides themselves recognize this, although it seems that each man does everything possible to try and improve his own situation, which is probably to his credit.

Recommendation No. 2: In the matter of issuing several Class A guide licenses in 1976 I wish to report that this is certainly a special case that needs clarifying. The normal procedure for an applicant to receive a Class A license is to have it handled by our investigator, William Bellingar, who checks out the necessary requirements for the license. Normally, this takes anywhere from three to six months.

The case you are referring to relates to St. Lawrence Island. Back two years ago the Guide Licensing and Control Board was studying the impact of establishing individual guide areas. It was decided at that time not to include the Arctic Coast under individual cases but leave it open. The Board had a three-point approach:

08-H8LH

1. leave Arctic Coast open;
2. meet with the Natives on the village level and explain the guide program;
3. give oral tests to some Native guides to the extent they could come under the class of registered guide.

All three of these points have been accomplished. We now have Native registered guides, Ed Shavings, Sr., at Nunivak, Winfred James at Gambell and Hakie at Savoonga.

I authorized one of our Board members, Charles Keim, to travel to St. Lawrence Island, with a Fish and Game Protection Officer, to meet with the Natives in regard to giving them a license for guiding walrus hunts, which had just been approved by the State Department of Fish and Game. Our Act permits our Board to give oral exams for licenses under certain circumstances. We felt that the situation at St. Lawrence Island was unique, in that all those given a Class A license were Native residents, had lived and hunted there all their lives. Mr. Keim is very much of a perfectionist in giving exams and he personally checked each one of these men out before issuing him a license. Because this was the first year of guiding activity for walrus the Board felt it did not want to be put in the position of making it difficult for resident Natives to share in this vocation. We, therefore, extended ourselves in expediting this type of license. It should in NO way reflect in an adverse way against the thoroughness that is normally practiced by our Fish and Game Protection Division in issuing these licenses. I think this is another example of the Board extending its right hand to help the Native population under emergency timing.

Recommendation No. 3: With reference to the Department of Law and the time it takes to process accusations, I think that in this area the Office of the Attorney General and the Board should have some open dialog. I believe that in many cases the Board itself could help expedite some of the minor violations and help relieve the load that continually builds up in the Attorney General's Office. I think it would be helpful if we could write up some procedural steps that can be followed both by our Board and by the Attorney, in processing the violations.

Recommendation No. 4: The recommendation is that our Board should develop program objectives. I would agree with this recommendation as I personally, and I know the other Board members do too, like to have our future programs well established. We have tried to do this in the past, and I think very successfully. If you were to examine the minutes for the past two years you would find that our program has been aimed toward strengthening our guide standards. This has been accomplished by passing our 16-point Code of Ethics, in addition to our main program of giving exclusive guide areas in the 26 game units. We have proceeded with this program as expeditiously as possible, holding long hearings and working many hours each day. At our upcoming December meeting in Anchorage, we have listed for allocation the last five game units and when these are completed, we will have finished allocating all the game units in Alaska.

Our Board, at this next meeting, will set up a new program for the coming year. There is much yet to be done in smoothing out the rough spots and we will attempt to do this. We have had excellent cooperation from the Department of Commerce and Economic Development's Occupational Licensing Division under Mrs. Sharon Andrew. Also, I am proud to say that our staff in Anchorage has turned in an excellent record of dedication and efficiency. When one considers that a filing system had to be set up for 450 registered guides and 500 assistant guides, plus keeping track of all the mail and questions that come in, one can see that the staff certainly has been very busy.

In closing, there are a few observations that I can make that might be interesting. In assigning individual guide areas, it has brought to a minimum violations by aircraft. For example, no more is it necessary for a guide to cover the lower peninsula looking for brown bear when he knows the only area he can hunt in is his own assigned area. I have been surprised at how protective and jealous the individual guides have become, after assigning them their own area. The guides themselves have shown great cooperation in making this new program work. The one area that is still somewhat "tender", and we are working at it constantly, is the action of the few new guides who over-file in trying to establish areas for themselves. We will be working constantly with these people to satisfy their needs to the best of our ability.

I think it has been very helpful to have had a review by the Audit Department and I certainly appreciate the high caliber of men in the Department and the open manner in which they go about their business.

Respectfully yours,

Marcus F. Jensen

Marcus F. Jensen, Chairman
Guide Licensing & Control Board

MFJ:cw2/10

08-H2LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER / POUCH D – JUNEAU 99811

December 2, 1977

RECEIVED
DEC 7 1977
LEGISLATIVE AUDIT

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

Dear Mr. Wilkerson:

In accordance with provisions of Alaska Statutes and procedures established for the implementation of Legislative Budget and Audit Committee Review of executive agencies, the attached is submitted:

CONSOLIDATED AGENCY RESPONSE TO:
A PERFORMANCE REVIEW OF
GUIDE LICENSING AND CONTROL BOARD
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

Unless otherwise stated, the sections have been prepared separately by the agencies named and the positions stated in each do not necessarily represent those of the other contributors.

Sincerely,

H. Phillip Hubbard

H. Phillip Hubbard
Commissioner

by Jan J. Cook

CONSOLIDATED AGENCY RESPONSE TO

A PERFORMANCE REVIEW OF
GUIDE LICENSING AND CONTROL BOARD
DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

DECEMBER 1, 1977

Commissioner, Department of Commerce and Economic Development	H. Phillip Hubbard
Chairman, Guide Licensing and Control Board	Marcus F. Jensen
Attorney General, Department of Law	Avrum Gross

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SECTION I

COMMENTS OF DEPARTMENT OF COMMERCE
AND ECONOMIC DEVELOPMENT

A. ORGANIZATION AND FUNCTION

Presented on page 4 of A Performance Review of Guide Licensing and Control Board Department of Commerce and Economic Development (Report), is a brief analysis of the organization and function of the Guide Licensing and Control Board (Board). The analysis is accurate, however, no reference is made to the overall purpose of regulation of this industry.

While no stated Legislative objective is found in AS 08.54, it is the department's understanding that regulation of the game guide industry is primarily for the enhancement of the State's game management, as well as the protection of the consumer. The continued utilization of this important renewable resource is contingent upon controlled harvesting, in order to avoid depletion of the resource.

B. FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

In making this recommendation, it appears, the auditors relied solely upon the minimum usage requirements established by the Board in order for an applicant to be eligible for either a temporary or permanent Exclusive Guiding Area (EGA), to determine that the criteria established were not being applied uniformly.

It is the Department's understanding that the Board has always considered additional factors such as the number of minimally qualified applicants for a specific EGA in relation to the harvestable resource available. This is consistent with the overall purpose of the regulatory effort in this industry. Since the review of the Board's records did not reveal this information, the Department will recommend that the Board take action to more clearly delineate its criteria.

Recommendation No. 2

The circumstances surrounding the issuance of certain Class A Assistant Guide Licenses in 1976 were unusual. The management of some marine mammals was returned to the State after a number of years under federal jurisdiction. As a result, a limited number of walruses were to be harvested within a short time frame, the Board determined it to be in the public interest to assure that Alaska Natives, familiar with the local terrain and hunting of walrus be licensed.

The Department concurs with Recommendation No. 2, but recognizes the legitimacy of the Board's concerns in this instance and will work with the Board to develop an appropriate procedure for fulfilling this recommendation when unique circumstances are present.

Re mmendation No. 3

The Board's relationship with this Department is different from that of the other occupational boards which are organized under it. The Legislature has funded two positions in the Department of Public Safety, Division of Wildlife Protection to assist the Board in its investigative enforcement capacity. Therefore, the Division of Occupational Licensing has only been involved in this aspect to a very limited degree and the Department has insufficient information upon which to base a response.

It should be noted, however, that in recent months, th s Department of Law has developed written procedures for uniform managmenet of administrative proceedings by its staff and written guidelines for agency use which will result in more efficient handling of these proceedings.

Recommendation No. 4

The Department concurs with this recommendation and will within existing constraints work with the Board in an effort to identify quantifiable objectives.

CURRENT ISSUES

This section of the Report (see page 8) identifies correctly some major current concerns for effective regulation of the Guiding Industry.

SECTION II

COMMENTS OF GUIDE LICENSING AND CONTROL BOARD

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING POUCH D – JUNEAU 99811

December 2, 1977

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W, Alaska Office Building
Juneau, Alaska 99811

Dear Mr. Wilkerson:

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Recommendation No. 2: In the matter of issuing several Class A guide licenses in 1976 I wish to report that this is certainly a special case that needs clarifying. The normal procedure for an applicant to receive a Class A license is to have it handled by our investigator, William Bellingar, who checks out the necessary requirements for the license. Normally, this takes anywhere from three to six months.

The case you are referring to relates to St. Lawrence Island. Back two years ago the Guide Licensing and Control Board was studying the impact of establishing individual guide areas. It was decided at that time not to include the Arctic Coast under individual cases but leave it open. The Board had a three-point approach:

1. leave Arctic Coast open;
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3. give oral tests to some Native guides to the extent they could come under the class of registered guide.

All three of these points have been accomplished. We now have Native registered guides at Nunivak, Gambell, and Savoonga.

I authorized one of our Board members, Charles Keim, to travel to St. Lawrence Island, with a Fish and Game Protection Officer to meet with the Natives in regard to giving them a license for guiding walrus hunts, which had just been approved by the State Department of Fish and Game. Our Act permits our Board to give oral exams for licenses under certain circumstances. We felt that the situation at St. Lawrence Island was unique, in that all those given a Class A license were Native residents, had lived and hunted there all their lives. Mr. Keim is very much of a perfectionist in giving exams and he personally checked each one of these men out before issuing him a license. Because this was the first year of guiding activity for walrus, the Board felt it did not want to be put in the position of making it difficult for resident Natives to share in this vocation. We, therefore, extended ourselves in expediting this type of license. It should in NO way reflect in an adverse way against the thoroughness that is normally practiced by our Fish and Game Protection Division in issuing these licenses. I think this is another example of the Board extending its right hand to help the Native population under emergency timing.

Recommendation No. 3: With reference to the Department of Law and the time it takes to process accusations, I think that in this area the Office of the Attorney General and the Board should have some open dialog. I believe that in many cases the Board itself could help expedite some of the minor violations and help relieve the load that continually builds up in the Attorney General's Office. I think it would be helpful if we could write up some procedural steps that can be followed both by our Board and by the Attorney in processing the violations.

Recommendation No. 4: The recommendation is that our Board should develop program objectives. I would agree with this recommendation as I personally, and I know the other Board members do too, like to have our future programs well established. We have tried to do this in the past, and I think very successfully. If you were to examine the minutes for the past two years you would find that our program has been aimed toward strengthening our guide standards. This has been accomplished by passing our 16-point Code of Ethics in addition to our main program of giving exclusive guide areas in the 26 game units. We have proceeded with this program as expeditiously as possible, holding long hearings and working many hours each day. At our upcoming December meeting in Anchorage, we have listed for allocation the last five game units and when these are completed, we will have finished allocating all the game units in Alaska.

Our Board, at this next meeting, will set up a new program for the coming year. There is much yet to be done in smoothing out the rough spots and we will attempt to do this. We have had excellent cooperation from the Department of Commerce and Economic Development's Occupational Licensing Division under Mrs. Sharon Andrew. Also, I am proud to say that our staff in Anchorage has turned in an excellent record of dedication and efficiency. When one considers that a filing system had to be set up for 450 registered guides and 500 assistant guides, plus keeping track of all the mail and questions that come in, one can see that the staff certainly has been very busy.

In closing, there are a few observations that I can make that might be interesting. In assigning individual guide areas, it has brought to a minimum violations by aircraft. For example, no more is it necessary for a guide to cover the lower peninsula looking for brown bear when he knows the only area he can hunt in is his own assigned area. I have been surprised at how protective and jealous the individual guides have become after assigning them their own area. The guides themselves have shown great cooperation in making this new program work. The one area that is still somewhat "tender," and we are working at it constantly, is the action of the few new guides who over-file in trying to establish areas for themselves. We will be working constantly with these people to satisfy their needs to the best of our ability.

I think it has been very helpful to have had a review by the Division of Legislative Audit and I certainly appreciate the high caliber of men in the Department and the open manner in which they go about their business.

Respectfully yours,

Marcus F. Jensen, Chairman
Guide Licensing & Control Board

MFJ:cw2/10

SECTION III

COMMENTS OF DEPARTMENT OF LAW

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU 99811

December 2, 1977

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W - Alaska Office Building
Juneau, Alaska 99811

Dear Mr. Wilkerson:

This letter is in response to your preliminary audit entitled "A Performance Review of Guide Licensing and Control Board, Department of Commerce and Economic Development, October 14, 1977.

This audit finds shortcomings with the Department of Law in two respects: (1) failure to timely process accusations against guides for violation of the licensing statutes; (2) failure to take action against guides who have not filed Statements of Financial Remuneration required by 12 AAC 38.060. Let me briefly respond to each in turn.

Failure to Timely Process Accusations Against Guides for Violation of the Licensing Statute

The audit is correct in stating that several accusations are quite old and that, in one case, a hearing officer recommended dismissal because of the remoteness of the events which were the subject of the accusation. The audit, I believe, errs in attributing these facts to deficiencies in the Department of Law.

A review of the guide board docket and our own files discloses that, with respect to the oldest case, there is no record that the department received investigatory reports for which accusations might have been filed. Had they been received, it is fair to presume that action would have been taken immediately, since particularly in the occupational licensing field our department has acted swiftly to initiate disciplinary proceedings. Other cases have been active for varying lengths of time. Any delays have been the result of attempting to serve papers on the respondents, scheduling by the hearing officers, and final action on proposed decisions.

With respect to the specific allegation regarding dismissal of one case by a hearing officer for staleness, I would simply refer you to my response of October 10, 1977, a copy of which is attached. I believe the explanation contained in it adequately characterizes the events.

Contrary to the implications of the audit, I believe the department has been expeditious in its handling of these licensing matters. When the evidence is there, we move with all deliberate speed.

Failure to Take Action Against Guides Who Have Not Filed Statements of Financial Remuneration

The Department of Law has never refused to initiate administrative proceedings against licensed guides for violation of 12 AAC 38.060. In fact, department personnel have encouraged the Guide Board Investigator to prepare cases based on violations of this regulation.

The department has declined to criminally prosecute guides for violation of 12 AAC 38.060. There are several reasons why prosecutions are not initiated, but they boil down to this: it is nearly impossible to convict a guide under that regulation. Let me elaborate. When a district attorney evaluates a case, he or she views it against the standard of proof required in criminal cases: proof beyond a reasonable doubt. To be successful in prosecuting a guide will require that either the client (hunter) or an employee of the guide testify, against the guide, that a hunt was conducted. Since over 80 percent of guided hunters are nonresidents, it is extremely expensive to procure their testimony. Their appearance cannot be required in our courts. The testimony of a guide's employees is difficult to procure. But even if the State can overcome those hurdles and can prove the hunt occurred, the guide can always say that he mailed the Statement of Financial Remuneration to the appropriate office, but that it was "lost in the mail". The jury returns a verdict of not-guilty; the prosecutor has wasted valuable and limited resources; and a smug and no less unscrupulous guide goes about his business-as-usual.

In this light I believe that the department's decision to deal with these violations through disciplinary proceedings is a wise one. The department has dealt with these cases diligently. Accordingly, I urge you to review and revise your audit in that regard.

Sincerely,

Avrum M. Gross
Attorney General

AMG:BB:cb

Keeping File

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL / POUCH K—STATE CAPITOL JUNEAU 99811

October 10, 1977

Mr. Roger LaVine
Audit Manager
Division of Legislative Audit
Pouch W - Alaska Office Bldg.
Juneau, Alaska 99811

Re: Interim Letter No. 2
Guide Licensing & Control
Board Audit

Dear Mr. LaVine:

I am in receipt of your letter dated October 6, 1977, regarding your audit of the Guide Licensing and Control Board, and expressing your concern with the Department of Law's processing of accusations for that board. Before reviewing this matter on a case by case basis, I feel that some initial observations are in order.

The history of some of the cases does reflect the fact we were extremely short staffed in 1976 with regard to Guide Board matters, because the attorney position assigned to these matters was not filled for most of the year. In addition, there have been a few cases which have not moved as quickly as they might have. But, in many instances, this has not been the fault of this office. Moreover, review of those cases filed with our office in 1977 will reveal, I believe, that in recent months any problems which existed with respect to the processing of accusations has been resolved.

It has been alleged that the Department of Law has not taken action against guides who have not filed Statements of Financial Remuneration (contracts), as required by 12 AAC 38.060. First of all, criminal prosecution of a guide for failure to file a Statement of Financial Remuneration should be differentiated from administrative action, initiated by accusation, against the guide's guiding privileges, i.e.

proceedings to suspend or revoke the guide's license, taken for this type of violation.

With regard to criminal prosecution of a guide for violation of 12 AAC 38.060, it appears that certain attorneys in various district attorneys' offices have declined to prosecute guides under this regulation. For the reasons outlined below, their decision seems to be reasonable. The evidentiary problems associated with criminal prosecution of a guide under this regulation are substantial, especially when considered in light of the standard of proof applied in criminal proceedings, i.e. proof beyond a reasonable doubt. In most cases, successful prosecution of a guide under this regulation will require that either the client (hunter) or an employee of the guide testify, against the guide, that a hunt was conducted. Since 80 percent of guided hunters are nonresidents, it is extremely expensive to procure their testimony. Furthermore, we have no way of requiring their appearance in our courts. The testimony of a guide's employees is difficult to procure for obvious reasons. In addition, even if we can prove the hunt occurred, the guide can always say that he mailed the Statement of Financial Remuneration to the appropriate office, but that it was "lost in the mail", thereby defending himself. While 12 AAC 38.060 is a valuable enforcement tool, of the many guiding regulations, it is one of the least significant in terms of furthering the Guide Board's statutory purpose to "prohibit guiding activities which are unsportsmanlike, unethical, unsafe, against principles of conservation, degrading to the guiding profession, or which adversely effect the natural resources," as set forth in AS 08.54.040(6). In light of the evidentiary problems, the expense, and the relative significance of 12 AAC 38.060, it would seem that violations of this nature would be more properly pursued in administrative proceedings.

This was discussed with the Guide Board Investigator early this year. It was agreed at that time that the Department of Law would deal with violations of 12 AAC 38.060 administratively through license revocation or suspension proceedings. The Department of Law has never refused to prosecute guides under this regulation by the latter means. To the contrary, the Guide Investigator has been encouraged to prepare cases based on violations of this regulation for administrative treatment via accusation. The Department of Law has just recently prepared an accusation based on the charge of failure to file a Statement of Financial Remuneration.

It has also been alleged that the Department of Law has not processed accusations in a timely fashion against guides who have been accused of violating guiding statutes

or regulations. By telephone conversation of October 7, 1977, you have specifically requested information on the status of the following cases. They are referred to by case number to protect the identity of the accused guides. The dates following the case number indicate the date on which the Guide Board Investigator believes an accusation request was filed with the Department of Law:

1. C 77-5084 (04-29-76) A hearing was held on this case four or five months ago. It was to be held earlier, but the guide, who resides in the State of Washington in the winter, requested that it be held later, so that it would be convenient for him to attend. The Hearing Officer requested supplemental briefing, following the hearing. The Hearing Officer has issued his proposed decision, however the Department of Law intends to request reconsideration of it. Therefore, the matter is still "open". In any event, the Board will not meet until December of this year, and their final approval is necessary for proposed disciplinary action to become effective.

2. C 75-1424/C 75-01107 (1975) The hearing in this case is set for October 18, 1977. We have encountered a number of problems attempting to locate the respondent in this matter, and once we were able to do so the hearing was set on immediately for the first time available at which both the Hearing Officer and the respondent could be present. The Department of Law has gone to great lengths in many of these cases to allow the respondent to be present. This is often difficult because the guides spend a great deal of time in the field or are otherwise unavailable. (In this case, the respondent is a commercial fisherman.)

3. C 77-5089 (04-20-74) The Guide Investigator indicates that this matter was filed with the Attorney General's Office in April of 1974. When the Attorney General's Office was requested to take action on this case in the spring of this year, a complete search was made of the office, and no record of such a case was found. The office informed the Guide Investigator that there was no record of any file having been opened on this matter or of any documents pertaining to it in the office. Subsequently, the Investigator supplied the office with a new accusation request and supporting documents. These have been reviewed, and it has been determined that the case is too old for prosecution. It involves incidents which occurred approximately five years ago. Moreover, the Investigator requested that accusations be filed against two guides. One of them is simply not liable under the laws of our state for the activities complained of. Proceedings against the other guide

would entail out-of-state depositions which would be difficult and expensive to obtain. Budget limitations simply do not permit us to proceed in this manner except in the "best" of cases.

4. E 2054 (03-20-75) This office has no record of having received an accusation request against this individual. Informal discussions were held with regard to the possibility of proceeding against him, however supporting documentation was never supplied.

5. C 77-11423 (10-15-76) This is the case referred to in your letter, at the bottom of page one, in which a Hearing Officer recommended dismissal of an accusation because of its age. It should be noted that he also recommended dismissal because he did not believe the guide was guilty of the violations as charged. The incidents giving rise to the accusation occurred in November, 1975. The Department of Law received an accusation request in October, 1976. An accusation was filed shortly thereafter, and a Hearing Officer was assigned to hear the case early in 1977. He was unavailable for a hearing date until May, 1977, when he heard the case. At the hearing, he acknowledged the intervening five-month delay as being his fault. In addition, criminal proceedings were brought against this guide based on the same incidents. It is the practice of the Department of Law, to wait until the criminal proceedings are resolved before proceeding administratively, to avoid duplicative effort on the part of our attorneys, since licenses are often revoked in the course of criminal proceedings.

6. C 77-5092 (04-14-76) This case number references two cases, based on the same incident. Under the Guide Statutes, a registered guide is vicariously liable for the acts of his assistant guide. A hearing was held last March with respect to the assistant guide, and the Hearing Officer recommended a three-year suspension of his license. At the Guide Board meeting in July, the Board affirmed this decision, and the guide's license was officially suspended. At that time, the Board instructed the Assistant Attorney General present to proceed against the registered guide's license also. An accusation is currently being prepared against the registered guide.

7. C 76-18396 (12-08-76) This case is currently being reviewed to see if there is sufficient evidence to proceed with an accusation against the guide.

8. C 76-14769 (12-08-76) A preliminary hearing was held on this case last December based on complaints

filed by various clients of the guide. At that time, the Board instructed the Department of Law to proceed with an investigation of the case and to file an accusation against the guide based on alleged unethical conduct, specifically, taking out clients too early in the season to give them a good hunt, poor food, and double booking aboard the guide's boat. Since that time, the Department of Law has determined that while there may be merit in the complaints, there is not sufficient evidence present to support legal action against the guide, as there are as many letters from clients on file which praise the guide, as criticize him. However, investigation has uncovered one possible violation of a game regulation, which may have occurred on board the guide's boat, to-wit: shooting a deer from the boat. The Division of Fish & Wildlife Protection is currently investigating this charge. When their report is received, the Department of Law will determine whether there is sufficient evidence to proceed against the guide at this time.

9. C 77-11983 (09-23-76) An accusation has been filed against this guide, but he has not returned a Notice of Defense indicating that he intends to defend against it. A Hearing Officer has been requested. The hearing should be held in the near future, and the matter should be ready for final disposition by the Board at their December meeting.

As you know, the Guide Board Investigator has filed a number of accusation requests with the Department of Law this year, all of which have been filed since April. In our telephone conversation of October 7, 1977, you indicated that you would like review of these case to be treated in group form. Eleven such cases have been filed with our office. Accusations have been prepared, and in most cases served, in seven of those cases. Additional information has been requested in two of the remaining cases, and must be received prior to the filing of accusations. An accusation will be drawn up shortly in the tenth case, as it is based simply on the vicarious liability of a registered guide for his assistant guide, against whom an accusation has already been filed. With regard to the eleventh case, the office is reviewing it to see whether an accusation is warranted.

Perhaps it will be helpful to explain the general procedure followed by the Department of Law in processing these accusations. First, an accusation request is received from the Guide Board Investigator, along with supplemental material detailing the nature of the violation and the evidence currently available. The Department of Law reviews the request and the material, and determines if additional investigation and evidence is necessary for the state to

proceed. If this is so, the Department requests the Guide Board Investigator to make such investigations as are required. When we feel that sufficient evidence has been compiled, an accusation is drawn up. The original is sent to the Department of Commerce & Economic Development, and copies are served upon the guide. Oftentimes it may take four to eight weeks to effect service, as the guides are often difficult to reach. Upon service, the guide has 15 days to return a Notice of Defense indicating that he wishes to defend against the action. Personal service on the guide is attempted, as opposed to service by registered mail, because the guides are often absent from their mailing addresses for periods in excess of two weeks, because of their work. Service by registered mail would therefore often result in a guide losing the option of defending the action. After a Notice of Defense is received, the Department requests a Hearing Officer through the Governor's Office. When a Hearing Officer is assigned, the Hearing Officer, the Department's attorney, and the guide and/or his attorney arrange a mutually-convenient date for the hearing. The Hearing Officer may or may not request supplemental briefing following the hearing. Subsequent to the hearing, the Hearing Officer reviews the facts elicited at the hearing, and issues findings of fact and conclusions of law, along with a proposed decision. At the next Board meeting (which occur about three times a year), the Hearing Officer's findings and proposed decision are read to the Board, at which time the Board either affirms and adopts the proposed decision, or rejects it and orders a new hearing. These proceedings are conducted under the Administrative Procedure Act (AS 44.62).

Sincerely,

Avrum M. Gross
Attorney General

AMG:dlm:CLP

31-Q1LH

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU 99801

December 13, 1977

Members of the
Legislative Budget and Audit Committee:

We have reviewed the consolidated responses of the Department of Commerce and Economic Development, Guide Licensing and Control Board, and Department of Law and the auditor's comments are listed below:

Recommendation No. 1

In the assignment of Exclusive Guiding Areas (EGA's), the Guide Licensing and Control Board (the Board) should uniformly apply the criteria established for the Game Management Unit under consideration.

Guide Licensing and Control Board Response to Recommendation No. 1:

> "Your concern in this recommendation is that three individuals who had the required number of bear camp registrations did not receive a temporary permit. The reason they did not receive their temporary permit at our first hearing on Unit 9 was because they had over-filed on areas being used by older guides. In examining some of these individual cases the Board's concern was a possible building up of too much hunting impact in a small given area. We told these applicants to continue to examine the map on Unit 9 and see if they could find some areas that would be open and usable in that Unit. At a later meeting, areas for these individuals were being developed. The problem was not a lack of uniform application. I think the problem was the Board's concern of being realistic in trying to protect the resource from over-harvest. In most cases the guides themselves recognize this, although it seems that each man does everything possible to try and improve his own situation, which is probably to his credit."

Auditor's Comment:

> In a letter dated December 12, 1977, to the Division of Legislative Audit, the Chairman of the Guide Board

stated that in a recent meeting the Guide Board did not uniformly apply the criteria established for assigning Exclusive Guiding Areas (EGA's) in Game Management Unit 4.

We maintain our position that the Guide Board, in the assignment of EGA's, should uniformly apply the criteria established for the Game Management Unit under consideration.

Department of Commerce and Economic Development Response to Recommendation No. 1:

"In making this recommendation, it appears, the auditors relied solely upon the minimum usage requirements established by the Board in order for an applicant to be eligible for either a temporary or permanent Exclusive Guiding Area (EGA), to determine that the criteria established were not being applied uniformly.

It is the Department's understanding that the Board has always considered additional factors such as the number of minimally qualified applicants for a specific EGA in relation to the harvestable resource available. This is consistent with the overall purpose of the regulatory effort in this industry. Since the review of the Board's records did not reveal this information, the Department will recommend that the Board take action to more clearly delineate its criteria."

Auditor's Comment:

It is the position of Legislative Audit that all factors should be considered before the criteria is established for assigning Exclusive Guiding Areas. Otherwise, the Board will not be able to follow AS 08.54.040(8) which requires that an equitable and reasonable procedure be followed in assigning exclusive Guiding Areas.

Recommendation No. 3

The Department of Law should take prompt action against Guides who violate Guide Board Statutes and Regulations.

Department of Law Response in Part:

"This audit finds shortcomings with the Department of Law in two respects: (1) failure to timely process accusations against guides for violation of the licensing statutes; (2) failure to take action against guides who have not filed Statements of Financial Remuneration required by 12 AAC 38.060. Let me briefly respond to each in turn.

Failure to Timely Process Accusations
Against Guides for Violation of the Licensing Statute

The audit is correct in stating that several accusations are quite old and that, in one case, a hearing officer recommended dismissal because of the remoteness of the events which were the subject of the accusation. The audit, I believe, errs in attributing these facts to deficiencies in the Department of Law.

A review of the guide board docket and our own files discloses that, with respect to the oldest case, there is no record that the department received investigatory reports for which accusations might have been filed. Had they been received, it is fair to presume that action would have been taken immediately, since particularly in in the accupational licensing field our department has acted swiftly to initiate disciplinary proceedings. Other cases have been active for varying lengths of time. Any delays have been the result of attempting to serve papers on the respondents, scheduling by the hearing officers, and final action on proposed decisions."

Auditor's Comments:

The Department of Law in an attachment to their response states that they have no record of receiving investigatory reports for two cases (CC77-5089 and E2054) for which accusations might have been filed. According to the information supplied to us by the Department of Public Safety, Division of Fish and Wildlife Protection, these cases were filed with their office.

In another part of the Department's response they state:

> "...The history of some of the cases does reflect the fact we were extremely short staffed in 1976 with regard to Guide Board matters, because the attorney position assigned to these matters was not filled for most of the year. In addition, there have been a few cases which have not moved as quickly as they might have..."

Recently, the Department has made progress in processing accusations in a timely manner.

We affirm our recommendation as written.

Department of Law Response in Part:

"Failure to Take Action Against Guides
Who Have Note Filed Statements of Financial Remuneration

The Department of Law has never refused to initiate administrative proceedings against licensed guides for

violation of 12 AAC 38.060. In fact, department personnel have encouraged the Guide Board Investigator to prepare cases based on violations of this regulation.

The department has declined to criminally prosecute guides for violation of 12 AAC 38.060. There are several reasons why prosecutions are not initiated, but they boil down to this: it is nearly impossible to convict a guide under that regulation. Let me elaborate. When a district attorney evaluates a case, he or she views it against the standard of proof required in criminal cases: proof beyond a reasonable doubt. To be successful in prosecuting a guide will require that either the client (hunter) or an employee of the guide testify, against the guide, that a hunt was conducted. Since over 80 percent of guided hunters are nonresidents, it is extremely expensive to procure their testimony. Their appearance cannot be required in our courts. The testimony of a guide's employees is difficult to procure. But even if the State can overcome those hurdles and can prove the hunt occurred, the guide can always say that he mailed the Statement of Financial Remuneration to the appropriate office, but that it was "lost in the mail". The jury returns a verdict of not-guilty; the prosecutor has wasted valuable and limited resources; and a smug and no less unscrupulous guide goes about his business-as-usual."

Auditor's Comment:

We agree that it is difficult and expensive to prosecute a guide. However, the enforcement of all Guide Board Statutes and Regulations are necessary to ensure that the public and game resources are adequately protected and the guiding industry is properly regulated. By enforcing only certain Board laws and regulations, the attitude of non-compliance would be fostered among guides and the public which would be detrimental to the welfare of the State.

We affirm our recommendation as written.

Gerald L. Wilkerson

Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

STATE OF ALASKA
THE LEGISLATURE

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

September 30, 1977

SUBJECT: Exclusive Guiding Areas

TO: Roger Levine
Legislative Audit Division

FROM: Kenneth E. Vassar
Staff Attorney

On June 28, 1974, the Guide Licensing and Control Board adopted regulations (12 AAC 38.040 and 050) which limited guides applying for new certification to a total of three districts and authorized exclusive guiding areas in units 8, 16, and 20 (guiding districts established by the board correspond to game management units established by the Board of Fish and Game in 5 AAC 90.10 as of January 1, 1974). On January 1, 1977, section one of 133 SLA 1976 took effect. This section added a paragraph to AS 08.54.040 and reads as follows:

> (a) Except as provided in sec. 45 of this chapter, the board shall....
>
> (8) establish a quota of licensed operating guides who may operate within designated geographical game units or subunits of the state and provide for an equitable and reasonable procedure for limiting the number of guides to that quota; preference shall be given to qualified available and willing licensed guides who reside within the designated game unit or subunit.

On February 25, 1977, the board amended 12 AAC 38.040 and 050. The amendment authorizes camp registration in all units - not just in units 8, 16, and 20 - based on occupancy, use, financial value, and other considerations. Camp registration is for the purpose of effectuating exclusive guiding areas surrounding the camps for distances to be determined by the board. The previous limitation of three districts per guide remained in effect.

The following questions have arisen as a result of this activity, and they are as follows:

(1) Did the board have the authority, before January 1, 1977 (the effective date for section one of 133 SLA 1976), to authorize exclusive guiding areas?

(2) Assuming it had such authority, did it exceed its authority in granting exclusive guiding areas outside units 8, 16, and 20?

(3) What effect has section one of 133 SLA 1977 had on the authority, if any, of the board to establish exclusive guiding areas?

(4) May guides who have been granted an exclusive guiding area transfer the right to guide exclusively in that area, and may the board authorize such practice?

(5) Did the board have authority, before January 1, 1977, to limit guides to three districts each?

(6) What effect has section one of 133 SLA 1976 had on that authority?

The following paragraphs will address these questions.

1. Exclusive guiding areas before January 1, 1977. The regulation in effect before January 1, 1977, which authorized the establishment of exclusive guiding areas in units 8, 16, and 20 was 12 AAC 38.050(a) and (b). These subsections stated:

(a) Registration of one main camp by guides in units 8, 16, and 20 will be allowed based on occupancy, use, and financial value that must be substantiated to the board's satisfaction.

(b) Camp registration is to effectuate an exclusive big game guiding area surrounding the registered camp, for a distance to be determined by the board.

The authority cited for this section was AS 08.54.050, which has not been amended since then. It provides:

The board shall adopt procedural and substantive regulations, under the Administrative Procedure Act (AS 44.62), required by this chapter or reasonably necessary for its administration.

Considering the language of AS 08.54.050, it is apparent that 12 AAC 38.050(a) and (b) could have been justified only if it were "reasonably necessary" for the administration of some provision of the chapter. It is arguable that the establishment of exclusive guiding areas was "reasonably necessary" for administering the following paragraphs of AS 08.54.050(a):

> (a) Except as provided in sec. 45 of this chapter, the board shall....
>
> (3) establish guide performance standards and regulate activity...
>
> (6) prohibit guiding activities which are unsportsmanlike, unethical, unsafe, against principles of conservation, degrading to the guiding profession, or which adversely affect the natural resources....

Generally speaking, state officers, boards, commissions, and departments have such powers as may have been delegated to them by express constitutional and statutory provisions, or as may properly be implied from the nature of the particular duties imposed on them. It will be noted that AS 08.54.040(a)(3) grants broad powers to the board. The board shall regulate the activities of guides. Courts have recognized the wide range of discretion vested in state boards under such broad statutes and have refused to interfere with the exercise of that discretion unless the person challenging it demonstrated that the board's action was prohibited by a specific statutory provision or by clear legislative intent. The following synopsis is a small sampling of those cases reaching this result:

> Courts should not substitute their judgment for that of the commission with respect to what is wise and fair in the economy of the state. Sun Oil Co. v. Burford, 130 F.2d 10. (1942 C.A. 5th Cir)
>
> A state officer's decision is not arbitrary and capricious, even though not the wisest and best that could be made, if action was exercised honestly and on due consideration, and there was room for two opinions. Whatcom County v. Langlie, 246 P.2d 836. (1952 Wash)

> A board or commission on which the legislature confers broad general powers is invested with discretion in choosing the means and methods of accomplishing the result expected, and, in the absence of fraud or manifest abuse of that discretion, its determination is conclusive. Elliott v. Superior Court, 180 C.A.2d 894.
>
> An administrative agency which has authority to enact regulations is vested with a large measure of discretion and the burden of showing that the agency has acted improperly in enacting regulations rests upon the one who asserts it. Page v. Welfare Commissioner, 365 A.2d 1118 (1976 Conn)

The powers granted in AS 08.54.040(a)(3), as noted before, are broad. If the cases cited apply, which it seems they should, then the board's actions have a rebuttable presumption of validity based upon the board's wide discretion in choosing the means of accomplishing the results expected. The presumption of validity cannot be rebutted merely by asserting that the board's decision is not "the wisest and the best that could be made." The burden is on the party challenging the board's actions to show that they are arbitrary, capricious, or fraudulent, or that they constitute manifest abuse of the discretion granted the board. To the best of my knowledge, no such showing has been made.

Beyond the wide discretion vested in the board under AS 08.54.040(a)(3), there is the further discretion inherent in administering the powers granted the board under AS 08.54.040(a)(6). That paragraph gives the board the power to prohibit guiding activities which are "against principles of conservation...or which adversely affect the natural resources." This, too, is a broad power since the legislature did not restrict the means for accomplishing the results expected, and it carries with it wide discretion in choosing the means to be used. A look at the situation which existed before adoption of the regulation in issue illustrates the reasonableness of the board's decision to authorize exclusive guiding areas. Senator Poland, in floor debate over CS SB 661 (a precursor of 133 SLA 1976) on March 25, 1976, stated:

> Kodiak Island was one of the toughest ones of all, because they had had, believe it or not, 198 guides that had been guiding on Kodiak at one time or another.

> By the use of the, by using past records of guiding there, they were able to reach an amicable agreement where 19 are now guiding there. The others had to go to other districts.

It is important to recognize that Kodiak Island is within unit 8, one of the designated units within which exclusive guiding areas were authorized.

In a situation where a large number of guides are concentrating on limited areas of hunting, thus causing potentially irreversible damage to the resources in those limited areas, and where it is the duty of the board to prohibit guiding activities which adversely affect the natural resources, it seems that there is "room for two opinions" as to the reasonable necessity of establishing exclusive guiding areas in those regions. Hence, the board's decision to use such areas was within its range of discretion.

In short, I believe that the broad powers and wide discretion granted the board under AS 08.54.040(a)(3) and (6) encompass and authorize the establishment of exclusive guiding areas.

2. Exclusive guiding areas outside units 8, 16, and 20 before February 25, 1977. Assuming that 12 AAC 38.050, as it read before the recent amendment (2/25/77), was valid, granting exclusive areas outside units 8, 16, and 20 would not have been valid. The establishment of such areas would have been beyond the authority of the board's own regulations, since authorizing exclusive areas in certain units implies a lack of authorization for exclusive guiding areas in other units.

3. The effect of 133 SLA 1976 on exclusive guiding areas. After the effective date of section one of 133 SLA 1976, the board amended 12 AAC 38.050(a) to read:

> Registration of camps by guides will be allowed based on occupancy, use, financial value and other considerations that must be substantiated to the board's satisfaction.

The listing of authority under the regulation was also amended to add AS 08.54.040(a)(6), as well as AS 08.54.050. It is interesting to note that section 40(a)(6) was listed and not section 40(a)(8), the new paragraph dealing specifically with quotas.

There are at least two considerations which support the argument that passage of 133 SLA 1976 (hereinafter referred to as sec. 40(a)(8)) ratified or at least did not refute the board's power to authorize exclusive guiding areas.

The first consideration relates to the language of sec. 40(a)(8). The section is quoted on the first page of this memorandum. It requires the board to establish quotas within "designated geographical game units or subunits of the state." Since an exclusive guiding area simply amounts to a quota of one within a designated subunit of the state, the establishment of such areas is expressly authorized under this language.

The section also requires the board to provide for an equitable and reasonable procedure for limiting the number of guides to the quota. In furtherance of this requirement, the board has utilized advice from biologists in the Department of Fish and Game to determine where exclusive guiding areas are needed. Furthermore, the regulations provide guidelines for the granting of exclusive areas; under these guidelines, the board must take into consideration occupancy, use, financial value, and other considerations.

It is true that the guiding districts used by the board correspond to districts established by regulation of the Board of Fish and Game and that there are also established subunits under those regulations which do not correspond to the exclusive guiding areas. Nevertheless, the legislation does not specify the subunits to which the board must adhere. Thus, the board is free to designate its own subunits and is not bound by regulations adopted by the Board of Fish and Game.

The second consideration supporting exclusive guiding areas subsequent to the enactment of sec. 40(a)(8) relates to the legislative history of sec. 40(a)(8). It was introduced in the senate in 1976 as SB 661, section one of which provided for quotas "within designated geographical areas." This bill was replaced with CS SB 661, section one of which provided for quotas "within designated geographical game units or subunits." The new language was provided by the Senate Resources Committee and represents a conscious effort by the chairman of that committee to assure the authority of the board to establish exclusive guiding areas. In her statement on the Senate floor on March 25, 1976, Senator Poland, the chairman of the committee, specifically referred

to the method in use by the board at that time on Kodiak Island (this statement is quoted supra), and in describing CS SB 661., she stated:

> It's a policy of setting a quota and assigning guides to definite units. It has been practiced on Kodiak Island and has worked out extremely well there....

I think there can be no question but that the author of the language which was enacted and became sec. 40(a)(8) intended it to authorize the continued practice of granting exclusive guiding areas and that the legislature, at least by implication, intended the same result in passing the bill.

4. Transferral of guiding rights in exclusive guiding areas. The grant of an exclusive guiding area is a privilege and not a vested right of the grantee. Under sec. 40(a)(8), the privilege may only be granted by the board subject to "equitable and reasonalbe" procedures established by the board. It may not be granted, then, by any other person or group, including the holder of a grant. Furthermore, the authorization by the board of such practice would constitute the abrogation of its statutory duty to establish "equitable and reasonable" procedures for limiting guides to the quota established. Part of the procedure established by the board includes consideration of the use and occupancy of the area by the guide seeking the privilege. To allow the sale or transfer in any manner of the privilege by its holder would destroy the equitable and reasonable nature of the grant since it would eliminate the use and occupancy considerations. Therefore, such practice is beyond the authority of any grantee of an exclusive guiding area and may not be authorized by the board.

5. Three districts per guide before sec. 40(a)(8).

6. Three districts per guide after sec. 40(a)(8).

Sec. 40(a)(8) provides for the establishment of quotas within districts; it does not address itself to the establishment of a three district per guide quota. Therefore, since sec. 40(a)(8) has no effect on such a quota, the board's authority to limit guides to three districts must be based upon some other section in the chpater, and questions 5 and 6 may thus be answered together.

The regulation limiting new certifications to a limit of three districts per guide is 12 AAC 38.040. Before the amendments of February 25, 1977, the authority listed for this regulation was AS 08.54.050, but after the amendment, this was expanded to include AS 08.54.040(a)(3) and (6). These sections have been quoted previously in this memorandum and will not be reproduced here.

The establishment of a three district per guide limitation is within the authority of the board under the broad powers established in sec. 40(a)(3) and (6), for it can be justified as reasonably necessary to the regulation of guiding activity under sec. 40(a)(3) and to the prohibition of guiding activities which are unsafe under sec. 40(a)(6). By limiting a guide to three districts, the board is better able to assure the competence of the guide in the areas where he is guiding. The guide is more likely to become well aware of the individual nature of his guiding area and of the animals and potential dangers therein. Thus, the regulation promotes competency, safety, and conservation in guiding and is within the authority of the board to adopt.

I hope this has satisfactorily answered your questions. If there is anything more I can do for you, please let me know.

KEV:jpd

08-H8LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING / POUCH D – JUNEAU 99811

March 20, 1978

Copies to file

Representative Al Osterback, Chairman
House Resources Committee
Alaska State Legislature
Juneau Alaska

Dear Al:

The Commerce Department notified me today that you had scheduled House Joint Resolution 95 for a hearing on Friday afternoon.

The Guide Licensing & Control Board has had to readjust its proposed hearing in Fairbanks and now have it scheduled starting March 27, to run through that week. For some of the members to spend a week away from their jobs has been difficult and they have had to reschedule many of their activities to be prepared to attend the Board meeting. In talking to some of the Board members it seems under the circumstances they would be unable to come to Juneau for Fridays meeting.

Our own staff in Anchorage is loaded with work, tryingto get ready for the meeting, and the Attorney General's office in Anchorage, where we have Liza Fussner as our special attorney, is also swamped. She is in the process of finalizing a full day of court cases for the Board to hear. I would very much like to have her at a hearing in case legal questions come up that the Board members could not answer.

At our last hearing on H.J.R. 95 the time ran on so long that your committee did not hear from the Department of Game or the Attorney General's office. Both of these departments have been somewhat involved in our activities, and where I do not know what their testimony would be it might be that your committee would want to hear from them.

Respectfully yours,

Mark

Marcus F.Jensen, Chairman
Guide Licensing and Control Board

cc: Board members
Wm. Bellingar

PLEASE NOTE

THE ORGINAL FILE CONTAINS AN OVERSIZED DOCUMENT THAT IS UNSUITABLE FOR FILMING. PLEASE REFER TO THE ALASKA STATE ARCHIVES TO VIEW THE ORIGINAL.

DESCRIPTION: MAP (XEROXED COPY)

GUIDING UNITS 23-26

HCR

105

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
HCR 105	4/6/78	Rep. Lethin	4/12/78
	"	Dept. of Fish and Game	"
	"	Keith Specking	"
	"	Geoff Haynes	"
	"	United Fishermen of Alaska	"

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

BOARD OF FISHERIES
C/O DEPARTMENT OF FISH AND GAME
SUBPORT BUILDING, JUNEAU 99801

Box 1633
Kodiak, Alaska 99615
May 22, 1978

The Honorable Alvin Osterback
Chairman, Committee on Resources
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

This is in reply to your April 21 request for comments on CSHB 807 and HCR 105.

CSHB 807. I have no objection to appropriating additional money to the Sport Fish Division for managing Cook Inlet salmon. I assume this is an appropriation that is an addition to the budget and does not replace another program. Better management of the Cook Inlet fishery would ease some of the uncertainty that the Board faces when it makes its allocation decisions. It has become increasingly apparent during my time on the Board that fishing activity and the demands of Alaska's population on the resource are expanding at a faster rate than the appropriations necessary to meet these demands.

HCR 105. The Legislature has given the responsibility of regulating and protecting the fishery resources of Alaska to the Board of Fisheries. I've enclosed a copy of the upper Cook Inlet management policy that the Board adopted last December. Basically the policy designates the subsistence fishermen and the sport fishermen as the primary harvesters of king and silver salmon before June 30 and after August 15. Cook Inlet is one of the most complicated areas to manage in the state. There is a significant overlap of salmon species that are not of prime recreational interest but are of high commercial value during part of this time period. It is the Board's intent to attempt to utilize as fully as possible the commercial species while protecting the recreational species

as much as possible. HCR 105 does not have the flexibility to accomplish this goal. It is for this reason that I am opposed to it. It would result in significant amounts of those salmon which are of no interes+ to sport fishermen being left unharvested.

If I can be of any further assistance, please let me know.

Sincerely,

Nick Szabo
Chairman

Enclosure

cc: Commissioner Skoog
Board Members

Correct Copy

Policy #77-27-FB

COMPREHENSIVE MANAGEMENT POLICY FOR THE UPPER COOK INLET

The dramatically increasing population of the Cook Inlet area has resulted in increasing competition between recreational and commercial fishermen for the Cook Inlet salmon stocks. Concurrently, urbanization and associated road construction has increased recreational angler effort and may adversely affect fisheries habitat. As a result the Board of Fisheries has determined that a policy must now be determined for the long-term management of the Cook Inlet salmon stocks. This policy should rest upon the following considerations:

1. The ultimate management goal for the Cook Inlet stocks must be their protection and, where feasible, rehabilitation and enhancement. To achieve this biological goal, priorities must be set among beneficial uses of the resource.

2. The commercial fishing industry in Cook Inlet is a valuable long-term asset of this state and must be protected, while recognizing the legitimate claims of the non-commercial user.

3. Of the salmon stocks in Cook Inlet, the king and silver salmon are the target species for recreational anglers while the chum, pink, and red salmon are the predominant commercial fishery.

4. User groups should know what the management plan for salmon stocks will be in order that they can plan their use consistent with that plan. Thus, commercial fishermen must know if they are harvesting stocks which in the long-term will be managed primarily for recreational consumption so that they may plan appropriately. Conversely, as recreational demands increase the recreational user must be aware of what stocks will be managed primarily for commercial harvest in order that he not become overly dependent on these fish for recreational purposes.

5. Various agencies should be aware of the long-term management plan so that salmon management needs will be considered when making decisions in areas such as land use planning and highway construction.

6. It is imperative that the Department of Fish and Game receive long-range direction in management of these stocks rather than being called upon to respond to annually changing Board directives. Within the Department, divisions such as F.R.E.D., must receive such long-term direction.

EXHIBIT NO. "13"

page 1 of 2

Therefore, the Board establishes priorities on the following Cook Inlet stocks north of Anchor Point. In so doing it is not the Board's intent to establish exclusive uses of salmon stocks; rather its purpose is to define the primary beneficial use of the stock while permitting secondary uses of the stock to the extent it is consistent with the requirements of the primary user group.

1. Stocks which normally move in Cook Inlet to spawning areas prior to June 30, shall be managed primarily as a non-commercial resource.

2. Stocks which normally move in Cook Inlet after June 30, shall be managed primarily as a non-recreational resource until August 15; however existing recreational target fish shall only be harvested incidental to the non-recreational use; thereafter stocks moving to spawning areas on the Kenai Peninsula shall be managed primarily as a non-commercial resource. Other stocks shall continue to be managed primarily as a non-recreational resource.

3. The Susitna coho, the Kenai king, and the Kenai coho runs cannot be separated from other stocks which are being managed primarily as non-recreational resources; however, efforts shall be made, consistent with the primary management goal, to minimize the non-recreational catch of these stocks.

Nicholas G. Szabo, Chairman
Alaska Board of Fisheries

ADOPTED: December 13, 1977

VOTED: 5-0

EXHIBIT NO. 13

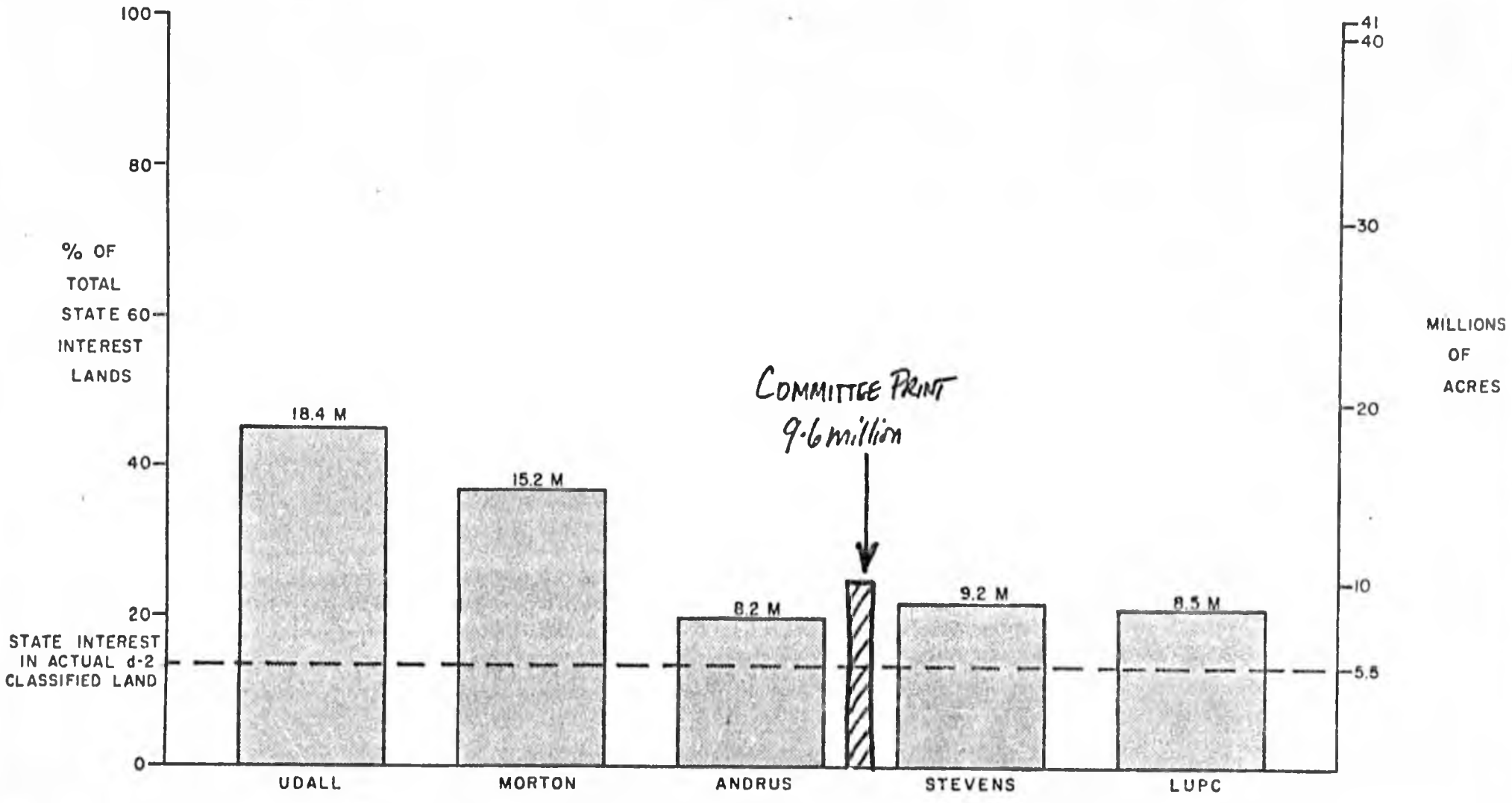
page 2 of 2

(3) Section 6(g) of the Alaska Statehood Act is amended by adding at the end thereof the following new sentence: "As to all selections made by the State after January 1, 1979, pursuant to section 6(b) of this Act, the Secretary of the Interior, in his discretion, may waive the minimum tract selection size where he determines that such a reduced selection size would be in the national interest and would result in a better land ownership pattern.

(h) In furtherance of its entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska all right, title, and interest of the United States in and to all vacant, unappropriated, and unreserved lands, including lands subject to subsection (m) of this section, which lie within those townships outside the boundaries of conservation system units established, designated, or expanded by this Act, which are specified in the list of State Selection Interest Lands submitted by the State of Alaska and on file in the office of the Secretary of the Interior, and as depicted on the map entitled "_____", dated March 1978.

(i) (1) Lands identified in subsection (h) are conveyed to the State subject to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act. All right, title and interest of the United States in and to such lands shall vest in the State of Alaska

ANALYSIS OF STATE SELECTION INTEREST AREAS WITHIN D-2 PROPOSALS



STATE OF ALASKA - DEPT. OF NAT. RES. 11/77

PUBLIC INFORMATION PACKET

Considerations For Alaska State Land Selections

Alaska Department of Natural Resources

February 1, 1978

Planning and Research Section
Department of Natural Resources
323 East 4th Avenue
Anchorage, Alaska 99501

I. Why is the State of Alaska selecting land now?

The Alaska Statehood Act

The Alaska Statehood Act grants the State of Alaska the right to choose and gain title to 104 million acres of federal land in Alaska. The majority of this entitlement, 102.5 million acres, is to provide for present and future settlement including residential, industrial, commercial and recreational land needs. To date the state has selected nearly 75 million acres of this general grant lands entitlement, leaving 25-30 million acres remaining to be selected.

Section 17 (d)(2) of The Alaska Native Claims Settlement Act

Section 17(d)(2) of the Alaska Native Claims Settlement Act directed the Secretary of the Interior to classify up to 80 million acres of Federal land in Alaska for inclusion in the National Park, Wildlife Refuge, Forest and Wild and Scenic River Systems. Congress gave itself until December 31, 1978 to act on the Secretary's recommendations, and over the past six years a number of (d)(2) bills have been introduced. Congress is now considering final (d)(2) legislation.

The State of Alaska is urging Congress to address state land selection rights within the context of (d)(2) legislation. The ultimate goal is to gain Congressional assurrance for land conveyance to the State of Alaska of the majority of our remaining land entitlement as part of any final (d)(2) bill.

II. Why are General Grant Lands so important to Alaskans?

Most of Alaska's 367 million acres of land will continue to be owned and managed by the federal government even after completion of land selections. The federal government will retain ownership of approximately 218 million acres. As a result of the Alaska Native Claims Settlement Act, a large portion of additional lands (44 million acres) will be owned by private native corporations. After all selections are completed, the state will own approximately 29% of the land area, the natives 12% and the federal government 59%. Although it is certain that both the native and federal lands will play a major role in fulfilling many of Alaska's land related needs, it is the state's land that can best be managed through our state and local governments in a way to assure that Alaskans' land needs are met.

III. How does the state decide which lands to choose?

Land and Resource Inventory and Evaluation

To insure the wisest selection of Alaska's remaining land entitlement Governor Hammond initiated a process to identify federal and native over-selected lands within Alaska suitable for state ownership. The Department of Natural Resources is responsible for this process. During the past two years the department has studied and evaluated Alaska's land and natural resources. Agricultural, mineral, forestry, fisheries, wildlife, recreation, land settlement potential, and other values were assessed based on the best information available to state government, including citizen and industry

input, Federal-State Land Use Planning Commission data, and the collective expertise of state land managers and resource experts.

Based on this assessment, the Department of Natural Resources chose 71 separate "state interest" areas to create a selection pool of 45 million acres including federal and native overselected lands. From this pool the state will choose much of its remaining general grant land entitlement.

Public Review

The 45 million acre land pool does not represent state land selections. Rather it is a first step which will alert Congress to our basic desires and provide the basis for public discussion. In an announcement last November, Governor Jay Hammond said, "It is our intention to press aggressively for conveyance of 25 to 30 million acres from this pool and other lands through the (d)(2) legislation. Our decision of which lands should ultimately be selected will only take place after an extensive process of public meetings, and review. Identification of these tentative state interest lands initiates this process of public review and input to our eventual selection action."

The Department of Natural Resources is now in the process of scheduling public meetings in some 19 communities throughout the state. The Department is interested in gathering more local knowledge about lands within the selection pool, as well as hearing people's thoughts concerning the types of lands and the location of lands which the state is considering. Since the tentative pool must be refined, public input gained from these meetings can play a significant role in shaping the eventual selection package.

IV. How can individual Alaskan citizens participate?

A large map of the State of Alaska should be on display in your city hall or community center. This map will show lands which the state has previously selected and the new interest areas which comprise the 45 million acre pool. Consider both the statewide picture as well as the lands in your specific area. Come and discuss your opinions of the state interest areas at the public meeting in your community. Your participation in this program is an important part of the state land selection process.

The following list briefly highlights the basic guidelines which the state is currently following in the consideration of additional lands for selection. (Please note that the listing does not reflect a priority ranking of the guidelines).

1. SETTLEMENT LANDS: The state should select land around regional centers such as Kotzebue, Nome, Bethel and Dillingham as well as additional potential settlement areas for the future in regions such as the Yukon and Kuskokwim River valleys, the uplands of the Yukon Flats and the Bristol Bay drainage.

2. ROADS: The state should continue to emphasize selections in the vicinity of existing transportation routes and potential transportation crossroads or key areas.

3. AGRICULTURE: The state should attempt to select all lands made available rated in the top half of Alaska's agricultural land. Any remaining agricultural lands should be selected if other valuable resource capabilities are specifically identified.

4. FORESTRY: Future selections should attempt to acquire forest lands from the best half of Alaska's forest potential areas.

5. COMMERCIAL FISHERIES: Selections should consist of key parcels of limited acreage and prime locations for purposes of fishery enhancement, hatchery sites, research facilities, and access sites.

6. TOURISM: Recreation lands identified in the White Mountain area, Tangle Lakes area, and near the Alaska Yukon border should be selected, if possible, as well as additions to the highway campground system and noted recreation sites along major waterways.

7. HARD ROCK MINERAL LANDS: The state should balance out existing mineral holdings with very selective acquisitions in mineral areas of known potential, and areas which may become mining activity centers, such as on the Seward Peninsula and the southwest portion of the Brooks Range, to facilitate provision of state services.

8. COAL LANDS: The state should acquire appropriate coal lands which rank in the best third of coal potential lands in the state.

9. OIL AND GAS LANDS: The state's goal should be to refine and augment existing oil and gas holdings or select new areas of extremely high resource potential including consideration of heretofore unavailable areas such as the National Petroleum Reserve - Alaska on the North Slope.

10. WILDLIFE HABITAT AND USE AREAS: The state should select strategic small parcels which will provide access for various wildlife user groups and also key areas to insure continuation of the state's resource management options for wildlife.

11. HIGH USE RECREATION AREAS AND PARKS: The state should select 750,000 acres of potential park lands which are needed to fulfill the state's recreational development plan as well as prime areas for recreation facilities along major roads and waterways.

12. LAND QUALITY: The state should select stable and useable lands of high quality and multiple use value throughout the state.

13. RIVERS AND COASTS: The state should select land for settlement, recreation use, and access values along the Yukon and Kuskokwim Rivers as well as appropriate locations along the coastline of Alaska.

14. PYK LINE: The state should continue past policies of generally not encouraging large residential establishments away from main regional centers north of the Porcupine-Yukon-Kuskokwim River line.

15. OWNERSHIP PATTERN: Selections should attempt to ensure adequate access to existing and future state land areas with particular emphasis on accessibility between state lands and major transportation corridors, rivers and coastlines.

Introduced: 2/10/78
Referred: Resources and Judiciary

BY LETHIN,AKERS,ANDERSON,
BEIRNE,BENNETT,BRADLEY,
CARPENTER,COTTEN,DANKWORTH,
ELIASON,FREEMAN,GRUENING,
GUY,HAYES,KELLY,MCKINNON,
MEEKINS,MILES,PHILLIPS,RUDD,
SWANSON AND URION

IN THE HOUSE

HOUSE CONCURRENT RESOLUTION NO. 105

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

Relating to fishing in Cook Inlet.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS certain extant and proposed regulations of the Department of Fish and Game concerning the Cook Inlet salmon fishery appear not to be in the best interests of all parties concerned; and

WHEREAS equitable treatment of commercial, subsistence and sport fishermen is of necessity a prime consideration of the law; and

WHEREAS the rapidly expanding population of the Anchorage area is in serious need of enhanced recreational opportunities; and

WHEREAS the fishery resource of Cook Inlet must be judiciously managed to preserve and expand its production levels; and

WHEREAS the contribution of the Cook Inlet fishery to the tourism industry, Alaska's fourth largest industry, is substantial and increasing;

BE IT RESOLVED by the Alaska State Legislature that the Governor is respectfully requested to direct the Department of Fish and Game to promulgate regulations opening the commercial fishery in ~~all~~ North & Central Lethin districts of Cook Inlet from July 1 to August 15 of each year, subject to individual openings and closings within those dates by the Department of Fish and Game, and reserving the remainder of the season, before and after that period, for subsistence and sport fishing. This shall not preclude subsistence and sport fishing during the designated period for commercial fishing.

#

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

02049 NL ANCHORAGE ALASKA 61 04-11 530P AST

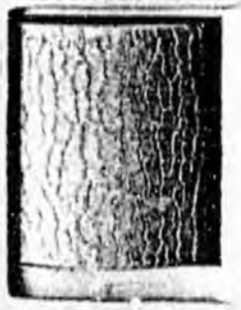
PMS REP ALVIN OSTERBACK

JUN

PLEASE STOP ALL ACTION ON HCR105. A SIGNIFICANT AMOUNT OF THE COMMERCIAL CATCH OF KINGS OCCURS BEFORE JULY 1 A LARGE PORTION OF THE CHUM CATCH AFTER AUGUST 15 IN THE COOK INLET AREA. LEGISLATURE SHOULD NOT BE INVOLVED IN THE REGULATORY FUNCTIONS OF THE FISH AND GAME DEPARTMENT AND THE FISHERIES BOARD.

RANGER NELSON 1035 WEST NORTHERN LIGHTS BLVD

ANCHORAGE ALASKA 99503



HCR

124

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

Make copies

02078 NL TDA UNALAKLEET 50 04-24 430P AST

PMS REP ALVIN OSTERBACK

CHAIRMAN RESOURCES COMMITTEE

JUN

THE UNALAKLEET NATIVE CORPORATION SUPPORTS YOUR RESOLUTION TO DECLARE THE MUSK OXEN NEAR THIS TOWN AND THEIR DESCENDANTS DOMESTIC ANIMALS. SUCH A STATUS ENABLES THE AGRICULTURAL DEVELOPMENT CUSTOMARY AMONG DOMESTIC ANIMALS IN OTHER AREAS.

PAUL IVANOFF II, PRESIDENT

UNALAKLEET NATIVE CORPORATION

1978 APR 24 PM 8 13

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

#

02076 POM TDA UNALAKLEET 15 04-24 517P AST

PMS REP ALVIN OSTERBACK

CHAIRMAN RESOURCES COMMITTEE

JUN

NATIVE VILLAGE COUNSEL OF UNALAKLEET SUPPORT RESOLUTION

TO DECLARE THE MUSKOX A DOMESTIC ANIMAL.

R WEAVER IVANOFF, PRESIDENT

NATIVE VILLAGE COUNSEL OF UNALAKLEET

1978 APR 24 PM 9 15

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

#

02079 POM ANCHORAGE AK 15 04-24 505P AST

PMS REP ALVIN OSTERBACK

CHAIRMAN RESOURCES COMMITTEE

JUN

UNALAKLEET CITY COUNCIL URGES PASSAGE OF THE RESOLUTION

DECLARING OUR LOCAL MUSK OX HERD DOMESTIC.

JOHN ECKELS, MAYOR

1978 APR 24 PM 9 [illegible]

'OOMINGMAK'
MUSK OX PRODUCERS' CO-OPERATIVE
604 - H. Street, Anchorage, Alaska 99501

QIVIUT HANDKNITS

please reply to:
Box 447
Bainbridge Island
Washington 98110
(206) 842-4849
21 April '78

Representative Alvin Osterback
Chairman, Resources Committee
Alaska State Legislature
Pouch V, Juneau, Ak. 99801

Dear Representative Osterback:

The purpose of this letter is to express support for the Resolution under consideration by your committee which declares the hornless musk ox to be a domestic animal. It is also to offer additional information which might be considered useful, especially with regard to the present domestic musk ox industry which provides a growing number of tundra/coastal village people with a significant portion of their annual income.

It has been customary for agriculturalists to consider an animal as domestic if it met the following standards: 1) its breeding were under the control of man, and through selection certain characteristics were emphasized which differed from their occurence in the wild ancestors; 2) it were maintained under a program of complete husbandry management; 3) it, and its products, were utilized in an active economy.

The musk oxen maintained by this Cooperative meet these standards in the following manners:

I. The present domestic musk ox herd has been selectively bred through several generations. Selection was based upon rapid growth, early maturity, and, particularly, the annual yield of qiviut, the underwool upon which the textile industry is based. An additional factor was selection for small body size in comparison to qiviut yield. In achieving these results, the selective breedin has produced an animal which differs markedly from its wild ancestors, grows faster, matures earlier, and yields more qiviut.

II. The domestic musk ox has been maintained on farms since 1954, is tame, and follows a regular daily agricultural routine which extends from the breeding season in September through the calving and qiviut-collecting season in May-June. It is treated and used as a normal domestic animal.

III. The principal product of the domestic musk ox is its qiviut, or underwool, which is knitted into delicate garments and provides employment and cash incomes for over a hundred persons in the tundra/coastal villages of Alaska. These include Mekoryuk, Tununuk, Nightmute, Bethel, Goodnews Bay, St. Michels, St. Marys, Unalakleet, Fortuna Lodge, Marshall, Elim, Nome, Tooksook Bay, Shishmaref, Kotzebue, Wainwright, Pt. Barrow, Kodiak, and others. At present, plans are in progress to locate herds and to train textile knitters in Unalaska, Akutan, Atka, Teller, St. Lawrence, Kivalina, Point Hope, etc.

IV. Specifically, a domestic musk ox can always be distinguished, even from a distance, because it has no horns - in contrast to its wild ancestors. (The horns have either been removed when calves or, when occuring, the hornless characteristic will be extended through selective breeding

In addition to meeting the above standards for domestic status, these musk oxen have been widely accepted by the general public as domestic, especially with reference to their economic use and farm management. They have also been referred to as domestic animals in the scientific journals, and have been treated as domestic animals in the compilation of agricultural statistics. This followed normal expectations, since domestication has been one of the principal stated goals regarding musk oxen since their importation in 1930.

By means of the Resolution declaring these musk oxen to be domestic, those tundra/coastal people who rely upon them for their livelihood will become eligible for a variety of technical assistance and grants. They also then will enjoy the normal rights and privileges common to the ownership of domestic animals in other areas.

It seems, therefore, that many advantages and benefits will accrue to the participating residents of tundra/coastal Alaska by a declaration that their animal is domestic.

With many thanks for your consideration -

Sincerely yours,

John Teal

John J. Teal Jr.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

MEMORANDUM

April 11, 1978

SUBJECT: Technical Assistance Provided by State Agencies to Domestic Livestock Producers

TO: The Honorable Lisa Rudd

FROM: George Utermohle
Research Analyst G.U.

You have requested us to determine what technical assistance state agencies may provide to domestic livestock producers.

The only state agency which provides services to the producers of domestic livestock is the Division of Agriculture within the Department of Natural Resources. The Division of Agriculture provides veterinary services to livestock producers on a regular basis. The state veterinarian is authorized to "study problems incidental to the raising of livestock and other domestic animals, and advise those engaged therein upon matters pertaining to breeding, care and the prevention and cure of diseases of livestock and other domestic animals" (AS 03.25.020 (6)). Other services which the Division provides to livestock producers include: the assistance of a marketing specialist, particularly for meat and dairy products; meat inspection services; and a slaughter house for reindeer in Nome.

The Alaska statutes do not include a generally applicable definition of "domestic animal" or "domestic livestock". The only definition in the statutes is a definition of "domestic animal" which is meant to include goats, sheep, cattle, horses and swine, however this definition is applicable only to state grazing districts. It would seem that, even in its limited context, this definition is not an exclusive definition of domestic animals. Other livestock or animals would not be excluded from use of state grazing districts by this definition. Thus, in the absence of legislative guidance in the form of statute or resolution, the division of agriculture may exercise its discretion in determining which animals constitute domestic animals or livestock in order to determine eligibility for its services.

GU:ftc

QIVIUT HANDKNITS

'OOMINGMAK'
MUSK OX PRODUCERS' CO-OPERATIVE

Box 447
Bainbridge Island
Wash. 98110
(206) 842-4849

22 March'78

Ms. Ginger Baim
c/o Representative Lisa Rudd
Alaska State Legislature
Juneau, Alaska 99801

Dear Ginger:

It was great to receive your splendid letter, and to be brought up-to-date on your whereabouts and activities. Your job with Representative Rudd sounds both interesting and exciting, (have you ever not lived excitingly?), and your reasons are plain decent.

Our producers' cooperative and the farm at Unalakleet are going on, completely independent and on their own feet, thanks to the often valiant work of Sigrun and Bart. There are about 170 village people trained as knitters, more than half very active. I hope to answer village requests for more textile workshops so that we can bring this number up to over 200 by the end of this year. As you know, for many years I have thought that there was no occupation so exploited as the cottage industry, and have insisted upon a village woman having the dignity of her labor and her place of work (her home) through decent pay - even for beginners, at least the national minimum wage, and then, their owning the whole works in addition. Now we hope to start training, six at a time, the men and women who have applied for the whole year training program needed to become herders and herd managers. Starting this summer, if possible, in Unalakleet. We still have our original sex mix in occupations, culturally perhaps too early: some female herders; some male knitters.

The Unalakleet herd is to be a distribution center, and the village most eager to have a station is Unalaska, where the social-economic conditions are poor. There are no hoofed native animals on the island, but we still will use the perimeter fencing, etc., for husbandry purposes. The people there really can use the employment.

You kindly asked if there were something you might do to help the project. There is, and it is of great immediate importance. For ten years, since 1968, I have realized that our project must be free to develope in terms of its proper agricultural directions. It cannot do that if we are associated, even in a remote way, with the Department of Fish & Game. Ours are not wild animals, nor animals to be used as targets for trophy hunters. (In fact, they are a relatively recent importation from Greenland.) They are domestic animals selectively bred through some generations, the basis of an agricultural industry providing employment, and hope for more employment, through a product which doesn't require killing them. They belong under the aegis, if anything, of Alaska's equivalent of a department of agriculture; not Fish and Game and wildlife.

Some years ago I corrsponded with U.S. Senator George Aiken, who had been chairman of the Senate Agriculture Committee, to have them declared what they are, a domestic animal. He told me that the logical first step was to have the state legislature declare them, by either resolution or act, a domestic animal, and to define them as "Domestic Musk Oxen", ovibos domesticus. Such a resolution would automatically shift them from Fish & Game to agriculture - and make the project eligible for technical assistance from the USDA.

I did not bring the matter up in the late Sixties or early Seventies because, frankly, I was warned that my opposition to the trophy-hunting of Nunivak's wild musk oxen had created such a popular animosity that almost anything I proposed would be defeated.

But now, as we are well into the final stage, the spread of this form of agriculture through the tundra/coastal villages, it is appropriate that no time be lost in getting them declared domestic animals - and out to the aegis of agriculture.

It occurs to me that Representative Rudd might be willing to give it a try? It is vital to us, to a large and growing number of remote village people employed by and members of the Cooperative - and the need is immediate.

Would you be interested in approaching Representative Rudd and asking for her help?

Meanwhile, with many thanks for your letter and good news -

Sincerely,

John

'OOMINGMAK'

MUSK OX PRODUCERS' CO-OPERATIVE

604 - H. Street, Anchorage, Alaska 99501

QIVIUT HANDKNITS

please reply to:
Box 447
Bainbridge Island
Washington 98110
(206) 842-4849

21 April '78

Re: HCR 124

Representative Alvin Osterback
Chairman, Resources Committee
Alaska State Legislature
Pouch V, Juneau, Ak. 99801

Dear Representative Osterback:

The purpose of this letter is to express support for the Resolution under consideration by your committee which declares the hornless musk ox to be a domestic animal. It is also to offer additional information which might be considered useful, especially with regard to the present domestic musk ox industry which provides a growing number of tundra/coastal village people with a significant portion of their annual income.

It has been customary for agriculturalists to consider an animal as domestic if it met the following standards: 1) its breeding were under the control of man, and through selection certain characteristics were emphasized which differed from their occurence in the wild ancestors; 2) it were maintained under a program of complete husbandry management; 3) it, and its products, were utilized in an active economy.

The musk oxen maintained by this Cooperative meet these standards in the following manners:

I. The present domestic musk ox herd has been selectively bred through several generations. Selection was based upon rapid growth, early maturity, and, particularly, the annual yield of qiviut, the underwool upon which the textile industry is based. An additional factor was selection for small body size in comparison to qiviut yield. In achieving these results, the selective breeding has produced an animal which differs markedly from its wild ancestors, grows faster, matures earlier, and yields more qiviut.

II. The domestic musk ox has been maintained on farms since 1954, is tame, and follows a regular daily agricultural routine which extends from the breeding season in September through the calving and qiviut-collecting season in May-June. It is treated and used as a normal domestic animal.

III. The principal product of the domestic musk ox is its qiviut, or underwool, which is knitted into delicate garments and provides employment and cash incomes for over a hundred persons in the tundra/coastal villages of Alaska. These include Mekoryuk, Tanunuk, Nightmute, Bethel, Goodnews Bay, St. Michels, St. Marys, Unalakleet, Fortuna Lodge, Marshall, Elim, Nome, Tooksook Bay, Shishmaref, Kotzebue, Wainwright, Pt. Barrow, Kodiak, and others. At present, plans are in progress to locate herds and to train textile knitters in Unalaska, Akutan, Atka, Teller, St. Lawrence, Kivalina, Point Hope, etc.

IV. Specifically, a domestic musk ox can always be distinguished, even from a distance, because it has no horns - in contrast to its wild ancestors. (The horns have either been removed when calves or, when occuring, the hornless characteristic will be extended through selective breeding.)

In addition to meeting the above standards for domestic status, these musk oxen have been widely accepted by the general public as domestic, especially with reference to their economic use and farm management. They have also been referred to as domestic animals in the scientific journals, and have been treated as domestic animals in the compilation of agricultural statistics. This followed normal expectations, since domestication has been one of the principal stated goals regarding musk oxen since their importation in 1930.

By means of the Resolution declaring these musk oxen to be domestic, those tundra/coastal people who rely upon them for their livelihood will become eligible for a variety of technical assistance and grants. They also then will enjoy the normal rights and privileges common to the ownership of domestic animals in other areas.

It seems, therefore, that many advantages and benefits will accrue to the participating residents of tundra/coastal Alaska by a declaration that their animal is domestic.

With many thanks for your consideration -

Sincerely yours,

John Teal

John J. Teal Jr.

HJR

2

Urging renegotiation of the Convention authorizing the International Pacific Halibut Commission so that foreign fishing of North Pacific halibut stocks is prohibited at the earliest possible time.

COMMITTEE REPORT

1-12-77

HOUSE

Jan. 18, 1977 Date

Mr. Speaker:

The Committee on RESOURCES has had HJR 2 under consideration. A majority of the members of the Committee

☒ recommends it do pass

☐ recommends it do not pass

☐ recommends it do pass with attached amendment(s)

☐ recommends it be replaced with CS for _____ and that CS for _____ do pass

☐ (and) recommends it be referred to the _____ committee

☐ reports it back without recommendation

☐ AND attaches a report of its intent

☐ (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

Mike Lowry, Wes Uhlman, Dick Nelson (Jr.)

Al Bauer, Jim Bricker, Jim Ellis

Jim Andersen, Jim Beck, Jim Jesernig

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends: _____

_____ recommends: _____

_____ recommends: _____

Mike Lowry
Chairman

H 60

Memo to: Rep. Dick Eliason

From: Don Kubley

Date: January 17, 1977

Re: Number of Halibet Licenses Issued on Limited Entry Permits

1974	Total 694 permits (all bottomfish)	
1975	654	Halibet licenses, boats smaller than 26'
	645	Halibet licenses, boats larger than 26'
	39	Bottomfish licenses, boats smaller than 26'
	44	Bottomfish licenses, boats larger than 26'
1976	1,080	Halibet licenses, boats smaller than 26'
	969	Halibet licenses, boats larger than 26'
	66	Bottomfish licenses, boats smaller than 26'
	59	Bottomfish licenses, boats larger than 26'

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

JAY S. HAMMOND
GOVERNOR

NEWS RELEASE

FOR INFORMATION CONTACT:
Scott Foster, Press Secretary
Office of the Governor
Pouch A Juneau, Alaska 99811

OR PHONE: 907-465-3500

GOVERNOR HAMMOND SEEKS POSITION ON FISHERIES CONVENTION
March 14, 1977
#47

Governor Jay Hammond has directed the Alaska State Fisheries Council to propose an Alaska position on the future of the International North Pacific Fisheries Convention (INPFC).

The Commission regulates aspects of high seas fishing involving the U. S., Canada, and Japan. Hammond said the U. S. State Department about a month ago gave the required one-year notice of its intention to terminate the INPFC. Hammond said, "The real purpose of that notice is to create a strong sense of urgency that prompts Japan and Canada into renegotiating the treaty within one year."

The annual INPFC meeting is set for Anchorage in October. Hammond said, "During the 23 year life of the INPFC, built-in procedural roadblocks have prevented us from strengthening our long-standing position of terminating the Japanese high seas salmon fishery on stocks of Bristol Bay and Western Alaska origin. One of the benefits for Alaska from adoption of the extended jurisdiction law was the strengthening of that position. Renegotiation of the treaty should bring it into conformity with the extended jurisdiction law. We must take advantage of this opportunity to achieve the best treaty terms for Alaskans and that is why I have asked the Alaska

State Fisheries Council to study and then recommend an Alaska position."

Hammond said the State Fisheries Council will ask for the assistance of others knowledgeable in the activities of the INPFC and of fisheries management in Alaska.

He said the Council will first prepare a draft position paper on renegotiation objectives which will be the basis for public hearings at appropriate locations, after which the Alaska State Fisheries Council will formulate a solid, effective Alaska position.

Hammond added, "A unified Alaskan position will give us the maximum influence in formulating the United States position at meetings later this year, as well as working most effectively at subsequent international negotiating sessions."

- 30 -

HJR

11

January 24, 1977

REPORT FROM OIL & GAS SUB-COMMITTEE
ON H.J.R. #11

Mr. Chairman & Members:

The sub-committee on Oil and Gas has unanimously decided to return H.J.R. 11 to the full resources committee with a "do pass" recomendation, following their meeting at 1:00 p.m. January 24.

It has been requested that the full committee hear brief testimony from Ms. Sam dal Piaz, lobbyist for the Alaska Conservation Society. It is my understanding that she will be speaking in favor of the resolution and will be present in the committee room at 1:00 p.m..

It has also been suggested that I contact the office of The Honorable Warren G. Magnuson, Chairman of the Senate Committee on Commerce, requesting a possible "Time-Table" and "Feasibility" reaction. This I will do, the morning of January 25, and report any information I receive to the full committee.

Merle G. Snider

Sub-committee Chairman

Merle G. Snider	Yes
Hugh Malone	Yes
Bill Akers	Yes

HJR

29

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

9 March 1977

Ernst W. Mueller, Commissioner
Department of Environmental Conservation
Pouch O
Juneau, Alaska 99811

Dear Commissioner,

The House Resources Committee will be reviewing HJR 29 Federal Oil Spill Liability Legislation on Thursday March 17, 1977, at 1:15 p.m. in Room 118 of the Capitol Building.

Please supply us with a position paper or material you have on this bill by the time of the meeting. If you have any information pertinent to these topics, the committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have suggested amendments, please supply the staff with copies of that prior to the meeting.

If there is a fiscal implication and a note is necessary, please prepare it and submit it to the committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

al Osterback

Al Osterback, Chairman
House Resources Committee

cc: Fran Ulmer
Geoffrey Haynes

AO:ts

HOUSE

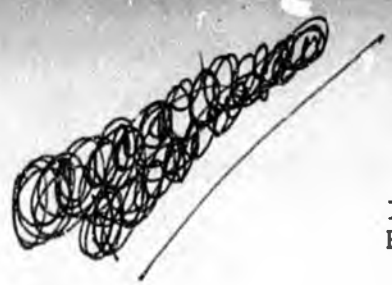
DAILY COMMITTEE ANNOUNCEMENTS

DATE: Tuesday, March 29, 1977

Prepared by the Office of the Chief Clerk

	Room	TIME	TOPIC
COMMERCE 465-3889 3824	COURT 628	8:00 a.m. 3/30	HB 102 (Public utility rates) HB 399 (Utility consumer counsel)
FINANCE 465-3795	CAP. 411	1:15 p.m. 3/29	HB 251 (Reconstruction of Twin Hills School) HB 248 (Ak. Pipeline Commission) HB 349 (Sup.App./Legis. Affairs Agency) HB 13 (Ak. longevity bonus) SB 120 (Sup.App./Dept. of Ed.) HB 370 (Green Lake hydroelec. project) HB 252 - HB 253 - HB 264 - Fisheries enhancement bills
HESS 465-3797 3777	CAP. 110	3:00 p.m. 3/29	HB 212 (Instructional units & instructional unit allotments) HB 381 (Construction/comfort stations-Colony Village Museum & Tourist Center) HB 287 (Prohibiting sex discriminating in education)
JUDICIARY 465-3718 3882	CAP. 124	1:15 p.m. 3/29 7:00 p.m. 3/29	w/State Affairs on HJR 7 (Unicameral Legislature Proposal) Joint hearings in Room 112 HB 398 (Implementing the recom. of the Ak. Salary Com. relating to retirement benefits) HCR 45 (Approving certain recom. of the Salary Commission)
LABOR & MGT. 465-4981	ASBLY 207		
C&RA 465-3820	COURT 620	8:00 a.m. 3/30 3:00 p.m. 3/30	HB 219 (permits/fees-construction facilities associated w/Outer Continental Shelf) Joint w/S. on HB 342/SB220 - Coastal zone management In Room 120 of the Capitol
RESOURCES 465-3715 3781	CAP. 118	1:15 p.m. 3/29	HB 383 (State land - leases) HB 387 (Leasing state land other than extraction of nat.res.) CONFIRMATION HEARING: Commercial Fisheries Entry Commission - Charles Stovall; Alan Adasiak
STATE AFFAIRS 465-3832 4988	CAP. 123-A	1:15 p.m. 3/29	JOINT HEARINGS with House Judiciary in Room 112 HJR 7 (Unicameral Legislature Proposal)
RULES 465-3764	CAP. 101		

SPECIAL MINIORITY COMMITTEE ON STATE LAND DISPOSAL, Room 200, Assembly - 1:15 p.m., 3/29
w/reps. of administration
SPECIAL MAJORITY COMMITTEE ON STATE LAND DISPOSAL, Briefing w/Mr. Ted Smith - on adjournment
ANNUAL LEGISLATIVE DINNER - Juneau Democratic Precincts at Mikes in Douglas 4/2 - 7:30 p.m.



Introduced: 3/8/77
Referred: Resources

IN THE HOUSE BY SPECKING AND MALONE

HOUSE JOINT RESOLUTION NO. 29

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

Relating to federal oil spill liability legislation.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS the United States House of Representatives is presently considering comprehensive oil spill liability legislation which includes a provision for preempting state oil spill liability laws; and

WHEREAS Alaska recognizes the great need for comprehensive federal legislation in this critical area to replace the presently inadequate and incomplete liability provisions of present federal law; and

WHEREAS oil spill liability law is an essential means for states to encourage safe oil tanker operation, especially considering the great preponderance of oil spills which are caused by human error; and

WHEREAS Alaska's oil spill liability law provides unique incentives for safe tanker operation; and

WHEREAS a limitation on oil spill removal liability as proposed in H.R. 776 and similar legislation is an arbitrary limit which may not cover the cleanup costs of accidents resulting from present petroleum operations in Alaska nor the probable future petroleum operations in offshore, ice-covered regions; and

WHEREAS Alaska's greatest resource wealth is her renewable resources; and

WHEREAS these renewable resources should be protected to the greatest degree possible from potential damage from nonrenewable resource development;

BE IT RESOLVED that the Alaska State Legislature respectfully requests that the Congress of the United States not preempt the several states from maintaining oil spill liability law which encourages safe petroleum

operations; and be it

FURTHER RESOLVED that the Alaska State Legislature encourages the U. S. Congress to allow the test of time to determine whether state liability legislation is indeed a complementary component to federal comprehensive oil spill liability law.

COPIES of this resolution shall be sent to the Honorable John M. Murphy, Chairman of the House Committee on Merchant Marine and Fisheries; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U. S. Senators, and the Honorable Don Young, U. S. Representative, members of the Alaska delegation in Congress.

To Chief Clerk 3/14/77

Irene,

Sorry, but I just got the CS from upstairs —

Deanie Nelson

OUTGOING TELEGRAM

February 23, 1977
8:20 p.m. PST
Reno, Nevada
Operator 278

The Honorable Don Young
U. S. House of Representatives
Washington, D. C.

I understand that the Subcommittee on the Coast Guard of the House Merchant Marine and Fisheries Committee is again considering legislation on comprehensive oil pollution liability and compensation, and that hearings will be held this week. Last year HR 14862 was passed out of committee, and has been reintroduced as HR 776. While we support the concept of this bill, we strongly object to the provision in Sec. 110(a) preempting State jurisdiction over the field of liability, or State development of funds to provide for cleanup and third party damages. Further, we are of the opinion that any such legislation must serve, not only as a source of readily available funds for recovery of damages, but must also provide an economic incentive to improve vessel construction and operation. HR 776 does not accomplish the latter.

In the last few years, a number of states, including our own, have developed schemes to either provide for state-operated cleanup programs or third party damage claims, or both. Most such programs are funded through per barrel taxes, civil penalties, license fees, premiums, or a combination thereof.

Alaska's program is unique in that it is designed to provide incentives for safer operations and funds only oil spill cleanup costs, rather than including third party damages. We feel that this scheme is compatible with the development of a national program.

As well, we are concerned that the Federal program, through preemption of jurisdiction of State courts, would be unsympathetic to the peculiar needs of Alaskans, particularly those dependent upon ocean resources for their livelihood. State courts, which have traditionally handled liability, are much more acquainted with both the field and local perspective and need.

We will provide you and the Subcommittee with more detailed information soon.

Ernst W. Mueller
Commissioner
Alaska Department of Environmental Conservation

AMENDMENT

OFFERED IN THE HOUSE: BY: Resources

To: _____ HOUSE BILL No. Hjr 29

SENATE BILL No. _____

PAGE: 1 LINE: 20

After H. R. 776 add-

"and similar legislation"

Alaska State Legislature

House

JUNEAU ALASKA

HOUSE RESOURCES COMMITTEE

11 MARCH 1977

AGENDA

Call Meeting to Order.

Bill Under Consideration:

HB 264 Fisheries Enhancement
HJR 29 FEDERAL OIL SPILL Liability Legislation
Discussion, Questions.

Adjournment.

HJR

34

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

SUBPORT BUILDING – JUNEAU 99801

April 8, 1977

The Honorable Alvin Osterback
Chairman, House Resources Committee
Alaska State Legislature
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Mr. Osterback:

This is in reply to your letter of March 21, 1977 requesting information on the proposed Arctic National Wildlife Range resolutions.

The Department supports the passage of HCR 41 Arctic National Wildlife Range Protection and HJR 34 Environmental Defense of the Arctic National Wildlife Range. The resolutions are consistent with the intent of the withdrawal which established the Range to preserve the "unique wildlife, wilderness and recreational values" of the area.

During the Gas Line Public Hearings, the Department opposed development within the Arctic National Wildlife Range. The Range is unique in that it is the United States' last example of virtually undisturbed arctic ecosystems-- coastal plain, foothills, mountains and the plant and animal species that exist there.

The Arctic National Wildlife Range provides habitat for caribou, bears, wolves, musk oxen and other mammals. It is a nesting, molting and staging area for waterfowl, gulls, terns and other birds.

Caribou are probably most dependent upon the Range not being disturbed by development. The Porcupine caribou herd has an estimated population of 100,000 - 120,000 animals which makes it the largest caribou herd in the state. The Porcupine herd's calving grounds are within the boundaries of the Range. Although the herd uses different ranges and migration patterns from time to time, the calving areas tend to remain constant and are critical to the caribou's existence. Development in the calving areas would be extremely detrimental to the herd.

The Range is also a scientific laboratory and asset and a recreational resource. Development within the Arctic National Wildlife Range would diminish the value of these activities and would destroy some of the Range's most important values. The Arctic National Wildlife Range's primary value is as an essentially pristine area that contains the entire sweep of natural ecological communities from the Brooks Range to the Arctic Ocean. This value can be protected only by maintaining the integrity of the Range.

The Department believes the term "commercial development" needs clarification. Although the Department opposes industrial types of development, we have no objection to guiding and related activities. It should be made clear that the guide industry will not be adversely affected by the resolutions.

The Department is not submitting a fiscal note at this time. Although it is not anticipated that additional funds will be necessary, the actions taken by the Governor and the President of the United States will be the determining factor in this regard.

If additional information is needed please let me know.

Sincerely,

for James W. Brooks
Commissioner

HJR

55

Identical to SJR 37

Phase-out

SJR 37

AGO 122790

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
HJR55	2/21/78	Dept. of fish+Game	2/21/78
	"	Rep Anderson	"
	"	Rep. Buchholdt	"
	"	Rep. Hayes	"
	"	Rep. NaKaK	"
	"	Rep. AKers	"
	"	Rep. Cotten	"
	"	Rep. Schaeffer	"
	"	Rep. Cowper	"
	"	Sen. ferguson	"

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
P. O. BOX 1668 - JUNEAU, ALASKA 99801

file

February 7, 1978

Honorable Kay Poland
Alaska State Legislature
Juneau, AK 99801

Dear Senator Poland:

In response to the request by the Senate Resources Committee in their final day of hearings on Senate Bills 439 and 440, and Senate Joint Resolution 37, the following information is submitted:

The average yearly take of bowhead whales by all Alaskan Eskimo villages for the past ten years is 24.4 whales. The take in 1976 was 48 whales.

The average yearly take of bowhead whales in Barrow for the past ten years is 13 whales. The take in 1976 was 23 whales.

The average yearly take of bowhead whales by Soviet natives for the past five years is 2 whales. They took no bowhead whales in 1976.

A call this morning to Dr. George Harry, Director of the Marine Mammal Division of National Marine Fisheries Service in Seattle, confirms that there has been no take of bowhead whales by Canadian Eskimos in recent years.

Bowhead whale catch statistic tables have been attached for your information. Please do not hesitate to call on us if we can be of any further assistance.

Sincerely,

Harry L. Rietze

Harry L. Rietze
Director, Alaska Region

Table 13.--Bowhead whales taken by USSR natives in recent years

Year	Chukchi Sea	Bering Sea	Total
197.	0	1	1
1973	0	2	2
1974	1	2	3
1975	2	2	4
1976	0	0	0

Source: Personal communication from Dr. V.N. Mineev.

Tables taken from: "The 1976 Catch of Bowhead Whales (Balaena Mysticetus) by Alaskan Eskimos, with a Review of the Fishery, 1973-1976, and Biological Summary of the Species." by Willman Marquette, U.S. Dept. of Commerce, May 1977

Table 14. Bowhead Whales taken by Alaskan Eskimos and shore-based stations in the western Arctic Ocean.

Year	Barrow	Pt. Hope	Wainwright	Nuigsut	Icy Cape	Kaktovik	Gambell	Savoonga	Kivalina	Misc.	Total
1852	17										17
1853	7										7
1854-79											-
1880											5
1881	18										18
1882	1										1
1883	2										2
1884	10										10
1885	28	12									40
1886											-
1887	6										6
1888	2										2
1889	4										4
1890	1	1									2
1891	18										18
1892	8	0									8
1893											-
1894	10										10
1895	4										4
1896	6	33									39
1897	5										5
1898	42[1/]	1									43
1899											-
1900	19										19
1901		1									1
1902		2									2
1903	4	0									4
1904	2	0									2
1905	5										5
1906	1										1
1907	9	0									9
1908	23	13			10-12						46-48
1909	11	13			1						25
1910	2+										2
1911	1	3									4

Table 14 . (continued)

Year	Barrow	Pt. Hope	Wainwright	Nuigsut	Icy Cape	Kaktovik	Gambell	Savoonga	Kivalina	Misc.	Total
1912	2	1									3
1913	4	1									5
1914	1	2			1						4
1915		3									3
1916	5	7	1							1	14
1917		3			3					2	8
1918	1	7									8
1919	1	2									3
1920		3									3
1921		2									2
1922	1	13	3								17
1923										2	2
1924		16								9	25
1925	19	10	2								31
1926	4	13									17
1927	2	3									5
1928	11										11
1929	15										15
1930	7										7
1931	11	1									12
1932	7										7
1933	5										5
1934	4										4
1935	6										6
1936	4	4									8
1937	9										9
1938	4										4
1939	6										6
1940	0	5									5
1941	2	8	1								11
1942	10		1								11
1943	6										6
1944	0		2								2
1945	3	3									6
[illegible]	9	2									11

Table 14. (continued)

Year	Barrow	Pt. Hope	Wainwright	Nuigsut	Icy Cape	Kaktovik	Gambell	Savoonga	Kivalina	Misc.	Total
1947	4	6									10
1948	5	0									5
1949	0	4	1								5
1950	4	2	2							1 (Cape	9
1951	9	4								Lisburne)	13
1952	0	2+									2
1953	17	4					2				23
1954	1	3									4
1955	19	1	1				2				23
1956	2	2					1				5
1957	0	3					0				3
1958	0	2					0				2
1959	0	1									1
1960	15	4	0								19
1961	6	2	1				1				10
1962	5	6	1								12
1963	5	3	2								10
1964	12	1	1			2			1		16
1965	4	2	0								6
1966	7	5	1								13
1967	3	1	0								4
1968	10	3	2				1				16
1969	11	3	3							1 (Wales)	18
1970	15	8	0						1		24
1971	13	6	2				1		1	1 (Wales)	24
1972	19	14	2				2		1		38
1973	17	7	3	1		3	2	4			37
1974	9	8	1			2	2		0		20
1975	10	4	0				1		0		15
1976	23	12	3			2	1	7	0	0 (Wales)	48

1/. Combined catch of Eskimos and two vessels.

HJR

60

HJR 60

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

JAY S. HAMMOND, GOVERNOR

POUCH O – JUNEAU 99811

February 22, 1978

The Honorable Alvin Osterback
Chairman
Resources Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

I understand that your Committee is planning to receive testimony on House Joint Resolution No. 60 (requesting the federal government to remove solid waste on land in Alaska in accordance with the Resource Conservation and Recovery Act). This department played an active role in shaping several provisions of the Federal Resource Conservation and Recovery Act (RCRA). To provide you with some background information on the issue addressed by HJR 60, I thought that it might be useful to include some history of our involvement with the Act and our basic rationale for the provisions which we persuaded Congress to include in the law.

Two years ago Deputy Commissioner Reinwand and I worked closely with the National Governors' Association and Senator Gravel, who is a ranking member of the Senate Environment and Public Works Committee, to win congressional approval of several provisions to the 1976 Resource Conservation and Recovery Act. The key provision waived the federal government's sovereign immunity, thereby requiring federal facilities to obtain state permits for solid waste disposal sites. The definition of a disposal site was purposefully written to be sweeping in its scope so that abandoned junk on federal lands could be regulated under a state's solid waste management program.

Another important provision which we were successful in placing in the Act mandates the federal government to complete a study of the federal lands solid waste problem in Alaska. The results of the study are to be submitted to Congress, together with any recommendations for action to correct the problem. A second report will be completed in mid-April and submitted to Congress. This department is coordinating the study--at EPA's request--and we will be using the data gathered to design a comprehensive program to require the federal government to clean up the problems.

During the course of the study, we pinpointed several extremely serious problems which warrant immediate attention. One problem is the environmental messes that exist at certain active DEWLine sites. Through our permit programs we are requiring the Air Force to take action to correct them. I have enclosed a copy of the draft permit which we are proposing to issue to the Air Force for its Barter Island site. The draft permit is being circulated to the Air Force and interested members of the public for review and comment. When we have received comments from the Air Force and public, we will sift through them to determine if changes should be made in finalizing the permit.

We plan to take similar action where problems exist on federal lands throughout the State. The message we are sending to the federal government is that we want compliance with State solid waste laws and regulations, and we want compliance to be accomplished in an expeditious manner.

Therefore, we support the thrust of HJR 60 and deeply appreciate the Legislature's interest in this matter. However, there are a few technical changes which we would like to recommend that the Committee consider. They are:

1. On page 2, line 1, we recommend that the words "the Environmental Protection Agency to implement" be stricken, and replaced with: "all federal agencies administering public lands in Alaska to take swift action to remove or dispose of solid wastes identified in."

   The rationale for this change is that the appropriate land management agencies, not EPA, should be responsible for cleaning up the existing solid waste problems.

2. On page 2, line 7, we recommend the inclusion of the following paragraph:

   "BE IT FURTHER RESOLVED that the Alaska Legislature strongly supports the Department of Environmental Conservation in its regulatory programs to require federal agencies to take action to solve the long-standing environmental problems created by the solid waste which the federal government has left throughout the State."

   This paragraph would buttress the Department's current and planned efforts to require the federal government to solve the solid waste problem in an expeditious manner.

Support from the Legislature would strengthen the Department's efforts in dealing with the federal agencies.

3. On page 2, line 11, between the words "Congress" and "and" insert: "the Honorable Jennings Randolph, Chairman of the Senate Environment and Public Works Committee, the Honorable Harley O. Staggers, Chairman of the House Committee on Interstate and Foreign Commerce."

We recommend inclusion of these two members of Congress as they chair the committees which have jurisdiction over solid waste legislation.

If you have any questions on this matter, please do not hesitate to contact me or my Deputy Commissioner Jerry Reinwand.

Sincerely,

Ernst W. Mueller
Commissioner

Enclosure

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
POUCH O
JUNEAU, ALASKA 99811

WASTE DISPOSAL PERMIT
(SOLID WASTE MANAGEMENT PERMIT)

Permit No. NR-1-78 Date of Issuance:

This Waste Disposal Permit is issued to Department of the Air Force, Detachment 3, 46th Aerospace Defense Wing (ADCOM), Petersen Air Force Base, Colorado 80914, for the operation and maintenance of a solid waste facility located in SE 1/4, Sec. 13, T9N, R34E Umiat Meridian, at Barter Island DEW Line Station, Alaska

and is subject to the conditions and stipulations in sections A.1 through D.9, of this permit and the applicable State laws and regulations.

This permit is issued under provisions of Alaska Statutes, AS 46.03.100-110, Water, Air, and Environmental Conservation, Alaska Administrative Code as amended or revised, and other applicable State laws and regulations.

This permit is effective upon issuance and expires July 31, 1980; it may be terminated or modified in accordance with AS 46.03.120.

This permit is not valid until signed by the Deputy Commissioner of the Department of Environmental Conservation.

Deputy Commissioner
Department of Environmental Conservation

A. SITE PREPARATION--The permittee shall

1. Submit to this department for approval, on or before ~~April~~ May 15, 1978. A disposal site development and operation plan for the permitted facility. The plan shall include:

   a. a profile of the permitted site's soils.

   ~~a.~~ b detailed facility maps or plan sheets showing existing contours, proposed developments, type of landfill method (trench or area), locations, diminsions and order of refuse cell construction and proposed finished site contours.

   ~~b. description of the existing site soil profile.~~

   c. detailed narrative of the proposed developments including step by step descriptions of the proposed operating procedures for trench excavation, cell construction, scrap metal recovery and other activities associated with operation of the disposal facility.

~~Upon receiving departmental approval, this permit will be amended to incorporate the approved plan activities as an integral part of the permit.~~ This permit shall be amended to incorporate the development and operation plan as soon as it has received departmental approval.

2. Maintain a working copy of the department approved development and operational plan from A.1. at Bar-M for use in constructing and operating the facility.

3. Submit a proposed schedule of operating hours and days to this department for review and approval within thirty days of the date of issuance of this permit.

4. Erect and maintain signs informing users of the site operating hours and rules, and signs directing users to the active dumping point.

B. CLEAN UP OF EXISTING SOLID WASTE--The permittee shall:

1. Remove all solid wastes from the existing open dump and transfer it to the proposed facility. Salvageable metal shall be separated and stockpiled in the proposed reclaimable metal holding area. The remaining solid waste shall be landfilled in accordance with the department approved site development plan specified in A.1. All solid wastes shall be transferred and processed, and the existing dump closed and restored not later than September 15, 1978.

2. Collect all solid wastes from the shallow waters, inter-tidal areas and beaches near the Bar-M station and the affected portions of the Arctic Wildlife Range. Collected wastes shall be transported to the proposed landfill for processing and disposal as specified in B.1.

3. Transport the abandoned metal tower located about one and one-half miles from the existing open dump to the proposed reclaimable metal holding area, on or before September 15, 1978.

4. Cleanup and restore the Manning Point site by September 15, 1979. Cleanup activities shall be coordinated with the North Slope Borough and the Kaktovik Inupiat Corporation. A plan for the cleanup will be submitted to the North Slope Borough, the Kaktovik Inuipiat Corporation and this department's Northern Region Office at least 90 days before the initiation of any cleanup action. The cleanup shall include at a minimum:

   a. Collection and removal from Alaska of all P.O.L. barrels by September 15, 1979.

   b. Removal of all collapsed buildings, and collection of all miscellaneous solid waste. Scrap lumber and wood may be open burned under terms of an Open Burning Permit to be obtained from the department's Northern Regional Office. All other materials shall be transported to the proposed landfill for salvage or disposal.

   c. Surface rehabilitation, including reseeding of disturbed areas, shall be accomplished no later than September 15, 1979.

5. Remove from Alaska, no later than September 15, 1979, all salvageable and reclaimable materials collected during the cleanup operations.

C. OPERATION--The permittee shall:

1. Consolidate and compact the deposited wastes into cells in accordance with the approved submittal required in A.1., above.

2. Cover the compacted refuse with at least six inches of compacted soil at the end of each operating day.

3. Separate salvageable metals and stockpile them in the reclaimable metals holding area indicated on the permit application. The accumulated wastes shall be transported South to a processing center and the holding area cleaned out at least once each year.

4. Collect all littered and windblown wastes in and adjacent to the disposal facility at least once each month and return them to the active dumping point for burial.

5. Prohibit open burning on the landfill and immediately extinguish any fires that may occur.

6. Prohibit the deposition of waste oil and petroleum products and chemical and hazardous wastes.

7. Incinerate all combustible and putrescible waste generated at the Bar-M station prior to disposal.

8. Comply with all portions of the permit application not otherwise addressed herein.

D. GENERAL

1. The permittee shall allow the Commissioner of Environmental Conservation or his authorized representative, upon presentation of credentials,

a. to enter upon the permittee's premises where waste collection or disposal works are located at such times and upon such terms as the Department may reasonably require, and
b. at reasonable times, to have access to and to be allowed to copy any records required to be kept under the terms and conditions of this permit and to inspect any monitoring equipment or monitoring method required in this permit.

2. Availability of Records

Except for information relating to secret processes or methods of manufacture, all records and reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Alaska Department of Environmental Conservation.

3. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance, whether or not such noncompliance is due to factors beyond his control, including but not limited to accidents, equipment breakdowns, or labor disputes.

4. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any other privileges; nor does it authorize any injury to private property or any invasion or personal rights, nor any infringements of federal, State or local laws and regulations.

5. Severability

The provisions of this permit are severable and, if any provision of this permit or the application of any provision of this permit to any circumstances is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby. Notwithstanding the above, in the event that such invalidation materially alters the scope or conditions of this permit, the Department shall have the right, at its sole option, to terminate the permit.

6. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation.

7. Posting of Permit

The permittee shall post conspicuously and maintain a copy of this permit at the disposal facility.

8. Transfers

This permit is not transferable and is the property of the State of Alaska, Department of Environmental Conservation. Should operation

of the facility be contracted or a change in contractors be made, the new contractor shall be notified in writing of the existence of the permit and its conditions. A copy of the written notification shall be forwarded to the Commissioner of the Department of Environmental Conservation.

9. This permit shall be amended to provide for the upgrading or closure of the site, if the facility is classified as an "open dump" in accordance with the inventory and definitions being developed by the Environmental Protection Agency under the Resource Conservation and Recovery Act of 1976, P.L. 94-580.

updating of standards for recovered materials and for the use of recovered materials in various industrial, commercial, and governmental uses.

"DEVELOPMENT OF MARKETS FOR RECOVERED MATERIALS

"SEC. 5003. The Secretary of Commerce shall within two years after the enactment of this Act take such actions as may be necessary to— 42 USC 6953.

"(1) identify the geographical location of existing or potential markets for recovered materials;

"(2) identify the economic and technical barriers to the use of recovered materials; and

"(3) encourage the development of new uses for recovered materials.

"TECHNOLOGY PROMOTION

"SEC. 5004. The Secretary of Commerce is authorized to evaluate the commercial feasibility of resource recovery facilities and to publish the results of such evaluation, and to develop a data base for purposes of assisting persons in choosing such a system. 42 USC 6954.

"Subtitle F—Federal Responsibilities

"APPLICATION OF FEDERAL, STATE, AND LOCAL LAW TO FEDERAL FACILITIES

"SEC. 6001. Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any solid waste management facility or disposal site, or (2) engaged in any activity resulting, or which may result, in the disposal of solid waste or hazardous waste shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting control and abatement of solid waste or hazardous waste disposal in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court with respect to the enforcement of any such injunctive relief. The President may exempt any solid waste management facility of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption. 42 USC 6961. Exemptions. Presidential report to Congress.

SOLID WASTE CLEANUP ON FEDERAL LANDS IN ALASKA

Study.
42 USC 6981 note.

SEC. 3. (a) The President shall direct such executive departments or agencies as he may deem appropriate to conduct a study, in consultation with representatives of the State of Alaska and the appropriate Native organizations, to determine the best overall procedures for removing existing solid waste on Federal lands in Alaska. Such study shall include, but shall not be limited to, a consideration of—

(1) alternative procedures for removing the solid waste in an environmentally safe manner, and

(2) the estimated costs of removing the solid waste.

Report to congressional committees.

(b) The President shall submit a report of the results together with appropriate supporting data and such recommendations as he deems desirable to the Committee on Public Works of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives not later than one year after the enactment of the Solid Waste Utilization Act of 1976. The President shall also submit, within six months after the study has been submitted to the committees, recommended administrative actions, procedures, and needed legislation to implement such procedures and the recommendations of the study.

Llangollen Landfill, Del., leachate control research program.
42 USC 6981 note.

SEC. 4. (a) In order to demonstrate effective means of dealing with contamination of public water supplies by leachate from abandoned or other landfills, the Administrator of the Environmental Protection Agency is authorized to provide technical and financial assistance for a research program to control leachate from the Llangollen Landfill in New Castle County, Delaware.

Cooperation with EPA.

(b) The research program authorized by this section shall be designed by the New Castle County areawide waste treatment management program, in cooperation with the Environmental Protection Agency, to develop methods for controlling leachate contamination from abandoned and other landfills that may be applied at the Llangollen Landfill and at other landfills throughout the Nation. Such research program shall investigate all alternative solutions or corrective actions, including—

(1) hydrogeologic isolation of the landfill combined with the collection and treatment of leachate;

(2) excavation of the refuse, followed by some type of incineration;

(3) excavation and transportation of the refuse to another landfill; and

(4) collection and treatment of contaminated leachate or ground water.

Such research program shall consider the economic, social, and environmental consequences of each such alternative.

(c) The Administrator of the Environmental Protection Agency shall make available personnel of the Agency, including those of the Solid and Hazardous Waste Research Laboratory (Cincinnati, Ohio), and shall arrange for other Federal personnel to be made available, to provide technical assistance and aid in such research. The Administrator may provide up to $250,000, of the sums appropriated under the Solid Waste Disposal Act, to the New Castle County areawide waste treatment management program to conduct such research, including obtaining consultant services.

42 USC 6901 note.

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
POUCH O
JUNEAU, ALASKA 99811

WASTE DISPOSAL PERMIT
(SOLID WASTE MANAGEMENT PERMIT)

Permit No. NR-1-78 Date of Issuance:

This Waste Disposal Permit is issued to Department of the Air Force, Detachment 3, 46th Aerospace Defense Wing (ADCOM), Petersen Air Force Base, Colorado 80914, for the operation and maintenance of a solid waste facility located in SE 1/4, Sec. 13, T9N, R34E Umiat Meridian, at Barter Island DEW Line Station, Alaska

and is subject to the conditions and stipulations in sections A.1 through D.9, of this permit and the applicable State laws and regulations.

This permit is issued under provisions of Alaska Statutes, AS 46.03.100-110, Water, Air, and Environmental Conservation, Alaska Administrative Code as amended or revised, and other applicable State laws and regulations.

This permit is effective upon issuance and expires July 31, 1980; it may be terminated or modified in accordance with AS 46.03.120.

This permit is not valid until signed by the Deputy Commissioner of the Department of Environmental Conservation.

Deputy Commissioner
Department of Environmental Conservation

A. SITE PREPARATION--The permittee shall

1. Submit to this department for approval, on or before ~~April~~ May 15, 1978. A disposal site development and operation plan for the permitted facility. The plan shall include:

a. a profile of the permitted site's soils.

~~a.~~ b. detailed facility maps or plan sheets showing existing contours, proposed developments, type of landfill method (trench or area), locations, diminsions and order of refuse cell construction and proposed finished site contours.

~~b.~~ ~~description of the existing site soil profile.~~

c. detailed narrative of the proposed developments including step by step descriptions of the proposed operating procedures for trench excavation, cell construction, scrap metal recovery and other activities associated with operation of the disposal facility.

This permit shall be amended to incorporate the development ~~Upon receiving departmental approval, this permit will be amended to incorporate the approved plan activities as an integral part of the permit.~~ and operation plan as soon as it has received departmental approval.

2. Maintain a working copy of the department approved development and operational plan from A.1. at Bar-M for use in constructing and operating the facility.

3. Submit a proposed schedule of operating hours and days to this department for review and approval within thirty days of the date of issuance of this permit.

4. Erect and maintain signs informing users of the site operating hours and rules, and signs directing users to the active dumping point.

B. CLEAN UP OF EXISTING SOLID WASTE--The permittee shall:

1. Remove all solid wastes from the existing open dump and transfer it to the proposed facility. Salvageable metal shall be separated and stockpiled in the proposed reclaimable metal holding area. The remaining solid waste shall be landfilled in accordance with the department approved site development plan specified in A.1. All solid wastes shall be transferred and processed, and the existing dump closed and restored not later than September 15, 1978.

2. Collect all solid wastes from the shallow waters, inter-tidal areas and beaches near the Bar-M station and the affected portions of the Arctic Wildlife Range. Collected wastes shall be transported to the proposed landfill for processing and disposal as specified in B.1.

3. Transport the abandoned metal tower located about one and one-half miles from the existing open dump to the proposed reclaimable metal holding area, on or before September 15, 1978.

4. Cleanup and restore the Manning Point site by September 15, 1979. Cleanup activities shall be coordinated with the North Slope Borough and the Kaktovik Inupiat Corporation. A plan for the cleanup will be submitted to the North Slope Borough, the Kaktovik Inuipiat Corporation and this department's Northern Region Office at least 90 days before the initiation of any cleanup action. The cleanup shall include at a minimum:

   a. Collection and removal from Alaska of all P.O.L. barrels by September 15, 1979.

   b. Removal of all collapsed buildings, and collection of all miscellaneous solid waste. Scrap lumber and wood may be open burned under terms of an Open Burning Permit to be obtained from the department's Northern Regional Office. All other materials shall be transported to the proposed landfill for salvage or disposal.

   c. Surface rehabilitation, including reseeding of disturbed areas, shall be accomplished no later than September 15, 1979.

5. Remove from Alaska, no later than September 15, 1979, all salvageable and reclaimable materials collected during the cleanup operations.

C. OPERATION--The permittee shall:

1. Consolidate and compact the deposited wastes into cells in accordance with the approved submittal required in A.1., above.

2. Cover the compacted refuse with at least six inches of compacted soil at the end of each operating day.

3. Separate salvageable metals and stockpile them in the reclaimable metals holding area indicated on the permit application. The accumulated wastes shall be transported South to a processing center and the holding area cleaned out at least once each year.

4. Collect all littered and windblown wastes in and adjacent to the disposal facility at least once each month and return them to the active dumping point for burial.

5. Prohibit open burning on the landfill and immediately extinguish any fires that may occur.

6. Prohibit the deposition of waste oil and petroleum products and chemical and hazardous wastes.

7. Incinerate all combustible and putrescible waste generated at the Bar-M station prior to disposal.

8. Comply with all portions of the permit application not otherwise addressed herein.

D. GENERAL

1. The permittee shall allow the Commissioner of Environmental Conservation or his authorized representative, upon presentation of credentials,

a. to enter upon the permittee's premises where waste collection or disposal works are located at such times and upon such terms as the Department may reasonably require, and
b. at reasonable times, to have access to and to be allowed to copy any records required to be kept under the terms and conditions of this permit and to inspect any monitoring equipment or monitoring method required in this permit.

2. Availability of Records

Except for information relating to secret processes or methods of manufacture, all records and reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Alaska Department of Environmental Conservation.

3. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance, whether or not such noncompliance is due to factors beyond his control, including but not limited to accidents, equipment breakdowns, or labor disputes.

4. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any other privileges; nor does it authorize any injury to private property or any invasion or personal rights, nor any infringements of federal, State or local laws and regulations.

5. Severability

The provisions of this permit are severable and, if any provision of this permit or the application of any provision of this permit to any circumstances is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby. Notwithstanding the above, in the event that such invalidation materially alters the scope or conditions of this permit, the Department shall have the right, at its sole option, to terminate the permit.

6. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation.

7. Posting of Permit

The permittee shall post conspicuously and maintain a copy of this permit at the disposal facility.

8. Transfers

This permit is not transferable and is the property of the State of Alaska, Department of Environmental Conservation. Should operation

of the facility be contracted or a change in contractors be made, the new contractor shall be notified in writing of the existence of the permit and its conditions. A copy of the written notification shall be forwarded to the Commissioner of the Department of Environmental Conservation.

9. This permit shall be amended to provide for the upgrading or closure of the site, if the facility is classified as an "open dump" in accordance with the inventory and definitions being developed by the Environmental Protection Agency under the Resource Conservation and Recovery Act of 1976, P.L. 94-580.

To Rep. Alvin Osterback and members of the House Resources Committee:

Bill Ellis

REGISTERED GUIDE & OUTFITTER

DEVIL'S MOUNTAIN LODGE - MILE 42 NABESNA ROAD - GAKONA, ALASKA 99586 - (907) 822-3318

HCR 95

When are the legislators and other businesses going to recognize guiding as an industry, providing a large amount of revenue to this State. Guiding should be given the same consideration as any other industry in the State.

We have accepted restrictions on the number of employees we may have, double jeopardy, exclusive guiding areas and the guide board. If this House Bill 95 is passed, more than three years of hard, steady work will go down the drain. I believe the guide board should be given an opportunity to weed the bugs out of the guiding area system. If you annul the guiding areas, you might as well abolish the guide law itself. I believe you should be lending strength to the guiding area concept in order to strengthen the guiding profession.

I have been in the guiding business full time for over 20 years. This State has never recognized our profession on the ground of revenue we bring into the State. I took exception to lines 21-23. There are industrious and unscrupulous people in every industry, not just the guiding industry. You should be looking at the industry, not the individuals.

I ask that you oppose this House bill and give the Guide Board a chance to make the guiding areas work.

Bill Ellis, Master Guide

HJR

81

PHIL R. HOLDSWORTH, P.E.
CONSULTING ENGINEER & LEGISLATIVE COUNSEL
MINING – GEOLOGY – LANDS

PHONE 907-586-1383

326 FOURTH STREET No. 1009
JUNEAU, ALASKA 99801

May 31, 1978

The Honorable Ted Stevens
United States Senate
411 Russell Senate Office Building
Washington, D.C. 20510

Dear Ted:

Enclosed is a copy of my comments on the BLM's draft Wilderness Review Procedures. Am sure you are familiar with Sec. 1307 of H.R. 39 as it moved between House Committees. I believe every effort should be made to see that a similar provision remains in the final bill as it passes the Congress.

As you may know, WGM has been denied a permit to construct an airstrip to serve two very promising deposits north of Kotzebue; one held by General Crude and Houston Oil & Minerals, and the other by Cominco. These deposits are near enough to each other to be served by a common airstrip. They are on 17(d)(1) lands. This action is, in effect, denying the right of reasonable access to develop valid existing mining claims which is guaranteed under the mining laws.

In another case, a supply train with tracked vehicles and sleds moving fuel and other supplies over the snow early this spring, and on an existing mine road along the upper Tok River southeast of Fairbanks, was stopped by BLM in the field. The destination was valid claims staked on state selected lands. In both cases the movement of needed materials by helicopter would be economically prohibitive, considering the advanced stage of development and the distances involved.

It is because of these incidents, and the policies of BLM as applied in the field, even before finalization of their Wilderness Review Procedures and the application of Sec. 603 of FLMPA, that serious consideration should be given to amending FLMPA. The provisions of Sec. 603 should not apply to the remainder of Alaska public lands following the final identification of the National Interest Lands.

Your comments on the above suggestion, and critique of the enclosed statement, would be appreciated.

Sincerely,

Phil R. Holdsworth

Phil R. Holdsworth, P.E.

cc: Senator Poland
Representative Osterback

PHIL R. HOLDSWORTH, P.E.
CONSULTING ENGINEER & LEGISLATIVE COUNSEL
MINING — GEOLOGY — LANDS

PHONE 907-586-1383

326 FOURTH STREET No. 1009
JUNEAU, ALASKA 99801

May 31, 1978

Director (370)
Bureau of Land Management
Department of the Interior
Washington, D.C. 20240

Dear Sir:

Reference is made to my letter of May 16, 1978 relative to your draft "Wilderness Review Procedures" of February 27, 1978. Specific comments follow.

Exemptions from wilderness review identified on Page 6 include Native lands under ANCSA, 17(d)(2) withdrawals, and TA'd State selections. Why are not other long-standing State selections, filed prior to October 21, 1976, also exempted from the wilderness review?

On Page 11, under paragraph III - Wilderness Review Policy, again only TA'd State selections are exempted from the review. Under paragraph 4, at the top of Page 17, the statement is made "- - - (Alaska inventory will be postponed until native claims land tenure has been finalized);". What about State land tenure, at least for those lands selected prior to October 21, 1976?

Earlier drafts of the proposed review procedures tended to give greater recognition to State selections as valid existing rights. After all, these rights under the Statehood Act preceded those granted to Alaska Natives under ANCSA.

Most of the problems presently posed in Alaska under this program are the result of regional or district applications of the provisions of Sec. 603 of FLPMA. There is a tendency on the part of BLM district managers to apply the provisions of this section now, even though native claims land tenure has not been finalized, and there is even some question as to the permanent status of some of the State TA'd selections. The status of continuing exploration on valid mining claims located on State selected and 17(d)(1) lands prior to October 21, 1976 is also in question.

Attention should be called to what appears to be the intent of Congress, or at least that of the House Interior & Insular Affairs Committee, in Sec. 1307 of H.R. 39 as it moved to the House Merchant Marine & Fisheries Committee. The first sentence of this section reads - "Notwithstanding any other provision of law, section 603 of the Federal Land Policy and Manage-

ment Act of 1976, shall not apply to any lands in Alaska." The accompanying committee report explained this provision on Page 222 as follows - "Even though there have been no completed BLM studies of Alaskan public lands under this provision of law or under the relevant provisions of the Wilderness Act, the Committee is of the opinion that its review activities and subsequent decisions regarding the areas which have been recommended to the Congress by the present Administration and preceding Administrations have achieved the essential objectives of the review requirements of section 603, and that it is appropriate to relieve the Secretary of the requirement of section 603 of Public Law 94-579 in connection with the remainder of Alaska public lands." It is recognized that this has not been enacted into law, but to the best of my knowledge the House Merchant Marine & Fisheries Committee left this language in their version of the legislation.

Currently, continued mineral exploration and its attendant reasonable access to valid mining claims, located prior to October 21, 1976, have been denied both on 17(d)(1) and State selected lands. It would appear that it may be necessary to push for a specific amandment to FLPMA to exempt Alaska from the provisions of section 603, at least until the land entitlements of the State and Alaska Natives are satisfied.

Respectfully submitted,

Phil R. Holdsworth

Phil R. Holdsworth

cc: Senator Stevens
Senator Gravel
Representative Young
State Director McVee
District Manager Johnson
Assistant Secretary Martin

IPMAFUB AHG

I-025935M123017 05/03/78

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HJR 81

17 FAIRBANKS ALASKA 5-3-78

PMS CLARK GRUENING

ALASKA HOUSE OF REPRESENTATIVES

POUCH V KMAIL STOP 3100

JUNEAU ALASKA 99811

TO THE STATE LEGISLATURE AND ALL LEVELS OF LOCAL GOVERNMENT IN THE STATE OF ALASKA.

IMPLEMENTATION OF SECTION 603 OF THE BLM ORGANIC ACT OF 1976 MEANS THAT ALL ROADLESS AREAS OF 5000 ACRES OR GREATER ON FEDERAL LAND ARE SUBJECT TO MANAGEMENT AS WILDERNESS UNDER THE WILDERNESS ACT OF 1964. THIS MEANS NO MECHANIZED EQUIPMENT OF ANY KIND IS ALLOWED THEREON. THIS MEANS THAT ALL ECONOMIC OR PRODUCTIVE ACTIVITY EXCEPT BY HAND METHODS IS PROHIBITED ON THESE LANDS, INCLUDING PROHIBITION OF RECREATIONAL EQUIPMENT SUCH AS SNOW MACHINES, BOATS, AIRCRAFT.

SECTION 603 IS CURRENTLY BEING ENFORCED IN ALASKA AS CAN BE SUBSTANTIATED BY AT LEAST THREE MINERS WHOSE OPERATIONS HAVE BEEN DIRECTLY AFFECTED THEREBY. CALL ME AT 479-6231 FOR DOCUMENTATION.

I URGE YOU TO CONSIDER ADOPTION OF THE FOLLOWINXLPROPOSED RESOLUTION AT THE EARLIEST POSSIBLE TIME.

BEAR IN MIND THAT CURRENT BLM POLICY APPARENTLY DEFINES RBADS AS ONLY THOSE THAT ARE PUBLICLY MAINTAINED YEAR-ROUND. THISMMEANS SEASONAL ROADS IN ALASKA FAIL TO EXEMPT AN AREA FROM WILDERNESS MANAGEMENT.

7##. PROPOSED RESOLUTION

WHEREAS, THIS RESOLUTION IS BASED ON THE STATE OF ALASKA'S LONG STANDING UNDERSTANDING AND APPRECIATION OF THE IMPORTANT PART MINING, OIL, AGRICULTURE, TIMBERING, HUNTING, FISHING, AND GUIDING HAVE CONTRIBUTED TO THE BASIC ECONOMY OF THE STATE OF ALASKA AND THE NATION AND TO THE STANDARD OF LIVING OF ALL THE CITIZENS OF THE U.S.

WHEREAS, IT IS THE APPARENT INTENTION OF THE DEPARTMENT OF INTERIOR TO CONDUCT A WILDERNESS REVIEW PROGRAM UNDER SECTION 603 OF BLM ORGANIC ACT THAT WILL EFFECTIVELY PROHIBIT MINING AND OIL EXPLORATION OR DEVELOPMENT AND WILL FURTHER INTERFERE WITH OR PROHIBIT TIMBERING, AGRICULTURE, AND RECREATIONAL OPERATIONS

WHEREAS, THIS PROPOSED WILDERNESS POLICY AS OUTLINED DEPENDS TO A GREAT MEASURE ON THE DEFINITION OF WHAT CONSTITUTES A "ROAD" OR "ROADWAY" AND BECAUSE ROADS AND ROADWAYS INSIDE THE STATE OF ALASKA ARE VITAL TO THE CONDUCT OF COMMERCE, HEALTH, WELFARE, SECURITY AND THE PURSUIT OF HAPPINESS OF ITS CITIZENS

WHEREAS, THE PROPOSED WILDERNESS POLICY AND REVIEW BY THE DEPARTMENT OF INTERIOR WOULD CHANGE THE ADVALOREM TAX STRUCTURE OF FUTURE POSSIBLE PATENTED LANDS THUS REDUCING FUTURE PROPERTY TAX REVENUES FOR THE STATE, THUS INCREASING THE EXISTING INDIVIDUAL TAX BURDEN AND INCREASING THE LOSS OF PERSONAL INCOME TO THE CITIZENS OF THE STATE OF ALASKA BY REMOVING VAST AREAS FROM ANY PRODUCTIVE USE

WHEREAS, THE IMPLEMENTATION OF THIS POLICY WOULD TEND TO ENCROACH ON STATES RIGHTS, REDUCE OR SERIOUSLY LIMIT DOMESTIC EXPLORATION FOR AND PRODUCTION OF VITALLY NEEDED MINERALS, OIL, FOOD AND FIBRE AND OTHER RAW MATERIALS, THUS FORCING INCREASED DEPENDENCE ON UNRELIABLE AND EXPENSIVE FOREIGN SOURCES WITH THE ATTENDANT PROBLEMS OF INSECURITY OF SUPPLIES AND ADDED DEFICITS IN THE BALANCE OF PAYMENTS THUS REDUCING THE TRUE VALUE OF U. S. CURRENCY AND BY SO DOING SERIOUSLY HARM ALL U. S. CITIZENS

WHEREAS, IMPLEMENTATION OF SECTION 603 MAY BE USED AS A THREAT TO FORCE ALASKANS TO QUIT THEIR RESISTANCE AGAINST HR-39 WHICH IS CLEARLY NOT IN THE BEST INTEREST OF MOST ALASKANS AS EXPRESSED IN CITIZEN POLLS

WHEREAS, THROUGH A MOUNTAINOUS MAZE OF BUREAUCRACY AND REGULATION, THE FEDERAL GOVERNMENT ALREADY MAINTAINS EFFECTIVE CONTROL OVER THE MEANS OF PRODUCTION OF U.S. INDUSTRY, AND EXTRACTIVE INDUSTRIES IN PARTICULAR

WHEREAS, THE IMPLEMENTATION OF SECTION 603 TOGETHER WITH RARE II AND HR-39 EFFECTIVELY REMOVES ALL FEDERAL LANDS IN ALASKA FROM ANY PRODUCTIVE USE TO SUPPORT THE LIVELIHOODS OF ITS CITIZENS

WHEREAS, THE JOBS OF ALASKANS INVOLVED IN MINERAL EXPLORATION, TIMBERING AND CONSTRUCTION ARE IN IMMEDIATE JEOPARDY BECAUSE OF PROCEDURES ALREADY COMMENCED BY BLM TO DENY PERMITS

NOW THEREFORE, BE IT RESOLVED, WE MEMBERS OF THE ALASKA STATE LEGISLATURE HEREBY WISH TO GO ON RECORD AS OBJECTING TO THE PROPOSED WILDERNESS POLICY PROGRAM AND REVIEW AND FURTHER WISH TO URGE THE ADMINISTRATION, INCLUDING THE DEPARTMENTS OF INTERIOR AND AGRICULTURE TO CONSIDER THE DESIRES OF THE CITIZENS OF THIS STATE AND TO SOLICIT THE ALASKA STATE LEGISLATURE TO PASS ON THE NEED OF FUTURE DESIGNATED WILDERNESS AREAS ON THE PUBLIC LANDS WITHIN THE STATE OF ALASKA

AND BE IT FURTHER RESOLVED THAT WE URGE THE U. S. CONGRESS TO GRANT IMMEDIATE LEGISLATIVE RELIEF TO ALASKA FROM THE IMPLEMENTATION OF SECTION 603 OF THE BLM ORGANIC ACT.

RESPECTFULLY SUBMITTED,

JEFF KNAEBEL

TLX 09035402

2243 EST

IPMAFUB AHG

SB

13

Representative Steve Cowper
State of Alaska
Pouch V
Juneau, Alaska 99811

Dear Steve:

Mr. Bruce Boyd relayed your request for items significant in justifying SSSB 13 to operate a research facility for the study of surplus heat utilization at Fort Wainwright. The following points represent specific justifications for this appropriation:

1. At the present time, waste heat in the form of hot water from the steam operated electrical power plant at Fort Wainwright is dissipated in a cooling pond. This procedure adds water vapor to the atmosphere and generates substantial ice fog in the Fairbanks area during the cold winter months.

2. Consequently, the U.S. Army Cold Regions Research and Engineering Laboratory is currently constructing a system to dissipate the waste heat through pipes buried in the soil and for space heating in a greenhouse.

3. The U.S. Army is accomplishing the necessary engineering design and construction for this project, but does not intend to undertake the technological development necessary to utilize this system in the production of horticultural crops. Nevertheless, the system is ideally suited for this purpose.

4. The facilities would provide an excellent opportunity for the Alaska Agricultural Experiment Station to work cooperatively with this project in developing the necessary horticultural technology and application. SSSB 13 would provide an appropriation to the University of Alaska for the necessary personnel and materials to develop this technology and to provide a significant demonstration for the utilization of waste heat in other areas of Alaska. Without this appropriation the Agricultural Experiment Station will not have sufficient funds to accomplish the cooperative effort.

5. The horticultural industry in Alaska is particularly well adapted to utilize low grade waste heat in the +70°F to 80°F range that is available from power plants such as the plant at Fort Wainwright. Successful development of this technology would permit Alaska to produce high value, intensively cultured crops at world market prices and, more importantly, would provide these products for Alaskans.

6. If waste heat can be utilized in soil and greenhouse warming, Alaska will have a plant growth environment that is technically superior to areas at more southerly latitudes. The advantage is due to improved photosynthetic activity of leaves in sunlight and cool air conditions and the longer period of this advantage. The long day lengths from March 20 to September 20 and the better internal plant conditions for photosynthesis are advantages when low soil temperatures do not limit plant growth. Improved soil temperatures allow crops to take full advantage of long sunlight days, and and often higher yields are produced than in the best commercial production areas of the nation.

7. The U.S. Army has leveled the land adjacent to the power plant at Fort Wainwright, has added peat soil amendment to specifications supplied by the Agricultural Experiment Station, and is in the final stages of installing buried pipes to dissipate waste heat in experimental plots. In addition, plans are underway to construct greenhouse facilities heated by waste heat adjacent to the test plots according to technology transferred from greenhouse research at the Agricultural Experiment Station.

8. Specific tasks to be accomplished cooperatively by the Agricultural Experiment Station at these facilities if an appropriation is provided are as follows:

vegetables under a system of near optimum soil temperature.

b. To determine the extension of growing season that can be achieved both in the greenhouse and out-of-doors using heated soil.

c. To determine the proper fertility and irrigation practices necessary for these systems.

d. To examine the possibility of growing commercial cut flowers such as roses, carnations and chrysanthemums using soil warming in a greenhouse environment.

e. To detect and correct any disease or insect problems that may develop under these growing systems.

9. Successful development of this technology will demonstrate an effective system for dissipating waste heat from power plants in a manner that will substantially reduce ice fog pollution, and will provide the technology necessary to expand the horticultural industry in Alaska through a system of energy conservation. This work is an essential step in developing energy conservation in Alaska.

Additional details of this research are available in a proposal provided to the House Resources Committee.

Sincerely,

James V. Drew
Director, Agricultural Experiment Station
Fairbanks, Alaska

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill No. 13
Title "An Act Making a Special Appropriation To University of Alaska...for the study of ~~REDACTED~~ Surplus Heat Utilization..." Date January 26, 1977
REQUESTED BY Senator Kerttula

II. FISCAL DETAIL
Agency Affected University of Alaska
Program Category Affected Education
Budget Request Unit(s) Affected Agricultural Experiment Station/Organized Research

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES	4.2	40.7	43.9	-0-	-0-	-0-
200 TRAVEL	-0-	2.3	-0-	-0-	-0-	-0-
300 CONTRACTUAL	-0-	1.7	-0-	-0-	-0-	-0-
400 COMMODITIES	-0-	5.5	2.5	-0-	-0-	-0-
500 EQUIPMENT	-0-	0.5	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	4.2	50.7	46.4	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	4.2	50.7	46.4	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	1	1	1	-0-	-0-	-0-
PART TIME	-0-	-0-	1	-0-	-0-	-0-
TEMPORARY	1	1	1	-0-	-0-	-0-

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See Attachment

IV. DATE January 27, 1977 PREPARED BY Dr. Donald H. Dinkel, Professor of Plant Physiology, Agricultural Experiment Station
AGENCY
PHONE 479-7652 University of Alaska

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Senate Bill No. 13
Project Summary Totals

100	Personal Services		$ 88,716.84
	FY 77	$ 4,209.97	
	FY 78	$40,655.95	
	FY 79	$43,850.92	
200	Travel		$ 2,350.00
	FY 77	$ 0	
	FY 78	$ 2,350.00	
	FY 79	$ 0	
300	Contractural Services		$ 1,700.00
	FY 77	$ 0	
	FY 78	$ 1,700.00	
	FY 79	$ 0	
400	Commodities		$ 8,040.00
	FY 77	$ 0	
	FY 78	$ 5,540.00	
	FY 79	$ 2,500.00	
500	Equipment		$ 500.00
	FY 77	$ 0	
	FY 78	$ 500.00	
	FY 79	$ 0	
		TOTAL	$ 101,306.84

Senate Bill No. 13
Analysis of Fiscal Note

FY 77 Costs

100 Personal Services $4,209.97

Senior Research Assistant (21A) $2,635.57

This position would be employed for one month prior to FY 78 to begin implementation of the research project. The Senior Research Assistant would be a specialist in horticulture technology and would be responsible for data analysis, background preparation, and other duties as assigned by the project head.

$1,895.00	Salary ($1,895.00 per month x 1 month)
301.31	Leave Allowance (15.9%)
$2,196.31	Subtotal
439.26	Staff Benefits (20%)
$2,635.57	Position Total

Horticulture Trainee (11A) (Temporary Help) $1,574.40

This position would be employed for one month prior to FY 78 to perform gardening functions and other tasks. This position would weed, care for harvest, weigh the garden products, and perform other labor duties.

$1,312.00	Salary ($1,312.00 x 1 month)
262.40	Staff Benefits (20%)
$1,574.40	Position Total

TOTAL FY 77 COSTS $4,209.97

100 Personal Services $40,655.95

Senior Research Assistant (21A) $31,209.55

This position would be needed for 12 months to develop the project. The person employed would be a horticulture specialist who would care for plants, calculate data documenting project accomplishments, and do other duties as assigned by the project head.

$22,440.00	Salary ($2,040.00 per month x 11 months)
3,567.96	Leave Allowance (15.9%)
$26,007.96	Subtotal
5,201.59	Staff Benefits (20%)
$31,209.55	Position Total

Horticulture Trainee (11A) $ 9,446.40
(Temporary Help)

This position would be responsible for performance of horticulture labor functions related to the project. The person would do maintenance duties of weeding, caring for plants, etc.

$7,872.00	Salary ($1,312.00 per month x 6 months)
1,574.40	Staff Benefits (20%)
$9,446.40	Position Total

200 Travel $ 2,350.00

Travel required to review waste heat agriculture projects in parts of United States, such as Minnesota, Oregon, Idaho, etc., to analyze various techniques for application in Alaska. $ 850.00

Iceland is one of the major countries that currently employes waste heat for industry uses. A review of its techniques would be done to examine for methods useable in Alaskan environment. $ 1,200.00

Three trips to and from Palmer would be necessary to build greenhouse facilities. Transportation to install equipment and appliances would be required. $ 300.00

300 Contractual Services

Photography services will be required to record results of study. Computer services will be needed to calculate and analyze data produced.	$ 500.00	
Publication of study to report findings of the projects. Printing and mailing costs are included in the figure.	$ 1,200.00	

400 Commodities — $ 5,540.00

Supplies necessary for waste heat research

a) Thermo Couple Wire	$ 175.00
b) Stakes, Tags, Bags Containers	200.00
c) Fertilizers and Growth Media	800.00
d) Shade Cloths and Alterations to Attach to This	725.00
e) Plants and Shipping	2,500.00
f) Special Tubing	250.00
g) Pots	325.00
h) Vexar Netting	145.00
i) Special Tools (Knives, pruning shears)	75.00
j) Insecticides	70.00
k) Connections for Steaming Soil	275.00
	$ 5,540.00

500 Equipment — $ 500.00

Special pumps and fertilizer injector are necessary for project.

FY 78 TOTAL $50,745.95

Senate Bill No. 13

FY 79 Costs

100 Personal Services $43,850.92

Senior Research Assistant (21B) $32,942.90

This position would be responsible for maintenance and completion of the project. The person would also prepare documentation for publication on the results.

$23,298.00	Salary ($2,118.00 per month x 11 months)
3,704.38	Leave Allowance (15.9%)
$27,002.38	Subtotal
5,940.52	Staff Benefits (22%)
$32,942.90	Position Total

Secretary (9A) $ 4,505.46

Secretarial services would be necessary for three months to type project results for publication and maintain files on project documentation.

$3,693.00	Salary ($1,231 per month x 3 months)
812.46	Staff Benefits (22%)
$4,505.46	Position Total

Horticulture Trainee (11A) $6,402.56
(Temporary Help)

This position would be necessary to perform maintenance and gardening functions and other tasks. This person would weed, care for harvest, weigh garden products and perform other labor functions.

$5,248.00	Salary ($1,312 per month x 4 months)
1,154.56	Staff Benefits (22%)
$6,402.56	Position Total

400 Commodities $2,500.00

Supplies necessary to continue waste heat research:

a) Fertilizers and Growth Media	$ 550.00
b) Pots	225.00
c) Plants and Seed	1,725.00
	$2,500.00

TOTAL FY 79 COSTS $46,350.92

(DRAFT)

Research Proposal

The Development of technology necessary to use "waste" heat for the enhancement of horticulture in Alaska and to reduce thermal pollution problems

University of Alaska
Agricultural Experiment Station
Fairbanks, Alaska 99701

D.H. Dinkel
Principal Investigator

Abstract

The purpose of this project is to develop the horticultural technology necessary to use the enormous quantities of excess heat that will be rejected in Alaska from power plants, refineries, pipeline pumping stations and geothermal sources. The use of waste heat for the production of horticultural crops in greenhouses and heated areas of soil outdoors is common to all wise proposals to completely utilize reject heat. The horticulture production part is necessary because the heat can be utilized during summer months and when less is required for space heating or other uses.

It is estimated that the quantity of excess heat that would be available from industry in Alaska could meet the heat energy requirements for hundreds of acres of high value vegetable and flower production.

In this project, both soil heating and "space" heating for greenhouses will be employed in conjunction with proven Northern Agricultural practice, with the dual purpose of improving agricultural production and reducing final output temperature and consequently thermal pollution from power plant cooling water.

The agricultural industry, and particularly the horticultural industry, is probably in the best position of many of the energy consuming activities to use low-grade heat from cooling waters discharged by industry. The Agricultural industry is also in the best position to utilize the high temperature excess heat from the pumping stations of the oil and gas pipelines.

Considering the magnitude and basic importance of agricultural production and the extent of its' energy use, a significant increase in efficiency of production would be obtained through the substitution of waste energy for nonrenewable resource-consuming energy. In addition, the increase in solar energy conversion to food and ornamental plants would be an important Alaskan and national gain.

The principle reason for agriculture's favorable position in Alaska is that growth rates are increased dramatically when soil temperatures are increased slightly or conventional greenhouses and temporary plastic canopies are used to improve air temperatures. These practices make possible in Alaska the use of solar energy that otherwise is not useable for food and other beneficial production. In some instances, lengthened growing seasons may permit additions of another crop, possibly doubling and tripling production of the land. Increasing Alaska's critically low soil temperature and using canopies and greenhouses creates a significantly better plant growth environment than found in most other areas of the U.S. because of the long sunlight days. This advantage should allow us to produce high value intensively cultured crops at world market prices, and more important provide these products to Alaskans.

Much of the basic information needed for the establishment of a horticultural industry using waste heat in Alaska is available in literature and from preliminary research in the state. What is most needed now is applications research, and the engineering and economic design required to demonstrate and incorporate what is known into development plans.

The proposed research will be done by the Agriculture Experiment Station, University of Alaska in cooperation with (CRREL) Cold Regions Research and Engineering Laboratory) and the U.S. Army.

The work will be done using existing greenhouse and crop facilities at the Fairbanks Agricultural Experiment Station and in facilities that are fortuitously being developed by the U.S. Army at Fort Wainwright to reduce thermal pollution and ice fog problems associated with the power generating facility.

The engineering and construction for much of this project is being done by the U.S. Army and Cold Regions Research and Engineering Laboratory (CRREL) at the Fort Wainwright South Power Plant. Heated "waste" water with temperatures of +70°F to +85°F in large quantities is available. Evaporation from the present large cooling ponds associated with this waste creates a severe ice fog problem in winter months. Efforts to reduce this thermal pollution problem are underway by dissipating the heat in soil by circulating the warm water through a buried grid of pipes. There would be a significant advantage to Alaska and the immediate community if these efforts could be used to conduct the developmental research necessary to demonstrate the use for the tremendous quantities of unused heat in the state.

Introduction

The primary energy source for modern agricultural food, fiber and ornamental production remains the sun; however, man has learned that he can increase productivity of his crops by modifying the plants' environment for maximum capture of sunlight. This environment modification is largely dependent upon the use of fossil fuels to supply the required technological materials such as machinery, plastics, pesticides and petroleum for heating, farming, drying, processing and transportation.

Much of the energy required to produce intensively cultured crops in Alaska is in the form of heat requirements. This energy is needed to heat greenhouses and warm soils. If these heat requirements are supplied in Alaska we then have a plant growth environment that is technically superior which should create an economic advantage even in regards to competing on world markets for commodities that can be shipped. The advantage is due to the improved photosynthetic activity of leaves in sunlight and cool air conditions (10), and the longer period of this advantage. An analysis of Alaska's climate shows that during a similar calendar period corresponding to May through mid-September, there are 430 to 550 more hours of sunshine in Alaska than there are at latitudes similar to Minneapolis, Minnesota and Chicago, Illinois. The advantage

of this extra sunshine for rapid growth of adapted crops has been amply demonstrated by the production of the well-known 70-lb Alaskan cabbage and by numerous research studies in Alaska (7). Thus, the longer period of sunlight from March 20 to September 20 and the better internal plant condition for photosynthesis are advantages to growth if soil temperature or other factor does not limit the activity.

It has been demonstrated that one of the most critical environmental factors that limits the growth of many crops in Alaska is the soil temperature (4,5,6,7). Soil temperatures that seldom rise above 13-18°C. at the 10 cm. soil depth during the growing season impede seed germination and severely limit the growth of certain economic plants. The optimum soil temperatures for most cultivated crops ranges from between 21 and 30°C. Increased soil temperatures resulting from the use of clear polyethylene on the soil, electric heating cables and buried styrofoam give greatly increased growth of crops and earlier maturation (7). Clear polyethylene mulches cause soil heating by solar radiation because of the entrapped layer of still air, reduced moisture evaporation and the lower transmission by polyethylene of the heat radiation from soil as compared to the high transmission of incoming solar radiation. The improved soil temperatures allow the crops to take full advantage of the long sunlight days, and often higher yields are measured than those produced in the best commercial production areas of the nation.

Research in climates such as Minnesota show that soil warming by waste heat does provide some improved growth rate and some extension of the growing season (1,2). Due to normally warm soils during mid-summer in Minnesota that are near optimum for plant growth, waste energy can only be used during the spring and again in the fall. Alaska, with the much colder soils throughout the year and the greater sunlight during the growing season, offers greater advantages for waste heat utilization for the production of high value crops.

The feasibility for the use of low temperature waste heat for heating of greenhouses has been reported (3, 10, 11). A large greenhouse industry has developed in Iceland using warm water from geothermally heated springs for heating. A viable seasonal greenhouse industry has developed in Alaska using fossil fuels for a heat source. There is a significant need to expand this industry utilizing waste heat from industrial and geothermal sources. The rising cost and scarcity of fossil fuels to heat greenhouse units is a major threat to the stability and continuance of the nation's greenhouse vegetable and ornamental units. These factors appear to be blocking expansion and may actually terminate the greenhouse industry in areas where alternative methods of heating cannot be found.

Energy from industrial sources, usually in the form of hot water at temperatures from 21 to 70°C, is normally wasted by discharging it into the air or into bodies of water. These point sources of unused heat represent a poor stewardship of our resources and cause an environmental impact of considerable concern. A systematic approach to the utilization of unused heat suggest its' use in district heating of

houses, businesses and greenhouses, and in warming field soils for crop production.

Extent of unused heat: The efficiency of modern fossil fueled electrical generator plants is approximately 40%, while that of nuclear plants ranges between 30 and 33%. Thus, of the total energy available from the original fuel source slightly over one-third is presently used. The remaining two-thirds is rejected by being discharged into the environment. About 85 percent of the rejected heat is discharged into water bodies and 15 percent is discharged into the environment through the stack. Enormous quantities of very high temperature steam will be exhausted from the Energy Resources of Alaska refinery at North Pole, Alaska. Each pumping station along the trans-Alaska oil pipeline will exhaust large quantities of heat. It has been estimated that the 12 pumping station and liquefaction plant for a trans-Alaska gas line may exhaust approximately 36 million BTUs per second.

Facilities:

The Agricultural Experiment Station 40' x 90' existing greenhouse with attached head house will be used to produce test plants and for initiating the greenhouse work. One 30' x 40' section of the greenhouse will be slightly modified to simulate conditions that will be associated with a source of hot water.

The major plot work will be done at Fort Wainwright near the Power plant cooling pond. The U.S. Army and CRREL are concerned about the vapor pollution problems associated with the cooling pond and about the thermal waste. They have agreed to support a joint effort to the extent that they will provide engineering and most of the construction for the study site. The Agricultural Experiment Station wishes to cooperate by supplying the horticultural research effort.

CRREL has leveled the land adjacent to the site, added peat soil amendment to our specifications and are presently in the final stages of installing the distribution system and the piping to heat some test plots. There presently are 3 test plots 50' x 150' that will be heated with adjacent control plots. CRREL presently has plans to construct greenhouse facilities adjacent to these test plots to transfer the technology from the Agricultural Experiment Station greenhouse to an operational system.

Tasks:

To determine proper crop varieties and productive capacity of vegetables under the proposed system of near optimum soil temperature.

To determine the amount of season extension that can be achieved both in the greenhouse and out of doors using soil heating with and without plastic canopies.

To determine the proper fertility and irrigation practices necessary for this type of system.

To examine the possibility of growing commercial cut flowers such as roses, carnations and chrysanthemums by using a system that has heat provided in the soil and that would grow for 9 months and during the dark months of November, December and January would be held at a storage temperature of approximately 35°F. During the dark period the greenhouse would be modified with heat saving shields similar to those used in Europe so that heat loss could be reduced.

To determine if unusual disease and insect problems may develop as a result of the warmer environment.

Additional Project Objectives:

Concurrent with the horticultural objectives, data will be produced that will be useful for improving the collection and distribution system for waste energy in northern conditions.

Information will be gathered on thermal and vapor pollution abatement.

Personnel:

The Principle Investigator and leader for the Agricultural Experiment Station effort will be Dr. Donald H. Dinkel, Professor of Plant Physiology. The legislation is largely to provide research assistance to Dr. Dinkel.

The Principle Investigator and leader of the CRREL effort will be Dr. Terry McFadden.

Pertinent Questions and Answers on Subject - Waste Heat

By
D. M. Dinkel

Q. What is waste heat?

A. Waste heat is the term commonly used for energy that is rejected from various industrial sources. It usually results from the burning or other consumption of fossil fuels; however, it may also result from nuclear power plants or represent the unused heat from geothermal sources. The waste heat rejected from a process using fossil fuel usually exceeds the amount of the energy that is put to useful work such as the production of electricity. For example, most electrical power generation facilities that operate with fossil fuels have only a 30 per cent efficiency and the remainder is rejected as hot water or hot air.

Q. What is the extent of unused heat in Alaska?

A. The quantity is enormous at the present time and it will increase greatly as the pipelines, refinery and other power plants are placed into operation. It is estimated that each pumping station along the Trans-Alaska Pipeline could heat 2000 homes. The estimate for the North Pole Petroleum refinery is that 10,000 homes could be heated. Canadian sources estimate that each pumping station associated with their Mackenzie Valley Pipeline will produce enough clean waste heat to meet the requirements for 15 to 20 acres of greenhouse vegetable production. However, there has not been an inventory made of the present and future status of the waste heat that will be rejected and that could be used in the state.

Q. What are some proposed uses?

A. Agriculture, fisheries and aquaculture, forestry, processing and district heating in commercial and domestic areas. High temperature waste heat also may be useful in some cases for the generation of electricity where uses can be found for the remaining lower temperature heat so that vapor and thermal pollution is not a problem. For example, it would be technically possible to generate electricity from the high temperature waste from the North Pole Petroleum refinery. However, if this is done the reject energy would be in a form that could not be injected into the upper atmosphere and would create a vapor or ice fog problem during winter months. Agriculture and district heating could provide a use for this remaining low temperature reject energy.

Agriculture

The high temperature reject heat could be useful for forage and grain drying and may provide the necessary component that would make potato processing feasible in the state and therefore, expand potato production.

Heat energy consisting of hot air, hot water or steam and at temperatures ranging from 80°F to 800°F would be useful for greenhouse

production and vegetable and plant production in areas that would support horticulture crop production resulting from soil warming. The use of the heat in greenhouses and then during the summer months in the soil for crop production is necessary to all wise proposals that suggest a near total use for the energy. This crop use is probably necessary because it can utilize the low temperature energy and would utilize the heat as less is needed for other uses. It appears to be an important part of every systems approach to utilizing this resource because the near total use of the resource will make the collection and distribution more economical for each use.

Aquaculture, Forestry Processing and District Heating

The use of heat to improve production of fisheries through hatchery rearing and in fish production ponds is suggested. The heat requirement for forestry, processing industries and in district heating of homes and businesses is obvious if the heat can be collected and distributed. The more complete use that would result by greenhouse and soil heat use would provide a better economic picture for the above uses.

Q. Is our environment suitable for the types of intensive crop production that is suggested?

A. During the four summer months it is superior to most other areas of the nation. The northern latitudes are recognized to have the highest photosynthetic production rate in the world during these four summer months. If the season can be lengthened and/or the soil warmed, the productive capacity can be further increased, and this photosynthetic advantage further exploited.

Q. Why hasn't the greenhouse industry developed without the waste heat use?

A. It is one of Alaska's major agricultural industries at the present time, but it has been developed through the use of fossil fuels which are even higher in cost than they are in the rest of the nation.

Q. There are indications that hundreds of acres of greenhouse and soil heated vegetable production is possible. Could all of these products be marketed in Alaska?

A. No. Besides providing Alaskans with vegetables and ornamental plants, it would be necessary to market cut flowers such as roses, carnations, chrysanthemums and etc. on national and world markets. It is proposed that this could be done competively during 5-6 months of the year because of Alaska's superior environment for greenhouse production and through the use of waste energy.

Q. Why do you feel that it is important to examine national and world markets for cutflowers?

A. Because it appears to be necessary at the present time in order to make more complete use of our unused resource. It also would add to the stability of our economy to have a renewable resource such as this contributing to the state's economy. It would also decrease the nation's consumption of fossil fuels now used for this purpose in the present greenhouse growing areas.

Q. What will be the temperature of the Waste Heat?

A. The temperature of the reject heat energy will vary with the type of industry and will range from about 80°F to above 800°F. It will be exhausted as hot air, hot water or steam.

It is expected that not all reject energy could be utilized at this time because of accessibility problems, the lack of adjacent growing areas and the lack of technology. A systems approach with agriculture as a major user appears to give the best potential.

Q. What is the urgency in the legislation now in process?

A. We must promote the use or it will not happen. The potential for use must be designed into the system in the beginning in order to develop the most economical recovery system. For example the oil pipeline pumping stations were not designed with reject heat use in mind, and, therefore, it will cost more to recover the heat.

Although the technology appears to be available at the present time to make economical use of the energy, it is necessary to demonstrate this and to improve this technology.

SB
58

4-14-77

COMMITTEE REPORT

HOUSE

April 20, 1977 Date

Mr. Speaker:

The Committee on RESOURCES has had CSSB 58 am under consideration. A majority of the members of the Committee

☐ recommends it do pass

☐ recommends it do not pass

☐ recommends it do pass with attached amendment(s)

☐ recommends it be replaced with CS for _____ and that CS for _____ do pass

☐ (and) recommends it be referred to the _____ committee

☐ reports it back without recommendation

☐ AND attaches a report of its intent

☐ (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends: _____

_____ recommends: _____

_____ recommends: _____

_____
Chairman

H 60

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

15 April 1977

Bob LeResche, Commissioner
Department of Natural Resources
Pouch M
Juneau, Alaska 99811

ATTENTION: Pat Conheady

Dear Commissioner,

The House Resources Committee will be reviewing CSSB 58 am on Wednesday April 20, 1977 at 1:15 p.m. in room 118 of the Capitol Building.

We have received the material from Senate Resources which was submitted to the committee. If you have any other information pertinent to this bill the House Resources Committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

Thank you for your cooperation.

Sincerely,

al Osterback

Al Osterback, Chairman
House Resources Committee

AO:ts

TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/~~Resolution~~ 58 Gates
Title An Act Relating to Hydrological Data
Requested by Governor's Office Date 1/14/77

II. FISCAL DETAIL
Agency Affected Natural Resources
Program Category Affected NRMEC
Budget Request Unit(s) Affected Geological & Geophysical Programs

EXPENDITURES (Thousands of Dollars)

		FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES		39.7	82.0	84.0		
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT		.5				
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		40.2	82.0	84.0		

FUNDING (Thousands of Dollars)

GENERAL FUND		40.2	82.0	84.0		
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		2	4	4		
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The main fiscal impacts of the proposed legislation stem from personnel costs associated with developing the program, collecting data from well drillers and preparing data for storage in a computerized system. Utilization of Federal data storage systems will minimize costs associated with the State developing its own storage system. New personnel (one geological assistant and one geologist I) will collect data, prepare it for storage and interpret the data for utilization in the development of an overall water planning program. These positions plus current personnel will allow the Department of Natural Resources to process data from an estimated 6,000 wells per year.

IV. DATE 1/14/77 PREPARED BY Ross G. Schaff
AGENCY Div. of Geological & ~~Geophysical Surveys~~
PHONE 279-1433

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Guy R. Martin

33-001 (Rev. 10/76)

January 18, 1977

The Honorable John L. Rader
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill amending the powers and duties of the Division of Geological and Geophysical Surveys of the Department of Natural Resources by transferring with only a minor change some overlapping and long dormant powers and duties of the Department of Health and Social Services.

Presently AS 41.08 requires the state geologist to conduct geological and geophysical surveys to determine the locations and supplies of ground waters and to print and publish special and topical reports, and authorizes him to enter into cooperative agreements to perform surveys, studies, and investigations. On the other hand, AS 41.05.010 - 41.05.030 declares hydrologic data to be of public interest and grants to the Department of Health and Social Services the powers and duties of collection, recording, evaluation, distribution, and publication of data on water of the state and authorizes the adoption of regulations to achieve those objectives. The disassociation of the duties affected and of surface and ground water studies, investigations, data, and surveys is neither logical nor desirable. The Division of Geological and Geophysical Surveys is the most logical agency to accomplish the objectives and to render these beneficial services to the public in the most capable manner.

The only proposed change made in the transferred powers is the addition of the power to require all water well drillers to file basic water and aquifer data to the existing power to require the filing of water survey results. The reason for this change is that much water well drilling takes place which is not part of water surveys and in areas which have never been the subject of water surveys. Basic data from such drilling is necessary to construct a true and complete picture of the state's water resources.

The transfer and minor expansion of these powers and duties is therefore requested at this time by repealing AS 41.05.010 - 41.05.030 and amending AS 41.08.

Sincerely,

Jay S. Hammond
Governor

OF ALASKA

TO: Jay S. Hammond, Governor
State of Alaska

RP 77-156

DATE : September 17, 1976

FROM: Ronald B. Lind, Director
Division of Budget and Management
Office of the Governor

SUBJECT: Department of Environmental Conservation
Request to Receive and Expend $52,000
Additional Federal Funds

The Department of Environmental Conservation requests authority to receive $52,000 additional federal funds from the Environmental Protection Agency.

The Federal Safe Drinking Water Act establishes a major new program to assure that public water suppliers provide safe water to their customers. In Alaska a number of water supplies have been found to be either biologically or chemically unsafe. The recent discovery of arsenic in the water supplies of the Fairbanks and Kenai area together with the finding of biologically impure water in Cordova's emergency water supply and in those of various trailer parks, subdivisions etc. around the state attest to the need to inventory and monitor public water supplies. These funds will be utilized to establish the necessary field, laboratory and central office staff to implement this program. These funds are in addition to $290,400 already received from the EPA for this program, which is included in the FY 77 budget.

Your approval is recommended in accordance with the provisions of SLA 1976, Chapter 279, Section 12.

Ronald D. Lind for
Ronald B. Lind, Director
Division of Budget & Management
Office of the Governor

Approved this 17 day of Sept., 1976

Jay S. Hammond, Governor
State of Alaska

Legislative Budget & Audit Committee
Date: 9/23/76

John Scribner 3-25-77

Water Supply Grant to coordinate internal Data Management

Annual Program Grant - EC needs to develop regulations otherwise Feds will take over Program.

TO: Jay S. Hammond, Governor
State of Alaska

RP 77-156 (G)

DATE October 5, 1976

FROM: Ronald B. Lind, Director
Division of Budget and Management
Office of the Governor

SUBJECT: Department of Environmental Conservation, Request to Establish Three Permanent Full Time Positions and One Permanent Part Time Position

The Department of Environmental Conservation request authority to establish the following permanent full time positions: Environmental Research Analyst II, Environmental Research Engineer III, Clerk Typist III, and Public Participation Specialist (Permanent Part Time).

The funding source for these positions are the Safe Drinking Water Supply Grant (RP 77-156), The positions will be deleted September 30, 1977 unless additional funding is received.

The Environmental Research Analyst II (RP 77-154 and 77-156) will manage information resulting from sanitary survey inspections, water system inventories, and village sanitation facility inventories. Also, this position will act as the interface between water supply managers and village safe water managers, and computer data handling storage facilities.

The Environmental Engineer III will coordinate implementation of HB 407, the Water and Wastewater Operator Certification and Training Program.

The Clerk Typist III will insure water quality management planning and implementation conducted by local units of government are coordinated and consistent with the statewide plan.

The Public Participation Specialist (Permanent Part Time) will conduct public participation programs. Current State policy and federal government regulations require emphasis on increasing public participation in program management.

Your approval is recommended in accordance with Executive Order 20 and AS 44.17.040.

Ronald B. Lind

Ronald B. Lind, Director
Division of Budget & Management
Office of the Governor

Approved this 7 day of Oct., 1976.

Jay S. Hammond, Governor
State of Alaska

Resources

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
Water Resources Division
218 E Street
Anchorage, Alaska 99501

February 4, 1977

Guy Martin, Commissioner
Department of Natural Resources
State of Alaska
Pouch M
Juneau, Alaska 99811

Dear Commissioner Martin:

We have received a copy of Senate Bill 58, which gives the state geologist new powers and duties relating to water resources in the state of Alaska. The bill adds to the responsibilities of the Geological and Geophysical Surveys by making it the principal agency in the state responsible for water resources data.

Centralizing the acquisition and filing of water data in a single state agency that is dedicated to basic, unbiased scientific information will be of great benefit to the state. The section of the Bill which requires the filing of basic water and aquifer data is an important and significant addition to existing requirements.

As you are aware, the U.S. Geological Survey collects and analyzes hydrologic data in the state of Alaska under both a federal program and a state cooperative program on a cost sharing basis. We have, at the present time, a very substantial program with the Geological and Geophysical Surveys of the Alaska Department of Natural Resources. Our federal responsibilities include not only the collection and analysis of hydrologic data but also the coordination of hydrologic data collection programs among all federal agencies.

1977
Department of
Natural Resources

The provisions of the Senate Bill 58 would be of benefit not only to the state but also to the U.S. Geological Survey in its dual role as a cooperator with state agencies and as a federal agency having federal responsibilities for the collection and analysis of water data. The designation of a single state agency as the principal water agency in the state will be advantageous, both from the standpoint of cooperative programs and as a single point source for filing and retrieving water related data.

We have recently had discussions with the Water Resources Policy Committee Work Group of the Governor's Office and with members of the water planning group of the Section of Planning in the Alaska Department of Natural Resources. Through these discussions, we have described to the state the nature of the water resources program that we currently are conducting and the inadequacies of parts of the program. We have particularly emphasized the importance of a long-term data collection base as a part of the state's total water resources program. We believe that the passage of this bill would be in direct support of this concept and would result in significant long-term benefits to the state.

Sincerely yours,

Harry Hulsing
District Chief

cc: Ross Schaff
Dave Hanson
Subdistricts

Article 1. Hydrological Data.

Section
10. Hydrological data declared to be of public interest
20. Collection, recording, distribution and use of hydrological data
30. Regulations by Department of Health and Social Services

Sec. 41.05.010. Hydrological data declared to be of public interest. Systematic collection, recording, evaluation, and distribution of data on the quantity, location and quality of waters of the state in the ground, on the surface of the ground, or along the coasts, are in the public interest and necessary to the orderly domestic and industrial development of the state. (§ 1 ch 155 SLA 1957)

Sec. 41.05.020. Collection, recording, distribution and use of hydrological data. The Department of Health and Social Services has the following powers and duties:

(1) collect, record, evaluate, and distribute data on the quantity, quality and location of underground, surface and coastal waters of the state;

(2) publish or have published data on the waters of the state;

(3) require the filing with it of the results and findings of surveys of water quality, quantity and location, including water well drilling logs, pumping tests, flow measurements, type of aquifer, tidal currents and physical characteristics, and volume determinations;

(4) accept and expend funds for the purposes of §§ 10—[illegible] this chapter and enter into agreements with individuals, public [illegible]ate agencies, communities, private industry, state agencies and agencies of the federal government. (§ 2 ch 155 SLA 1957; am § 6 ch 104 SLA 1971)

Effect of amendment. — The 1971 amendment substituted "Department of Health and Social Services" for "Department of Health and Welfare" near the beginning of this section.

Sec. 41.05.030. Regulations by Department of Health and Social Services. The Department of Health and Social Services may adopt regulations relating to and providing for the systematic collection, recording and distribution of data on the waters of the state. (§ 3 ch 155 SLA 1957; am § 6 ch 104 SLA 1971)

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Article 2. Mineral Resources.

Section
40. Revolving fund
50. Mineral Resource Fund Board
60. Operation of the board
70. Purchase and sale of minerals
80. Stockpiling of minerals
90. Purpose
100. Definitions

Sec. 41.05.040. Revolving fund. The mineral resource revolving fund is created. The assets of the fund shall be used to purchase minerals. (§ 2 ch 116 SLA 1962)

Repealed

re-written as A.S. 41.08.010 in section one of the bill word for word

~~repealed~~ added on to A.S. 41.08.020 in section two of the bill slightly different language

~~Repealed~~ re-written as A.S. 41.08.035 in Sec. 3, inserting Dept. of Nat. Resources for H&SS.

Resources

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
Water Resources Division
218 E Street
Anchorage, Alaska 99501

February 4, 1977

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Department of Natural Resources
State of Alaska
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7 1977
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(3) require the filing with it of the results and findings of surveys of water quality, quantity and location, including water well drilling logs, pumping tests, flow measurements, type of aquifer, tidal currents and physical characteristics, and volume determinations;

(4) accept and expend funds for the purposes of §§ 10—30 of this chapter and enter into agreements with individuals, public or private agencies, communities, private industry, state agencies and agencies of the federal government. (§ 2 ch 155 SLA 1957; am § 6 ch 104 SLA 1971)

~~added~~ on to A.S. 41.08.020 in section two of the bill slightly different language

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~~Added~~ re-written as A.S. 41.08.035 in Sec. 3, inserting Dept. of Nat. Resources for H&SS.

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SB

59

SHEE ATIKA, INCORPORATED

P.O. Box 578
Mt. Edgecumbe, Alaska 99835
Phone - (907) 747-3534

March 23, 1978

Senator Kay Poland
Chairman, Senate Resources Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99801

Dear Senator Poland

The Board of Directors of Shee Atika, Inc. have directed me to convey their concerns to the Senate Resource Committee relating to the administration's proposed forest practices act.

We would very much like to see a forest practices act adopted this year. We are equally interested; however, in seeing that a practical and fair forest practices act is adopted. Several points were noted by our Directors during their attendance at the Senate Resource Committee work session, held March 8th, at which Mr. Jeff Haynes present the administration's draft bill. Shee Atika, Inc. would like to express the following concerns relating to those points:

1. We need a forest practices act this year.

   A. It appears that operations and activities on privately owned forest lands will be regulated through other authority, with less concern or emphasis on private forest management, if an act is not adopted this year.

   B. Section 208 of the Federal Water Polution Control Act essentially mandates the State to adopt an act; BUT we can adopt a practical act to satisfy the Section 208 requirements. Sec. 208 does not require us to adopt a "California" type act which is both difficult expensive to administer and unfair to the private land owner.

2. We feel that the administration's draft bill is generally acceptable with the following critical exceptions:

   A. Forestry on private and state or municipal land should be administered from a level comparable to atleast the Division status within state government. Forest resources deserve attention and status equal to Commercial Fisheries, Sport Fisheries etc. if not equivilant to Fish and Game and Environmental Conservation.

   B. The Forestry branch should be led by a professional forester. This is necessary to insure that administration of a forest practices act have continuity without being subject to a possible political reward system, to insure appreciation for forest management problems by the administrator, to insure communication between the forest land owner and the administrato and to insure that in inter division or inter department relationships modern technical forestry is represented and understood.

C. Alaska's forest practices act should incorporate a notification system for activities on private lands, not a permit system as in the administrati draft. We have no objection to the "prior approval permit" system on public lands. At the Resources committee meeting Mr. Haynes did not adequately discuss the differences between these two systems. The basic difference is that a permit system (as proposed in the administration's dra requires the state's permission before a land owner can conduct activities on private lands; while, a notification system requires that a land owner inform the state prior to any activity on private land and that the land owner obey state law and regulation. Mr. Haynes reported that a notificati system was nothing mc ' than requiring a land owner to "mail a postcard" to the state when he ' she was planning to conduct a forestry operation cn his or her land. This is absolutely untrue. The administration probabl has proposed a prior approval "permit" system because it wants the state to have a reasonable amount of influence on forest practices on private lands. That objective is reasonable and very acceptable for us as a land owner. That same objective can be accomplished; however, by tailoring a notificati system in the proposed forest practices act. The notification system works very well in Oregon and it will work well in Alaska. We don't need to burden the private land owners and the state with the inherent problems of a California type prior approval "permit" system to accomplish the objecti of insuring that privately owned forest resources are properly managed. We would suggest that the "permit" system in the administration's draft be replaced by a"notification" system which required 30 days prior notification b an operator or owner including filing of operation plans which identify wh activity (s) is/are planned, what equipment will be used, where roads will be located, where streams are located, how the area be refo sted etc. The plans should include location of the affected area on a USGS 1" mile topographic map with road & bridge locations, activity boundaries, streams, campsites, land fills, log storage areas, fuel storage areas, rock pits, water source, sewage disposal system, and landings identified and located. This is the same information that would be required by the administration's draft. We suggest that in lieu of a "permit" system the act should authori the state to require a pre-orperation meeting wi h the operator or land own This would give the state an opportunity to exp'ain any concerns and advise the land owner/operator of the probable consequence of an activity. The need for a pre-operation meeting shuld be left to the discretion of the reviewing officer. We would advocate and endorse very stiff penalties(as i the administration's bill) to insure compliance with state law and regulati under a true "notification" system. We would not be adverse to posting a reasonable bond prior to any operation on our lands. If the state consider adopting the preformance bond concept; however, it would be desirable to include some means of exempting small landowners and operators and guarantee ing that the bond amount would be no larger than that required to both encourage compliance and cover the expense of correcting a possible adverse situation created by an illegal activity.

March 23, 1978

Senator Kay Poland
Chairman, Senate Resources Committee

Page 3

A true notification system (as used in Oregon) is far less expensive to administer than a permit system which requires state consent as suggested by the administration. Considering volume harvested California's permit system is 6.5 times as expensive for that state's taxpayers when compared to Oregon's notification system. Considering the number of operation notices filed California's permit system is 27.3 times as expensive as a notification act. It is logical to conclude that these costs would increase by a blanket 25% cost of business factor and 25% allowance for increased transportation expense in Alaska. Transportaion represents only 7% of Oregon and California's forest practices connected budget while it would probably approach 33% of the forest practices budget in Alaska. The transportation allowance would tend to be much higher under a "permit" system as a "permit" system has an inherent characteristic which encourages state enforcement personnel to make several visits to each operation prior, during and following the activity. Fixed administrative expenses will also be much higher in Alaska due to the relatively fewer number of operations here and smaller annual yield when compared with Oregon and California.

D. We agree with Senator Meland's concern regarding the administration's provision 41,17.040 b (6) that "allowance be made for scenic and asthetic quality in or adjacent to areas of substantial importance to the tourism industry." This provision will undoubtedly foster many law suits as people disagree on such items as:

1. What constitutes "allowance"?

2. What is "scenic and asthetic quality"?

3. What constitutes "substantial importance"?

Mr. Haynes indicated that this section intended to authorize the state to use an incentive program to compensate land owners for the economic impact of state restrictions under this section. If this is the intent, we suggest that the act should mention the state's authority to compensate a land owner for volutarily curtailing any activity related to "scenic quality" which the state finds objectionable. We further suggest that the implication that a land owner can be prevented from managing his resources (if the state feels the activity would conflict with "scenic value") be stricken.

We would like to express the following views on other points discussed in the committee session March 8.

1. We endorse that portion of the administrations bill which sets mandatory standards for reforestation and conversion to non-forest uses. These are reasonable standards which we plan to meet and surpass.

March 23, 1978

Senator Kay Poland
Chairman, Senate Resources Committee

Page 4

2. We concur with Senator Sumner's concern about who has the burden (landowner or state ?) under Section 41.17.040 b(1) of the administration's bill which states "timber harvesting is limited to areas where data and information indicate an absence of reforestation problems which would preclude that area from producing a sustained yield of merchantable timber". This problem could easily be corrected, and the objective retained, by modifing the passage to read "timber harvesting may be limited in areas where data and information indicate that it would produce unsolvable reforestation problems which would preclude that area from producing a sustained yield of merchantable timber."

Thank you for your consideration. We were pleased to note the committee's expression of concern for the rights of the private landowner at the March 8 meeting.

Sincerely

Warren R. Weathers
Executive Director Shee Atika, Inc.

WRW/nmw

An Alaska Forest Resources and Practices Act has been in the works for four years.

This legislation is urgently needed to provide policy and program direction with respect to development and conservation of forest resources on state and certain private land.

Other states have waited too long to pass forest practices legislation, acting only after controversy became intolerable and attitudes were irreconcilable. By enacting CSSB 59 now, before logging in Alaska reaches its greatest intensity, we can avoid that mistake, develop forest management measures through the combined expertise of all interested parties, and permit Alaska to enjoy a national reputation for leadership in the administration of forest resources.

The process by which this bill was developed demonstates that consensus among forest users is possible if the proper mechanism is employed. Originally introduced by the Administration, the legislation was the subject of hearings in two previous legislative sessions. After last year's hearing in Senate Resources, there was still substantial disagreement; consequently, a working group composed of members of the Administration and all affected user groups was established by the Resources Committee and requested to come up with a consensus bill. The response was a Sponsor Subsistute, further revised by Senate Resources and subsequently Senate Finance as Committee Substitutes.

(1)

Undoubtedly, no one is ecstatic with the final product. It is the result of hundreds of hours of negotiation involving the Legislature, the Administration, native corporations, the forest products industry, the Forest Service, conservation groups, commercial fishermen's representatives, and professional foresters associations. However, it is a compromise which all have indicated they can live with, and which is probably the best result possible given the very controversial nature of this subject. Such legislation is inevitable in the long run, and to delay it to future sessions would only result in massive duplication of the work already done with no significant guarantee of a better bill. Moreover, in the interim, there would be no adequate vehicle to resolve the user conflicts which are certain to occur.

CSSSSB 59 would establish a Division of Forest, Land and Water Management in the Department of Natural Resources, with specified responsibilities over forest affairs. It would be headed by a State Forester selected by the commissioner from nominees submitted by a Board of Forestry; the Board would also advise and comment on proposed regulations and related matters. The State Forester would have a wide range of authorities and duties, including management of state forests, public education and assistance, and development of regulations embodying desirable forest practices on state and designated private land.

(2)

Special provision is made to incorporate the State Forester into the process of developing nonpoint source water pollution control measures so that an acceptable state program is formulated and we are not ultimately pre-empted by the Environmental Protection Agency in this very sensitive area.

Incidental and small scale commercial operations and harvesting primarily for noncommercial or personal use are exempted from the bill to protect homesteaders and other small landowners from unwarranted government regulation.

The State Forester would be directed by a set of policy standards, with one set for public land and another for private land to reflect the difference in state interest in such lands and to protect the prerogatives of private landowners.

Promulgated regulations governing forest practices would be applied to public and private land, supervised through a notification process, and enforced through an administrative penalties provision with special allowances to insure that the government's enforcement discretion is not abused.

The State Forester would be required to develop a plan to implement the policies and provisions of the bill and to report to the Legislature at two year intervals on the operations of the Division and to show that the policies and provisions are being carried out.

In summary, this bill would accomplish a state purpose of the first magnitude without unjustified government interference or duplication of existing government entities, and I urge that the Senate take favorable action.

(3)

Major Changes in Finance Committee Substitute:

1. Division:

   -required to be established;
   -retitled Forest, Land and Water Management (responsibilities from Resources Committee Substitute retained)
   -Director selected from list submitted by Board of Forestry

2. Exemption for small landowners modified to focus more on the manner in which the timber is being used rather than the type of land from which it is harvested. In practice, this is really a form change as it was not intended to alter the coverage of the exemption.

3. Standards Applicable to Private Land; reinsertion of standard for reforestation, substantially modified from original Sponsor Subsitute version.

4. Review of Operations: changed from limited prior approval to modification system.

Rules Committee Substitute contained three corrections of clerical errors made in typing Finance Committee Substitute.

April 6, 1978

The Honorable John L. Rader
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

Under authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a substitute bill for SB 59 (forest resources and practices), introduced by me during the 1977 legislative session. This sponsor substitute is the result of a considerable amount of further study and numerous meetings involving persons and organizations concerned with forest resources and practices. The following statement of the reasons for this legislation and the section-by-section analysis go into some detail in order to provide evidence of legislative intent.

I. REASONS FOR THE LEGISLATION

The purpose of the legislation is to establish a program for the administration of forest resources in Alaska so that the state may realize, over the long term, the wide variety of products, benefits, and services obtainable from forestland.

It is especially important that this legislation be enacted before use of forest resources in Alaska reaches its greatest intensity. States which have delayed passage of appropriate forest practices Acts until an absolute necessity arose have often experienced a climate of conflict which complicated legislative deliberations and reduced the quality of the legislative product. In addition, some options for approaches to administration and for realization of objectives were already foreclosed. Enactment of an Alaska Forest Resources and Practices Act at this time would permit consideration of potential measures and programs in an atmosphere conducive to

solutions mutually agreeable to all parties. Most important, it will allow conflicts to be resolved in advance, precluding potential disruption of operations in the field.

While a state forest resources program is necessary and desirable, it is not the intention of this legislation to create a massive new bureaucracy which would only result in waste of government funds and manpower. Rather, the approach used is to fill existing gaps in the statutes through enabling legislation which would provide for a thorough forest management program without duplicating or overlapping existing government programs of the Department of Natural Resources or other state agencies. Emphasis is placed on cooperation between these agencies to achieve generally desired objectives.

Development of this transmittal letter reflects my wish to limit the language of the Act to essential matters while providing the intent behind its provisions. I offer the Act and the letter as a package, with the statements of intent in the letter to govern application and interpretation of the Act. The appropriate committees of the legislature are strongly urged to adopt this transmittal letter as the committee report on the bill.

II. SECTION-BY-SECTION ANALYSIS

Section 10. Declaration of Intent.

Section 10 contains a brief statement of the findings of the legislature and the purpose of the legislation. Paragraph (1) recognizes the range and variety of forest resources; that forest products include not only timber but other products obtained from the land and water (including marine areas) influenced by forest ecosystems; that multiple products, benefits, and services are obtained from forest resources; and that forest resources and values often escape quantification.

Paragraph (2) reflects my desire that the various businesses and other activities (whether or not commercial) which are dependent upon forest resources receive the support of the state for their continuation in the government's forest resources program. The term "economic enterprises" is intended to be comprehensive, including not only existing businesses but those industries which may be developed as new forest resources become accessible or economically viable, and recognizing that forest resources present opportunities for small businesses as well as large corporations.

"Activities and pursuits" includes those which are not necessarily revenue-generating, and would encompass subsistence use.

Paragraph (3) declares that the programs and measures provided for in the Act are not only desirable but a basic duty of the state and implement the directives contained in several of the sections of Article VIII, Alaska Constitution. It is especially critical that timber supplies and other renewable resources be maintained and available in perpetuity to protect the longevity and insure the stability of the forest products industry, to insure that enterprises dependent on forest resources continue to make a substantial contribution to the Alaskan economy, to prevent impairment of the capability of the land and water to produce renewable resources, and to make certain that forest land generates the services and benefits, whether commercial or not, which Alaskans have come to expect from it.

Paragraph (4) contains two important concepts. First, much contemporary legislation has relied excessively on regulatory measures to achieve desired goals when this approach may in fact be both onerous and inefficient. Therefore, this Act would direct that regulations, services, and incentives be employed in the combination which is most likely to accomplish the purposes of the Act.

Second, the state has not to date developed a high-profile forestry program emphasizing the expertise of professional foresters, which is inherently necessary if forest resource administration in Alaska is to be successful. As a result, paragraph (4) stresses the importance of forest resource professionals as an essential element to complete the state's multidisciplinary capacity.

Paragraph (5) addresses the need for the state to carry out its responsibilities for control of nonpoint source pollution under the Federal Water Pollution Control Act under the leadership of the Department of Environmental Conservation, which is the lead agency under law for this program. The Environmental Protection Agency has left it to the states to devise their own approaches in this area, but has indicated that the federal government will assume control if a state does not develop an approved program. The Department of Environmental Conservation may legally delegate its authority with respect to this program to the Department of Natural Resources or otherwise use the forestry expertise of DNR with respect to development of the nonpoint source program, and the regulations developed under this chapter could be used in conjunction with this program.

Paragraph (6) recognizes that regulations adopted under the Alaska Coastal Management Act must address forestry matters; to avoid conflicting regulations, it is necessary that those adopted under this Act be used under the Coastal Management Act, superseding any forestry regulations previously adopted under the CZM Act. However, any prior efforts under CZM should be considered in adopting regulations under this Act.

Section 20. Administration.

This section designates the officials responsible for administration of the Act and establishes authority for carrying out desirable forest resources programs.

Subsection (a) reflects the request of numerous interest groups that a division responsible for forestry be created within state government in order to (1) provide recognition for forestry and forest products, as has already been done for many other natural resources, (2) bring the expertise of professional foresters to bear on forest management issues, and (3) establish a contact and focus point in the government for the forest products industry and other users of forest resources. This subsection expresses the governor's power to create a Division of Forest, Land and Water Management with the director to be known as the state forester. It is emphasized that the state forester must be a trained professional with the requisite education and fully experienced with the many issues and subjects inevitable in the administration of the Act.

Subsection (b) provides that the ultimate responsibility for implementing the Act is vested in the commissioner. However, the expertise of forest resource managers cannot be employed unless the forestry expertise housed in the division is fully used. Consequently, it is expected that the commissioner will delegate authority for daily administration of the Act to the state forester, reserving to himself only those matters requiring the attention of a cabinet officer. Moreover, the commissioner and the state government in general should make use of the state forester on other forestry matters even though they may technically be beyond the purview of the Act.

I recognize that it will take some time to develop completely the program envisioned by the legislation. However, by creating the division, naming a state forester, and listing the functions assigned to him, I expect that the program ultimately formulated will exceed the accepted minimums for administration of forest resources. Specifically, I intend

that the commissioner and the state forester employ foresight and innovation rather than being constrained by conventional attitudes so that Alaska's forest management effort enjoys a national reputation for leadership and competence.

Forest managers are expected to calculate timber harvests and rotation ages in a way which insures sustained yield and a steady supply; this has been difficult in the past on state land because the acreage available for timber use has not remained constant. Subsection (c) provides for the opportunity to establish a minimum fixed timber supply base from which to make sustained yield calculations. In addition, the state will ultimately determine that land which it wishes to retain in state ownership for multiple use purposes, some of which will be forested land. While subsection (c) does not mean that all of the state's retained land will be designated as state forests (as opposed to some other category), it does allow for the designation of that land with substantial timber and other resources for retention. Failure to designate state forest land as a state forest does not, of course, remove it from the provisions of this chapter.

The ultimate success of the state's forest management program will depend on the knowledge available to decisionmakers. Numerous subjects and issues invite research and experimentation, and subsection (d) sanctions the designation of special forest units for this purpose. I would anticipate the use of such forests for analysis of exotic stocks; development of genetically superior stocks; evaluation of the effects of land use activities and of methods to reduce adverse impacts; experimentation with advanced harvesting, extraction and transportation techniques and equipment; examination of programs for control of disease, fire, and insect infestation; cooperative projects with other agencies respecting compatible management of multiple resources; and any other activities enhancing or refining forest management efforts. Such forests must be limited to the minimal size necessary for conducting the research or experiment so that ill-considered major projects may not be continued under the guise of scientific investigation.

Reforestation and afforestation must be the highest priority among silvicultural programs, being most directly related to maintenance of perpetual supplies of timber. Within funding capacity, the commissioner is expected to make available planting stock to assist operators in meeting reforestation requirements of the Act, although this does not relieve their duty to observe those requirements. The term "nurseries and

greenhouses" is not intended to be restrictive; all facilities providing planting stock (including containerized greenhouses and other advanced versions) are consistent with this section. "Forest vegetation" was used instead of forest trees since there may be instances where ground cover or other plants will be beneficial in forest management. Subsection (e) also provides that the commissioner may charge for providing planting stock, with any proceeds to go to the general fund.

Subsection (f) authorizes a full range of professional management services and participation in federal assistance programs such as those conducted by the Forest Service under their state and private forestry division. Since there will be many new timber operators and owners in the state in the near future, education and management assistance efforts may provide expertise which would be otherwise unavailable, leading to more efficient operations and better forest practices. Such services must be closely coordinated with regulatory and review requirements, as is discussed later in this analysis.

As discussed earlier, the Department of Environmental Conservation may legally delegate authority to the Department of Natural Resources for development of regulations necessary to implement the forestry portion of the state program for control of nonpoint source pollution under the Federal Water Pollution Control Act, as amended, or to use any other arrangement to take advantage of the forestry expertise of DNR. Subsection (g) formalizes this authorization and directs DNR to seek a cooperative agreement on this subject. However, it also reemphasizes that DEC is the lead agency and that any regulations or cooperative agreements must be approved by the commissioner of environmental conservation before they become effective.

Since maximum contact with forest resource constituencies is critical if the government and the private sector are to understand each other's positions and interests, subsection (h) places a duty on the commissioner to consult with all appropriate parties in the administration of the Act. The commissioner is expected to consult continuously with other state agencies possessing natural resource management responsibilities and to draw fully upon their expertise; this is expecially true where DNR has no expertise of its own in a particular subject area. The term "landowners" should be construed to include adjacent landowners with respect to operations which may affect them. Moreover, the commissioner is not limited to entities within the state; federal

agencies, and agencies and institutions of other states and of foreign countries should be contacted to provide the state forester with maximum access to information on new management techniques and other matters. The provision on cooperative agreements and contracts is intended to permit formalization of consultation, management, and other activities where desirable.

With respect to subsection (i), there were a number of requests for creation of an advisory committee or board to assist the state forester. However, establishment of a specific committee or board by statute automatically initiates a useless controversy over the makeup of the entity. Moreover, while a general advisory committee may be important, creation of special committees on particular issues of special importance may also be warranted from time to time. While the bill endorses the advisory committee approach where appropriate, it provides flexibility which is the key to a successful advisory committee system, and thus leaves it to the department to determine the particulars. The commissioner is, nevertheless, directed to establish at least one advisory committee, and it is expected that the commissioner will use the advisory committee system (1) to develop specific approaches to implementing the standards in sec. 40 through the advice of professionals and other interested persons, (2) to formulate the particulars of the exemptions under sec. 30(c), and (3) to carry out consultative duties under subsection (h).

Moreover, advisory committees created must be representative of the various constituencies dependent on or affected by management of forest resources so that a full range of public opinion is received. Advisory committees should meet regularly, and members should be appointed to specified terms long enough to permit them to become familiar with the issues and to make meaningful recommendations. The commissioner should appoint an advisory committee as soon as possible after the effective date of the Act to assist in the development of regulations. The provision on travel and expenses is intended to be used only where advisory committee activities are clearly necessary and of benefit to the state.

While there were several suggestions for a provision mandating the location of the state forester, I believe that access to trained forestry personnel by the public is more directly responsible for the success of a government forestry program. Therefore, subsection (j) speaks to distribution of the department's foresters rather than the location of the state forester.

The introduction to this analysis stressed the importance of avoiding duplication of existing authority in the enactment of forest practices legislation. Subsection (k) fulfills this objective by insuring that the statutory prerogatives of other agencies are retained and that this Act is not viewed as other than supplemental to the overall state regulatory framework for forest resources. The only exceptions are that (1) forestry regulations developed under this chapter shall be used as the forestry segment of the Coastal Management Act program and (2) if authorized by the commissioner of environmental conservation, regulations adopted under this chapter may serve as the forestry portion of the state program for control of nonpoint source pollution.

Subsection (l) is self-explanatory.

Section 30. Applicability.

This section specifies the applicability of the Act to particular land and activities.

Subsection (a) is self-explanatory. The limitation in SB 59 to commercial forest land was removed as it was considered to be illogical and extremely difficult to administer. Municipalities are not prevented from adopting ordinances which embody stricter standards and practices than those promulgated under this Act.

Subsection (b) reflects the fact that state standards adopted under the Federal Water Pollution Control Act may be made applicable to federal lands.

Subsection (c) covers exemptions. The intent of this provision is to limit the applicability of this Act to major commercial operations which genuinely affect the objectives of this chapter relating to the maintenance of a stable and healthy forest products industry and the perpetuation of supplies of renewable resources. Consequently, the commissioner is required to make exemptions by regulation to insure that small landowners who expect to be able to sell or otherwise use their timber will be permitted to do so. Since it is impossible to determine in all cases what is a "small landowner", the commissioner may determine the particulars through exemption regulations. However, any owner of the tracts described is entitled to an exemption unless his tract is being used as a part of a major commercial operation, as where a logging company purchases the timber rights to numerous contiguous tracts in order to conduct a large scale logging program. With respect to tracts larger than 160

acres which are not part of a homestead, farm, or residential or recreational property, the commissioner may exempt them if they are not capable of being managed as a sustained yield forest unit.

Section 40. Regulatory and Administrative Standards.

The best approach to forest practices legislation is to avoid placing specific practices measures in the statute; instead, practices should be developed through the regulatory process, with such regulations and other administrative actions governed by guiding standards contained in the Act. Section 40 contains such standards.

Subsection (a) contains standards applicable to all forest land, regardless of whether in public or private ownership.

Paragraph (1) recognizes the importance of determining the reforestation capacity of land before timber harvesting. The determination is to be made by the government. This standard is not intended to mandate a non-declining yield type of management, but it does reflect the paramount state interest in having all forest land (unless legitimately converted to another use) continue to produce merchantable timber over the long term.

Paragraph (2) dictates that important information relative to any decision should be collected and used, and that it should be current. In some cases, land managers have become lax in keeping abreast of recent developments in their field, and make decisions based more on their status as professionals rather than through true analysis of a situation. This standard is not intended to be an unwarranted obstacle to management activities or to focus the burden of developing data on the operator. It does, however, place a duty on the manager to account for his actions in a convincing way.

Paragraph (3) mandates recognition of the concepts of environmentally sensitive areas and best management practices in conjunction with nonpoint source measures if adopted under this chapter. A number of approaches could be utilized, depending on the objective to be achieved, including standards, quantitative limitations, and zones or management units.

Paragraph (4) identifies two important elements often missing in forest resource management; first, that forest practices requirements often impose real costs on the operator, and should be weighed in terms of the public benefits realized;

and second, that a format for the harvest of trees convenient for government managers may be unrealistic for operators in view of marketing conditions.

Paragraph (5) recognizes the fundamental public trust obligation of the state to insure that the capability of the land to produce renewable resources is not impaired. While a particular species of tree or wildlife may have little relative value now, the future may find it suddenly in great demand. If the land is incapable of producing it to the demand level, an important land management option is lost, to the detriment of the public welfare.

Paragraph (6) reflects that loss of scenic quality may have an impact beyond the boundaries of the land where the activity is taking place. While this standard permits consideration of scenic factors where economically feasible, it is not intended as a prohibition on land-use activities, especially on private land where private landowners are justified in using resources subject to their ownership. It is directed primarily at public land where scenic quality is one of the multiple uses and values deserving recognition in a public land management program. In situations where an area is an important source of tourism and recreation, for example, a landscape architect might be employed in the design of the layout.

Subsection (c) contains those additional standards appropriate for public land.

Paragraph (1) follows similar federal legislation by applying the principles of multiple use and sustained yield to public land. These concepts are so well accepted as desirable objectives that further explanation is unnecessary. Once again, the approach which allows satisfaction of present needs without foreclosing future options is the most desirable.

Paragraph (2) injects another common principle in forest management. Specifically, while multiple use necessarily involves combining compatible uses within a large land area, forest practices and allocations result in assigning priority uses to particular areas. This standard provides that any allocation system should be implemented through analysis of the capability of the land and the resources and values present.

Paragraph (3) does not require that all uses be given equal distribution in the implementation of a multiple-use system.

It does, however, require that the process begin without any preconceptions or prejudices on the part of land managers.

Paragraph (4) recognizes the need to accommodate the concerns and requirements of the many forest resource constituencies.

Section 50. Administrative Plan and Report.

Subsection (a) requires that a plan be developed by the department demonstrating compliance with the Act. Without such a planning process, it would be difficult for the department to direct all of its activities and programs toward meeting uniform goals. Moreover, there would be no guarantee that a long range blueprint (based on a rotation age or similar concept) for forest management would be formulated; this is necessary if undesirable consequences are to be addressed before they become impossible to deal with. It is expected that the plan will concern itself specifically with management issues of interest to the public, such as harvesting methodology, timber management philosophy, and a system for perpetuation of supplies of renewable resources. While the plan will necessarily be revised and augmented over time to reflect new information and management techniques, the first draft should accompany the first report to the legislature required by subsection (b).

Subsection (b) requires a report to the legislature demonstrating accountability with respect to subsection (a).

Subsection (c) directs the preparation of recommendations for financial incentives as part of the threefold approach to achieving the objectives of the Act (regulations, services, and incentives).

Section 60. Regulations.

This section vests authority for regulations governing forest practices. Regulations may be adopted, of course, to implement other portions of the Act as well.

Subsection (a) lists the subject areas for regulations. They are intended to cover appropriate silvicultural and related activities necessary for forest management without encroaching on functions traditionally performed by other agencies. It is expected that a set of at least interim regulations would be developed by early 1979.

There has been a number of requests for a one-stop permit process. The department should not be vested with authority

to actually approve permit applications on behalf of other agencies since that is a matter for their discretion. However, an operator should not have to visit each agency and division which requires a permit. Therefore, this section allows the operator to make all of his permit applications through one place and to be informed of the outcome by the department. Where applicable, the provisions of AS 46.3[illegible] should be used to coordinate multiple permit determinations.

Subsections (c) and (d) are self-explanatory.

Section 70. Review and Approval of Operations.

This section is intended to institute a review process which combines the best elements of the notification system and the prior-approval system without incorporating their disadvantages as well.

Subsection (a) is, of course, subject to any exemptions granted under sec. 30(c).

Subsection (b) stresses the importance of the professional management services approach. If there is early and consistent contact between operators and the department with respect to pending operations, the operator will gain maximum benefit from assistance programs, understand applicable regulations so as to avoid inadvertent violations, provide state officials with a full understanding of his interests and needs, and in general facilitate administration of the Act. With full cooperation between operators and the state, review under this section could be rendered largely a formality. Moreover, while the statutory requirements must be met, I recognize that operations may range from a one-time harvest occupying one season to an ongoing harvest program taking place continuously for years. The commissioner is expected to tailor this process to various proposed projects so that unnecessary bureaucratic obstacles are not erected.

The review process in subsections (c) through (i) imposes an ironclad time frame on the length of the government review. There are no exceptions. The notification description should consist of a logging and access plan so that the location of land-use activities is easily discerned. The extended period in subsection (d) is to be authorized only where the complexity of the subject matter makes it physically impossible for a 20-day review, such as for a proposed operation involving many thousands of acres to take place over a number of years. If state agencies possess the manpower to review the operation within 20 days, an extension

should not be authorized. Moreover, an extension should only be for the period necessary to complete the review, and not necessarily for the full additional 20 days. Above all, the commissioner must insure that extensions are not used as an excuse for bureaucratic delay. This extension is not to be employed as an excuse for bureaucratic delay.

Subsection (e)(4) recognizes that there may be instances where a particular phase of an operation requires closer examination; it is emphasized that additional materials required of the operator under this language must be carefully limited to only those matters requiring additional review, and not used as an excuse for the forest managers to force the operator to do their work for them. Once again, if the professional management services approach is fully used, the review process in this section should not become an issue.

With respect to public notice under subsection (h), notice should be given locally as well where there is no newspaper published in the area.

Subsection (i) stresses that site examinations may be used where such would benefit the review process.

Subsection (j) prohibits substantial deviation from approved plans. "Substantial deviation" means a departure significant enough to jeopardize attainment of the objectives of the Act. Close contact between the operator and the department should permit any problems to be resolved in advance of a crisis.

Subsection (k) reflects that there will be some instances where immediate action is necessary, as in the case of salvage of trees, fire hazards, or other situations where a genuine emergency is involved.

The authority for posting of security under subsection (m) is to be used only where necessary. Obtaining bonds and other security devices is often difficult, especially for small operators, and may prevent them from doing business at all. Where security is required, the amount should be geared to the actual danger being protected against, possibly through some type of sliding scale arrangement.

Subsection (n) is self-explanatory. This was not intended to apply to operations which have already been completed.

Section 80. Deployment of Broadcast Chemicals.

Regulation of forest practices must necessarily reflect the state of the art. All consequences cannot be known in advance of operating; with an appropriate margin of error built in, such operations can be conducted successfully even though there are many unknowns regarding particular impacts.

Broadcast chemicals are a special case, however, as they involve the introduction of a foreign substance into the ecosystem. The state, for example, very strictly controls the introduction of exotic wildlife into Alaska because biologists often have little idea as to how a new species will interreact with the existing species composition. Foreign substances pose similar dangers to the forest ecosystem. I believe that forest managers should have a reasonable idea of the effects of using a foreign substance before it is applied on a large scale. While this section leaves to the discretion of the commissioner of environmental conservation the methodology to be used in regulating broadcast chemicals, it may well be advisable to undertake testing of some substances under controlled conditions before permitting commercial application of the substance.

Section 90. Conversion of Forest Land to Other Uses.

The provision in this section is a requirement of due process. However, it is my intent that proposed conversions be closely monitored so that subterfuge is not employed to escape responsibilities for reforestation. Moreover, while continued use as productive forest land cannot be required, it may be permissible to specify minimum revegetation of land for water quality purposes.

Section 100. Inspections, Investigations, and Enforcement.

This section authorizes each agency with statutory responsibilities over forest land to enforce those responsibilities. However, it also directs affected agencies to coordinate their enforcement activities so that operators are not subjected to differing interpretations of the same law or other undesirable or unnecessary procedures; interagency enforcement teams could be used to avoid this problem. Enforcement agents should avoid entering upon private land unless there is good reason to be there.

Section 110. Prohibitions, Penalties, and Enforcement Procedures.

The enforcement procedures in this section are straightforward and need no detailed explanation. Several features of this section should be stressed, however.

First, there are no criminal penalties. An administrative (civil) penalty system is used instead. Fines and penalties imposed are judicially reviewable under sec. 120.

Second, the burden of proof is, of course, on the state. An order resulting from a proceeding may be tailored to the exact nature of the violation so that the punishment is not disproportionate to the violation. A number of factors must be considered in determining a fine so that it reflects the gravity of the violation; it is expected that some type of fine schedule will be developed by the department so that penalties for the same offense are uniform.

Third, any emergency orders are limited to actual emergencies and have a duration of 21 days; therefore, they cannot be used as an excuse for not holding a hearing except in the context of an emergency.

Fourth, the bill establishes a hearing system designed to insure that operators are given a fair opportunity to present their case, and it recognizes that any proceeding instituted against a respondent may visit considerable expense and inconvenience on him. Special provisions are inserted to provide assistance to a respondent and to permit him to select an informal, nonadversary hearing process.

Fifth, the bill provides for a hearing officer who is not a state employee and who is not in any way connected with the preparation of the state's case.

Section 120. Appeals and Judicial Review.

This section is self-explanatory.

Section 130. Civil Action.

This section is self-explanatory. However, in order to discourage frivolous or obstructionist suits, I would hope that judges adjudicating cases brought under this section having no serious merit would impose costs and fees on the plaintiff under Civil Rule 82.

Section 950. Definitions.

While the definitions are self-explanatory, special mention must be made of the definition in paragraph (13). The intent of this definition, as the term is used in the Act, is to insure that consequences recognizable on the basis of the present state of the art of forest resource management are

reflected in management decisions, and that decisions include the establishment of a margin of error where it is understood that the consequences of an action are unknown. It is expected that studies undertaken by the state forester (using experimental forests and/or commercial logging operations) will be used to continually increase the bank of knowledge relating to the impacts of logging and other land use activities, and that the results would be described in the report submitted under § 50.

Partially exempt service.

Section 2 of the bill amends the section of the State Personnel Act listing the positions in the exempt service. It adds the state forester, consistent with the new chapter in sec. 1 of the bill.

Effective Date.

The effective date of the Act is January 1, 1979. However, it is expected that the department will engage in preparatory activities immediately so that full implementation may begin on the effective date.

Sincerely,

Jay S. Hammond
Governor

GOLDBELT, INCORPORATED
130 SEWARD STREET, SUITE 302 • JUNEAU, ALASKA 99801 • (907) 586-6244

TESTIMONY OF JOSEPH G. WILSON
ON BEHALF OF GOLDBELT, INCORPORATED ON
PROPOSED SPONSOR SUBSTITUTE
SENATE BILL NO. 59
IN THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE - SECOND SESSION
A BILL RELATING TO FOREST RESOURCES AND PRACTICES

Madame Chairman, Members of the Committee, My name is Joseph G. Wilson. I am the President and Chairman of the Board of Directors of Goldbelt, Incorporated, the Alaska Native Claims Corporation organized by the Juneau Natives for the purpose of selecting land pursuant to Section 14 H (3) of the Alaska Native Claims Settlement Act of 1971. Goldbelt has 2,700 shareholders, each of whom is a duly enrolled Alaska Native. Goldbelt will own the surface estate of 23,040 acres of land in Northern Southeast Alaska that will have substantial timber value.

Goldbelts concern with Proposed Sponsor Substitute Senate Bill No. 59 lies in its impact on our right as private land owners to manage our forest lands.

Goldbelt has reviewed Sealaska's amendments to the Proposed Sponsor Substitute Senate Bill 59, Alaska Forest Practices Act and consider these to be the minimum requirements for the protection of private property interests.

The amendments focus on 1.) a Board of Forestry is established with broad representation from industry, property owners, and other interest groups. An important consideration of the Board is that their responsibility will be to directly participate in the formulation of draft regulations pertaining to the

MANAGEMENT AND USE OF FOREST RESOURCES. 2.) THE ORGANIZATION FOR A DIVISION OF FORESTRY LED BY A STATE FORESTER WITH SUFFICIENT FORESTRY EDUCATIONAL BACKGROUND. 3.) THE AMENDMENTS ADDRESS THE STANDARDS OF REGULATIONS WITH EMPHASIS ON THE ECONOMIC ENVIRONMENT OF THE INDUSTRY AND RECOGNITION THAT MAN IS AN ESSENTIAL FEATURE IN MANAGING THE FOREST AND RELATED RESOURCES.

GOLDBELT CONSIDERS THESE TO BE THE BASIC MINIMUM REQUIREMENTS FOR THE PROTECTION OF PRIVATE LAND OWNERSHIP INTERESTS. WITHOUT THESE AMENDMENTS, GOLDBELT, INCORPORATED WOULD BE OPPOSED TO THE PASSAGE OF THIS LEGISLATION DURING THIS SESSION.

MADAME CHAIRMAN, WE THANK YOU FOR THE OPPORTUNITY TO TESTIFY.

Testimony of Robert E. LePesche, Commissioner
Department of Natural Resources
on the
Sponsor Substitute for Senate Bill 59

Senate Resources Committee
April 10, 1973

Thank you for the opportunity to testify before the Committee on the Sponsor Substitute for Senate Bill 59, an Act relating to forest resources and practices.

As you know, a forest practices act has been in the works for more than three years. We consider it an extremely high priority. Only if we enact such legislation before logging reaches its greatest intensity are we in a position to (1) head off user groups conflicts before they occur, (2) establish forest practices and other ground rules before equipment is moved into the field, (3) provide the highest level of professional assistance to logging operators, and (4) fully realize the benefits of a healthy forest products industry while insuring perpetual supplies of renewable forest resources. Accomodating the many constituencies which depend upon forest resources will be difficult and complex, and we must start now. Most states have waited too long to adopt forest practices legislation, and have suffered for it. We should not repeat that mistake. By acting now, the establishment of a high profile professional forestry program will permit Alaska to occupy a position of national leadership in forest management.

During the hearings held by this Committee last year, it was evident that there was opposition to a number of provisions of the Administration Bill. Consequently, you asked that we work with affected interest groups in an attempt to come up with legislation which would respond to and reconcile the many points of view in

this controversial area.

In the interim period, we have tried to negotiate solutions to the problems with the bill with the Forest Service, state government entities, professional foresters, the forest products industry, native corporations, conservation groups, fishermen, and others. Of course, virtually everyone in Alaska has some stake in the management of Alaska's forests, and it was impossible to talk with all of them. Nevertheless, we did work continuously with those who evidenced a desire to participate in the revision of S.B. 59. Indeed, I cannot think of many pieces of legislation which have undergone the scrutiny, discussion, and reworking which has taken place on S.B. 59. At this point, the bill belongs as much to those participants as it does to us, and we believe the Sponsor Substitute is about as close as we can come to consensus legislation. It is certainly superior to the original S.B. 59, and we are indebted to those who have worked with us for the numerous improvements made and to this Committee for providing the forum to do so. We expect that the bill will receive considerable support from a number of different interest groups.

The Committee will note that we have submitted a rather lengthy transmittal letter along with the Sponsor Substitute. This letter contains the many statements of intent requested by persons and organizations who worked on the bill. The bill and the letter should be considered a package representing our efforts over the past year. As a result, we urge in the strongest terms that, if the bill is passed out favorably by this Committee, the transmittal letter be adopted as the Committee Report on the legislation.

The specifics of the legislation were reviewed with you at the working session of the Committee several weeks ago. Consequently, I will reserve going into that level of detail until responding to your questions when the testimony is completed. I would like to underscore, however, that the bill-

(1) establishes a visible professional forestry program in the Department of Natural Resources;

(2) adopts a threefold approach to forest management to include assistance by professional foresters and economic incentives as well as regulations;

(3) mandates thorough consultation with public and private entities through advisory committees and other mechanisms;

(4) exempts from regulation small landowners who may wish to sell their timber but are not really in the forest products business;

(5) allows for coordination of forestry regulations under this Act, the Coastal Management Act, and the Federal Water Pollution Control Act to avoid duplication and insure that appropriate disciplines are involved;

(6) establishes general policies for forest management, separated into those appropriate for public and for private land, and covering such matters as reforestation, providing for the needs of all constituencies, avoiding unwarranted economic burdens on operators, and insuring retention of the productive capacity of forest land with respect to renewable resources;

(7) authorizes regulations but precludes duplication of the programs of other agencies;

(8) limits government oversight of operations to a restricted and closely controlled review process;

(9) requires a report to the legislature showing that DNR has complied with and carried out the legislation;

(10) leaves development of specific standards to a regulatory process involving

all interest groups;

(11) permits genuine conversion of forest land to other uses; and

(12) employs an administrative penalty system rather than criminal sanctions, with special safeguards to avoid undue burdens on an operator charged with a violation.

In addition, two matters warrant special mention. First, there has been an obvious desire on the part of industry to obtain a high level forestry program, and therefore considerable discussion on the locus of a forestry division and the state forester. After a meeting in my office with representatives of various interest groups, we have redrafted certain parts of the bill to incorporate what we believe should be an acceptable compromise. Section 020 no longer requires that the Division of Forest, Land, and Water Management be in the Division of Lands, and Section 050(c) requires us to report to the Legislature in two years on the operations of the Division and, in consultation with interested parties, to develop recommendations regarding the qualifications of the state forester and the location of the Division as well as the legal authorities of the Department relating to forestry.

Second, several suggestions for changes were made by Committee members at the working session. As a result, we have (1) clarified and made more express the exemption for small landowners in §030, (2) added a definition of "silviculture" in §950, (3) deleted the provision in §110(a) that each day of a violation constitutes a separate offense, (4) added to the definition of "sustained yield" in §950 to clarify reforestation requirements, and (5) and added language to the transmittal letter to deter unwarranted intrusions on private land by state officials.

In concluding, I would stress again the importance of gaining passage of the Sponsor Substitute this year before many new operations get under way. If the bill is enacted, it is our intention to create the Division of Forest, Land, and Water Management immediately and to name an advisory committee with representation of all forest resources constituencies to work with us in the implementation of our forestry program.

At this point, I would ask that you hear from the persons who have indicated a desire to testify, since they will be able to speak to many of the issues which you are undoubtedly concerned about. Along with other members of the Administration, I will be available during the course of the hearings to answer questions on the bill and to provide any other assistance. Again, I appreciate the opportunity to testify, and I thank the Committee for the interest it has already shown in this bill.

* * * * * * * * * * * * * * *

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

P. O. Box 1628, Juneau, Alaska 99811

1510

April 24, 1978

Honorable Kay Poland
Alaska State Senate
Pouch Y
Juneau, Alaska 99811

Dear Senator Poland:

I have been following with a great deal of both personal and professional interest, the development of State forest practices legislation. I have been impressed with your concern to assure that the legislation provides the environmental protection necessary, and at the same time protects the rights of private landowners. The issues involved in forest practices on private land are indeed more complex than on public land.

Section 41.17.060 on regulatory and administrative standards, is of particular interest to us. This section authorizes the implementation of specific regulatory forest practices on the ground, and through membership on the Board of Forestry, we look forward to participating in the development of those regulations.

The policy of the Forest Service nationally, has been to encourage and support sound State forest practices legislation. Our previous testimony before your Committee attests to this.

An additional consideration in Alaska is the requirement in the Alaska Native Claims Settlement Act that lands selected by the Native corporations be managed under certain specified practices. Sub-section K, Section 22, states that:

> "Any patents to lands under this Act which are located within the boundaries of a National Forest shall contain such conditions as the Secretary deems necessary to assure that such lands are managed under the principle of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent National Forest lands for a period of twelve years."

The job that now faces us is to develop standards and guidelines to meet the intent stated by Congress. We expect the State Forest Practices

Act now under development by your Committee will significantly aid in meeting Congressional requirements.

The work you and your Committee have done in bringing the various interests together on Statewide forest practices issues is of great value. I might suggest a meeting with ourselves, you and some of the other interests, as a way toward developing a practical approach in complying with the forest practices provision of ANCSA. I would welcome your counsel on this.

Sincerely,

Robert H Tracy

for JOHN A. SANDOR
Regional Forester

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
P. O. Box 1628, Juneau, Alaska

April 10, 1978

TESTIMONY FOR THE SENATE RESOURCE COMMITTEE
SENATE BILL NO. 59, SPONSOR SUBSTITUTE

MADAM CHAIRMAN AND MEMBERS OF THE COMMITTEE:

MY NAME IS MARVIN C. MEIER, U. S. FOREST SERVICE, AND I AM TESTIFYING TODAY FOR REGIONAL FORESTER, JOHN. A. SANDOR.

WE ARE PLEASED TO HAVE THIS OPPORTUNITY TO SHARE OUR THOUGHTS ON THE PROPOSED FOREST PRACTICES ACT, SPONSOR SUBSTITUTE FOR SENATE BILL No. 59. WE HAVE A KEEN INTEREST IN THE DEVELOPMENT OF A STRONG STATE FORESTRY PROGRAM BECAUSE WE FIRMLY BELIEVE THAT ALASKANS WILL PROFIT IN MANY WAYS FROM THE DEVELOPMENT OF SUCH A PROGRAM. THE BILL UNDER CONSIDERATION WILL BE HELPFUL IN ACHIEVING THIS OBJECTIVE. IT IS THE RESULT OF A COOPERATIVE EFFORT OF LEGISLATIVE, EXECUTIVE, AND PROFESSTIONAL FORESTRY EXPERTISE.

MADAM CHAIRMAN, YOUR PERSONAL LEADERSHIP AND THE EFFORTS OF THIS COMMITTEE HAVE BEEN EFFECTIVE IN IMPROVING THE PROPOSED FOREST PRACTICES ACT THAT HAS EVOLVED THESE PAST THREE YEARS. IT HAS BEEN A PLEASURE FOR THE FOREST SERVICE TO WORK WITH THE STATE, YOUR COMMITTEE, AND OTHERS IN THIS EFFORT.

ALTHOUGH WE WILL NOT DISCUSS THE BILL IN GREAT DETAIL, THERE ARE SOME POINTS ON WHICH WE DO WISH TO COMMENT. FIRST, THE BILL WILL STRENGTHEN THE STATE FORESTRY AGENCY AND THE ROLE OF THE

STATE FORESTER. IN THIS GREAT STATE WITH THE VAST ACREAGE OF FORESTS AND RELATED RENEWABLE RESOURCES, THE APPLICATION OF SOUND FOREST PRACTICES MUST BE ASSURED. THE MANAGEMENT OF THE STATE'S FOREST RESOURCES IS EXTREMELY IMPORTANT FOR TIMBER, FISHERIES AND WILDLIFE, RECREATION, WATER, AND OTHER USES. THE FULL VALUE OF FOREST RESOURCE MANAGEMENT WILL BE REALIZED ONLY IF THE STATE CONTINUES TO HAVE COMPETENT, PROFESSIONAL PERSONNEL IN THE POLICY MAKING POSITIONS DIRECTING THE PROTECTION AND MANAGEMENT OF THESE RESOURCES. THE EXPERIENCE IN MOST WESTERN STATES CLEARLY ILLUSTRATES THIS.

THE BILL PROVIDES FOR THE DEVELOPMENT OF INCENTIVES AS A WAY OF ACHIEVING GOOD FOREST MANAGEMENT. SEVERAL OF THE LOWER 48 STATES HAVE ESTABLISHED, OR ARE WORKING TOWARD THE ESTABLISHMENT OF, INCENTIVE PROGRAMS. THEIR EXPERIENCE WILL BE HELPFUL TO ALASKA. THE INCENTIVES NEED TO BE THOUGHT OF IN BROAD TERMS AS INCENTIVES TO ALL FOREST RESOURCES AND OVERALL FOREST LAND MANAGEMENT, NOT JUST TIMBER MANAGEMENT. THE SECTION ON INCENTIVES AND COOPERATIVE FOREST MANAGEMENT WILL ENCOURAGE AND ASSIST PRIVATE FOREST LANDOWNERS TO USE THEIR LAND AND RESOURCES TO THEIR OWN BENEFIT, AND IN WAYS IN WHICH SOCIETY AS A WHOLE DOES NOT SUFFER.

THE BILL'S SECTION ON REGULATORY PROCEDURES WILL ALSO HELP PROTECT ALASKA'S RESOURCES. THIS PART OF THE PROGRAM IS IMPORTANT TO ASSURE THAT FOREST-RELATED RESOURCES ARE WISELY MANAGED FOR COMMODITY AS WELL AS ENVIRONMENTAL GOALS.

THE BILL PROVIDES FOR THE STATE'S CONTINUED PARTICIPATION AND INVOLVEMENT IN THE FEDERAL COOPERATIVE FORESTRY PROGRAMS. THESE PROGRAMS HAVE PROVEN THEMSELVES VALUABLE TO MOST OTHER STATES. THIS WILL WILL HELP ASSURE THE CONTINUATION AND EXPANSION OF ALASKA'S PARTICIPATION IN THESE PROGRAMS. IN FISCAL YEAR 1978, THE FOREST SERVICE WILL PROVIDE OVER $700,000 FOR COOPERATIVE PROGRAM FUNDING, WHICH IS A 40 PERCENT INCREASE OVER FISCAL YEAR 1977. WE CANNOT PROMISE THIS KIND OF INCREASE EACH YEAR, HOWEVER, THE U. S. DEPARTMENT OF AGRICULTURE DOES RECOGNIZE THE IMPORTANCE OF A STRONG COOPERATIVE FORESTRY PROGRAM HERE AND NOW. THE FOREST SERVICE IS COMMITTED TO SUPPORTING AND AND CONTINUING SUCH A PROGRAM.

THE BILL AUTHORIZES DESIGNATION OF STATE FORESTS FOR RETENTION AS MULTIPLE-USE LANDS AND AUTHORIZES THE ESTABLISHMENT OF STATE TREE NURSERIES. SUCH AUTHORITIES ARE SOUND, AND AGAIN ARE PROVEN IN THE EXPERIENCE OF OTHER STATES. THERE ARE FOREST REGENERATION NEEDS NOW, AND THESE NEEDS ARE LIKELY TO INCREASE AS MORE TIMBER IS HARVESTED. TO THE EXTENT THAT PRIVATE NURSERIES ARE NOT ABLE TO PROVIDE THE STOCK THAT IS NEEDED AT AN AFFORDABLE PRICE, WE ADVOCATE STATE SUPPORTED NURSERIES. THEY WOULD RESULT IN BETTER LAND UTILIZATION, THEREBY REDUCING THE AMOUNT OF LAND IMPACTED BY A GIVEN TIMBER HARVEST LEVEL. ALSO, A STATE SUPPORTED NURSERY COULD LEAD TO DEVELOPMENT OF IMPROVED PLANTING STOCK.

AGAIN, IT HAS BEEN A PLEAURE WORKING WITH VARIOUS STATE PERSONNEL AND WITH YOUR COMMITTEE IN THE DEVELOPMENT OF THIS PROPOSED LEGISLATION. THE ENACTMENT AND IMPLEMENTATION OF THE PROPOSED BILL SHOULD HELP ASSURE THE SOUND MANAGEMENT OF ALASKA'S FORESTS AND RELATED RENEWABLE RESOURCES.

COOK INLET CHAPTER
JUNEAU CHAPTER
KETCHIKAN CHAPTER
YUKON RIVER CHAPTER
SITKA CHAPTER
STIKINE CHAPTER

SOCIETY OF AMERICAN FORESTERS

Alaska Section

April 10, 1978

TESTIMONY FOR THE SENATE RESOURCES COMMITTEE
SENATE BILL NO. 59, SPONSOR SUBSTITUTE

MADAM CHAIRMAN AND MEMBERS OF THE COMMITTEE;

MY NAME IS BOB JANES AND I AM APPEARING TODAY FOR THE ALASKA SECTION OF THE SOCIETY OF AMERICAN FORESTERS.

WE WELCOME THIS OPPORTUNITY TO GIVE TESTIMONY IN FAVOR OF THE CURRENT SPONSOR SUBSTITUTE FOR SENATE BILL NO. 59. THE ALASKA SECTION REPRESENTS OVER 200 PROFESSIONAL FORESTERS THROUGHOUT THE STATE OF ALASKA, AND IS PART OF A NATIONAL ORGANIZATION OF MORE THAN 20,000 SUCH MEMBERS. DURING THE PAST THREE YEARS, WE HAVE BEEN ACTIVE IN HELPING TO FORMULATE LEGISLATION FOR A SOUND STATE FOREST PRACTICES ACT IN ALASKA. A YEAR AGO, WE MADE AN IN-DEPTH ANALYSIS OF SENATE BILL NO. 59, BY TESTING IT AGAINST OUR SOCIETY OF AMERICAN FORESTERS RECOMMENDED NATIONAL CRITERIA FOR A COMPETENT STATE FOREST PRACTICES ACT. WE ARE HAPPY TO SEE THAT SUGGESTIONS AS A RESULT OF THAT EFFORT HAVE BEEN INCORPORATED INTO THE SPONSOR SUBSTITUTE BEFORE YOU TODAY.

ONE OF OUR PRIMARY CONCERNS A YEAR AGO, WAS THE NEED FOR THE STATE FORESTER TO PLAY A MORE PROMINENT AND AUTHORITATIVE ROLE IN ADMINISTERING THE ACT IN A SOUND AND PROFESSIONAL MANNER. SINCE THE DIRECTOR OF THE DIVISION OF FOREST, LAND, AND WATER

MANAGEMENT WILL BE THE STATE FORESTER, AND SINCE THIS PERSON MUST HAVE PROFESSIONAL NATURAL RESOURCES LAND MANAGEMENT CREDENTIALS, IT APPEARS THE ORGANIZATIONAL STRUCTURE NOW PROVIDES FOR OVERCOMING THAT PARTICULAR PROBLEM. WITH PROPER DELEGATED AUTHORITY EXTENDED BY THE COMMISSIONER, THE STATE FORESTER SHOULD BE ABLE TO OPERATE IN A LEADERSHIP ROLE IN THE MANNER WE ENVISION IS NECESSARY. WE MUST EMPHASIZE, HOWEVER, THE IMPORTANCE OF DELEGATING SIGNIFICANT AUTHORITIES TO THE STATE FORESTER. OTHERWISE, A PROGRESSIVE STATE FORESTRY AWARENESS IN ALASKA COULD AGAIN BACKSLIDE, AND OBSTRUCT SOUND PROTECTION, MANAGEMENT AND UTILIZATION OF THE ABUNDANCE OF NATURAL RESOURCES THIS GREAT STATE HAS.

ANOTHER OF OUR MAJOR CONCERNS IN THE PAST WAS THE EFFECT THIS LEGISLATION WOULD HAVE ON PRIVATE LANDOWNERS. CRITERIA #7 OF OUR NATIONAL GUIDELINES STATES "A FOREST PRACTICES ACT SHOULD ALLOW A FOREST LANDOWNER LATITUDE IN APPLYING PROFESSIONAL FORESTRY EXPERTISE AND FOREST MANAGEMENT PRINCIPLES. ADMINISTRATIVE REQUIREMENTS FOR FOREST LANDOWNERS AND OPERATORS SHOULD NOT BE UNDULY BURDENED." IN PREVIOUS INPUT, WE EXPRESSED THOUGHTS ABOUT THE APPARENT INAPPROPRIATE INVASION OF RIGHTS AGAINST PRIVATE LANDOWNERS BECAUSE OF UNDULY RESTRICTIVE REGULATORY PRACTICES. FOR EXAMPLE, THERE WAS A PROVISION IN PREVIOUS PROPOSED LEGISLATION THAT READ "TIMBER HARVESTING IS NOT PERMITTED IN AN AREA UNLESS RELEVANT DATA AND INFORMATION INDICATE THAT THERE WILL BE NO REFORESTATION PROBLEMS LEADING TO THE INABILITY OF THAT AREA TO PRODUCE A SUSTAINED YIELD OF MERCHANTABLE TIMBER." WE COMMENTED THAT WHILE THIS MAY BE APPROPRIATE FOR STATE OR MUNICIPAL FOREST LANDS, IT

WAS NOT APPROPRIATE AS A BASIS FOR DEPRIVING A PRIVATE LANDOWNER OF ECONOMIC VALUES THAT EXISTED ON HIS OWN LAND. THE CORRESPONDING REGULATORY STANDARD IN THE CURRENT SPONSOR SUBSTITUTE, SEC. 41.17.040 (B) (1), NOW READS "TIMBER HARVESTING IS LIMITED TO AREAS WHERE DATA AND INFORMATION DEMONSTRATE THAT NATURAL OR ARTIFICIAL REFORESTATION TECHNIQUES WILL RESULT IN THE PRODUCTION OF A SUSTAINED YIELD OF MERCHANTABLE TIMBER FROM THAT AREA." DURING THE OPERATOR NOTIFICATION PROCESS WITH THE COMMISSIONER, THIS REQUIRED DETERMINATION SHOULD BE EASILY RESOLVED. ANOTHER OVERLY RESTRICTIVE PROVISION IN THE SAME SECTION OF THE PREVIOUSLY PROPOSED LEGISLATION READ, "SCENIC AND AESTHETIC QUALITY SHALL BE MAINTAINED IN OR ADJACENT TO AREAS OF SIGNIFICANT IMPORTANCE TO THE TOURISM AND RECREATION INDUSTRY." THE CORRESPONDING REGULATORY STANDARD NOW READS "WHERE ECONOMICALLY PRACTICABLE, ALLOWANCE MAY BE MADE FOR SCENIC AND AESTHETIC QUALITY IN OR ADJACENT TO AREAS OF SUBSTANTIAL IMPORTANCE TO THE TOURISM AND RECREATION INDUSTRY." IN ESSENCE, THESE TYPES OF UNDULY RESTRICTIVE MEASURES HAVE BEEN ELIMINATED AND WE BELIEVE PRIVATE LANDOWNERS ARE NOW GIVEN FAIR CONSIDERATION IN THE SPONSOR SUBSTITUTE BILL. IN ADDITION, SECTION 41.17.070 HAS BEEN SUBSTANTIALLY IMPROVED REGARDING REVIEW AND APPROVAL OF OPERATIONS EVERY EFFORT WILL BE MADE TO LIMIT THE REVIEW AND APPROVAL PERIOD TO A MAXIMUM OF 20 DAYS. WITH THESE EXAMPLES, IT IS DEMONSTRATED THAT UNDULY BURDENSOME REQUIREMENTS HAVE BEEN STREAMLINED OVER THE PREVIOUS BILL.

PROPOSED LEGISLATION FOR AN ALASKA FOREST PRACTICES ACT STARTED IN THE SECOND SESSION OF THE NINTH LEGISLATURE. IT CONTINUED IN THE FIRST SESSION OF THE TENTH LEGISLATURE, AND IS NOW IN ITS THIRD YEAR. TO HELP ASSURE SOUND PROFESSIONAL MANAGEMENT OF ALASKA'S

FOREST LAND RESOURCES AT THE EARLIEST POSSIBLE TIME, WE URGE YOUR COMMITTEE TO AGGRESSIVELY STRIVE FOR ADOPTION OF THIS SPONSOR SUBSTITUTE FOR SENATE BILL No. 59, DURING THIS SECOND SESSION OF THE TENTH LEGISLATURE.

THANK YOU FOR LISTENING TO US TODAY.

SB

128

April 28, 1977

The following is a list of the changes from SB 128 to CSSB 128 by John Farleigh, Administrative Assistant.

1. Page 2, line 24, changes 10 to 15. This is to conform with SB 1 which is now law. (Ch. 8, SLA 1977)

2. Page 3, line 4, Add a new section 6 and re-number accordingly. This section comes from SB 147 (the Fish and Game Omnibus Act that has passed the Resources Committee) and is designed to define "registered under the laws of the State" so that the Department of Fish and Game can begin regulating fishing vessels within the 200 mile limit.

3. Page 6, line 16, changes $500 to $750. This raise in the ceiling allows all non-resident fees to be 3 times that of residents.

4. Page 6, line 29. This technical amendment came from the Attorney General's office to correct a "proof reading oversight".

Alaska State Legislature

JUNEAU ALASKA

March 18, 1977

M E M O R A N D U M

To: The Honorable John Sackett
Chairman
Senate Finance Committee

From: John Farleigh
Administrative Assistant
Senate Resources Committee

Re: Amendment to CS SB 128

Pursuant to the 200 mile limit legislation enacted last year by Congress, the Alaska Department of Fish and Game is allowed to regulate fishing vessels "registered under the laws of the state." Section 6 was added by the Resources Committee to define "registered under the laws of the state" so that the Department of Fish and Game can begin regulating fishing vessels beyond the three-mile limit. However, due to an oversight, the committee substitute did not include an immediate effective date for this section. Therefore, I have drafted an amendment and attached it for your consideration which would allow the department to regulate fishing beyond the three-mile limit beginning this year.

AMENDMENT

OFFERED IN THE SENATE: BY: Finance Committee

To: CS for SENATE BILL No. 128

HOUSE BILL No. _____

PAGE: 8 LINE: 21

Delete: "This Act takes effect January 1, 1978."

Insert: "Section 6 of this Act takes effect immediately in accordance with AS 01.10.070 (c)."

Add a new section to read:

"*Sec. 20. Sections 1 - 5 and 7 - 18 take effect January 1, 1978."

FISCAL NOTE

I. REQUEST
Bill/Resolution No. _____
Title An act relating to commercial fishing licensing
Requested by Office of the Governor Date January 27, 1977

II. FISCAL DETAIL
Agency Affected Office of the Governor, Depts. of Revenue and Fish and Game
Program Category Affected UNREC
Budget Request Unit(s) Affected Alaska Commercial Fisheries Entry Commission

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		6.1	(.8)	(1.6)		
200 TRAVEL		1.6	.8	.8		
300 CONTRACTUAL		(21.7)	(27.5)	(28.3)		
400 COMMODITIES		(2.8)	(2.9)	(3.1)		
500 EQUIPMENT		2.5	-0-	-0-		
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		(14.3)	(30.4)	(32.2)		

FUNDING (Thousands of Dollars)

GENERAL FUND		(14.3)	(30.4)	(32.2)		
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY		1/6 mos.	0	0		

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
This new program will save the State $76.9 over the next three fiscal years. These savings will result from 1) the reduction in duplication of effort by State agencies, and 2) the elimination of gear and vessel licensing functions of commercial vendors.

(see attachment for schedule of savings)

IV. DATE January 27, 1977 PREPARED BY Joyanne Bloom
AGENCY Office of the Governor
PHONE _____

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

	FY 78	FY 79	FY 80
1. Increased Administrative Costs of Fisheries Entry Commission	40.7	26.4	26.6
2. Reduction in Administrative Costs of Dept. of Fish and Game	(10.7)	(11.3)	(12.0)
3. Reduction in Administrative Costs of Dept. of Revenue (includes savings on commissions paid to commercial vendors)	(44.3)	(45.5)	(46.8)
TOTAL Gross Savings	(55.0)	(56.8)	(58.8)
TOTAL Net Savings	(14.3)	(30.4)	(32.2)

February 4, 1977

The Honorable John L. Rader
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill related to commercial fishing licensing. The bill would (A) eliminate the currently required gear license and commercial fishing license for holders of entry permits and thus simplify the paper-work of license applications for all concerned, especially the fishermen. The number of pieces of paper necessary to fish would be decreased from 4 to 2. One of these two, the vessel license, would be freely transferable between fishermen using the same vessel as it would be issued "anonymously" to a vessel, not to a person. The function (B) of issuing vessel licenses would be transferred from the Department of Revenue to the Commercial Fisheries Entry Commission.

The bill would authorize (C) the Entry Commission to establish permit fees to reflect the inclusion of fees formerly required for gear and commercial license. Finally, (D) the bill amends statutes relating to the Commercial Fishing Loan Program and the Fisherman's Fund to reflect all these licensing changes.

I urge special consideration of this bill as it implements a part of recommendation number 3(revised) of the Management and Efficiency Review Study.

Sincerely,

Jay S. Hammond
Governor

A REPORT ON

SENATE BILL NO. 128

by The Commercial Fisheries Entry Commission

with the concurrence of:
The Department of Fish and Game
The Department of Revenue
The Department of Public Safety

February 22, 1977

SENATE BILL NO. 128

"An Act relating to commercial fishing licensing and providing for an effective date."

Introduction

The Governor's bill entitled "An Act relating to commercial fishing licensing and providing for an effective date" presents the legislature with a new program of commercial fisheries licensing. The departments of Fish and Game and Revenue and the Commercial Fisheries Entry Commission designed this program to ease the paperwork for the fisherman, to save time and money for the State and to increase the accuracy and availability of the licensing data base.

Program Description

The new licensing program eliminates the gear and commercial licenses, separates the vessel license from an assigned operator and creates a crewmember license similar to the commercial license. A renewed entry permit will be the only requirement for a gear operator in order to participate in a fishery. A vessel used in commercial fishing must be licensed and no indication of who will operate the boat will be needed. People who participate in the fishery as crewmembers will have to obtain a crewmember license.

A resident, non-resident fee system for permits will be initiated in the proposed licensing program. This will compensate for revenue previously received for gear and commercial licenses based on residency. The 3 to 1 non-resident fee ratio used for gear licenses will be adopted for the permit fee schedule.

In the present system, vessel licenses are issued to operators. This has caused considerable inconvenience to the fishermen since Revenue and/or Fish and Game forms must be completed each time a fisherman changes vessels or takes on additional operators. The Department of Fish and Game also finds this paperwork time consuming and unnecessary. Without the operator connected to the vessel, there will no longer be a residency distinction and the proposed license program will charge one fee for the vessel license.

The Commercial Fisheries Entry Commission will continue to issue entry permits and will incorporate vessel licensing in its renewal system making licensing for gear operators one simple function. Each year forms will be sent to every permit holder with his renewal information pre-printed by computer. The recipient simply makes any necessary corrections, signs the form and returns it to the Commission with the appropriate fees. The permit holder and the vessel will then be licensed for the coming year. This new procedure for licensing requires far less time and effort for the fisherman than the present licensing system in which he has to obtain three Fish and Game licenses from the Department of Revenue and an entry permit from the Commercial Fisheries Entry Commission.

The Department of Revenue licensing division will issue licenses to crewmembers using its license vendor outlets. The holder of a renewed entry permit may participate in any fishery as a crewmember without purchasing a crewmember license.

The Alaska Fishermen's Fund will be maintained at its current level. This Fund provides for the treatment and care of Alaska commercial fishermen who are injured or become ill in commercial fishing activities. The Commercial Fisheries Entry Commission will assume responsibility for the transfer of money to cover each permit holder. The Department of Revenue will also transfer money to the fund for each crewmember license sold.

Revenue Analysis

The gear and commercial fishing licenses are being discontinued and will no longer contribute to the State's commercial license revenue. The anonymous vessel license and the new crewmember license will only partly make up for this loss. The rest must come from increased permit fees.

As seen in Table I, State revenues derived from the four types of license and permits now available approximated $1.5 million for each of the last four years. The new system is expected to produce $2.6 from the new vessel and crewmember

licenses and entry permits. The increase in revenue will come mainly from the three to one non-resident to resident permit fee differentiation.

Vessel license revenue will be based on a new fee. An anonymous $20 fee will replace the previous $10 fee for a resident vessel operator and $30 fee for the non-resident. When the $20 fee is applied to the number of vessel licenses sold in the past, vessel revenue totals $254,380, approximately $100,000 more than previous years. (Table II)

To project crewmember license revenue, the number of commercial license sold to persons who did not also have a gear license is used to estimate the number of people who were crewmembers. The percentages of resident and non-resident commercial licenses sold in the past are applied to the estimated number of crewmembers so total anticipated revenue can be derived. As seen in Table III projected 1978 crewmember revenue is $113,550.

These two amounts of new fee revenues, $254,380 for vessel licenses and $113,550 for crewmember licenses make up only a quarter of total revenues collected in the past. Under the new program the additional revenue must come exclusively from permit fees.

The Limited Entry Law requires permit fees to "reasonably reflect the different rates of economic return for different fisheries". It also calls for the fees to be set by regulation, although a ceiling is mandated. SB 128 raises the ceiling from $100 to $500. The new permit fees will remain in about the same proportions as they presently exist. Some adjustments will be made to more closely reflect the rates of economic return for the various fisheries.

When deriving total permit revenues, adjustments must be made to account for poverty permit fees. If a fisherman falls within Federal poverty guidelines he may purchase a permit for a reduced fee. This fee will be increased from $5 to $15 to reflect the cost of issuing the permit. The $15 fee will be less than the total cost of his licenses and permit under the present system.

A doubling of present permit fees closely reflects what the resident fisherman now pays in annual licenses and permits. However, with the 3 to 1 non-resident to resident ratio, the doubled fees will bring the State an extra million dollars in revenue. This extra revenue would bring the total money collected from commercial fishing licensing to $2.6 million. Table IV compares portions of the new fee schedule with the old schedule.

The cost of managing, rehabilitating and enforcing the fisheries have increased at a rapid rate over the last few years and now totals $17.6 million. Over the past 5 years the State has operated at an average inflation rate of 7% yet the price of commercial gear and vessel licenses have not increased since 1959. A bill which was passed in last year's Legislature doubled the cost of sports fishing licenses for residents from $5 to $10. SB 128 would allow a greater recognition of the State's costs in relation to commercial fisheries while at the same streamlining and improving its licensing program.

Table I

1974-1976 Licensing Revenue

	1974	1975	1976	Projected 1978
Gear	$ 425,287	$ 397,777	$ 413,805	- - -
Vessel	$ 152,486	$ 158,704	$ 160,737	$ 254,380
Commercial	$ 325,020	$ 334,510	$ 385,280	$ 113,550
Permits	$ 604,924	$ 646,191	$ 625,894	$2,202,395
TOTAL	$1,507,717	$1,537,182	$1,585,716	$2,570,325

Total figures include money transferred to the Fishermen's Fund, approximately $200,000 per year. The 1976 revenues for gear, vessel and commercial licenses are preliminary figures. The 1978 Commercial License entry represents revenue to be collected from Crewmember Licenses.

Table II

Vessel License Revenue

1975 Resident Licenses	10,369	@ $10 =	$103,690
1975 Nonresident Licenses	2,350	@ $30 =	$ 70,500
	12,719		$174,190

Projected 1978 Vessel License Revenue:

Total Licenses	12,719	@ $20 =	$254,380

Table III

Crewmember License Revenue

1975 Commercial licenses less gear licenses: 7,373

73% resident or 5,382 licenses @ $10/license = $53,820

27% nonresident or 1,991 licenses @ $30/license = $59,730

Projected 1978 Crewmember License Revenue: $113,550

Table IV

A COMPARISION OF OLD AND NEW RESIDENT LICENSE AND PERMIT FEES

	Old System				New System
	Gear License	Commercial License	Permit	Total	Permit
	$	$	$	$	$
Purse Seine (Based on 250 fathoms)	70	10	60	140	120
Drift Gill net (Based on 200 fathoms)	20	10	50	80	100
Set Net (Based on 150 fathoms)	15	10	20	45	40
Hand Troll	15	10	20	45	40
Power Troll	15	10	50	75	100
Long Line (Vessel length 26' or less)	25	10	20	55	40
Long Line (Vessel length over 26')	25	10	60	95	120
Pots (Vessel length 50' or less- based on 150 pots)	30	10	50	90	100
Pots (Vessel length over 50'- based on 150 pots)	45	10	100	155	200

Non-Resident fees are three times resident fees

A COMPARISON OF OLD AND NEW NON-RESIDENT LICENSE AND PERMIT FEES

	Old System				New System
	Gear License	Commercial License	Permit	Total	Permit
Purse Seine (Based on 250 fathoms)	210	30	60	300	360
Drift Gill net (Based on 200 fathoms)	60	30	50	140	300
Set Net (Based on 150 fathoms)	45	30	20	95	120
Hand Troll	45	30	20	95	120
Power Troll	45	30	50	125	300
Long Line (Vessel len '6' or less)	50	30	20	100	120
Long Line (Vessel length over 26')	50	30	60	140	360
Pots (Vessel length 50' or less- based on 150 pots)	90	30	50	170	300
Pots (Vessel length over 50'- based on 150 pots)	135	30	100	265	600

SB

159

Leasing residential land was conceived as a method of making land available to those people who could not afford to purchase land at state sales. Leasing at a low fee would encourage development and construction of homes and increase local tax bases. This noble idea has been misconceived and totally revised over the years until the program now resembles a great loan shark scheme which entices you with a low fee and after you are hooked raises the fee by 1000% or more. Enclosed are the leases re-appraised in 1975 and 1976. Please note that all of the lower percentage increases are on non-profit or other state agency leases, i.e., Highways, Fish and Game, etc. At these rates, it would be cheaper to buy land than to rent. Over a period of 15 to 20 years you will have paid for the land plus interest, twice; after that your costs would multiply.

At present, all state leased land is of no value because of the uncertainty of the future rent, and the unavailability of mortgage financing. It is imperative that something be done immediately to correct this situation. The Governor's bill does not even address the problem.

The present Administration has over-reacted to the publicity about the Teamster's and Penney leases and have a paranoia that the state should make millions from leaseholders, 95% of whom receive no income at all from leased land.

The real facts are that leased land has always been over or underpriced by a foolish desire to establish a percentage of the fee simple value as the rental figure. This only works when demand is greater than supply, which is not the case in land in Alaska. Most of the lease sales were failures as the land was not leased at the time of sale. Some was leased later over the counter when the market value caught up to the price, and some was withdrawn. Today there are less than 25,000 acres of state land leased to private owners, of some 5 to 6 million acres set aside for leasing.

Instead of trying to increase the rental of acreage leased to impossible rates, the state should embark on a reasonable program to get the rest of its land paying something.

Income from rental from leased land in 1975 for University and Mental Health Lands was $184,218. In spite of the fact that together the University and the Mental Health lands total over 2 million acres, less than 1/10 of 1% is leased after 17 years of statehood.

R a Williams

Former employees of the Division have stated that since leases seldom sold at the sales they concluded that there was no market. Apparently no one took the view that maybe 6% of fee simple was too high a rate for residential land.

I will close with a comment of the Governor's Ad Hoc Committee. This committee was designed by the former Commissioner to review the leasing program and act as an arbitrator between the leaseholders and the Division of Lands. Unhappily, the Commissioner was engrossed in the D2 Lands, the Cook Inlet sway, the Outer Coast Oil Lease Sale and a dozen other vitally-important items in Washington, D. C., and the members of the committee were selected by the Director, M. Smith. Most were either employees of the state, or former state employees, and a few are potential employees or contractors with the state.

The Arbitrators soon became the Advocates of the Division and their Bill - HB 387 - duly describes their thinking. It does not address the main problem. It provides no solution for financing, and it assumes the state should or can lease thousands of acres of land at ten times the lifetime price of a purchase.

RENT ADJUSTMENTS FOR

STATE LEASED LANDS

1975

ADL No.	Old Rental	New Rental	Per cent Increase (Decrease)	
01227	112.50	1,575.00	1,300	
51107	110.00	1,100.00	900	
02534	608.50	25,500.00	4,090	
01302	75.00	248.00	230	
25068	100.00	380.00	280	
38895	180.00	1,404.00	680	
25305	1,425.00	2,886.00	103	
52370	6,075.00	13,032.00	115	
00273	6,780.00	14,400.00	112	
52167	970.00	9,600.00	890	R A Wallace
52209	195.00	2,040.00	946	Peter Willis
52168	830.00	8,500.00	924	
50738	J.N. Mason 1,400.00	2818 & 20 5,280.00	277	Koch
44569	R M Sowers 175.00	350.00	100	Palmer
49723	150.00	605.00	303	
41417	254 127H 225.00	670.00	198	
50598	50.00	630.00	1,160	
00775	1,000.00	24,960.00	2,396	
17103	1,000.00	18,800.00	1,780	
51238	145.00	1,680.00	1,059	
51515	160.00	1,680.00	950	
51621	180.00	1,410.00	683	
51428	220.00	1,770.00	704	
50938	190.00	1,940.00	921	
51065	210.00	1,700.00	709	
46473	105 STOLT 60.00	260.00	333	A.T. COBB
46474	1413 M 60.00	260.00	333	R.L. THIEL
52177	150.00	180.00	20	
52182	S 71 Hopkins 250.00	5372 285.00	14	Ft Rich
21477	45.00	265.00	489	
52185	300.00	320.00	7	
51147	40.00	170.00	325	
52422	40.00	170.00	325	
52421	40.00	170.00	325	
52187	75.00	175.00	133	
52186	RJ Reese 75.00	1664 Wimbish 175.00	133	Koch
52190	40.00	100.00	150	
52191	Ft F Cobb 100.00	S R. Wallace 680.00	580	
52714	40.00	165.00	312	
52208	80.00	100.00	25	

State Leased Lands, 1975

	ADL No.		Old Rental		New Rental		Per Cent Increase (Decrease)	
	52205	E W BRANNON	50.00	4330 SAN	220.00	Roberts Ranch	340	688-2894
	52194		150.00		100.00		(50)	
	52192		250.00		235.00		(6)	
	50172		155.00		755.00		387	
	50688		75.00		175.00		133	
—	52199		55.00		135.00		145	
	26653		235.00		470.00		100	
	26654		235.00		470.00		100	
J. M. PARSONS	52179	1600 W. 11	235.00		470.00	278-7288	100	
P. SYKES	52180	Box 1014	260.00	EAGLE River	545.00	694-9441	110	
K.S. STONE	52170	2301 L. BAR.	325.00	AND F	575.00		77	
S. Restad	52365	SRT B Box 174	125.00	PALMER	245.00		96	
	52430		125.00		245.00		96	
G. WHITE	52213	1240 E 9th	315.00	(165)	325.00		3	
	52171		150.00		295.00		97	
✓	52172		150.00		295.00		97	
	52213		315.00		295.00		(7)	
E Pohl	52174	Box 7002	160.00	Ranch	325.00		103	
	50587		150.00		385.00		157	
	50588		145.00		325.00		124	
	52703		40.00		100.00		150	
	45008		65.00		2,400.00		3,592	
	40014		220.00		2,430.00		1,005	
	45586		80.00		150.00		88	
	45585		460.00		675.00		47	
	26511		1,000.00		5,525.00		452	
	46628		140.00		1,680.00		1,100	
J. Kelly	46620	419 2nd	160.00	FLATS	1,620.00		912	
	46383		110.00		600.00		445	
	49755		125.00		390.00		212	
	25956		125.00		390.00		212	
	47414		150.00		834.00		456	
	49060		250.00		702.00		181	
	22348		260.00		390.00		50	
	24099		215.00		420.00		95	
	36015		180.00		250.00		39	
	21928		1,260.00		10,920.00		767	
	01380		1,190.00		3,552.00		198	
	51395		820.00		3,054.00		272	
	00889		2,600.00		5,976.00		130	
	01308		7,170.00		10,014.00		40	
J. PRITZA	49685	1705 E 6th	145.00		1,260.00		769	
	49795		175.00		1,500.00		757	
	25988		240.00		275.00		15	
	26269		165.00		190.00		15	

AGO 936045

RENT ADJUSTMENTS FOR

STATE LEASED LANDS

1976

ADL No.	Old Rental	New Rental	Per Cent Increase (Decrease)
71326		3,500.00	
22526	360.00	2,150.00	497
22525	175.00	3,360.00	1,820
22654	95.00	1,192.00	1,155
50603	85.00	840.00	888
22652	155.00	4,350.00	2,706
44351	100.00	438.00	338
44350	80.00	744.00	830
46483	110.00	750.00	582
02380	880.00	6,540.00	643
39877	1,000.00	2,280.00	128
30489	240.00	2,350.00	879
26632	1,835.00	6,900.00	276
32919	1,020.00	2,760.00	171
31328	120.00	840.00	600
54326	175.00	910.00	420
54331	165.00	910.00	452
54365	205.00	950.00	363
54332	225.00	950.00	322
40806	355.00	690.00	94
54345	200.00	550.00	175
54346	175.00	550.00	214
54347	210.00	550.00	162
54349	190.00	575.00	203
54333	260.00	665.00	156
54334	250.00	690.00	176
54335	105.00	605.00	476
54336	120.00	605.00	404
54337	110.00	625.00	468
54338	145.00	690.00	376
54339	210.00	690.00	228
54340	200.00	690.00	245
54341	280.00	690.00	146
54342	270.00	690.00	156
32128	115.00	690.00	500
32065	115.00	665.00	478
54344	160.00	635.00	297
54351	430.00	870.00	102
03045	3,985.00	32,800.00	723
03042	2,925.00	22,360.00	664

J WILHOUR
T. CAREY

AGO 936046

State Leased Lands, 1976

	ADL No.		Old Rental		New Rental	Per Cent Increase
	03050		990.00		7,400.00	647
	53595		1,775.00		11,760.00	562
	03041		1,340.00		9,360.00	598
	03049		700.00		6,160.00	780
	51395		820.00		6,160.00	651
	03040		820.00		6,160.00	651
	03059		820.00		6,160.00	651
	03070		950.00		7,000.00	637
	47382		680.00		5,000.00	635
	03058		1,010.00		6,680.00	561
	03067		700.00		5,160.00	637
	03044		8,495.00		75,440.00	788
	47378		1,720.00		14,400.00	737
	47598		3,260.00		27,360.00	739
	03051		1,410.00		13,680.00	870
	03062		1,635.00		13,680.00	737
	03071		1,410.00		13,680.00	870
	03069		800.00		6,000.00	650
J.B Rigsby	03066		1,745.00		11,600.00	565
	03063		945.00		6,600.00	598
	03048		945.00		6,600.00	598
	03068		945.00		6,600.00	598
	03073		945.00		6,600.00	598
	03039		1,425.00		10,280.00	621
P+T Inc	03052	Tom Facio	2,490.00		18,400.00	639
A.G Inc.	03102		3,955.00		28,640.00	624
L Brown	03064		1,305.00		9,120.00	599
	03104		930.00		6,520.00	601
	49686		1,835.00		13,240.00	622
	57237		1,835.00		13,240.00	622
G. A. Moore	03065		3,670.00		26,480.00	622
J Bielewski	03057		3,665.00		27,040.00	638
K Schank	03053		890.00		6,640.00	646
	30746		915.00		6,880.00	652
	03043		910.00		6,680.00	634
N. Bonner	47983	Gen Del	135.00	Talk	1,300.00	863
P. M. Richardson	49430	533 E 24th	175.00		1,400.00	700
E Wohlfort	47809	2514 CAPT	175.00	Cook	1,450.00	728
R Genet	49172	Box 48	120.00	Ranch	1,300.00	983
A. Saucer	46499	7814 Violet	270.00	Dr Ranch	1,650.00	511
	53444		140.00		1,200.00	757

AGO 936047

Rent Adjustments for
State Leased Lands, 1976

ADL No.	Old Rental	New Rental	Per Cent Increase (Decrease)
27894	155.00	155.00	15
27948	200.00	230.00	15
50816	40.00	180.00	350
50669	40.00	120.00	200
47776	42.00	100.00	138
36315	40.00	100.00	150
47777	40.00	100.00	150
47778	40.00	100.00	150
35199	40.00	100.00	150
47775	42.00	100.00	138
41843	40.00	100.00	150
46609	72.00	100.00	39
47151	90.00	100.00	11
00037	700.00	5,250.00	650

COOK INLET REGION, INC.

1211 WEST 27th AVENUE
(907) 274-8638

P.O. BOX 4-N
ANCHORAGE, ALASKA 99509

April 15, 1977

The Honorable Jay S. Hammond
Governor, State of Alaska
Pouch "A"
Juneau, Alaska 99811

Dear Governor:

As a member of the Ad Hoc Advisory Committee on State Land Practices and Procedures, I wish to make the following comment on our final report of April 1977.

I do agree with the committee's report and stand behind it with one reservation. I do not pretend to have an answer but only concern. I feel that the lease rental increases being left open with a possible increase every five years to 100 percent is too much of a hardship on an individual leasing lands. I would think by having an open ended increase it would put an extraordinary heavy burden on the lessor for the purpose of financing any one project for the simple reason the banks would never know what the lessor would ultimately have to pay for the lease. Again, I state to you that I have no answer for the best possible solution, but only a great concern that I hope is given much more consideration before a final bill is passed through the legislator.

I appreciate the opportunity you have given me in serving with this committee.

Sincerely,

Carl H. Marrs
Land Manager

cc:
Representative Alvin Osterback
House Resources Committee

Theodore G. Smith, Co-Chairman

AGO 936036

Introduced: 3/4/77
Referred: Rules

IN THE SENATE BY SACKETT

SENATE RESOLUTION NO. 4

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

Congratulating Jean Elizabeth Dementi on her ordination into the Episcopal priesthood.

BE IT RESOLVED BY THE SENATE:

WHEREAS Jean Elizabeth Dementi was recently ordained into the Episcopal priesthood, and she is the first woman in Alaska to be so ordained; and

WHEREAS since 1951 Jean Dementi has been serving the Alaska bush as a missionary nurse in Nenana, as a hospital superintendent and nurse in Fort Yukon, and as a nurse-evangelist in Shageluk and Anvik; and

WHEREAS she has served the spiritual needs of the Alaska bush communities of Shageluk, Grayling and Anvik for 22 years, first as a lay minister, then since 1972 as a deacon of the Episcopal Church, again the first woman in Alaska to be so ordained; and

WHEREAS Jean Dementi has the utmost respect as an educator and a "bedrock" theologian from the Bishop and the diocesan staff in Alaska;

BE IT RESOLVED that the Alaska State Senate extends its warmest congratulations to Jean Elizabeth Dementi on the occasion of her historic ordination into the Episcopal priesthood, culminating 26 years of service to the Alaskan bush and to the church.

A COPY of this resolution shall be sent to Jean Elizabeth Dementi of Shageluk.

#

AGO 936035

Leasing of land.

Based on an annual rental increase determined by the C.L.I. or C.P.I. (Assumes a 6% annual increase)

Base rental - $100 for first year.

8th year - $150.36 - a 50% increase

13th year - $201.21 - a 100% increase

17th year - $254.03 - a 150% increase

20th year - $302.43 - a 200% increase

25th year - $404.72 - a 300% increase

30th year - $541.60 - a 34% increase in 5 years.

35th year - $725.98 - a 79% increase in 10 years

40th year - $971.52 - a 34% increase in 5 years.

45th year - $1,300.12 - a 79% increase in 10 years.

Annual rental has increased 13 times in 45 years

50th year - $1,739.86 - a 34% increase in 5 years

55th year - $2,317.59 - a 78% increase in 10 years.

Annual rental has increased 23 times in 55 years.

AGO 936034

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

24 May 1977

Darwin Smith
Cheri Lake Star Route Road
Wasilla, Alaska 99687

Dear Mr. Smith,

I received your telegram some time ago on the state land leasing issue. As you know, the House Resources Committee was considering HB 383, HB 387, and SB 159 all at the same time. SB 159 and HB 387, were at that time almost identical. The House Resources Committee chose CSSB 159 (Finance) am as the best of the three bills and sent it out of Committee in late April. Upon receipt of your telegram, and a number of others of the same nature, I gave serious thought to holding a hearing in the Anchorage - Wasilla - Palmer area. Due to the session nearing a close, however, public hearings in your area would have delayed action on this issue until next year. In most cases I would honor a request such as yours and I regret not being able to do so in this case. I felt then, and do feel now, that action on this issue was of immediate importance because if something was not passed this session, some people faced the danger of losing businesses.

After the bill left House Resources, it was further revised in the Rules Committee (House). Please find a copy of that version attached. The bill has still not passed the legislature. The Senate would not accept the present version from the House, so a Free Conference Committee was appointed to iron out the differences. Legislators appointed to the Free Conference Committee are:

Senator Sumner	Representative Freeman
Senator Croft	Representative Urion
Senator Huber	Representative Smith

This Free Conference Committee has not, to date, come up with a compromise bill. I have urged them to do so this session and I am confident that they will.

AGO 936003

If you still have problems with the Alaska Division of Lands' land leasing program after passage of this legislation, please let me know and perhaps we can arrange for your personal input during the 1978 session.

You will find enclosed: 1) a copy of CSSB 159 (Finance) am - the form of the bill when it was reported out of the House Resources Committee; 2) a copy of HCS CSSB 159 - the present form of the bill; and 3) a list of people who testified before the House Resources Committee on the issue.

Sincerely,

Alvin Osterback

Rep. Alvin Osterback
Chairman
House Resources Committee

Enclosures

cc: Rep. Al Ose

AO:jn

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, airman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

24 May 1977

Donald Huseby
SBR Box 178
Palmer, Alaska 99645

Dear Mr. Huseby,

I received your telegram some time ago on the state land leasing issue. As you know, the House Resources Committee was considering HB 383, HB 387, and SB 159 all at the same time. SB 159 and HB 387, were at that time almost identical. The House Resources Committee chose CSSB 159 (Finance) am as the best of the three bills and sent it out of Committee in late April. Upon receipt of your telegram, and a number of others of the same nature, I gave serious thought to holding a hearing in the Anchorage - Wasilla - Palmer area. Due to the session nearing a close, however, public hearings in your area would have delayed action on this issue until next year. In most cases I would honor a request such as yours and I regret not being able to do so in this case. I felt then, and do feel now, that action on this issue was of immediate importance because if something was not passed this session, some people faced the danger of losing businesses.

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Sincerely,

Alvin Osterback

Rep. Alvin Osterback
Chairman
House Resources Committee

Enclosures

cc: Rep. Al Ose

AO:jn

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

24 May 1977

Perlia Strassburg
Star Route Box 2751
Wasilla, Alaska 99687

Dear Perlia,

I received your telegram some time ago on the state land leasing issue. As you know, the House Resources Committee was considering HB 383, HB 387, and SB 159 all at the same time. SB 159 and HB 387, were at that time almost identical. The House Resources Committee chose CSSB 159 (Finance) am as the best of the three bills and sent it out of Committee in late April. Upon receipt of your telegram, and a number of others of the same nature, I gave serious thought to holding a hearing in the Anchorage - Wasilla - Palmer area. Due to the session nearing a close, however, public hearings in your area would have delayed action on this issue until next year. In most cases I would honor a request such as yours and I regret not being able to do so in this case. I felt then, and do feel now, that action on this issue was of immediate importance because if something was not passed this session, some people faced the danger of losing businesses.

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Senator Sumner	Representative Freeman
Senator Croft	Representative Urion
Senator Huber	Representative Smith

This Free Conference Committee has not, to date, come up with a compromise bill. I have urged them to do so this session and I am confident that they will.

AGO 936007

If you still have problems with the Alaska Division of Lands' land leasing program after passage of this legislation, please let me know and perhaps we can arrange for your personal input during the 1978 session.

You will find enclosed: 1) a copy of CSSB 159 (Finance) am - the form of the bill when it was reported out of the House Resources Committee; 2) a copy of HCS CSSB 159 - the present form of the bill; and 3) a list of people who testified before the House Resources Committee on the issue.

Sincerely,

Alvin Osterback

Rep. Alvin Osterback
Chairman
House Resources Committee

Enclosures

cc: Rep. Al Ose

AO:jn

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

24 May 1977

Robert A. Williams
Star Route B, Box 180
Palmer, Alaska 99645

Dear Mr. Williams,

I received your telegram some time ago on the state land leasing issue. As you know, the House Resources Committee was considering HB 383, HB 387, and SB 159 all at the same time. SB 159 and HB 387, were at that time almost identical. The House Resources Committee chose CSSB 159 (Finance) am as the best of the three bills and sent it out of Committee in late April. Upon receipt of your telegram, and a number of others of the same nature, I gave serious thought to holding a hearing in the Anchorage - Wasilla - Palmer area. Due to the session nearing a close, however, public hearings in your area would have delayed action on this issue until next year. In most cases I would honor a request such as yours and I regret not being able to do so in this case. I felt then, and do feel now, that action on this issue was of immediate importance because if something was not passed this session, some people faced the danger of losing businesses.

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AGO 936009

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Sincerely,

Rep. Alvin Osterback
Chairman
House Resources Committee

Enclosures

cc: Rep. Al Ose

AO:jn

Alaska State Legislature

House

HOUSE RESOURCES C ITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

24 May 1977

Robert H. Etukeok
Bureau of Indian Affairs
Employment Assistance Branch
Box 120
Anchorage, Alaska 99510

Dear Mr. Etukeok,

I received your telegram some time ago on the state land leasing issue. As you know, the House Resources Committee was considering HB 383, HB 387, and SB 159 all at the same time. SB 159 and HB 387, were at that time almost identical. The House Resources Committee chose CSSB 159 (Finance) am as the best of the three bills and sent it out of Committee in late April. Upon receipt of your telegram, and a number of others of the same nature, I gave serious thought to holding a hearing in the Anchorage - Wasilla - Palmer area. Due to the session nearing a close, however, public hearings in your area would have delayed action on this issue until next year. In most cases I would honor a request such as yours and I regret not being able to do so in this case. I felt then, and do feel now, that action on this issue was of immediate importance because if something was not passed this session, some people faced the danger of losing businesses.

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AGO 936011

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Sincerely,

Alvin Osterback

Rep. Alvin Osterback
Chairman
House Resources Committee

Enclosures

cc: Rep. Al Ose

AO:jn

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

24 May 1977

Gregory Black
Big Lake Route, Box 86
Wasilla, Alaska 99687

Dear Mr. Black,

I received your telegram some time ago on the state land leasing issue. As you know, the House Resources Committee was considering HB 383, HB 387, and SB 159 all at the same time. SB 159 and HB 387, were at that time almost identical. The House Resources Committee chose CSSB 159 (Finance) am as the best of the three bills and sent it out of Committee in late April. Upon receipt of your telegram, and a number of others of the same nature, I gave serious thought to holding a hearing in the Anchorage - Wasilla - Palmer area. Due to the session nearing a close, however, public hearings in your area would have delayed action on this issue until next year. In most cases I would honor a request such as yours and I regret not being able to do so in this case. I felt then, and do feel now, that action on this issue was of immediate importance because if something was not passed this session, some people faced the danger of losing businesses.

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AGO 936013

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Alvin Osterback

Rep. Alvin Osterback
Chairman
House Resources Committee

Enclosures

cc: Rep. Al Ose

AO:jn

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

24 May 1977

Rodny D. Strassburg
Star Route, Box 118
Willow, Alaska 99688

Dear Mr. Strassburg,

I received your telegram some time ago on the state land leasing issue. As you know, the House Resources Committee was considering HB 383, HB 387, and SB 159 all at the same time. SB 159 and HB 387, were at that time almost identical. The House Resources Committee chose CSSB 159 (Finance) am as the best of the three bills and sent it out of Committee in late April. Upon receipt of your telegram, and a number of others of the same nature, I gave serious thought to holding a hearing in the Anchorage - Wasilla - Palmer area. Due to the session nearing a close, however, public hearings in your area would have delayed action on this issue until next year. In most cases I would honor a request such as yours and I regret not being able to do so in this case. I felt then, and do feel now, that action on this issue was of immediate importance because if something was not passed this session, some people faced the danger of losing businesses.

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AGO 936015

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Sincerely,

Rep. Alvin Osterback
Chairman
House Resources Committee

Enclosures

cc: Rep. Al Ose

AO:jn

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

24 May 1977

Richard Smith
Big Lake Route
Wasilla, Alaska 99687

Dear Mr. Smith,

I received your telegram some time ago on the state land leasing issue. As you know, the House Resources Committee was considering HB 383, HB 387, and SB 159 all at the same time. SB 159 and HB 387, were at that time almost identical. The House Resources Committee chose CSSB 159 (Finance) am as the best of the three bills and sent it out of Committee in late April. Upon receipt of your telegram, and a number of others of the same nature, I gave serious thought to holding a hearing in the Anchorage - Wasilla - Palmer area. Due to the session nearing a close, however, public hearings in your area would have delayed action on this issue until next year. In most cases I would honor a request such as yours and I regret not being able to do so in this case. I felt then, and do feel now, that action on this issue was of immediate importance because if something was not passed this session, some people faced the danger of losing businesses.

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AGO 936017

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Sincerely,

Alvin Osterback

Rep. Alvin Osterback
Chairman
House Resources Committee

Enclosures

cc: Rep. Al Ose

AO:jn

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

24 May 1977

David Dilley
SRB Box 548
Palmer, Alaska 66645

Dear Mr. Dilley,

I received your telegram some time ago on the state land leasing issue. As you know, the House Resources Committee was considering HB 383, HB 387, and SB 159 all at the same time. SB 159 and HB 387, were at that time almost identical. The House Resources Committee chose CSSB 159 (Finance) am as the best of the three bills and sent it out of Committee in late April. Upon receipt of your telegram, and a number of others of the same nature, I gave serious thought to holding a hearing in the Anchorage - Wasilla - Palmer area. Due to the session nearing a close, however, public hearings in your area would have delayed action on this issue until next year. In most cases I would honor a request such as yours and I regret not being able to do so in this case. I felt then, and do feel now, that action on this issue was of immediate importance because if something was not passed this session, some people faced the danger of losing businesses.

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Sincerely,

Alvin Osterback

Rep. Alvin Osterback
Chairman
House Resources Committee

Enclosures

cc: Rep. Al Ose

AO:jn

Persons who testified before the House Resources Committee on "the leasing of state land other than for the extraction of natural resources."

28 March 1977

Representative Miles, sponsor of HB 387

George Silides, Resource Consultant for the Senate and House Resources Committees

Ted Smith, Director of the Alaska Division of Land & Water Management

Lowell McNutt, lessee in the Alaska Industrial Subdivision

Joe Wilhour, lessee in the Alaska Industrial Subdivision

David McCabe, private appraiser & member of the ad-hoc committee

Jamie Love, member of the ad-hoc committee

Ken Davis, lessee in the Alaska Industrial Subdivision

Robert Ford, lessee in the Alaska Industrial Subdivision

Hugh Galleck, co-chairman of the ad-hoc committee

Joe Norman, a member of the ad-hoc committee

Bill Mack, Chairman of the Alaska Land & Lease Holders Assoc.

Herb Lang, member of the ad-hoc committee

13 April 1977

Ken Davis

Bill Mack

Senator Kay Poland, original sponsor of SB 159

18 April 1977

Ted Smith

Darwin Heiny, speaking for the state Board of Education

Ken Davis

Robert Ford

Leon T. Brown, lessee in the Mountain Home Subdivision.

FINAL REPORT AND RECOMMENDATIONS

April, 1977

THE GOVERNOR'S AD HOC ADVISORY COMMITTEE ON STATE LAND PRACTICES AND PROCEDURES

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C. Recommended Standard Lease Form with Attachments

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AGO 936049

I. SUMMARY OF THE COMMITTEE'S FORMATION, MISSION, AND ACCOMPLISHMENTS

On October 8, 1976 the Governor's Ad Hoc Advisory Committee on State Land Practices and Procedures met for the first time. The mission of the committee was outlined by Guy Martin, Commissioner of the Department of Natural Resources. He said that the Governor desired a small, precise, and efficient panel to find new ways to improve state land practices and procedures, not to set policy but to address the legal and technical aspects of disposal and other contractual relationships. Judgments, criticisms, and new recommendations were to be effected. Michael C. T. Smith, Director of the Division of Lands, clarified the mission further by adding that the committee should:

1) consider primarily revenue production, as opposed to social benefits, in its analysis;

2) make no assumptions as to state policy regarding the number, size, and location of land sales or other disposals; and

3) recommend changes that will be applicable to any likely state land policy.

The committee made a dedicated attempt to accomplish its mission. The tasks of studying existing statutes, regulations, and practices, and examining them in light of current land disposal and contractual relationships was formidable, but many members worked successfully to this end. Uncovering and identifying disposal and contractual problems involved considerable time and effort. Correct identification of a particular problem of this nature is a major step toward solving it. Perhaps the greatest success of the committee was discerning from Division of Lands personnel and state lessees the exact nature of their problems and concisely defining them. This action will have a lasting effect on Division of Lands personnel who are charged with formulating policy and procedures for land disposals and contractual relationships. The committee did make significant recommendations to effect changes in statutes, regulations, and Division procedures and policy. The lease form used by the State was revised to include terms and conditions that would offer benefits to both the State and the lessee. The recommendations of the committee in general give the State more flexibility to respond to client needs. Both client and State will benefit greatly if the committee's recommendations are carried out. The mission of the committee has been accomplished with admirable success in this regard.

AGO 936050

Selected areas were covered, specifically those of sales and leasing. The committee states that this report is not meant, by any means, to be all-inclusive.

AGD 936051

II. THE INDIVIDUALS ON THE COMMITTEE

The individuals who served on the committee volunteered considerable time and effort. Each member was selected on the basis of having specialized knowledge and expertise. The following list of members and their qualifications shows considerable diversity.

Mike Colletta - State Senator.

Hugh Gellert - President of Bear Fritz, Inc., a land development company with interests in Anchorage and the Kenai Peninsula.

Grant Giesler - Vice President of Alaska Mutual Savings Bank (resigned 1/5/77).

Herb Lang - President of Anchorage Sand and Gravel (joined the committee 1/6/77).

Jamie Love - Director of the Alaska Public Interest Research Group (AkPIRG).

David McCabe - Private Appraisor.

William Mack - Chairman of the Alaska Land and Lease Holders Association.

Carl Marrs - Land Manager for Cook Inlet Region, Inc.

John Norman - Attorney specializing in the area of corporate and natural resources law.

Lidia Selkregg - Anchorage Assemblywoman; Professor of Regional Planning at the Arctic Environmental Information and Data Center in Anchorage.

Theodore C. Smith - Former State Representative; present Director of the State Division of Land and Water Management.

AGO 936052

III. COMMITTEE WORK PROCESS

The committee worked in a series of sessions, all of which were open to the public. Meetings were held weekly from October 8, 1976 to March 30, 1977 with the exception of 12/17/76 -1/5/77, when the committee recessed for the holidays. Two additional evening work sessions were held, and two evening meetings to hear public comments took place on 12/1/76 and 3/3/77. The meetings were loosely structured to accommodate those attending and to provide time for public comment.

The committee addressed the area of sales in its first sessions and proceeded to the area of leases in the later sessions. There was considerable public input from concerned individuals, and organizations, and many persons with specialized knowledge were invited. A great deal of support was provided by many state agencies, particularly by the State Division of Lands and the Department of Law. Considerable time was spent in information gathering. The Division often was requested to provide information on current procedures. Considerable information on Division activities was compiled. The changes recommended were made cautiously and are well supported by the information gathered. The committee's recommendations were made in the form of motions which were voted on by majority vote at the meetings. Recommendations were made freely as each subject area was explored.

Many meetings, including the two evening public comment sessions, were advertised in two newspapers. Press releases and newspaper articles appeared locally. Mass mailouts provided general information and announced upcoming meetings; lists of meeting dates were avilable at all sessions. The interested public was encouraged to contact the Division of Lands with any verbal or written questions and comments. Copies of materials used by the committee were available to the public and public comment was specifically taken on the committee's interim recommendations and draft bill to the Governor.

Almost all sessions were tape recorded in their entirety. Written minutes of meetings were time-keyed to the tapes to allow verification. The public is welcome to listen to or make copies of these tapes by contacting the Division of Lands.

AGO 936053

IV. FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

The findings of the committee were numerous but can be grouped into major categories:

1) State lessees are dissatisfied with the state interpretation of lease contract terms, especially those relating to appraisal. Many lessees testified before the committee as to their grievances.

2) The Division's regulations covering sales and leases are often outdated and conflicting with statutes in some cases.

3) The State's lease contract form is not in line with commercial contracts and has many ambiguities in it.

4) Some state statutes in Title 38.05 are vague and unclear.

5) Payment methods for state sales contracts do not match those used in the private sector and may contribute to ballooning land values.

These findings outline the basis for the committee's recommendations which follow.

The recommendations of the committee concern statute, policy, and regulation changes, and can be grouped by topic.

The following five items are of <u>general concern</u>:

1. The committee wishes to note that in the course of public testimony it was apparent that Division of Aviation lessees had significant problems with their current leases. This subject was not within the scope of the committee's deliberations and, therefore, not addressed.

2. To comply with new statutes the committee recommends a major overhaul of Division of Lands regulations. The committee has found many of the regulations now in effect to be outdated and superseded by statutes.

AGO 936054

3. The committee recommends that the Legislature apply the provisions found in Title 38 to those in Title 3, Title 19, and Title 35. The rationale would be to make land laws uniform among the Division of Aviation, Department of Highways, and Division of Lands.

4. Looking to the future, when the Division appraisal workload gets even heavier, the committee recommends that all (or all significant) appraisals be done by contract appraisers, with the Division appraisers functioning as review appraisers.

5. The committee stands opposed to Senate Bill 234, since the needs as outlined in this bill are covered by present legislation; the committee finds SB 234 not in the best interests of the State or the land management of the State.

In order to provide predictability in appraisals and reappraisals, for the benefit of the State and the public, the committee recommends the following:

1. At present many lessees are suffering hardship due to rent increases of several hundred percent. To provide for this relief and as a curative for such future increases the statutory provisions found in section nine of the attached bill are recommended. Provision for optional conversion of present leases to ones that will place a ceiling of 100% on rental increases every five years will largely prevent future hardship cases and resolve satisfactorily the present cases. With a rent ceiling, lease rental increases will be more predictable resulting in more financial stability for the lessee. (The Alaska Industrial Subdivision hearing panel recommends insuring predictability by placing some control over the size of the rental increase through utilization of a ceiling on the size of the increase in rental every five years.)

   Sections 8 and 9 of the attached bill will accomplish the above recommendations.

2. The committee recommends that land offered over the counter be reviewed at 90 to 120 day intervals to determine if an increase in value has occurred. This review is desired so that parcels are not undervalued by progressive changes in the market.

   Section 10 of the attached bill would accomplish this.

3. Since public notice is covered in AS 38.05.345 the change to "appraisal" for AS 38.05.330 is warranted by its present content. The committee recommends that land may be appraised 120 days in advance of a sale or lease. The change from 90 to 120 days would be desirable in that minimum bid information could be given to the public well in advance of the actual sale or lease auction. In addition 11 AAC 54.140 should be repealed.

   Section 10 of the attached bill will accomplish this.

4. In order to provide a workable solution to the problems of confidentiality of appraisal data, the committee recommends that the Director of the Division of Lands refrain from including confidential information in any appraisal prepared for the Division of Lands use.

5. The committee believes that the word "primarily" may imply special consideration to some lessees. In order to treat all lessees fairly and equitably the committee recommends that the word "primarily" be stricken. Deleting "primarily" would clarify the basis for reappraisal. (This was also recommended by the Alaska Industrial Subdivision hearing panel.)

   Section 8 of the attached bill will accomplish this.

To improve accounting policies and administrative procedures, and to protect the State, the purchaser and the lessee, the following are recommended:

1. The committee recommends that the Division of Lands have the option of requiring all sales contracts over $400.00 per year to be paid in quarterly installments instead of annual installments. It is the committee's belief that this would ease the financial strain on the buyer and yet not add significantly to the State's administrative costs. To provide quarterly payments would require a change in AS 38.05.065 with the present annual payments deleted and the quarterly payment provision adopted in its place.

   Section 3 of the attached bill would accomplish this.

2. The committee recommends that a $10.00 fee charge to cover administrative costs be given to those who make sale or lease payments with checks that are returned. It is a standard business practice to provide for such charges and is recommended to protect the State's interests.

AGO 936056

3. The committee recommends instituting default charges for late sale or lease payments. At present, there exists no penalty and many payments are late. The form of penalty recommended is notification charges to all delinquent payments and penalty charges to payments delinquent more than 30 days. The notification charge would be $5.00 for the first notice, $20.00 for the second notice and a penalty charge of 6 percent of the payment.

It is suggested that the fee charges be adopted as a regulation under authority of AS 38.05.035(4)(5) as follows:

11 AAC 54.365. Delinquent Payments.

In the event of a delinquent payment, the following charges will apply:

1. A $10.00 penalty for payment with a check that is returned.

2. A $5.00 penalty for notification of payments over thirty-five days late.

3. A $20.00 penalty for a second notification of payments more than fifty days late.

4. A penalty of 6 percent of the rental or sale payment for payments delinquent by more than thirty days.

4. The committee recommends adding the following to the end of 11 AAC 54.190: Upon execution of the contract of sale the director shall cause the original copy of the contract to be recorded in the recording district wherein the property is located.

5. The committee recommends that 11 AAC 58.490 have a section .495 added: Upon execution of the lease the director shall cause the original copy of the lease to be recorded in the recording district wherein the property is located.

6. The committee recommends adding in 11 AAC 58.830 Recordation of Assignments, Modifications, Changes in Rental or Cancellations: Upon any assignment, modification, change in rental or cancellation, the director shall cause to be recorded an original document which recites the changes made in the recording district in which the property is located.

7. The committee recommends that somewhere in 11 AAC 58 a section be added: Fees for Recordation. The Division of Lands shall absorb any expense of recording all existing contracts of sale, leases, assignments, modifications, changes in rent; the director shall collect the necessary fee for recording any contract of sale, lease, or change of application hereunto from the contract·purchaser or lessee at the time of execution.

8. The committee recommends that the Attorney General draft for introduction to the next session of the Legislature a statute which will require all state agencies dealing in lands to record any such transaction (including any transaction dealing with plats and subdivisions) and further stating that failure to so record does not impose any liability on the State.

In order to achieve more flexibility and simplicity in handling land disposal transactions, the following are recommended:

1. The committee recommends that the State charge a market rate of interest in its sales contracts. The interest rate, at present 6%, is below market levels and may have contributed to inflated prices at state land sales. By setting interest rates at market levels, the State would help prevent inflated land prices and at the same time return more income to the State. To provide for a market rate of interest in sales contracts, no change in AS 38.05.065 would be required. The addition of a statement of market rate in this statute would be desirable, however.

   Section 3 of the attached bill would accomplish this.

2. The committee recommends that the State adopt a system of level payments in place of declining payments in its sale contracts. The system of level payments is in common use in the business world, and the payment figures are easily set forth in a contract. The disadvantage of the present method is that interest must be recalculated every year and the payments decrease each year. From both the State's and the buyers' viewpoints, the level payment method would be preferred. The State would receive slightly more in interest payments over the contract terms and the buyer would not have to make as high initial payments. To provide level payments would require a change in AS 38.05.065 with the present system deleted and the level payment system adopted in its place.

AGO 936058

Sections 2 and 3 of the attached bill would accomplish this.

3. The committee recommends that in Title 38.05 the term "fair market value" be used in place of "fair appraised market value" and "market value." The meaning is felt to be the same in all cases. The committee would like to see one standard term used to avoid confusion and misunderstanding.

   Sections 4, 5, 7, and 13 of the attached bill would accomplish this.

4. The current procedures for informing the public of state lands transactions are covered in AS 38.05.305 and AS 38.05.345. The two procedures do not mesh in a clear manner. The committee recommends that the procedures be clarified in a manner that will be flexible enough to inform the public fully and yet not require multiple advertising for minor negotiated transactions.

   Section 11 of the attached bill will accomplish this.

5. The committee recommends that the Director be given the authority to set the payment period from one to twenty years. This type of flexibility would allow the State and buyers greater market possibilities. To provide for this would require that the installment clause in AS 38.05.065 be deleted and replaced by the one to twenty year provision.

   Section 3 of the attached bill would accomplish this.

6. The committee recommends that the State be given more flexibility to resolve contract of sale violations. This is necessary to prevent foreclosures as the only remedy for minor contract violations.

   Section 3 of the attached bill would accomplish this.

To institute improvements in the <u>leasing system</u>, the following are recommended:

1. To implement the new lease provisions recommended by this committee new lease forms for various types of leases will be required. It is the committee's recommendation that the Division draft new lease forms to comply with the statutes adopted, and that the new forms be reviewed by this committee.

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The recommended lease form and attachments in Appendix C accomplish this.

2. The committee recommends that all state leases to other public agencies be at the normal fair market value rate of payment.

   This reflects a regulation change.

3. The committee recommends that state government agencies get out of residential leasing.

   This reflects a policy change.

4. To provide the lessee insurance against a land boom or unexpected increase the committee recommends that rental increases at the five year reappraisal periods not exceed 100 percent of the prior existing annual rental rate. This action would increase the predictability of the lessee's payments. The stability thus created would add significant borrowing power for the lessee to finance improvements on the leased ground.

   Section 8 of the attached bill would accomplish this.

5. The duration of a lease and the economic life of substantial improvements, such as stores or factories, may not coincide. In order to see that state leased land is used in a rational, economically productive manner the committee recommends that lessees of long-term leases be given a renewal option for up to fifteen years. This type of option would grant the lessee more flexibility in maximizing his investment returns, especially during the final years of his lease. It would also increase the lessee's planning possibilities for use of the leased ground. This action would also soften the impact of termination of the lease. Specifically, this would permit a lessee to make substantial repairs to a building when the remaining term of the lease would not otherwise justify it.

   Section 6 of the attached bill would accomplish this.

6. The committee agrees that a lease should be converted at its present classification, and the leaseholder should then have the option to change classification subject to Division of Lands approval.

This is made possible under the attached lease document so that a conversion (assuming passage of HB 383) to a new lease form would permit the leaseholder to change classification at his option.

7. The committee recommends that a level term for recreational leases not be provided.

8. The Alaska Industrial Subdivision hearing panel recommends that in accord with the provisions of the lease, lessees should be encouraged to record expenses incurred in site preparation so that the "original condition" can be more adequately ascertained.

   The Ad Hoc committee concurs. This recommendation is handled in the attached lease document.

9. The Alaska Industrial Subdivision hearing panel recommends that lease language should be clarified to remove any possible inconsistencies with 11 AAC 58.520 (Adjustment of Rental).

   The Ad Hoc committee concurs.

10. The Alaska Industrial Subdivision hearing panel recommends eliminating the floating easement. The State could exercise the right of eminent domain to condemn. The condemnation would probably result in greater compensation for damages to the lessee, especially in view of the Supreme Court decision in State v. Hammer, 550 P.2d 830, thus the lease would be more attractive to the leasing market. Additionally, the language in the current lease is ambiguous as to damages compensable. This ambiguity only encourages litigation.

    The Ad Hoc committee concurs. This has been accomplished in the attached lease form.

11. The Alaska Industrial Subdivision hearing panel states that, if its recommendations are adopted, the State would be assured a competitive position in the lease market. The recommendations would encourage development of the leaseholds consistent with the intent of the leasing regulations and would be equitable to the lessee. The hearing panel also believes the State should be able to obtain a good return on its land. Accordingly, the rental rate should be changed to reflect the removal of the undesirable aspects of the state lease.

The Ad Hoc committee concurs. Continuing to include rate as an appraisal element will accomplish this objective.

This change is found in the attached lease form.

12. In order to set a fixed rental rate on a lease, the committee recommends an addition to A.S.38.05.085:

> amend to add the following sentence after ". . . to protect the interests of the state. The lease rental rate shall remain fixed for the term of the lease and any permitted extensions thereof, unless the leased premises or a portion thereof is reclassified pursuant to provisions of this chapter. A violation of any provision of this chapter . . . ."

To provide a vehicle for arbitrating protests and appeals involving land transactions, the following is recommended:

1. The Division of Lands has had many protests from private parties over the past few years leading the committee to believe that a board of appeals is highly desirable and needed at this time. At present there exists no arbitration board or board of appeals to handle appeals allowed by Division of Lands regulations. The creation of a board of appeals would effect a responsive mechanism for solving most problem cases arising from Division of Lands transactions that affect private parties. The board of appeals would be faster and less costly to private parties than legal recourse, which would still be available. The board is structured to maintain adequate expertise while attempting to eliminate bias in favor of the Division of Lands. This binding appeals board would substitute for the Commissioner in the present appeal process. (The Alaska Industrial Subdivision hearing panel also recommends such an appeal process.)

   Section 14 of the attached bill would accomplish this.

The committee recommends the following to improve trust land management:

1. The committee believes that state trust lands (school, mental health, and university) are now and have been managed at low intensity. These lands may be returning only a fraction of their potential value that could be

realized by a small, full-time management staff. The Division manages these lands at no charge to the various trust funds and receives no reimbursement for its services. Therefore, it has traditionally placed low priority on management of these lands. This committee recommends that the State Legislature authorize each trust board the authority to freely contract with any agency or private firm for the management of its lands for revenue production in accordance with the State's land act.

Section 1 of the attached bill would accomplish this.

2. In order to provide a uniform 55-year limit for all long-term leases the committee recommends deletion of the 99-year provision found in A.S.38.05.070(c) for school lands.

Section 6 of the attached bill would accomplish this.

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V. APPENDIX A

LIST OF PUBLIC GIVING COMMENTS AT AD HOC MEETINGS

GRAHAM, Joe

AKERS, Merle (Anchorage International Airport Pilots' Association)

FORD, R. G. (Anchorage Camper Center--Alaska Industrial Subdivision)

DAVIS, Ken (Alaska Industrial Subdivision--school land lessee)

RICHARDSON, Phil (Talkeetna lessee)

BAER, Paul (International Airport Road--lessee/attorney)

NORENE, Larry (appraiser/broker)

SIMMONS, Errol (appraiser)

CUTLER, Dale (Chairman, Anchorage International Airport Pilots' Association)

BROWN, Leon (A&W Drive-In, Brown's Electrical--Alaska Industrial Subdivision)

FERRARA, Fred (appraiser, retained by Alaska Industrial Subdivision)

BEAMER, Mr.

HOGAN, L. L.

CHRISTOPHER, Jim (Alaska Industrial Subdivision)

WEEKS, Lloyd E.

LEDBETTER, Charles (recreational lease, Rocky Lake, Matanuska Valley)

GRAY, Brian Mark

MacNUTT, Lowell (Alaska Industrial Subdivision)

DAVIS, Ken (Alaska Industrial Subdivision)

PENNEY, Bob (Penland Subdivision)

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HOGE, Andrew (attorney)

BIELAWSKI, Joe (Alaska Industrial Subdivision)

MALONEY, Dennis

WILHOUR, Joe (Alaska Industrial Subdivision)

TROEH, Paul

VANDERMOLEN, John (HUD/FHA--Anchorage Insuring Office)

MEEKINS, Russ (Alaska Land & Leaseholders Association)

HURLEY, Katherine (State Board of Education)

HEINE, Darwin (School Trust Lands-Fairbanks)

KERNS, Dick (Department of Highways)

GEORGE, Al (University of Alaska--Fairbanks)

DENHAM, Bob (Pastor, 1st Church of the Nazarene)

FLAVIN, Frank (State Ombudsman)

RIGSBEE, Alberta

ROETMAN, Emmett

BAILY, Douglas (Attorney for Alaska Industrial Subdivision)

MORRIS, Lloyd

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IN THE

BY RULES COMMITTEE BY REQUEST OF THE GOVERNOR

BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to state lands and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 38.05.030 is amended by adding a new subsection to read:

Section 38.05.030 (F). Notwithstanding the provisions of (a) and (e) above and 38.05.035 (a)(13), the trustees of state trust lands may manage or contract with any agency, public or private, for the management of trust lands pursuant to the provisions of this chapter. Costs of such management shall be borne by the respective trusts.

* Section 2. AS 38.05.055 is amended to read:

Section 38.05.055. SALE PROCEDURES. Except as provided in Section 315(d) of this chapter, the sale shall be made at public auction to the highest qualified bidder as determined by the director. An aggrieved bidder may appeal to the commissioner within five days after the sale for a review of the director's determination. The sale shall be conducted by the director or his representative, and at the time of sale the successful bidder shall deposit an amount determined by the director but not less than 5% (EQUAL TO ONE-TENTH) of the purchase price. The director or his representative shall immediatley issue a receipt containing a description of the land or property purchased, the price bid, and the terms of sale, which receipt shall be acknowledged in writing by the bidder. A contract of sale on a form approved by the attorney general shall be signed by the purchaser and, after approval of the commissioner, the contract shall also be signed by the director on behalf of the state.

* Section 3. AS 38.05.065 is amended to read:

Section 38.05.065. TERMS OF CONTRACT OF SALE. The contract of sale shall require the remainder of the purchase price to be paid over a period

of not more than 20 years, which shall be set for each sale by the director. Installment payments plus interest will be set on the level payment basis over the payment period. The interest rate charged on installment payments shall be the prevailing rate on similar land transactions at the time the contract is signed, as determined by the director, but in no case shall it be below 5% per year or above the current usury rate as set by AS 45.45.010(b) and (d). (IN ANNUAL INSTALLMENTS OF NOT LESS THAN 10 PER CENT OF THE PURCHASE PRICE, WITH INTEREST AT THE RATE OF NOT LESS THAN FIVE PER CENT A YEAR.) The director, with the consent of the commissioner, may also impose conditions, limitations, and terms which he considers necessary and proper to protect the interest of the state. Violations of any provision of this chapter or the terms of the contract of sale subject the purchaser to appropriate administrative and legal action, including but not limited to specific performance, foreclosure, ejectment, or other legal remedies in accordance with applicable state law. (LEGAL ACTION, INCLUDING A FORECLOSURE ACTION IN ACCORDANCE WITH APPLICABLE STATE LAW.)

* Section 4. AS 38.05.067(b) is amended to read:

Section 38.05.067(b). The director shall not sell the lands under this section at less than their fair (APPRAISED) market value. The director shall make regulations necessary to ensure that lands sold under this section are for bona fide residential use and not for speculation.

* Section 5. AS 38.05.068(a) is amended to read:

Section 38.05.068(a). FOREST SERVICE PERMITTEES' SALES PREFERENCE. Before offering to the public any land which is subject to a valid existing United States Forest Service permit in effect in a state-selected area at the time the area was patented to the state, or which is subject to a lease issued under Section 87 of this chapter, the director shall offer the land for sale to the permittee or his successor in title, if he can be found, at not less than its fair (APPRAISED) market value before offering to the general public.

* Section 6. AS 38.05.070(c) is amended to read:

Section 38.05.070(c). A lease may be issued for a period of up to 55 years, if it appears to be in the best interest of the state and if the commissioner approves. A lease for a period in excess of 25 years shall grant the lessee an option entitling him to extend the term of the lease for up to 3 consecutive five year periods in addition to the original term. If the Commissioner determines that the land or a part of it which is the subject of a grazing

lease is not being used for the purpose issued, the lease may be declared void. (HOWEVER, A NONRENEWABLE LEASE FOR SCHOOL LANDS MAY BE ISSUED FOR A PERIOD NOT TO EXCEED 99 YEARS.)

* Section 7. AS 38.05.087(a) is amended to read:

Section 38.05.087(a). FOREST SERVICE PERMITTEES' LEASING PREFERENCE. Before offering to the public any land for lease which is subject to a valid existing United States Forest Service permit in effect in a state-selected area at the time the area was patented to the state, the director shall offer the land for leasing to the permittee at not less than its fair (APPRAISED) market value before offering it to the general public.

* Section 8. AS 38.05.105 is amended to read:

Section 38.05.105. Each lease shall stipulate that the annual rental payment is subject to adjustment at five year intervals and shall be based (PRIMARILY) on a reappraised annual rental value. Any increase due to reappraisal may not exceed 100% of the annual rental for the preceding 5 year period. However, if the director of the division of lands determines that residential development is the best use for the land, the reappraisal period may be lengthened or the readjustment waived in accordance with regulations adopted by the commissioner. Before a waiver of rental readjustment is issued, the land shall have a current reappraisal. A waiver is valid only if residential development actually occurs, and only if it is necessary for obtaining primary long-term financing. The regulations adopted under this section shall ensure that the state receives a fair return from the land.

* Section 9. AS 38.05 is amended by adding a new paragraph to read:

Section 38.05.106. CONVERSION OF LEASES. (a) Any person holding a valid lease as lessee of lands from the State under provisions of AS 38.05.070 - .105, or as an approved assignee of such lessee under the terms of such lease, may, at his option, convert his lease so as to obtain certain benefits, enumerated in subparagraph (b) below, which were not available to him at the date his lease was originally entered, if the lessee at the time of conversion makes all payments due under the conversion rate and is not in violation of any other lease provision.

(b) Those lease benefits which shall be made available to a lessee qualifying under subsection (a) of this section shall be all of those lease provisions authorized or made applicable by this act to new leases entered into by the State after the effective date of such statutes.

(c) The effective annual rental value at conversion shall be based on the most recent reappraisal provided that such reappraisal was within 2 years of the effective date of this act. In all other cases, the conversion shall be based on the next reappraisal.

(d) Any conversion as to trust lands shall be effective only if approved by the appropriate board of trustees.

(e) Applications for conversion must be made within 3 years of the effective date of this act.

* Section 10. AS 38.05.310 is amended to read:

Section 38.05.310 (NOTICE AND) APPRAISAL. (a) No land may be sold or leased, or a renewal lease issued (WITHOUT PUBLIC NOTICE) except in the case of an oil or gas or mineral lease, unless it has been appraised within 120 (90) days before the date of (FIXED FOR THE) sale or lease. (WHEN LAND IS OFFERED AT PUBLIC SALE BUT IS NOT SOLD AND IS AVAILABLE)For over the counter sale (AT THE PRIVATE SALE, NO) an (RE)appraisal is required unless the director finds (CONSIDERS) that a change in value of the lands has not (MAY HAVE) occurred. A grazing lease may be granted to a lessee of federal grazing lands without prior appraisal, if his federal lease was cancelled to allow the state to select the lands under lease. No land may be sold or leased for less than fair (THE APPROVED, APPRAISED) market value, except as provided in .315 and .320 of this chapter and .75 - .85 of this chapter. No land or interest in land may be sold, leased, or otherwise disposed of without public notice.

(b) When land is offered at public sale but is not sold, it may be available for sale over the counter. The director shall review the list

of lands available on a quarterly basis and shall certify that there has been no change in value since the last reappraisal. If an increase in value occurs in any parcel, the director shall withdraw that parcel from sale over the counter.

* Section 11. AS 38.05.345(a) is amended to read:

Section 38.05.345(a). Public notice of an auction sale (LEASE OR OTHER DISPOSAL) of [illegible] or interest in it shall be substantially as follows.

* Section 12. AS 38.05.345(e) is amended by adding a new subparagraph to read:

Section 38.05.345(e) Public notice of an action other than as specified in paragraph (a) above shall conform to the requirements of AS 38.05.305 and this paragraph. Such notice shall, when given pursuant to AS 38.05.305(c), be published at least once in a newspaper of general circulation in the vicinity in which the land affected by the proposed activities is located.

* Section 13. AS 38.05.365 is amended by adding a new subparagraph to read:

Section 38.05.365. "Market Value" or "Fair Market Value" means the highest prices, estimated in terms of money, which the property would bring if exposed for a sale for a reasonable time in the open market, with a seller, willing but not forced to sell, and a buyer, willing but not forced to buy, both being fully informed of all the purposes for which the property is best adapted or could be used.

* Section 14. AS 38.05 is amended by adding a new paragraph to read:

Section 38.05.380. STATE BOARD OF LAND APPEALS. (a) The State Board of Land Appeals shall consist of five members, one of whom shall be the Commissioner of Natural Resources or his designated representative. The other members of the board shall be appointed by the governor from the general public, with due regard for the desirability of prior legal, natural resource or real estate training and experience as criteria for selection of public members. All board members are subject to confirmation by a majority of the members of the legislature in joint session.

(b) The director of the division of lands shall provide administrative support for the board.

(c) The governor shall appoint the public members of the board for terms of three years each, except that the initial terms of one of the members first appointed under this chapter shall be for one year and one member for two years. The public members are entitled to compensation

in the amount of $50.00 per day for each day or portion of a day spent in actual meeting or on authorized official business incident to their duties, and to all other transportation and per diem expenses as provided by law.

(d) Jurisdiction of the board shall extend to all matters arising under the Alaska Land Act (AS 38.05) and the Water Act (AS 46.15) from which an appeal may be taken under statute or regulation to the commissioner from a decision of the director, division of lands. The board in all appeals filed after the effective date of this chapter, shall have the appellate authority formally vested in the commissioner by provisions of the Alaska Land Act. An appeal from a decision of the board, if taken, shall be to the Superior Court.

(e) Three members of the board shall constitute a quorum. A majority of a quorum shall be able to render a decision. The board shall adopt regulations governing its procedures, and may adopt other regulations which may be necessary or convenient in carrying out the purposes of this chapter.

V. APPENDIX C

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APPENDIX C

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LANDS
323 East Fourth Avenue
Anchorage, Alaska 99501

ADL NO. _____

LEASE AGREEMENT

THIS Lease agreement made and entered into this _____ day of _____, 19___, by and between the State of Alaska, through the Director of the Division of Lands, with the consent and approval of the Commissioner of the Department of Natural Resources, acting for and on its behalf under and pursuant to AS 38.05, as amended, and the regulations promulgated thereunder, as amended or hereafter amended, hereinafter referred to as the LESSOR; and _____ of _____ hereinafter referred to as the LESSEE:

WHEREAS, the Lessor has caused the lands herein demised to be appraised and such appraisal was made and approved on or after _____, 19_____; and

WHEREAS, the Lessor has caused a notice of intent to lease the lands herein demised to be published as required by law or caused notices of intent to lease to be posted as required by law; and

WHEREAS, an auction of the herein demised property was held at the time and place designated by notice and said sale was approved by the Director of the Division of Lands, Department of Natural Resources, State of Alaska:

NOW THEREFOR, the Lessor has agreed to let and does hereby let and demise to the Lessee, and the Lessee has agreed to take and does hereby take from the Lessor the surface estate of all that lot, piece, or parcel of land more particularly bounded and described, as follows:

_____

_____

_____

_____

_____

located in the _____ Recording District, State of Alaska.

TO HAVE AND TO HOLD the said demised premises for a term of _____ ( ) years commencing on the ___ day of _____, 19_____, and ending at 12 o'clock midnight on the _____ day of _____, _____, a period of fifty-five years unless sooner terminated as hereinafter provided.

The Lessee shall be granted the option to extend the term of his lease for no more than three consecutive five-year periods beyond the original term of the lease, provided that Lessee notifies Lessor of his intention to exercise one or more such options no later than 6 months prior to expiration of the original lease term or the first or second extension terms, as applicable.

The Lessee shall pay to the Lessor rental as follows: Equal _____ payments, in advance, on or before the _____ day of _____ of every year during

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said term at the rate of _____ Dollars ($_____) per _____; such payments to be subject to adjustment as hereinafter required from the effective date hereof, as provided herein.

The annual rental as hereinafter provided for shall not during any rental period increase more than one hundred percent of the immediately preceeding annual rental.

It is agreed that each of the covenants, terms and agreements herein contained shall be binding upon the parties and upon their respective successors and assigns.

1. Appurtenances, and Encumbrances-- Lessor leases and grants to Lessee all easements, parking and loading rights, rights of ingress and egress, fixtures and appurtenances now or hereafter belonging or pertaining to said premises. The described premises are leased, subject to patent restrictions, easements, rights-of-way, if any, zoning and building restrictions and statutes and governmental regulations now in effect or hereafter adopted by any governmental authority.

2. Payment of Taxes and Assessments-- Lessee agrees to pay to the public authorities charged with collection thereof, promptly as the same may become due and payable, all taxes, permit, inspection and license fees and other public charges, whether of a like or different nature, except for general and special assessments lawfully levied upon the leasehold estate and any buildings, structures, fixtures, improvements or leasehold interest now or hereafter located thereon, or arising in respect of the occupancy, use or possession of the leased Premises, and which are charged against and are, or may become, a lien during the term of this lease; and Lessee agrees to exhibit to Lessor, on demand receipts evidencing payment of all taxes, fees and other similar public charges so payable by Lessee. Lessee shall also pay all charges of water, sewer, gas, electricity, power or other public utility services rendered on or to the Premises during the term of this lease as such charges become due.

3. Documentation of Improvements-- Lessee must within 90 days of completion of any site improvements, including but not limited to clearing, leveling, excavation, and backfill, and exclusive of any structures, file with the lessor adequate and reasonable documentation of such improvements including any applicable costs and quantities. Such documentation is intended to aid in future determinations of the original condition of the Premises.

4. Notification and Late Payment Charge-- In the event lessee becomes 30 days delinquent in payments due, a late payment charge of 6% of such amount due shall be levied against the lease. Additionally, a charge for notification for payments 30 days late shall be made at the rate of $5.00 for the first notice and $20.00 for the second notice.

5. Permitted Uses-- (a) The Lessee shall use the leased Premises for uses and purposes consistent with those cited in Attachment 1, and in conformance with applicable local zoning ordinances. At any time Lessee may request a change in permitted uses, provided that Lessee's existing or proposed use of the Premises is consistent with existing zoning. If the Lessor concurs with such change of permitted use, then this lease shall terminate, and a new lease, upon a form and containing terms, appraisal and rental rate applicable to the changed classification; shall be executed for the balance of the unexpired lease term, or renewal term if applicable, then remaining.

b. Lessee may request that part of the leased Premises be severed

from the Premises for purposes of changing of that part for a use or uses not permitted under the then existing permitted uses of the Premises. If the Lessor concurs, then this lease shall terminate as to the part so severed, and a new lease, upon a form and containing terms, appraisal and rental rate applicable to the changed permitted uses; shall be executed for the balance of the unexpired lease term, or renewal term if applicable, then remaining. The annual rentals applicable to the original leased Premises shall be adjusted to reflect the effect of severance of the part permitted by this paragraph for the balance of the original lease term or the renewal term, if applicable. If severance of a portion of the Premises is permitted, Lessee shall comply with all state and local laws and ordinances regarding the subdivision of real property, and shall bear the expenses and costs attributable to survey, recording and other compliance with said laws and ordinances.

6. Compliance with Laws' Ordinance and Regulations-- Lessee shall comply with all applicable laws, ordinances and regulations of duly constituted public authorities now or hereafter in existence which in any manner affect the leased Premises or the sidewalks, alleys, streets, and ways adjacent thereto, or any buildings, structures, fixtures or improvements or the use thereof. Lessee further agrees that it will not permit any unlawful occupation, business or trade to be conducted on the Premises, or any use to be made thereof contrary to any law, ordinance or regulation applicable thereto.

The lessee, at its own cost and expense, shall keep the leased Premises and all improvements which at any time during the term of this lease may be situated thereon, in good maintenance, condition and repair during he entire term of this lease, and hereby expressly waives any right to make repairs to the Premises at the expense of Lessor which may be allowed by any statute or law in effect at the time of the execution of this lease or any amendment thereof, or by any other statute or law which may be hereafter passed during the term of this lease. The Lessee's rights under this Lease may be terminated by the Director, in whole or in part, if the leased Premises are used for a purpose unlawful under Federal or State law or regulation, or local Government ordinance as applicable.

7. Lessee's Rights of Occupancy and Use-- Lessee, when not in default of performance of any of its obligations hereunder, shall have the following rights, during the term of this Lease, from time to time and in such manner, and to such extent, as Lessee may in its sole judgment deem advisable, except where any of said rights is conditioned upon prior approval of Lessor: (a) The right to demolish, remove or otherwise dispose of any improvements presently or subsequently situated upon the leased Premises; (b) The right to erect, place, or install upon the leased Premises buildings, structures, and improvements as from time to time it shall deem advisable; (c) The right to make such alterations, additions and repairs to the leased Premises as it may desire.

8. Disposition of Improvements Upon Termination-- (a) All buildings, structures and permanent improvements, including any signs which are installed, placed or attached in or about the leased Premises by Lessee, shall remain the property of Lessee at the expiration or termination of this lease, or of any renewal term thereof. The lessee shall within 60 days after termination or expiration of the lease remove all improvements located on the leased Premises, provided that such removal will not cause injury or damage to the leased Premises; and further provided that the Lessor may extend the time for removing such improvements in a case where hardship is demonstrated. Following removal Lessee shall leave Premises in a safe and natural condition. The retiring Lessee may, with the consent of the Lessor,

sell his improvements to the succeeding lessee.

(b) If any improvements and/or chattels having an appraised value in excess of $10,000.00, as determined by the Lessor, are not removed within the time allowed, such improvements and/or chattels shall, upon due notice to the Lessee, be sold at public sale under the direction of the Lessor. The proceeds of sale shall inure to the Lessee who placed such improvements and/or chattels on the lands after payment to the Lessor of all rents due and owing and expenses incurred in holding such sale. In case there are no other bidders at any such sale, the Lessor is authorized to bid on such improvements and/or chattels. The Lessor shall acquire all rights, both legal and equitable, that any other purchaser could acquire by reason of said sale and purchase.

(c) If any improvements and/or chattels having an appraised value of $10,000.00 or less, as determined by the Lessor, are not removed within the time allowed, such improvements and/or chattels shall revert to, and absolute title shall vest in, the Lessor.

9. Freedom From Liens-- Lessee will not permit any mechanics', laborers', or materialmens' liens to stand against the leased Premises or improvements for any labor or materials furnished to Lessee, or claimed to have been furnished to Lessee or to Lessee's agents, contractors, or sublessees, in connection with work of any character performed on said Premises or improvements by or at the direction or sufferance of Lessee; provided, however, that Lessee shall have the right to contest the validity or amount of any such lien or claimed lien. In the event of such contest, Lessee shall give to Lessor such reasonable security as may be demanded by Lessor to insure payment thereof and to prevent any purported sale, foreclosure or forfeiture of the premises or improvements by reason of such non-payment. Such security need not exceed one and one-half times the amount of such lien or such claim of lien. Lessee shall record such bond as contemplated by Section 34.35.072, Alaska Statutes upon Lessor's demand. Lessee shall immediately pay any judgment rendered on any proven claim of lien, together with all proper costs and charges, and shall have such lien released or judgment satisfied at Lessee's own expense. The State may file such notices of non-responsibility as it may deem necessary, pursuant to A.S. 34.35.065.

10. Lawful Use of Premises-- The Lessee may use and occupy the leased Premises for any lawful purpose provided such purpose is allowed under Attachment 1 of this Lease.

11. Indemnity to Lessor-- Lessee will indemnify and hold Lessor harmless from and against all claims and demands for loss or damage, including property damage, personal injury or wrongful death, arising out of or in connection with the use or occupancy of the Premises by Lessee or any other person under Lessee, and from any accident or fire on the Premises and from any nuisance made or suffered thereon, and from any failure by Lessee to keep the Premises in a safe condition, and Lessee will reimburse Lessor for all its costs and expenses, including reasonable attorneys' fees, incurred in the defense of any such claims; and Lessee will hold all goods, materials, furniture, fixtures equipment, machinery and other property whatsoever on the Premises at the sole risk of Lessee, and will save Lessor harmless from any claim of loss or damage thereto by any cause whatsoever. If all or part of the improvements placed by Lessee on the demised premises are destroyed by fire, earthquake or other cause, Lessee shall remove the debris and clean up the affected area within 60 days of the occurrence of such destruction, and may surrender to Lessor this lease, together with any interest of Lessee and of any mortgagee in

the remaining insurance proceeds and Lessee may thereby be relieved of any further obligation hereunder.

12. Default-- If Lessee at any time during the term or renewal term of this lease (and regardless of the pendency of any bankruptcy, reorganization, receivership, insolvency or other proceedings, in law, in equity or before any administrative tribunal, which has or might have the effect of preventing Lessee from complying with the terms of this lease) (a) shall fail to make payment of any installment of rent or of any other sum herein specified to be paid by Lessee, or (b) shall fail to observe or perform any of Lessee's other covenants, agreements or obligations hereunder, and if any such default shall not be cured as to (a) within ten days after Lessor shall have given Lessee written notice of such failure to make payment, or as to (b) within thirty (30) days after Lessor shall have given to Lessee written notice specifying such default or defaults, Lessee shall not have commenced diligently to cure such default; or if Lessee has filed a voluntary petition or has become subject to an involuntary petition under any provision of the Bankruptcy Act, 11 U.S.C. 701 et. seg; or if Lessee finally and without further possibility of appeal or review is adjudicated a bankrupt or insolvent; or if Lessee has a receiver or a Trustee appointed for all or substantially all of its business or assets on the ground of Lessee's insolvency; or if Lessee has itself appointed as debtor-in-possession in a proceeding for a reorganization or an arrangement; or if Lessee shall make an assignment for the benefit of its creditors, then in any such event Lessor shall have the right, at its election, then or at any time thereafter, and while such default, defaults or events shall continue, to give Lessee written notice of Lessor's intention to terminate this lease and all of Lessee's rights hereunder, on the date specified in such notice, which date shall not be less than thirty (30) days after the date of giving of such notice; and on the date specified in such notice this lease and all rights granted Lessee hereunder shall terminate as fully as if the lease had then expired by its own terms; and Lessee hereby covenants to peaceably and quietly surrender to Lessor said leased Premises and all structures, buildings improvements and equipment located thereon, subject to paragraph 7 (a) above and to execute and deliver to Lessor such instrument or instruments which may be required by Lessor to properly evidence termination of Lessee's rights and interest hereunder.

In the event of termination of this lease as provided in this paragraph 12, Lessor shall have the right to repossess the leased Premises and such structures, buildings, improvements and equipment, thereon and subject to paragraph 5 above either with process of law or through any form of suit or proceeding, as well as the right to sue for and recover all rents and other sums accrued up to the time of such termination, and damages arising out of any breach on the part of Lessee, including damages for rent for the balance of the lease term not then accrued. Lessor shall also have the right, without taking possession of the premises or terminating this lease, to sue for and recover all rents and other sums, including damages, at any time and from time to time which may accrue hereunder as a result of any default of Lessee.

13. Condemnation-- If the whole or any part of the demised premises shall be taken for any public or quasi-public use, under any statute or by right of eminent domain or private purchase in lieu thereof, by any public or quasi-public body vested with the power of eminent domain, then when possession shall be taken thereunder of the leased Premises, or any part thereof, the following provisions shall control:

a. Taking of All Premises-- If all of the Premises are taken by condemnation; the term of this lease and all rights of the Lessee hereunder shall immediately terminate, and the rent shall be adjusted as of the time of such termination so that Lessee shall have paid rent only up to the time of such taking. Lessor shall

be entitled to the full condemnation proceeds, except that portion thereof attributable to the value of the buildings or improvements placed on the Premises by Lessee.

b. Taking of Substantial Part of Premises-- If the taking by condemnation reduces the ground area of the leased Premises by at least thirty percent (30%), or materially affects the use being made by the Lessee of the demised premises, Lessee shall have the right, by written notice to Lessor made not later than one hundred eighty (180) days after possession shall be taken, to elect to terminate or to not terminate this lease under the provisions set forth herein. If the election to terminate is made the provisions of (a) of this paragraph relating to the taking of the whole Premises shall govern. If the election not to terminate is made the lease shall continue and Lessor shall be entitled to the full condemnation proceeds except the portion thereof attributable to the value of the buildings or structural improvements placed on the Premises by Lessee; and rent at the existing rate and amount shall be adjusted as of the date of the taking of possession, and the rent for the balance of the term, except as modified from time to time under paragraph 1 of attachment 1 hereof, shall be reduced so that the new rent shall be that part of the former rent (before condemnation) which the unimproved value of the untaken Premises (appraised after the taking) bears to the unimproved value of the entire Premises immediately before the taking. Any dispute, controversy or claim arising out of or relating to the fixing of the new rent shall be settled by arbitration as provided herein.

c. Taking of Insubstantial Part of Premises-- If the taking is of such an insubstantial portion of the ground area that the use being made by Lessee of the leased premises is not materially affected, the provisions of this paragraph regarding Lessee's election not to terminate shall govern.

14. Quiet Enjoyment-- Provided Lessee is not in default hereunder, Lessor covenants that Lessee shall have peaceful and quiet enjoyment of the leased Premises without let or hindrance on the part of Lessor, and Lessor will warrant and defend Lessee in the peaceful and quiet enjoyment of the leased Premises.

15. Notices-- All notices required or permitted under this agreement shall be made by certified or registered mail, postage prepaid, to the parties at the following addresses.

To The Lessor: _____

To The Lessee: _____

16. Rights or Remedies-- Except as may be inconsistent with or contrary to any provision of this lease, no right or remedy herein conferred upon or reserved to Lessor shall be exclusive of any other right or remedy, and each and every right or remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

17. Waiver or Forebearance-- The receipt of rent by the Lessor, with or without knowledge of any breach of the lease by the Lessee, or of any default on the part of the Lessee in the observance or performance of any of the conditions or covenants of this lease, shall not be deemed to be a waiver of any provision of this lease. No failure on the part of the Lessor to enforce any covenant or provision herein contained, nor any waiver of any right hereunder by the Lessor, unless in writing, shall discharge or invalidate such term or covenant; nor shall any forebearance or

written waiver affect the right of the Lessor to enforce any term or covenant in the event of any subsequent breach or default. The receipt by Lessor of rent or any other sum of money or the termination, in any manner, of the lease term or the giving by Lessor of any notice hereunder to effect such termination, shall not reinstate, continue, or extend any term herein leased, or destroy, or in any manner impair the validity of any such notice of termination as may have been given hereunder by the Lessor to the Lessee prior to the receipt of any such sum of money or other consideration, unless the contrary effect shall be expressed in writing and signed by the Lessor.

18. Inspection-- Lessor shall, at all reasonable times have access to the Premises for the purpose of inspection.

19. Successors in Interest-- This Lease shall be binding upon and inure to the benefit of the respective heirs, successors in interest and assigns of the parties hereto.

20. Assignment or Subletting— Lessee shall not sublet or assign the leased premises or any part thereof, without the prior written consent of Lessor to such subletting or assignment, which consent shall not be unreasonably withheld, subject to use provisions of this lease. However, Lessee, without prior authorization may assign this Lease, or any part thereof, to a duly licensed and authorized lending institution for loan security purposes, provided that this right to assign shall not operate as a subordination of Lessor's rights hereunder, nor a subordination of its fee. Lessor agrees that upon receipt of application for assignment by Lessee, it will consent to or deny a proposed subletting or assignment by Lessee. No assignment or subletting of the Premises or any portion thereof by Lessee shall void Lessee's obligation to pay the rent herein reserved for the full term of this sublease or any extensions thereof. Anything contrary in the foregoing notwithstanding, Lessee shall have the right to sublease all or any portion of the enclosed space in any building which Lessee may construct upon the leased Premises without prior written approval of Lessor.

21. Soil Conditions and Water Drainage-- Lessor makes no warranty and assumes no liability regarding the soil conditions or water drainage upon the leased premises.

22. Mineral Reservation-- The Lessor hereby expressly saves, excepts and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores, minerals, fissionable materials, and fossils of every name, kind or description, and which may be in or upon said lands above-described, or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, fissionable materials and fossils. All coal, oil, gas and other minerals and all deposits of stone or gravel valuable for extraction or utilization, are excepted from the operation of a surface lease. Specifically, the lessee of the surface rights shall not sell or remove for use elsewhere any timber, stone, gravel, topsoil, or any other material valuable for building or commercial purposes; provided, however, that material required for the development of the leasehold may be used. It also hereby expressly saves and reserves out of the grant hereby made, unto itself, its lessee, successors, and assigns forever, the right to enter by itself, its or their agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times, for the purpose of opening, developing, drilling and working mines or wells on these or other lands and taking out and removing

therefrom all such oils, gases, coal, ores, minerals, fissionable materials and fossils; and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such soil, and to remain on said lands or any part thereof for the foregoing purposes and to occupy as much of said lands as may be necessary or convenient for such purposes, hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid, generally all rights and power in, to and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved.

Provided, however, no rights shall be exercised by the Lessor or its mineral lessees, until provision has been made by the Lessor or its mineral lessees to pay to the Lessee of the land, upon which the rights herein reserved to the Lessor or its mineral lessees, are sought to be exercised, full payment for all damages sustained by said Lessee, by reason of entering upon said land; and provided that if said Lessee for any cause whatever refuses or neglects to settle said damages, the Lessor or its mineral lessees, or any applicant for a mineral lease or contract from the Lessor or its lessees for the purpose of prospecting for valuable minerals, or option contract or lease for mining coal or lease for extracting petroleum or natural gas, shall have the right, after posting a surety bond with the Director issued by a corporation qualified to do business in Alaska and licensed to sell insurance in Alaska, or a bond executed by one or more individual sureties approved by the Director, after due notice and opportunity to be heard, to be sufficient in amount and security to secure the said Lessee full payment for all such damages, to enter upon the land in the exercise of said reserved rights, and shall have the right to institute such legal proceedings in a court of competent jurisdiction wherein the land is situated, as may be necessary to determine the damages which the surface lessee of such lands may suffer.

23. Mortgage of Leasehold Interest of Tenant-- A leasehold mortgagee, a beneficiary of a deed of trust, or a security assignee shall have and be subrogated to any and all rights of Lessee with respect to the curing of any default hereunder by Lessee. If the holder of any such mortgage, the beneficiary of any such deed of trust, or the security assignee shall give Lessor, before any default shall have occurred in the Lease, a written notice containing the name and post office address of such holder, Lessor shall thereafter give to such holder a copy of each notice of default by Lessee at the same time as any notice of default shall be given by Lessor to Lessee; and Lessor will not thereafter enter into any modification of this Lease without the prior written consent of such mortgagee, beneficiary or security assignee. If by reason of any default of Lessee, either this Lease or any renewal thereof shall be terminated at the election of Lessor prior to the stated expiration thereof, Lessor shall enter into a new Lease with the leasehold mortgagee, the beneficiary of a deed of trust, or the security assignee, for the unexpired portion of the lease term, effective as of the date of such termination, at the rent and on the terms herein contained, subject to the following conditions.

Mortgagees, beneficiary or security assignee shall do the following:

a. make written request to Lessor for a new lease within forty (40) days after the date of such termination; and such written request shall

be accompanied by payment to Lessor of all sums then due Lessor under this lease as if termination had not occurred but with such costs as are permitted under this Lease.

b. pay to Lessor, at the time of the execution and delivery of such new Lease, any and all sums due thereunder, in addition to those which would at the time of the execution and delivery thereof be due under this Lease but for such termination, and in addition thereto, any reasonable expenses, including legal and attorneys' fees to which Lessor shall have been subjected by reason of such default.

c. on or before the execution and delivery of such new Lease, perform all other conditions required to be performed by Lessee, to the extent that Lessee shall have failed to perform such conditions.

24. Arbitration— Any dispute between the parties arising under this lease or through the performance or non-performance of any term of this lease shall be first subject to resolution by arbitration, under the authority and procedures contained in Alaska Statutes 09.43. Appointment of an arbitrator shall be made by agreement between the parties. If no agreement can be reached, each party shall appoint an arbitrator, who shall by agreement between themselves appoint a third arbitrator. If any State Board of Land Appeals is later created which shall have jurisdiction over disputes which may arise under this lease, such Board shall assume jurisdiction and no requirement for arbitration shall thereafter be imposed during the pendency of such jurisdiction.

25. Integration and Modification— This document including attachments which by reference are made a part hereof, contains the entire agreement of the parties hereto. All negotiations, statements, representations, warranties, and assurances, whether oral or written, which are in any way related to the subject matter of this lease, and the performance by either party hereto, are merged and integrated into the terms of this document.

This Lease may not be modified nor amended except by a writing signed by both parties hereto, and any purported amendment or modification is without effect until reduced to a writing signed by both parties hereto.

IN WITNESS WHEREOF the State of Alaska, Lessor, acting through the Director of the Division of Lands of the Department of Natural Resources, lawfully authorized thereunto, has caused these presents to be executed at Anchorage, Alaska, in duplicate, and the said Lessee has hereunto set his hand, agreeing to keep, observe and perform the rules and regulations promulgated under AS 38.05, as amended, the terms conditions and provisions herein contained, on the Lessee's part to be kept, observed and performed.

_____
Director, Division of Lands

APPROVED:

_____
Trustee

_____ _____
COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES
STATE OF ALASKA

_____
LESSEE(S)

UNITED STATES OF AMERICA)
ss
State of Alaska)

THIS IS TO CERTIFY that on the _____ day of _____, 19____, before me, the undersigned Notary Public, personally appeared _____ known to me and known by me to be the _____ of the Division of Lands of the Department of Natural Resources, and acknowledged to me that he executed the foregoing lease for an on behalf of said State, freely and voluntarily and for the use and purposes therein set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

_____
Notary Public in and for the State of Alaska
My commission expires _____

UNITED STATES OF AMERICA)
ss
State of Alaska)

THIS IS TO CERTIFY that on this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for Alaska duly commissioned and sworn, personally appeared _____ to me personally known to be one of the persons described in and who executed the within instrument and the said _____ acknowledged to me that he signed and executed the same freely and voluntarily for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year of this certificate first above written.

_____
Notary Public in and for the State of Alaska
My commission expires _____

APPROVED AS TO FORM:

_____
ATTORNEY GENERAL

By_____
Deputy Attorney General

Attachment No. 1 Commercial-Industrial Lease

ADL NO. _____

The following clauses are hereby included in and by reference made a part of the attached lease document.

1. Modified Rentals

(a) Beginning with the lease year and continuing at five-year intervals thereafter, the annual rental shall be modified so as to equal _____ percent of the fair market value of the premises at such appraisal dates, as determined by appraisal as hereinafter specified; provided, however that the premises shall be valued and appraised at the date of the rental modification, as unimproved land as defined herein. For purposes of rental modification, unimproved land shall mean the leased land in its original condition at the commencement date of the Lease, disregarding all building or structural improvements above or below grade, excavation or backfill, and disregarding all landscaping, paving, leases or encumbrances placed on the property by the Lessee. The foregoing notwithstanding, any improvements above or below grade placed on or made available to the property by the Lessor or at the expense of the

Lessor shall not be disregarded. The unimproved land, as above defined, shall be appraised at its highest and best use regardless of its actual use, but subject to existing use restrictions and zoning.

2. Special Assessments--In the event any general or special assessment is levied on the Premises for a part of the cost of any public work or improvement assessed according to benefit found by levying authority to accrue therefrom to the demised Premises, Lessor shall pay for the same.

3. Permitted Uses--The lands described herein are intended to permit uses common to industrial development areas. Such uses may include but are not limited to light manufacturing, processing, storage, wholesaling, and distribution operations as well as limited commercial uses.

4. Liability Insurance--Lessee will at its own expense obtain and maintain during the term of this Lease and any renewal term thereof comprehensive general liability insurance with respect to the leased Premises, naming Lessor as additional assured, from an insurance company authorized to do business in Alaska, with minimum

limits of not less than $200,000 for injury to one person and not less than $1,000,000 for injury to more than one person in any one accident or occurrence, and insurance in a sum not less than $200,000 against claims for property damage, or such higher limits as Lessor may from time to time determine, with due regard to then prevailing prudent business practice in the State of Alaska, as reasonably adequate for it's protection, and Lessee will from time to time upon receipt thereof deposit promptly with Lessor upon demand current certificates of such insurance.

Attachment No. 1 Residential Lease

ADL No. _____

The following clauses are hereby included in and by reference made a part of the attached lease document.

1. The annual rent in the sum of _____ payable by Lessee each year beginning with the lease year and modified at five-year intervals thereafter as provided for under paragraph 2(a) excepting waivers of rental as provided for in paragraph 2(b). This lease shall continue until the _____ day of _____, _____ a period of fifty-five years, and shall be payable in _____ installments.

2. (a) The annual rental shall be modified so as to equal _____ percent of the fair market value of the premises, at such appraisal dates as determined by appraisal in a manner as hereinafter specified; provided, however, that the premises shall be valued and appraised at the date of the rental modification as unimproved land as defined herein. For the purposes of rental modification, unimproved land shall mean the leased land in its original condition at the commencement date of the lease, disregarding all building or structural improvements above or below grade, excavating or backfill, and disregarding all landscaping, paving, leases

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or encumbrances placed on the property by the Lessee. The foregoing notwithstanding, any improvements above or below grade placed on or made available to the property by the Lessor or at the expense of the Lessor shall not be disregarded. The unimproved land, as above defined, shall be appraised at its highest and best use regardless of its actual use, but subject to existing classification, zoning, and lease use restrictions.

(b) If a waiver of rent adjustments is necessary for obtaining long-term financing of residential development which has occurred or in actuality will occur on the leased premises, then upon approval of Lessee's application for waiver of rent adjustments, the annual rent for the thirty years next succeeding, or for the remainder of the lease term, whichever is less, shall from the date of approval of such waiver be determined by appraisal as hereinbefore provided, upon approval of such appraisal by the Lessor. Lessee shall pay all expenses of such appraisal. Approval or rejection of such appraisal shall be given by the Lessor within two weeks after its submission to the Lessor, which approval shall not be unreasonably withheld. Such appraisal, upon approval, shall be

used to determine the rental under the waiver of rent adjustments if the effective date of the appraisal is not earlier than one year prior to the date of application for the waiver. Upon termination of such waiver, rental shall be adjusted upon the anniversary date of the next ensuing five-year interval from the lease commencement date.

(c) If an appraisal as provided for in paragraph (a) has been performed, and is applicable to the portion for which the waiver is granted such appraisal may be used to determine the rental under said waiver as long as the effective date of the appraisal is not earlier than one year prior to the date of the application for waiver.

(d) Anything to the contrary notwithstanding, upon approval of sublease, the Lessor shall have the right to readjust the rental of all parcels subleased at that time. Such parcels so adjusted and subject to waiver shall be leased at the new rental for the duration of such waiver. Any portion of those lands legally described herein which are not subject to sublease shall be reduced

in rental in proportion to the amount of land subleased at that time. Upon such adjustment the annual rental shall be the cumulative amount of annual rental for each portion and shall be based on the methods and rate stated in paragraph (a) of this clause.

3. Special Assessments--In the event any general or special assessment is levied on the premises for a part of the cost of any public work or improvement assessed according to the benefit found by levying authority to accrue therefrom to the demised premises, Lessee shall pay for the same.

4. Permitted Uses--The lands described herein are intended for residential use.

Attachment No. 1 Utility Lease

ADL No. _____

The following clauses are hereby included in and by reference made a part of the attached lease document:

1. Modified Rentals--(a) Beginning with the lease year and continuing at five-year intervals thereafter, the annual rental shall be modified so as to equal _____ percent of the fair market value of the premises at such appraisal dates, as determined by appraisal as hereinafter specified; provided, however that the premises shall be valued and appraised at the date of the rental modification as unimproved land as defined herein. For purposes of rental modification, unimproved land shall mean the leased land in its original condition at the commencement date of the Lease, disregarding all building or structural improvements above or below grade, excavation or backfill, and disregarding all landscaping, paving, or encumbrances placed on the property by the Lessee. The foregoing notwithstanding, any improvements above or below grade placed on or made available to the property by the Lessor or at the expense of the Lessor shall not be disregarded. The unimproved land, as above defined, shall be appraised at its highest and best use regardless of its actual use, but subject to existing classification and zoning.

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2. Special Assessments--In the event any general or special assessment is levied on the Premises for a part of the cost of any public work or improvement assessed according to benefit found by levying authority to accrue therefrom to the demised Premises, Lessee shall pay for the same.

3. Permitted Uses--The lands described herein are intended to permit any use which is consistent with zoning and building restrictions and statutes and governmental regulations now in effect or hereafter adopted by any governmental authority.

4. Liability Insurance--In the event of uses other than residential or agricultural, Lessor may require that Lessee will at his own expense obtain and maintain during the term of this Lease and any renewal term thereof comprehensive general liability insurance with respect to the leased Premises, naming Lessor as additional assured, from an insurance company authorized to do business in Alaska, with minimum limits of not less than $200,000 for injury to one person and not less than $1,000,000 for injury to more than one person in any one accident or occurrence, and insurance in a sum not less than $200,000 against claims for property damage, or such higher limits as Lessor may from time

to time determine, with due regard to then prevailing prudent business practice in the State of Alaska, as reasonably adequate for its protection, and Lessee will from time to time upon receipt thereof deposit promptly with Lessor upon demand current certificates of such insurance.

Attachment No. 1 Recreational Lease

ADL No. _____

The following clauses are hereby included in and by reference made a part of the attached lease document:

1. Modified Rentals--(a) Beginning with the lease year and continuing at five-year intervals thereafter, the annual rental shall be modified so as to equal _____ percent of the fair market value of the premises at such appraisal dates, as determined by appraisal as hereinafter specified; provided, however, that the premises shall be valued at the date of the rental modification as unimproved land as defined herein. For purposes of rental modification, unimproved land shall mean the leased land in its original condition at the commencement date of the Lease, disregarding all building or structural improvements above or below grade, excavation or backfill, and disregarding all landscaping, paving, leases or encumbrances placed on the property by the Lessee. The foregoing not withstanding, any improvements above or below grade placed on or made available to the property by the Lessor or at the expense of the Lessor shall not be disregarded. The unimproved land, as defined above, shall be appraised at its highest and best use regardless of its actual use, but subject to existing use restrictions and zoning.

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2. Special Assessments--In the event any general or special assessment is levied on the premises for a part of the cost of any public work or improvement assessed according to benefit found by levying authority to accrue therefrom to the demised premises, Lessee shall pay for the same.

3. Permitted Uses--Whereas the lands described herein are intended for recreational use they shall under the terms of this lease have a maximum use density of one recreational dwelling or structure and accessory building or structure which are reasonably necessary for the use and enjoyment of and are in keeping with the nature of the recreational lease.

Attachment No. 1 Agricultural Lease

ADL No. _____

The following clauses are hereby included in and by reference made a part of the attached lease document:

1. Modified Rentals--(a) Beginning with the lease year and continuing at five-year intervals thereafter, the annual rental shall be modified so as to equal _____ percent of the fair market value of the premises at such appraisal dates, as determined by appraisal as hereinafter specified; provided however that the premises shall be valued at the date of the rental modification as unimproved land as defined herein. For purposes of rental modification, unimproved land shall mean the leased land in its original condition at the commencement date of the Lease, disregarding all building or structural improvements above or below grade, excavation or backfill, and disregarding all landscaping, paving, leases or encumbrances placed on the property by the Lessee. The foregoing notwithstanding, any improvements above or below grade placed on or made available to the property by the Lessor or at the expense of the Lessor shall not be disregarded. The unimproved land, as above defined, shall be appraised at its highest and best use regardless of its actual use, but subject to existing use restrictions and zoning.

2. Special Assessments--In the event any general or special assessment is levied on the premises for a part of the cost of any public work or improvement assessed according to benefit found by levying authority to accrue therefrom to the demised premises, Lessee shall pay for the same.

3. Permitted Uses--Whereas the lands described herein are permitted agricultural uses, they shall, under the terms of this lease, shall be limited to the following rights of use:

(a) The right to develop one single family dwelling and accessory buildings or structures for the family's use.

(b) The right to develop and utilize the property for agricultural purposes that include grazing of livestock, cultivation of crops or forage, and storage of crops, feed, animals, and agricultural equipment and supplies.

(c) The right to construct fences, structures, and buildings reasonably required for agricultural production on the property.

(d) The right to harvest timber only as needed to clear fields, pastures, and roadways.

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SENATE FINANCE COMMITTEE
March 9, 1977
9:03 a.m.

All members of the Committee were in attendance except Croft and Tillion. Also in attendance: Judy Crohdahl; Attorney General Avrum Gross and Bob Maynard, Assis' nt Attorney General, Department of Law. PRESENT

Chairman Sackett called the meeting to order. The following bill assignments were made:

BILL ASSIGNMENT

SB 95	-	Butrovich
SB 209	-	Butrovich
SCR 15	-	Meland
CSSB 159	-	Orsini
SB 191	-	Butrovich
HB 152	-	Tillion
HB 154	-	Sackett
HB 189	-	Butrovich
HJR 10	-	Tillion
SJR 16	-	Hohman
SB 27	-	Sackett
SB 78	-	Orsini
SB 175	-	Sackett
SB 204	-	Hohman

Chairman Sackett moved that House Bill 122 (An act making a supplemental appropriation to the Alaska Pipeline Commission and providing for an effective date) be brought up for discussion. There being no objection, it was so ordered. HB 122

Mr. Gross stated that $656,000 of this request is for a contractual arrangement with Terry Lenzher to have him investigate the Alyeska construction for the State to aid their case before the Interstate Commerce Commission regarding tarrifs. Mr. Gross stated there are two parts to this contract: One is the Department of Law contracting for the actual trial; and the other is the investigation of the case which is with the Pipeline Commission.

Mr. Gross stated the Department of Law and the Pipeline Commission have met and concur that the overall control of this should belong to the Department of Law.

Mr. Gross stated there are two other areas which this appropriation is concerned with. One is $156,000 for the Pipeline Commission to establish methodology to see how they are going to set rates. And the other is $21,000 to hire a CPA Auditor and Engineer.

Senator Orsini asked if the CPA Auditor and Engineer was one position or two. Mr. Gross stated it is two positions and the funding requested is for three months in FY 77. These positions have been requested in the FY 78 budget. AGO 936022

MOTION
SB 159

Senator Orsini moved that Senate Bill 159 (An act relating to leasing of State land other than for extraction of natural resources) be brought up for discussion. Senator Orsini stated that the bill dealt with complicated issues relating to state lands and the leasing of those lands. He advised that he understood some people who are leasing state lands are experiencing a great deal of difficulty due to reappraisal, and some are not. He further advised that in dealing with this matter, the committee might solve some of the problems and hurt the state, or it may maintain the state function and hurt some leaseholders. He added that his approach to the bill was to try to be as fair as possible to all concerned. He stated that he had spoken with appraisers, private lessors, and others involved in this type of transaction, and received a variety of different opinions. He advised that his intention was to make leasing of state land competitive with leasing of private land; that the provisions of leasing state land are not as beneficial to the lessor as are private provisions.

Senator Orsini advised that the Senate Resources Committee had drafted and passed a Committee Substitute for the original bill, and using Resources' Committee Substitute, he had drafted one of his own. He added that neither his bill nor Resources attempted to solve all of the problems, but did resolve some of the problem areas.

Senator Orsini presented committee members with copies of his graph outlining the relationship between inflation (cost of living) and land. Explaining his graph (copy attached to these minutes), Senator Orsini advised that in the 1960's inflation figured at approximately 3%. During this same time frame, the value of land increased 10%. In the early to mid 70's, the situation is somewhat different due mostly to the pipeline which produced a rapid increase in the cost of living in Alaska of about 7%. At the same time, values of land in Alaska increased 15%. Senator Orsini advised that from the above figures, he attempted to come up with figures for use in dealing with the leasing of state land.

Chairman Sackett requested that Senator Orsini explain the differences between his committee substitute and the one prepared by Resources.

Senator Orsini advised that the Resource Substitute proposed a lease for a total of 55 years. The initial lease period would be 25 years, and thereafter reappraisal and changes in

AGO 936023

rent occur every 10 years. The current provision is for these reappraisals to occur every 5 years. My Committee Substitute would provide for 3 initial 10 year periods, and thereafter 5 years. The above provisions are based upon the need for a ceiling for loan purposes from commercial banking institutions. He further added that his proposed Committee Substitute puts a ceiling on the three 10 year periods, and this ceiling is a key point in the ability of the lease to support financing.

Senator Butrovich advised that he felt the length of time would be important in determining whether or not a lease met the criteria established by a banking institution for loan purposes, and asked Senator Orsini if he had checked the terms of his proposed Substitute with the requirements of financial institutions. Senator Orsini advised that the banks were looking for stability. They need the ceiling so they can evaluate the risk involved, and the proposed Committee Substitute has a 30-year ceiling.

Senator Butrovich stated that the Resource Substitute appeared to offer a 25 year initial leasing period while Senator Orsini's changed that time period to 10 years. Senator Orsini replied that it should be viewed as a change from 25 years to 30 years. There is a difference in the amount we can charge at the end of each of the three 10-year periods, but there is a ceiling on the whole 30 years.

Senator Butrovich questioned Senator Orsini concerning how he had arrived at the 170% included in the ceiling. Senator Orsini advised that the percentage figure was derived from the percentage of inflation the state has experienced over the past 10 years. My thinking on that was that cost of living is not only an increase in costs, it is also an increase in income. The economic value from the property would increase as well as the cost of other things. If the state is not in a period of high inflation, the percentage would be the lower fair market value. As an example, Senator Orsini advised that if a leaseholder had a $1,000 annual lease, and assuming that the percentage actually goes to 170%, the breakdown would be:

$1,000 for the first ten years
$2,700 for the second ten years
$2,900 for the last ten years.

Senator Butrovich asked if Senator Orsini had conferred with people testifying before Resources regarding the content of his Committee Substitute. Senator Orsini advised that he

AGO 936024

had only completed work on the proposed substitute last evening, adding that he wasn't sure it would get by the Governor, but further adding that there was no question in his mind but that the Governor would veto the Resource Committee Substitute because the time period contained therein is too long.

Senator Orsini advised that another area that should be discussed pertains to the two items that should be taken into consideration when calculating rent. The first item is valuation; and the second is rental rate. Senator Orsini stated that discussions with private lessors had convinced him that the current 8% rental rate charged by the state is too high. The opinion appears to be that 6% is a fair rate given the restrictions on state leases. He further advised that part of the problem is the fact that conditions vary, and what the Committee Substitute attempts to do is build a fair but flexible rental rate based on comparable private rental.

Chairman Sackett asked what the Resource Committee Substitute proposed in the way of rental rates, and Senator Orsini replied that Resources has a maximum of 10%. Senator Orsini stated that his Committee Substitute floats the rental rate; that 8% is the going private rate, but the state has additional conditions (such as lack of an option to purchase) that make it less attractive for an individual to lease state land at 8%.

Senator Orsini further advised that he did not address the question of whether or not the state should be in the leasing business. If we are going to be in the business, it should be conducted as fairly as possible and made attractive enough so people will lease. On the other hand, the state shouldn't give the land away because it does belong to the people.

At this time Chairman Sackett advised that the committee would hear testimony pertaining to the two Committee Substitutes from those present. Mr. George Hollett, Deputy Director of the Division of Land and Water Management addressed the committee advising that he had not before had an opportunity to review Senator Orsini's substitute. Mr. Hollett advised that the state has lease agreements under existing statutes that are not compatible with the going market. Private leases are effected on a case by case basis which the state is unable to do. The state has to set stipulations that apply to all, and added that the Resource hearings pretty well brought out current problems with state leasing.

GEORGE HOLLETT
DIV. LAND &
WATER MANAGEMENT

AGO 936025

Mr. Hollett further advised that he was aware that if the state was to give 25 year rental terms, the banking facilities would look favorably upon this provision. He further stated that he would hope something would develop which would lend stability if the state is going to be in the leasing business. We find that in residential pieces of property, there has to be a stable period of time in order for institutions to lend. On commercial property the time doesn't have to be as long or there must be a ceiling so the banker can come up with some figures as to payback.

Senator Butrovich advised that he was concerned about what the state is doing to individuals who have entered into leases and improved the property. These people have existing leases and suddenly the state is escalating the rental price on property upon which they have substantial investments. Mr. Hollett advised that everyone agreed that a problem exists. There has to be something in the statutes that lets us get to this situation. The present day situation calls for the state to look at land and get the value.

Senator Orsini advised that his Committee Substitute addressed the question of how to take care of leases entered into over the past 5 years, and referred the committee's attention to Section 4. He advised that this section was very close to the provisions of the Resource Substitute in that it allows a person with an ongoing lease to enter into the new leasing system for the remainder of his lease. The Resource version would allow this person to enter into a total new lease. The ability to change over to the new system would expire on January 1, 1979. If the lessee should choose not to become bound under the new system, his lease would continue as before.

JOE WILHOUR
ALASKA INDUSTRIAL PARK

Mr. Joe Wilhour advised that he is currently a leaseholder in the Alaska Industrial Park Subdivision. He advised that he was unable to testify regarding Senator Orsini's proposed Committee Substitute due to the fact he had received a copy upon entering the committee room and was unable to listen to the previous testimony and read the proposed substitute at the same time. He advised that the Resource committee had come up with an acceptable bill which did not cover everything, but would at least keep the leaseholders in his area from losing their land. He stated that if a leaseholder is run off his land, he not only loses the

AGO 936026

lease, he loses his improvements and is still left with a mortgage to repay at the bank. He added that there was a definite need for a ceiling, but added that it was no good if the ceiling is too high.

Senator Orsini asked Mr. Wilhour what had happened to his land since the lease commenced. Has there been any rezoning, road improvements, etc. Mr. Wilhour replied that there had been no rezoning, and not much in the way of road improvements either. There had been a recent sewer and water project effected in the area though. Senator Orsini referred to page 2, line 17 of his proposed Substitute dealing with state reappraisals. He advised that under this section, improvements made to leased property by the individual would not be included within the reappraisal. The reappraisals would consider only state-implemented improvements.

Senator Hohman asked Mr. Wilhour how many people maintained leases within the above Industrial Park Subdivision. Mr. Wilhour replied that there are approximately 64 leases. Mr. Hollett advised that of the total 980 outstanding leases between the state and various individuals, not all of them would be affected as adversely as Mr. Wilhour whose lease is in an area where prices have been rising rapidly. Senator Hohman advised that it was his understanding that some leaseholders are being threatened to the point where they will have to walk away from the land, leaving their improvements and investments behind. Mr. Hollett advised that the 63 members of the Industrial Subdivision had hired Doug Baily to represent them in this matter. Mr. Wilhour advised that he believed more leaseholders than those within the Industrial Subdivision were involved in this problem, and cited the Matanuska Valley as another area where the raise in lease price has been just like an eviction notice. The leaseholders just cannot pay the price.

Senator Tillion referred to page 4, line 21 of Senator Orsini's Committee Substitute, dealing with long term financing. He stated that this section encouraged a person to go to a banker rather than trying to fund the lease himself. He further stated that he believed that a person who could fund the lease out of his own finances should have the same consideration as someone who has borrowed the money.

AGO 936027

Senator Orsini again referred to the reappraisal and the fact that he didn't feel improvements made by the individual should increase the value--only state improvements should have this effect. Mr. Davis advised that he didn't think there would be any serious contention regarding this provision, but added that in effect the provision would only make it more difficult to conduct the appraisal. He stated that he didn't feel this type of assessment would be a practical approach to the situation, adding that it would put the appraiser in the position of having to consider school facilities, rezoning, water, sewer, and road systems relating to the property, and yet close his eyes to the buildings and other improvements located on the property when making his evaluation.

REAPPRAISAL PROBLEMS

Chairman Sackett advised committee members and those present that the committee would bring the bill up for further discussion at the bill session scheduled for 8:00 a.m., April 4, 1977.

Chairman Sackett moved that Senate Bill 228 (Supplemental appropriation to the Office of the Governor, Alaska Plan Committee) be brought on for discussion. Mr. Milo Griffin, Executive Director of the Alaska Plan appeared to testify. He advised committee members that last year the Plan had requested $320,000 for yearly operation. The Governor's office cut that figure to $100,000, and we ran out of funds as of the 15th of this month. The audit recommended that we be refunded, and the Governor's office said they would submit a supplemental to give us enough funds to operate at the existing level.

MOTION
SB 228
ALASKA PLAN

TESTIMONY
MILO GRIFFIN

Senator Croft asked Mr. Griffin where the Plan currently is operation-wise. Mr. Griffin replied that they had cut their staff from 14 to 5, and they currently don't have enough funds for payroll this month. He added that Judy Greene from the Governor's office was to have initiated the supplemental but had apparently not followed through. The Plan needs $50,000 to carry it until June.

Senator Hohman asked if the internal audit report resulted from a routine audit, and Mr. Griffin replied no, the Plan was asking for funds and the Governor's office was not sure whether we should be a state agency or remain in our current status. The audit determined that it would cost too much for us to become a state agency, so the Governor's Office has requested the supplemental.

The meeting adjourned at approximately 10:00 a.m.

ADJOURN

SENATE FINANCE COMMITTEE
April 4, 1977
8:15 a.m.

All members of the Committee were present, with Senators Croft and Butrovich arriving late. Also in attendance: Milt Barker, Fiscal Analyst; Judy Cronlin, Administrative Assistant. Mr. Ken Davis and Joe Wilhour, Lease holders of State land; and the following persons from the Department of Health and Social Services: Marsha Hubbard; Dr. Jerry Schrader, Director, Division of Mental Health; and Bob Kemp, Acting Director, Division of Public Assistance. PRESENT

Chairman Sackett called the meeting to order and made the following bill assignments:

BILL ASSIGNMENTS

SB 19	- Sackett
SB 44	- Meland
SB 117	- Sackett
SB 152	- Meland
SB 184	- Meland
SB 200	- Butrovich
SB 228	- Hohman
SB 240	- Croft
SB 275	- Hohman
SB 276	- Hohman
SB 279	- Tillion
SB 280	- Tillion
SB 281	- Tillion
SB 284	- Butrovich
CSHB 84	- Orsini
HB 186	- Sackett
HB 349	- Sackett
SCR 38	- Butrovich

SB 159

Senator Orsini moved that Senate Bill 159 (Act relating to leasing of State land other than for extraction of natural resources) be brought up for discussion. There being no objection, it was so ordered. Senator Orsini presented information to the committee concerning growth in value of vacant real estate. He also stated that he has received a three page letter from the Legislative Affairs Agency on his proposed Finance Committee Substitute for SB 159 concerning the legal ramifications. He stated he has not yet had the opportunity to go through this in its entirety.

Senator Orsini advised he has talked with Ted Smith concerning the House version of this bill (HB 383) and that it is the same as the recommended Resource Committee Substitute with one minor change in Section 2.

Senator Orsini stated that most lands that are leased are lands held in trust for municipalities or the University and that additional lands will be coming to the State from the village corporations under the land claims act.

AGO 936029

Mr. Ken Davis presented testimony to the Committee concerning SB 159. He stated they are in favor of the Resources Committee Substitute for SB 159. He believes the Committee Substitute addresses the needs of both the lease law and the lease holders. He stated that paragraphs one and two on page one are particularly necessary to meet the needs of financial institutions as they have been quoted to him in the last twelve months. He stated that financial institutions requirements are normally for a ten year period exceeding the end of the mortgage. He stated that financial institution will not look at the normal 25% down credit approach. The applicant must have sufficient assets in order to build on State leased land.

RESOURCE COMMITTEE SUBSTITUTE SB 159

Senator Orsini asked if most private leases had an escalator clause and Mr. Davis said they did. Senator Tillion stated that most private leases have an escalator clause but it is designed to give the leasor the same buying power. It is not based on the land becoming more valuable.

Senator Orsini stated that the point is that lending institutions will not loan money on a lease that may increase in value over a period of years. Senator Croft asked if anyone knew of a private lease that was based on the value of land. Mr. Davis stated he knew of none. Senator Tillion stated this was the point he was trying to make.

Mr. Davis stated that page 2, line 23, and page 3, paragraph B of the Resource Committee Substitute, do give financial institutions the right to collect if there is a default. He stated that under present law that right does not exist.

Mr. Davis stated that under line 7 on page 4, the land will be coming back to the State at a faster time frame than you might normally expect.

Chairman Sackett asked for Mr. Davis's comments concerning Orsini's proposed Committee Substitute. Mr. Davis stated that with page 1, line 12 no one would be able to obtain a loan except by using his personal assets. He stated he believes paragraph two takes the incentative for developing a property away. He stated the first ten year appraisal could remove the initiative for anyone to take the initial step in developing a property. He stated he does think the five year terms from that point on are realistic.

FINANCE COMMITTEE SUBSTITUTE SB 159

Mr. Davis stated the State has chosen not to develop the property they are leasing. They have chosen to maintain the property to insure they get an income. He stated the income over a period of years can be less since they have chosen not to develop. Mr. Davis stated that Senator Orsini's proposed bill goes just a little further than HB 383 (Governor's bill by request).

AGO 936030

Discussion on the escalation clause being based on improved value of land and on inflationary value. Mr. Wilhour stated that in addition to having the land improved, the state receives additional benefits from its development in income tax, gross tax, benefits of employment and taxes from them. Mr. Davis stated that on page 2, line 11 of the Resource Committee Substitute there is an additional inflationary edge, in that the State can ask and receive prepayment of the annual rental rate.

Senator Croft stated there are several portions of Orsini's proposed Finance Committee Substitute that are desirable. Senator Croft moved that a Finance Committee substitute be drafted to include page 2, subsection (e) of Orsini's proposed committee substitute and that the first two lines be changed to "Changes in property value due to governmental actions, off property improvements, . . ." and that "single family" be added before "residential development" on page three, line 26 of the Resolution Committee substitute. Discussion on the changes. There being no objection, it was so ordered. SB 159 MOTION

Senator Meland asked Mr. Davis if he agreed with the changes. Mr. Davis stated he could see no problem with the changes.

Chairman Sackett stated the Finance Committee Substitute for SB 159 would be drafted and presented to the Committee at the April 5, 1977 meeting.

Senator Meland moved that Senate Bill 122 (Supplemental appropriation to the Department of Health and Social Services) be brought up for discussion. There being no objection, it was so ordered. Senator Meland stated persons from the Department of Health and Social Services were here to answer questions on this supplemental appropriation. Ms. Hubbard stated the Malpractice portion is being changed from 144.6 to 138.2 and that the general fund portion is 105.8. She advised there were originally eight BRU's involved with malpractice and that there are now four. Discussion on malpractice. SB 122

Ms. Hubbard advised that Medicaid has been reduced to zero. She stated that General Relief Medical has been increased from 125,000 to 243,200. Ms. Hubbard stated they have found that one-third of the expenditures for a given fiscal year are submitted and paid after that fiscal year. She stated their current authorized amount is $2.5 million and their expenditures are $2.7 million. Discussion on reason for delay in submission of bills. Mr. Bob Kemp stated that services are often rendered before a person is found eligible for General Relief Medical. Ms. Hubbard stated they have conducted a poll concerning date of services and date of payment. She will provide this information to Milt Barker.

AGO 936031

SENATE FINANCE COMMITTEE
April 5, 1977
9:10 a.m.

All members of the Committee were present. Also in attendance: Mr. Ken Davis and Mr. Joe Wilhour, Lease Holders of State Land; Ross Schaff, State Geologist, Division of Geological and Geographysical Surveys, Department of Natural Resources; Milt Barker, Fiscal Analyst, and Judy Crondahl, Administrative Assistant; and Elaine Mitchell of the Press. PRESENT

Chairman Sackett called the meeting to order and stated the proposed Finance Committee Substitute for SB 159 (act relating to leasing of state land other than for extraction of natural resources) had been redrafted. SB 159 FINANCE COMMITTEE SUBSTITUTE

Senator Croft stated that several of the Committee's changes, as stated at the April 4 meeting, were not included in the Committee Substitute. The following changes in the proposed Finance Committee Substitute were made:

Page 4, line 1 - "single family" was added before "residential"
Page 4, line 5 - "single family" was added before "residential"
Page 4, lines 6 & 7 - a period was inserted after "occurs" and "and only if necessary for obtaining primary long-term financing." was deleted

There was discussion on whether or not the word "primary" on page 3, line 28 should be deleted. Mr. Davis stated that the Ad Hoc Committee had recommended that "primary" be deleted; however it was not a unanimous decision. Mr. Davis stated that those that wanted to leave the word in felt that it did give some latitude. He stated that if it was not left in, and there was no comparable market, then they would have no place to go.

Senator Tillion moved that lines 14 and 15 on page 4 be amended to read: (2) changes in property value due to private improvements made to the property or other privately owned or leased property since originally entering into the lease shall be excluded. He stated the purpose of this was to insure that the value of the land was not increased due to improvements made by the developer on the leased or privately owned land surrounding it.

Senator Orsini stated his understanding was that this was taken care of by adding "governmental" to Section 1 on line 12, page 4. Senator Tillion stated this only exempted the particular property the individual has a lease on; it does not exempt him from increased land values because of improvements on property surrounding his lease.

Senator Croft stated he did not agree with the motion. He stated he was not convinced that all actions on other areas should be excluded. AGO 936032

Question on Tillion's motion. Croft opposed. Motion carried.

Ms. Crondahl advised that at the April 4 meeting, the Committee has concurred that Section B of Orsini's proposed Committee Substitute was to be included. She stated that when the bill was redrafted, Mr. Jack Chenowith advised her that if Section B was to be included, then Section D must also be included. The Committee had no objections to the addition of Section D (line 26, page 2 of the current Finance Committee Substitute draft).

Senator Croft moved that Finance Committee Substitute for SB 159 be passed from the Committee with individual recommendations. There being no objection, it was so ordered. SB 159 MOTION

Chairman Sackett moved that Senate Bill 58 (relating to hydrological data) be brought up for discussion. There being no objection, it was so ordered. He introduced Mr. Ross Schaff who stated that the Constitution in Article 8, Section 13, provides that the State is the owner of the water in the State and allocates that water. He stated that in terms of allocation, NR is charged with appropriation of the water, DEC controls polution, and Fish and Game controls the wildlife. SB 58

Chairman Sackett asked if the private owner drilling his own well would be required to fill out the paperwork and Mr. Schaff said he would.

Senator Tillion asked if the non-professional well driller would have to hire a professional. Mr. Schaff stated that is not the intent, but the non-professional would have to file with them and log what had been drilled that day.

Chairman Sackett stated he would come back to the Committee with a Committee Substitute or amendment on SB 58.

Chairman Sackett advised that close-outs would begin on Monday, April 11 at 1:30 p.m. with the Education Committee of the Whole.

The meeting adjourned at 10:02 a.m. ADJOURN

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

13 APril 1977

Guy R. Martin, Commissioner
Department of Natural Resources
Pouch M
Juneau, Alaska 99811

ATTENTION: Pat Conheady

Dear Commissioner,

The House Resources Committee will be reviewing HB 445 Leasing of State Land. HB 445 has not been scheduled yet. We will notify you later in regards to the date, time and location.

Please supply us with a position paper or material you have on this bill by the time of the meeting. If you have information pertinent to this topic, the Committee would appreciate receiving that, too. If you know of other interested groups, please contact them.

If you have suggested amendments, please supply the staff with copies of that prior to the meeting.

If there is a fiscal implication and a note is necessary, please prepare it and submit it to the Committee -- preferably prior to the meeting.

Thank you for your cooperation.

Sincerely,

Al Osterback, Chairman
House Resources Committee

AO:ts

AGO 936041

Real Estate Services Corporation

Appraisers, Counselors, Investment Analysts

KENNETH JAY GAIN, M.A.I., S.R.P.A., C.R.E.C.
PRESIDENT

STATEWIDE SERVICE

FRANKLIN M. KING, JR., M.A.I.
EXECUTIVE VICE-PRESIDENT

GARRETT W. WALDNER, R.M., S.R.A.
SECRETARY-TREASURER

507 W. NORTHERN LIGHTS BLVD.
ANCHORAGE, ALASKA 99503
(907) 274-7636

April 8, 1977

Senator Joseph Orsini
Alaska State Senate
Pouch V
Juneau, Alaska 99811

RE: Committee Substitute for Senate Bill #159

Dear Senator Orsini:

I have reviewed a copy of the above-referenced bill which you sent to me. Basically, I consider it an improvement over the present leasing policy. It would appear that it will be easier to finance improvements on leases due to the fact that rents will be fixed with 10-year periods and that there will be less likelihood for small businessmen and homeowners leasing State land to be forced to abandon or sell their leases because of the ravages of inflation. Likewise, during periods in which cumulative inflation is less than 70% during any 10-year period, the State will be able to adjust the rents to Fair Market Values at the end of each lease period.

However, because of the longer periods between rental adjustments and the fact that maximum rental adjustments are provided for, in periods in which there is rapid inflation or rapid increases in land value, a Lessee could accumulate a sizeable leasehold interest which could be sold at a substantial profit. Since I am certain that it is your desire to make State land readily available to the citizens of the State of Alaska, but not allow them to speculate at the expense of other taxpayers, I would suggest that the following change be made to the bill: ["In the event that a leaseholder sells or assigns his lease to another party, a re-determination of the annual rental shall be made pursuant to Paragraph 4E and the purchaser or assignee shall be obligated to pay that rental until the next rental adjustment period."] I feel this amendment will allow the Lessee to have the advantages and protection provided for in this bill without allowing him to receive a windfall profit at the expense of the State and its other taxpayers.

In sub-paragraph J, where the term MAI Appraiser is used, a more proper definition would be "an appraiser who is a member of the American Institute of Real Estate Appraisers holding the MAI designation". Since there are now a number of Alaskan appraisers who have the MAI designation, it might be advisable to require that, in addition to holding the MAI designation, the appraiser also be a resident of and doing business in the State of Alaska.

AGO 936037

It is my opinion that resident appraisers will be able to do a better appraisal at less cost. If this provision is not included in the bill, in some cases, Lessees may bring in non-resident appraisers (I am assuming that the State will uphold it's philosophy of local hire) who, because of their lack of familiarity with Alaskan conditions, will require a greater time to complete an accurate appraisal. Since the State will be paying half of the cost of such appraisals, I see no justification for the taxpayers of Alaska to pay the cost of travel and lodging for non-residents, plus the additional fee that will be required for a non-resident to familiarize himself with Alaskan conditions.

While I am sure that no bill can be written that will be 100% satisfactory to everyone, I feel that with the above-referenced changes, this bill will be a marked improvement over the present law. If I can provide you with any additional information, please feel free to call on me.

Sincerely,

REAL ESTATE SERVICES CORPORATION

Kenneth Jay Gain, MAI, SRPA, CRSS, CREC
President

KJG/kaj

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

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PMS REP AL OSTERBACK

JUN [illegible]

I WISH TO THANK YOU FOR YOUR EFFORT AND SUPPORT OF SB153

KENNETH M TAYLOR 1555 C ST ANCHORAGE 99501

AGO 936040

TELEGRAM

ACA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

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PMS REP ALVIN OSTERBACK

JUN

WE HAVE BEEN ADVISED THAT SB159 WILL BE VOTED ON AGAIN MONDAY IN THE HOUSE RESOURCES COMMITTEE. AS CHAIRMAN OF THAT COMMITTEE WE HOPE YOU WILL EXERT YOUR INFLUENCE TO BRING THAT BILL TO THE HOUSE FLOOR UNAMENDED AND VOTE FOR ITS PASSAGE THERE ALSO.

MR AND MRS HARRY CUMMINGS

SOLDOTNA AK

AGO 936039

SB

181

Wednesday, May 25, 1977, statement by Alaska Department of Fish and Game concerning:

Orca Inlet-Controller Bay
Critical Habitat Nomination
(Senate Bill No. 181)

The Alaska Department of Fish and Game strongly supports this bill. This area is probably the major shore bird/waterfowl migration/staging area in Alaska and possibly in North America. It encompasses tidelands and adjacent lowlands south and east of Cordova and of Hawkins Island, and also in the Copper River Delta and Controller Bay areas east and west of Katala.

Importance: During the spring migration period in excess of 20-million shore-birds (plove andpipers, snipe, etc.) and an additional one-million waterfow (ducks plus geese) utilize the food and water resources on these tidelands while waiting for the northern breeding grounds to open. This tremendous number of birds includes over 180 individual species. This resting period is extremely important to the migrating birds in permitting them to regain some of the fat reserves expended during the northward flight.

During the fall migration, depending on environmental factors, 10-20 million shore-birds, about one-million ducks and geese, and thousands of Sandhill cranes stop again at these tidelands, resting and feeding while preparing for the migration to their wintering grounds. These are located principally within the Pacific flyway, but also extend

throughout the United States, Mexico, South America, Australia, New Zealand, and the Hawaiian Islands.

In addition to this extensive use by migrating birds, some 50-100,000 shore-birds and waterfowl, hundreds of thousands of sea-birds, hundreds of bald eagles, and many other birds utilize the area throughout this spring-fall period. In total, 219 species have been recorded in the region: 72 occur in the tens of thousands, 10 in the millions.

National Significance: This habitat is one of the most important shore-bird migration/staging areas in North America. It also provides the nesting, molting, and feeding habitat for the largest known concentration of Trumpeter Swans in North America, nearly the entire world's population of Dusky Canada Geese, and large numbers of bald eagles.

Rationale for this Critical Habitat Designation: The preceding discussion outlines well the extensive use of this region as a breeding, resting, and staging area by countless numbers of various species of waterbirds and shorebirds. Many of these (e.g. the ducks and geese, et al.) provide exceptional recreational opportunity for both consumptive (hunters) and non-consumptive (bird watchers) users. More importantly, however, it is a key area for the migration of a major portion of Alaska's waterbird populations by providing a valuable rest stop for the "energy refueling" necessary to sustain long migrational flights. The major responsibility of the Alaska Department of Fish and Game is to manage and sustain Alaska's fish and wildlife resources for the enjoyment and use of all Alaskans, and in fact of all Americans. A "critical habitat" designation for this area will demonstrate the State's concern for such resources and will help control unrestrictive use that could be detrimental to these vast bird populations. The designation is not prohibitive of other uses, but does direct attention and consideration to all resources and does help provide for rational "development" planning by the State.

Public Support: The designation of this area as a "critical habitat" has received strong support from the Alaska Waterfowl Association, the Alaska Conservation Society, conservationists generally, and numerous members of the public at large, especially waterfowl hunters and bird watchers. A public hearing was held by the Alaska Department of Fish and Game in Cordova on February 26, 1976, and there was general strong support. Recommendations from that meeting resulted in the deletion of certain areas proposed and the addition of others.

Possible Problems: The Department of Natural Resources has indicated that there is low hydrocarbon potential in the Orca Inlet portion of the area, but better potential elsewhere in the area for both oil and gas. That kind of development could be detrimental, but need not if properly planned. There is nothing in the current statutes that prohibits mining or oil and gas development or other development from occurring within designated "critical habitats".

Permitting Requirements: As indicated on the following page, Alaska Statute 16.20.260 requires that any person or organization contemplating "use" or "construction work" on a "critical habitat" obtain the written approval of the Commissioner of the Alaska Department of Fish and Game.

Statute Authority: Pertinent language of the Alaska Statutes, Title 16, Article 5, are restated here for your information.

Article 5. Fish and Game Critical Habitat Areas

Sec. 16.20.220. Purpose. The purpose of §§ 220-270 of this chapter is to protect and preserve habitat areas especially crucial to the perpetuation of fish and wildlife, and to restrict all other uses not compatible with that primary purpose.

Sec. 16.20.240. Regulations. The board shall promulgate regulations it considers advisable for conservation and protection purposes governing the taking of fish and game in state fish and game critical habitat areas.

Sec. 16.20.250. Multiple land use. Before the use, lease or other disposal of land under private ownership or state jurisdiction and control, within state fish and game critical habitat areas created under this chapter, the period or responsible state department or agency shall notify the commissioner of fish and game. The commissioner shall acknowledge receipt of notice by return mail.

Sec. 16.20.260. Submission of plans and specifications. When the board so determines, it shall instruct the commissioner, in the letter of acknowledgement, to require the person or governmental agency to submit full plans for the anticipated use, full plans and specifications of proposed construction work, complete plans and specifications for the proper protection of fish and game, and the approximate date when the construction or work is to commence, and shall require the person or governmental agency to obtain the written approval of the commissioner as to the sufficiency of the plans or specifications before construction is commenced.

Sec. 16.20.270. Additional critical habitat areas. The commissioner shall submit a list of additional critical habitat areas to the legislature annually.

Official Business

Alaska State Legislature

House of Representatives

Committee on Resources
Alvin Osterback, Chairman

Pouch V
State Capitol
Juneau, Alaska 99811

24 April 1978

AGENDA

CSSB 477	Sport hunting, fishing & trapping license requirements
SB 181	Orca Inlet and Controller Bay Critical Habitat
HB 625	Taking moose
HJR 48	Migratory bird hunting in springtime

TELEGRAM

ALASKA COMMUNICATIONS INC.
PHONE: [illegible]
JUNEAU, ALASKA 99801

P

19[illegible] PCT CORDOVA ALASKA 15 05-27 1F ALT

PNS HLP DATELBACK

JNP

RE UNCG SUPPORT OF PASSAGE OF HOUSE ORCA INLET-CONTROLLED

BAY CRITICAL HABITAT BILL.

BOB BLAIR CHAIRMAN CORDOVA DISTRICT FISHERMEN UNITED

1977 MAY 27 20 46

Cordova District Fisheries Union

Headquarters: Box 939, Cordova, Alaska

April 11, 1978

Representative Al Osterback
Chairman, House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback,

It has come to our attention that Senate Bill 181, "An Act creating the Orca Inlet and Controller Bay critical habitat area" is, and has been, hung up since last May in your committee.

We have achieved deletion of this area as a Wilderness Study Area from HR 39. However, we still want to see in place the degree of environmental protection from the State level this bill will achieve.

It is our request that you move this bill as soon as possible to gain passage this session.

Your prompt action on this matter will be appreciated.

Sincerely,

Bob Blake

Bob Blake
Chairman

BB/mh

Alaska State Legislature

House of Representatives

Committee on Resources
Alvin Osterback, Chairman

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

13 April 1978

Mr. Bob Blake, Chairman
Cordova District Fisheries Union
Box 939
Cordova, Alaska

Re: SB 181

Dear Mr. Blake:

Thank you for your April 11 letter requesting review SB 181 as soon as possible.

The bill has been scheduled for Monday, April 24. If you have any other comments or testimony you would like to submit to the Committee please do so before the day of the meeting. If you care to appear in person please let the staff know so that if there is a change in the schedule you can be notified ahead of time.

Sincerely,

Alvin Osterback, Chairman
House Resources Committee
House Bush Caucus

AO/sh

Cordova District Fisheries Union

Headquarters: Box 939, Cordova, Alaska

April 11, 1978

Representative Al Osterback
Chairman, House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback,

It has come to our attention that Senate Bill 181, "An Act creating the Orca Inlet and Controller Bay critical habitat area" is, and has been, hung up since last May in your committee.

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Your prompt action on this matter will be appreciated.

Sincerely,

Bob Blake

Bob Blake
Chairman

BB/mh

Cordova District Fisheries Union

Headquarters: Box 939, Cordova, Alaska

Date; 2-17-78

The Honorable Representative Alvin Osterback
Chairman, House Resources Committee
Alaska House of Representatives
Pouch V, Juneau Alaska 99801

Dear Representative Osterback,

I am writing to request your committee to take action on SB-181 (Orca Inlet-Controller Bay Critical Habitat Area). SB-181 has recieved full support of the community of Cordova at a public hearing followed by supporting resolutions from the Cordova Chamber of Commerce, Cordova District Fisheries Union, and the Copper River-Prince William Sound Fish & Game Advisory Committee.

Please notify this office when the bill comes up for hearing so we can alert the parties who wish to testify on its behalf before your committee.

Respectfully
Yours,

Bob Blake
Chairman

BB/gf

cc: Representative Merle Snider
" " Hugh Malone
" " Mike Miller
" " Sarah J. Smith
" " William Akers
" " Don Bennett
" " Richard I. Eliason
" " Richard K. Urion
" " Pete Lovseth

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. _____
Title An Act creating the Orca Inlet/Controller Bay critical habitat area
Requested by Office of the Governor Date 2/18/77

II. FISCAL DETAIL
Agency Affected Fish and Game
Program Category Affected NRMEC
Budget Request Unit(s) Affected Administration and Support

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Establishment of this critical habitat area will have no fiscal impact on the Department of Fish and Game.

IV. DATE 2/18/77 PREPARED BY Jeffrey J. Morrison
AGENCY Fish and Game
PHONE 465-4120

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

February 23, 1977

The Honorable John L. Rader
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill creating the Orca Inlet and Controller Bay critical habitat area.

This area is probably the major shore bird/waterfowl migration/staging area in Alaska and possibly in North America. It is located adjacent to and east of Cordova, south and east of Hawkins Island and the Copper River Delta.

During the spring migration period, 20 million shore birds as well as an additional one million waterfowl (ducks and geese) use the food and water resources on these tidelands while waiting for the northern breeding grounds to open. This tremendous amount of birds includes over 180 individual species.

During the fall migration, depending on environmental factors, 10-20 million shore birds as well as an additional one million ducks and geese stop at these tidelands, resting and feeding while preparing for the migration to their wintering grounds, principally located within the Pacific flyway, but extending throughout the United States, Mexico, South America, Australia, New Zealand, and the Hawaiian Islands. In addition to this immense migrational use, there are 50-100,000 shore birds and waterfowl using this area throughout the summer.

This habitat is one of the most important shore bird migration/ staging areas in North America. It also provides the nesting, molting and feeding habitat for the largest known concentration of Trumpeter Swans in North America as well as nearly the entire world's population of Dusky Canada Geese.

Sincerely,

Jay S. Hammond
Governor

Alaska State Legislature

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

SB 181 - Typo Error

SB 181, p. 2, line 24: "Section 34" is supposed to be "Section 35" per Bob Rausch, Director, Division of Game.

Amending necessary

SB

196

ANALYSIS OF MAJOR CHANGES BETWEEN SB 196 AND CSSB 196
BY JOHN FARLEIGH, ADMINISTRATIVE ASSISTANT, SENATE RESOURCES

2:00 Thursday

SB 196	CSSB 196
(a) Requires tags for all shellfish pots.	(a) Requires tags only for king crab pots in areas with pot limits.
(b) Tags are issued by Dept. of Revenue with each shellfish pot license.	(b) Tags are issued by Dept. of Fish & Game at the time the fisherman notifies the Dept. of his intent to fish in an area with a pot limit. (He must notify the Dept. by August 1)
(c) Requires the tags to be attached directly to the pot (the pot would have to be pulled to be checked for the proper tag).	(c) Requires the tags to be attached to the pot and/or buoy at the Board of Fisheries' discretion.
(d) Allows the Dept. of Revenue to set the fees in an appropriate manner.	(d) Requires the Dept. of Fish & Game to charge the fisherman for the cost of the tags including reasonable administrative costs.
(e) Requires all shellfish pots to be connected to a "sea lion" buoy.	(e) Requires only king crab pots to be connected to a "sea lion" buoy (license revocation clause does not apply to this requirement).

In addition to these changes CSSB 196 also includes:

(f) A provision to make tags nontransferable unless the gear license is transferred under emergency provisions. (A.S. 16.05.670)

(g) A prohibition against unauthorized sale, reproduction, exchange, or use of tags.

(h) A definition of "registration tags" that allows the Board of Fisheries to require any device or method determined to be appropriate.

(i) A requirement that the court, in addition to any other penalty imposed by law, revoke the shellfish pot license of a person convicted of fraud or misuse of registration tags for a period of one to five years.

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for SENATE BILL 196

Title Regulation of Shellfish Pots & Buoys Used In Taking King Crab

Requested by POLAND Date 4/13/77

II. FISCAL DETAIL

Agency Affected Department of Fish and Game

Program Category Affected NRMEC

Budget Request Unit(s) Affected Commercial Fisheries

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES	0	12.7	12.7	12.7	12.7	12.7
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	7.3	7.3	7.3	7.3	7.3
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	20.0	20.0	20.0	20.0	20.0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	20.0	20.0	20.0	20.0	20.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify)	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	12.7	12.7	12.7	12.7	12.7

II. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached.

GERERAL FUNDS TO BE OFFSET BY PROGRAM RECEIPTS.

DATE 4/19/77 PREPARED BY Robin Glauthier

AGENCY Commercial Fisheries

PHONE 465-4210

Original: Legislative Finance
cc Budget and Management
Prime Sponsor (First Legislator Named)

33001 (Rev. 10/76)

ANALYSIS: CS for SB 196, Regulation of Shellfish pots

Passage of CS for SB 196 will require positive identification of shellfish pots and buoys used in taking King Crab by means of individually numbered registration tags designating year of issuance which are to be issued with each license and permanently affixed to each pot.

A reliable manufacturer estimates that a tag suitable for this use can be produced for approximately $.20 each. Approximately 280 vessels will be affected by the requirement to identify shell fish pots (Sec 16.05.632). The pot limit is 75 pots that can be fished per vessel in regulated areas. Lost gear and replacement pots average approximately 25% of the total shellfish pots. Therefore, approximately 26,250 tags will be needed at a cost of approximately $5,250.00. Shipping, postage, and other handling charges would amount to approximately $2,000.00.

Personal services to administer tag issuance and maintain records will be necessary for six months per year at Homer, Kodiak, Juneau, and Petersburg. This requirement will be satisfied by four temporary Clerk III's, totaling 12 man-months per year at a total cost of $12,721.00.

Registration tags could be issued for a fee of $.75 per tag to offset General Funds.

IV. DATE 4/19/77 PREPARED BY Robin Glauthier

AGENCY Commercial Fisheries

PHONE 465-4210

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

TO: R.D. Stevenson
Special Assistant
Department of Revenue

DATE : March 9, 1977

FROM: R. H. Pilcher, Manager
Juneau Field Office
Department of Revenue

SUBJECT: SB 196 Regulation of Shellfish Pots

Passage of SB 196 will require positive identification of shellfish pots (and buoys) by means of individually numbered registration tags designating year of issuance which are to be issued with each license and permanently affixed to each pot.

It is believed the tag would have to be of a compostion that would withstand rough handling and exposure to the elements, including long periods of submersion in salt water. The information required or the tag, Indiviually numbered designating year of issuance, will necessitate a tag at least 3/4 inch by 2 1/2 inches in size, if not larger. A reliable manufacturer estimates that such a tag could be produced in .032 gauge stainless steel with stamped in eight digit numbers and with drilled holes at each end, for approximately $.20 ecnts each.

In 1976, 989 shellfish pot licenses were sold. Pot limits run from 40 to 900 pots that can be legally fished, but the average in 1976 was approximately 200 pots per license. Therefore, approximately 200,000 tags would have to be produced at a cost of approximately $40,000.00. Shipping, postage and other handling charges would amount to approximately $20,000.00. Therefore, it is believed that registration tags could be issued for a fee of $1.00 per tag.

SB 196 requires registration tags and buoys to conform to regulations, other specifications and requirements considered appropriate by the Board of Fisheries, and be issued under procedures considered appropriate by the Department of Revenue. If these regulations, specifications, requirements and procedures result in a tag different from that proposed above, the fee per tag may have to be adjusted.

There is no effective date on the bill. An effective date of January 1, 1978 is required to allow time to design, order, manufacture and ship the tags.

#

14313 NL KODIAK ALASKA 76 04-15 145P AST

PMS SENATOR KAY POLAND, CHAIRMAN, SENATE RESOURCE COMMITTEE

JUN

WE, THE FOLLOWING FISHERMEN, HAVE HEARD ABOUT AN IMPROVED METHOD TO ENFORCE THE KING CRAB POT LIMIT. WE STRONGLY ENDORSE THIS METHOD.

OLE HARDER

MISS D DONNA J, VINBERG

SEAMAC, JIM CUTHBERG

US F4, JIM BALL

ARCTIC FOX, RON JOLIN

POLAR STAR, THOR OLSEN

J AND M, LEONARD MUSIAL

THE POINT OMEGA, KEN HOLLAND SR AND JR

STEVE HORN

THE SUSAN, DANNY OLSEN

PACIFIC LADY, RON THOMPSON

LUCKY LADY, HANS OLSEN

MISS MINDA, MITCH SUTTON

MAJOR, PORKY SARGENT

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS for SENATE BILL 196
Title Regulation of Shellfish Pots & Buoys Used In Taking King Crab
Requested by POLAND Date 4/13/77

II. FISCAL DETAIL
Agency Affected Department of Fish and Game
Program Category Affected NRMEC
Budget Request Unit(s) Affected Commercial Fisheries

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES	0	12.7	12.7	12.7	12.7	12.7
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	7.3	7.3	7.3	7.3	7.3
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	20.0	20.0	20.0	20.0	20.0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	20.0	20.0	20.0	20.0	20.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify)	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	12.7	12.7	12.7	12.7	12.7

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached.

GERERAL FUNDS TO BE OFFSET BY PROGRAM RECEIPTS.

IV. DATE 4/19/77 PREPARED BY Robin Glauthier Robin Glauthier
AGENCY Commercial Fisheries
PHONE 465-4210

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

ANALYSIS: CS for SB 196, Regulation of Shellfish pots

Passage of CS for SB 196 will require positive identification of shellfish pots and buoys used in taking King Crab by means of individually numbered registration tags designating year of issuance which are to be issued with each license and permanently affixed to each pot.

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Personal services to administer tag issuance and maintain records will be necessary for six months per year at Homer, Kodiak, Juneau, and Petersburg. This requirement will be satisfied by four temporary Clerk III's, totaling 12 man-months per year at a total cost of $12,721.00.

Registration tags could be issued for a fee of $.75 per tag to offset General Funds.

IV. DATE 4/19/77 PREPARED BY Robin Glauthier

AGENCY Commercial Fisheries

PHONE 465-4210

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

DRAFT RESOLUTION

The Board recognizes the socio-economic advantages of pot limits in certain areas and urges the Protection Division to enforce it to the best of its abilities.

Furthermore, Mr. Harder's proposal may be applicable on some king crab fisheries of the state while in other major production areas new refinements may be necessary to implement it on a reasonable cost-benefit ~~ratio.~~ basis. The Alaska Board of Fisheries urges the legislature to explore the possibilities of funding a comprehensive program that would incorporate a realistic and enforceable approach to this pot limit problem.

My name is Ole Harder, I'm a crab fisherman from Kodiak. I started fishing in Kodiak in 1948, and except for a few years I've fished there ever since. I'd like to express myself on the King Crab pot limit to the Resources Committee and the House and Senate. I'd like to start out with a little background on the pot limit. We started with 30 pots in Kodiak, then went to 60 pots, and then to 75. Kodiak fishermen signed a petition to bring it back to 60 a number of years ago, and everyone signed it with the exception of a few boats. Somehow the petition was lost at the Board meeting in Seward. Since that time we have had a 75 pot limit, and up until three or four years ago we hadn't had major problems. Somewhere, and somehow the chiseling has gotten worse. I would say that guys are fishing as high as 250 pots in Kodiak now, while fishermen who abide by the limit and fish 75 pots could be penalized for $100,000 or better in gross stock because he is living within the law. Now we have to find an answer to this problem. One of the things we can do is throw the pot limit out. If we do that let's see how that might affect Kodiak. We have a population of around ten or eleven thousand people that are totally dependent on fishing. Without fishing there would be nothing, except a little logging. I can predict what might happen without the pot limit. I understand we have a quota of around 12 or 13 million pounds of 7 inch crab this season. If a hundred boats fished with 200 pots, 50 with 150, and 50 with 75 pots. If my arithmetic is right, it would come to around 31,250 pots. If in three days we came up with a thousand pounds per pot (which, by the way, is a very reasonable catch at around 120 crab per pot in three days) we would then be talking around 31,000,000 pounds. While these figures are high, believe

you me, in not too many years you might see to throw the pot limit out. What this will do to the local economy I'm sure I don't have to tell you. Even if I cut my figures in half, or even in thirds, it would be disastrous. For instance if the Bering Sea and Dutch Harbor opens on September 15, and we open on September 1, we might be seeing the beginning of the end to the local fishermen and particularly the smaller boats. We also have to consider the resource. If fishing is better than the Department of Fish and Game anticipated, we could very well catch more than the allowable harvest which would, of course, be disastrous for the future. The pot limit is not any different in my opinion than the size of the seine or gill net in this state. If we get away with the size of the seines and gill nets and so forth, we will also see a drastic change in the gearing of the boats. Most everybody who wants to stay in business will have to buy a bigger boat in order to compete with the bigger seines and bigger gill nets and so on. Now I've heard the argument quite frequently as a matter of fact, that the National Marine Fisheries Service wants to do away with it. Well, I talked to Mr. Chingham who is on the Council and he reassured me that if the Council would implement whatever the State does and it will stick. And furthermore, I think that the new administration in Washington, D.C. is committed to put people to work, not take work away from them, which would be the case if the pot limit were thrown out. The Department of Fish and Game or the enforcement people so far have not been able to come up with a workable solution to the pot limit. My suggestion is that the State has a tape made up and put on every pot the fishermen fish. It can be a four

inch tape by the Fish and Game Department and they can be numbered from 1 to 75. They can even have reflector tape stuck on the tape that will work for radar. The reflector could also work for lights, and the tape could even be infra-red. All we have to do is apply it around the center of the buoy (I think a 60 inch buoy is the biggest size to my knowledge anyone uses) and every year we can change the color code. In other words, once you use the color one year that color is out - the next year you use a different color. I also suggest that you have ten extra tags. If a fisher-man loses a pot, for instance pot number 16, you then put pot number 76 on after notifying the Department of Fish and Game. A total of ten extra pots should be sufficient to cover what might be lost in one year. There might be various questions about the enforcement of this policy. The fishermen I have talked to so far all seem to think that there is a workable solution, and they will in turn testify. I feel that if I am on the grounds and I see a pot without the State tag on the pot bouys, I will consider it a lost pot and treat it as such. I also suggest that we put a permanent plastic tag with the Fish and Game number on it fastened below the pivot buoy. Thank you very much.

My name is Kenneth Moore from Homer, Alaska. I have fished lower Cook Inlet area. I've fished for 11 years, the past 7 I've fished in the king crab area. In lower Cook Inlet and Kachemak Bay, we have a problem with people fishing too many pots. It's an unenforceable problem, as near as we can see there is very little attempt has been made to enforce it, however, it is a very difficult thing to enforce. The tape that Ole just brought up is probably the only possible means that I have heard that might work to enforce it. I feel very strongly that it would work, and I think it should be considered along with considering in

however, there is also enforcement would have to take place, and I think that if enforcement would look into it, they will probably find that it could be enforced in this manner. Thank you very much.

My name is Hank Gain, I am a commercial fishermen from Seldovia. I have been fishing Kachemak Bay since 1953. We feel that removing the pot limit at this time would be disaster to the communities boardering on Kachemak Bay. As it is, we have a law on the books , and to my knowledge has never bee : even attempted to be enforced. We have asked the department previously while the protection agency was with the department to enforce this law and they said it was unenforceable. Since the State Police have taken over the protection, we hear the same thing. We think we do have a workable plan now that can be enforced, and with the enforcement of this law, it will stop a lot of the influx of the gear coming into the Bay, which is over the pot limit. Some of the boats fishing as high as 150 pots are causing an economic hardship on the fishermen and the residents of Seldovia. Therefore, we recommend that they adopt the proposal that was submitted previously on this tape to put, in effect, taping of the bouys which we highly endorse. This tape can be made or bought in its form now that cannot be peeled off the bouy that you will destruct, whereas other tapes can possibly be removed. But this tape can be applied to these bouys and cannot be used over again. We firmly and highly endorse this method of identifying pots and with this, we feel certain that the pot limit can be enforced and preserve the fishers of the small areas and preserve the economy of the towns surrounding Kachemak and Kamishak Bay.

Members of the House and Senate Committees, I'm Bill Bledso, a fishermen from Homer, and I fish king and tanner crab in the lower Cook Inlet. I think it's a real good idea to get some kind of enforcement going on this pot limit thing. The law has been on the books for quite a long time and the many comments we get when we bring it up to people who are supposed to be enforcing it, is that they don't have any way to do it, because at the present time they have to go out and pull every pot that a fisherman has to be sure that the pot itself is fishing king crab before they can even start to make a case. In addition, there are quite a number of pots in Cook Inlet that are fishing , and people are using them are completely unmarked with even Fish and Game numbers of the boats , there are a couple of bouys tied on. If we could set up some system where the pots could be accounted for, and this tape idea that Ole presented earlier might be a real good idea. Might make the whole system a lot more enforceable and help us out a lot and help out the resource as far as conserving the crab and making the season last a little bit longer and spreading it out so the processors could handle the crab. I think it would also be necessary to enact some kind of a rule or regulation or a law that stated that any pot that any pot that had this particular tape on it was a king crab pot, and that would not make it necessary for the enforcement people to have to pull the pot and determine that it was a king crab pot. There are going to have enough trouble locating all 75 pots or more of person's string anyway to be sure that they have more than 75 pots there. So I think it would be a real good idea, all in all, to somehow enforce this provision. I talked to a fisherman the other day and he said that he didn't know of anybody fishing in Cook Inlet who had only 75 pots. So that might give you some idea of the magnitude of this problem. So I would urge you to adopt this proposal and how to get us some help there on enforcing this regulation.

Thank you.

Ruel Homberg from Sand Point. I've fished here since 1954. My organization has a proposal to the Fish and Game to abolish the pot limit for our area. However, we've considered this a long time before we finally did put the proposal in. I wasn't one of the original members, that submitted that proposal this year, however, after talking to various people about the , someway to enforce the pot limit, I would feel that may be we should consider or take another look that the pot limit before we go to far. However, I don't know what the Board's action is going to be, but I would say if the Board did abolish the pot limit for our area now, possibly when they did come up with some way of enforceing the pot limit, I could see where this could really be a great help to us because as we are looking at some other things with the tanner crab, for instance, wanting a area registration or a an exclusive area registration were we could work a pot limit into that to be in effect and would probably eliminate need for area registration then. I have been trying to get ahold of some of the people from other organizations to find out what their feeling was on what we have talked about here but I haven't been able to , so what I'm saying here, I just have to speak for myself right now. I don't have much more to say other than that after talking with Ole here, I think maybe what he has is probably about the only way that there may be some way to enforce this. Thank you.

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

M E M O R A N D U M

16 May 1977

FROM: Rep. Al Osterback, Chairman
House Resources Committee

alvin osterback

I am a crab fisherman myself; and as I see it, passage of SB 196 will only result in a gear fight. Through the years I have witnessed several gear fights. I have seen one crab boat shoot at another crab boat to chase it out of an area. There have been several cases of one boat shooting another boat's buoys amd sinking the pots.

If we pass this bill, all a guy would have to do to get rid of another guy is take up his tagged buoys and replace them with untagged buoys when no one is around. Then Fish & Game comes along and sticks the second guy in jail because he can't prove someone else switched his buoys.

Now let's look at enforcement costs. To enforce something like this, you would need night and day coverage. Four areas of the state have pot limits and would be affected by this bill. They are:

1. Southeast Alaska - 5 mo. season for Red King Crab and 12 month season for Brown King Crab.
2. Cook Inlet - 6 mo. season.
3. Prince William Sound - 6 mo. season.
4. Kodiak Area - 2 mo. season.

One enforcement boat could cover Southeastern and would operate year around. Two boats would be necessary to cover Cook Inlet, Prince William Sound, and the Kodiak Area. Seasons in these 3 areas all fall within the same 6 month period. That means three new boats at $1 million each, an initial cost of $3 million.

Annual operating costs would run about $1 million.

See attachment for breakdown of annual costs.

ANNUAL COST BREAKDOWN

Crew of 9 men per boat:			
Skipper	$25,000	$25,000	
Mate	25,000	25,000	
Cook	25,000	25,000	
2 Engineers	25,000	50,000	
4 Deck Hands	20,000	80,000	
		$205,000	$ 410,000
Annual upkeep		$ 20,000/boat	60,000

Operating costs:

Fuel
~~Gasoline~~ $528/day/boat
($.50/gal. X 40 gal./hr.
X 24 hr./day)

Groceries $180/day/boat
($20/day/man X 9 men)

Operating cost of $700/day/boat

[$700/day X 730 crew days/year] = 511,000

TOTAL ANNUAL COST FROM SB 196 $ 981,000

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

#

02003 PDF TDA KODIAK AK 273 5-17 1228A ADT

PMS HON HUGH MALONE

JUN 689

THE UNITED FISHERMEN MARKETING ASSOC. REPRESENTING FISHERMEN IN KODIAK AND THE BERING SEA IS OPPOSED TO COMMITTEE SUBSTITUTE FOR SB196 CONCERNING BIODEGRADEABLE SHELL FISH POT MECHANIZATION AND ENFORCEMENT OF THE KING CRAB POT LIMIT. WHILE IT MAY DE DESIREABLE TO ENFORCE THE PRESENT POT LIMIT, CONSIDERING THE LIMITED CAPABILITY OF THE PROTECTION DIVISION, WE FEEL IT SHOULD BE A HIGHER PRIORITY TO PROTECT THE RESOURCE ITSELF. NAMELY PROTECTING CLOSED AREA TO PREVENT OVER FISHING AND ENDANGERING THE RESOURCE.

THE POT LIMIT IS NOT A BIOLOGICAL MEASURE BUT IS A SOCIAL DEVICE DESIGNED TO ACHIEVE SOME PARITY AMONG VESSELS OF VARIOUS SIZES. THERE IS ALSO SOME QUESTION AS TO WHETHER POT LIMITS ARE CONSISTENT WITH THE NATIONAL STANDARD OF THE F.C.M.A. OF 1976 THAT REQUIRES THE MANAGEMENT MEASURES PROMOTE EFFICIENCY.

IN REGARD TO BIODEGRADEABLE MECHANISM, WHILE IT MAY BE NECESSARY IN A FEW FISHERIES IN SOME SPECIFIC AREAS, WE FEEL THAT IS SHOULD BE LEFT TO THE DISCRETION OF THE BOARD OF FISHERIES AS TO WHEN AND WHERE THIS SHOULD BE IMPERMENTED. IT HAS BEEN SCIENTIFICALLY DEMONSTRATED THAT THERE IS NOT A PROBLEM FOR KING CRAB AND TANNER CRAB POTS. THE BOARD OF FISHERIES IS CURRENTLY CONDUCTING STUDIES OF FISH POTS AND DUNGENESS CRAB POTS AND THE APPROPRIATE MECHANISM THAT COULD BE USED. BOTH ON THE SCENE OBSERVATION BY FISHERMAN AND SCIENTIFICALLY CONDUCTED DERELICT POT STUDIES SHOW THAT CRAB READILY ESCAPE FROM UNBAITED POTS. VERY THOUGHFUL CONSIDERATION SHOULD BE GIVEN TO IMPOSEING INPEDIMENTS ON THE DEVELOPMENT OF THE FISHING INDUSTRIES AT A CRUCIAL TIME WHEN IT IS HAVING TO COMPETE WITH FOREIGN FLEETS, ESPECIALLY WHEN THESE RESTRICTIONS CANNOT BE BIOLOGICALLY JUSTIFIED.

BOARD OF DIRECTORS UNITED FISHERMEN MARKETING ASSOC
OF
KODIAK

SB

227

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907·465·3800

M E M O R A N D U M

May 3, 1977

SUBJECT: HCS for CS for SB 227

TO: Representative Alvin Osterback, Chairman
House Resources Committee

FROM: Richard A. Bradley
Legislative Counsel

The House Committee Substitute requested is enclosed with this memorandum.

Changes proposed in secs. 10 and 20 of the bill introduce the suggestion Federal agencies will participate in the simplified application procedure [Sec. 20(1)] as well as in the review process.

The bill formerly only referred to Federal agencies in Sec. 20(5), a section allowing for the dissemination of information on Federal law.

It seems clear that the State cannot require Federal agencies such as the Corps of Engineers or the Coast Guard to use the Department of Environmental Conservation as the agency accepting filings for their permits. To this extent, addition of the word "federal" at lines 24 and 26, page 1, is beyond the authority of the State and perhaps misleading to applicants.

It also seems inappropriate to suggest that State procedures are involved in the review of Federal applications. Line 3, page 2.

The amendments at line 7 and line 8, page 2 present no such problem.

The remaining sections of the bill (except for §60(d)) contain no references to Federal agencies. No problems are presented by this approach.

Although I have reservations about the Committee's proposal, the bill is delivered as requested.

RAB:hjd

Enclosure

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 227
Title Procedure on applications for permits for state air, land, water.
Requested by Poland & Tillion Date

II. FISCAL DETAIL
Agency Affected Environmental Conservation
Program Category Affected NRM & EC
Budget Request Unit(s) Affected Program Coordination

EXPENDITURES (Thousands of Dollars) Inflation at 6%

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		56.725	60.128	63.736	67.560	71.614
200 TRAVEL		15,000	15,900	16,854	17,865	18,937
300 CONTRACTUAL		21,500	27,790	24,157	25,607	27,143
400 COMMODITIES		1,200	1,272	1,348	1,429	1,515
500 EQUIPMENT		4,000	---	---	---	---
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		98,425	100,090	106,095	112,461	119,209

FUNDING (Thousands of Dollars)

GENERAL FUND		98,425	100,090	106,095	112,461	119,209
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		4	4	4	4	4
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached

IV. DATE 4-15-77 PREPARED BY A. L. Earle
AGENCY Environmental Conservation
PHONE 465-2644

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

FISCAL ANALYSIS SB 227

The difficulty in preparing a fiscal analysis for this bill stems from it's optional nature. We are not sure how often this procedure will be utilized by the public. Washington State established a similar optional system in 1973. By 1976 of the 119 applications received, 10 were active, 25 permits had been issued and 84 were withdrawn. Basically their system is used in determining the various agency positions on a permit prior to withdrawal. Assuming similar usage in Alaska, say for the purposes of this analysis, 30 permits per year for major projects; the tasks required by this bill and their associated costs are:

1. Develop master application format, print and distribute.

Object Code	Item	Cost
300	development, printing and distribution	$2,000.00

2. Local government certification of project proposals

   Fiscal impact on local governments only

3. Receive screen and process master applications

   Costs can be absorbed in Field Office and Permit Information Centers.

4. Establish a tracking mechanism. Once established, log and process master applications to other agencies.

Object Code	Item	Cost
100	Clerk IV	$15,270

5. Process agency responses to master applications

   Costs included in #4 above.

6. Mail necessary applications to applicant. Send complete applications to other agencies.

   Costs included in #4 above.

7. Verify land and water ownership

   Costs may increase for applicant but can probably be absorbed by the Department. The applicant would be required to submit the proof of ownership.

8. The Department must cause an advertisement to be placed at the applicants expense in the local papers, once a week for three weeks.

   To avoid costs here the applicant would be required to show proof of publication. Therefore State costs can be absorbed into the position established under item #4 above.

9. Public hearings must be held on controversial permits. Assuming half of the 30 permits per year require hearings at a cost of $1,500.00 per hearing costs become $22,500.00

Object Code	Item	Cost
200	travel	$15,000.00
300	hearing and transcription	$7,500.00

10. Hearing information must be summarized and distributed.

Because this activityis already done to some extent, the cost to summarize the additional hearings can probably be absorbed by existing and new positions and associated costs discussed above.

11. Final decisions by other agencies must be received and processed through to the applicant as a final permit.

Costs included in #4, above.

12. Information Centers are required at each regional office and in the Commissioners Office in Juneau. Assuming a contractual arrangement with a municipality where Regional Offices exist to be just as expensive as establishing these centers "inhouse", the costs become.

Object Code	Item	Cost
100	Ad. Assistant I - Anchorage	$18,465.00
100	Ad. Assistant I - Valdez	$21,885.00
100	Ad. Assistant I - Fairbanks	$21,105.00
100	*Ad Assistant I - Juneau	-0-
	Total	$41,455.00

* Costs for Juneau position can be absorbed in #4 above.

13. Contracts for Local Permit Information Centers may be initiated with outlying communities. Assuming no additional personnel would be hired, the costs should be minimal. Estimate 1,000/year support costs for perhaps a dozen centers

Object Code	Item	Cost
300	12 Local Information Centers	$12,000.00

14. Miscellaneous support costs for each center and new position

Object Code	Item	Cost
400	Commodities	$1,200.00
500	Equipment for new positions	$4,000.00

Alaska State Legislature

JUNEAU ALASKA

M E M O R A N D U M

April 20, 1977

To: Representative Alvin Osterback

From: Senator Kay Poland

Re: CSSB 227 "Permitting"

CSSB 227 relative to securing state permits for various projects involving use of state land, air, or water has been referred to your committee.

Passage of this Bill would be a distinct public service in providing a certainty of time, procedure, and definitive policy where none now exists.

Attached is an analysis of the Bill prepared by the staff of the DEC and of the Resources Committee, as well as a summary of that analysis. In addition, I am prepared to give any personal testimony your Committee may wish.

SUMMARY OF ANALYSIS, CSSB 227

The Bill is designed to facilitate communications between the public and state agencies having jurisdiction over various permits. The Bill establishes a single procedure of application, hearings, and processing. The procedure is optional with the applicant who remains free to follow existing procedures if his/her purpose is better served thereby. The Bill provides;

1. Regularly accessible local offices for information and assistance.

2. A single master application and time certain for the initial reply of all agencies. Agencies not responding lose their right to subsequently require a permit.

3. Provides an expedited process. The Department of Environmental Conservation coordinates the processes of all other agencies. The decision making authority of any other agency is not altered or diminished.

4. A single hearing is coordinated for all agencies and public.

5. A firm time sequence is established, ending guesswork and undue delays.

6. Compliance with local government ordinances and planning is mandatory.

7. Existing fee schedules are retained. Amending of fee schedules is not prohibited.

ANALYSIS OF CSSB 227, "PERMITTING"

CSSB 227, the proposed "Environmental Coordination Procedures Act" (ECPA) is designed largely around a bill passed by the Washington State Legislature in 1973. The bill is designed to facilitate communications between the public, including applicants for permits, and state agencies which have jurisdiction over various permits. The bill establishes a procedure, optional with the applicant, by which all permits necessary for a particular project may be applied for, and processed, as a single unit. A single, joint public hearing on all permits is provided for, as well as a single public notice procedure.

As envisioned, the bill has the following objectives:

1. To provide a regularly, accessible local office where information on the requirements for federal, state, and local permits may be acquired. These, the so-called "Permit Requirements Information Centers", are to be established in the Office of the Commissioner of Environmental Conservation, and each regional office of the Department of Environmental Conservation.

2. To provide a single master application form, which is submitted to the Department, and circulated by it directly to other state agencies. The other agencies must declare, within 15 days, whether they require permits of the applicant and, if so, which permits. Agencies which do not so declare may not subsequently require a permit of the applicant for that project.

3. To provide for an expedited process by which all permit applications, as identified by state agencies, are transmitted by the Department, which subsequently coordinates the permit processes of other agencies. Thus, the contacts between an individual and a potentially large number of state agencies can be limited to a single contact with one agency. In the event of problems with a particular project, communications between all agencies and the applicant are facilitated, but if no such problems arise, the applicant contacts only the Department of Environmental Conservation.

4. ECPA would help coordinate the decision-making process for all state agencies, through a mandated information flow, but it would not remove or alter an individual agency's decision-making authority.

5. If a public hearing is found to be required after polling all affected agencies, ECPA would require a single public hearing at which all the various views of the agencies, the applicant, and the public can be heard.

6. The ECPA process would eliminate guesswork and undue delays in permit processing; a firm time sequence is established by law, this sequence can be extended only for over-riding considerations.

7. The Department of Environmental Conservation would be the administrator of the program, coordinating the efforts of the various state agencies. ECPA would not give DEC any new jurisdiction or new power over the other state agencies. ECPA specifically retains the existing authorities of state agencies.

8. ECPA would provide for proof of conformance with local government requirements before state permits are issued. In a real sense, local governments would then have a "veto" or certification power over a project through denial of certification.

9. The bill allows for the withholding of the final permit until ownership of the land is established, but requires the application process to continue concurrently with acquisition. As a practical matter, any state land involved is usually a part of the application process.

It should be understood that the ECPA process does not, necessarily, expedite the permit process. An applicant can choose to handle each required permit on an individual basis, although this could potentially be more time consuming. Most permits for small projects are handled routinely by state agencies, many simple ones in a matter of days or hours. The ECPA process, in that it has a minimum time requirement of 150 or so days between master application filing and permit issuance, would not be chosen by a project sponsor which had only a few, simple permits needed.

More complex projects, such as oil refineries, power plants, etc., would be required to have a much larger number of permits, some of which, because of legal requirements or built-in delay factors, may take 180 days or more for processing. For example, the discharge permit issued by the Environmental Protection Agency under the National Pollutant Discharge Elimination System requires that permits be applied for 180 days prior to discharge. State requirements vary; many have mandatory 30 or 60-day waiting periods, although extensions for cause are allowed. Many state permit processes do not mandate time schedules, and potentially the applicant could suffer undue delays without recourse. By mandating a maximum time schedule by which all permits must be processed and issued, ECPA would assure the applicant of an answer within a time certain.

The ECPA permit process is not without some cost to the public. Costs previously borne by the applicant, and his consultants, if any, would be partly borne by the state in copying permit applications, distribution, and coordination costs. Many state permit and approval programs are conducted at no cost to the applicant, and those that do not always relate actual costs of permit processing to the fee. In addition, the establishment of the Permit Requirements Information Center would entail costs, both in manpower and material.

Existing fee schedules are retained, and nothing in the Act prohibits amending the fee schedules, if necessary, to meet any added costs.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LANDS

323 E. 4TH AVENUE – ANCHORAGE 99501

April 28, 1977

Honorable Alvin Osterback, Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

Please add my following statement to the record on CSSB 227.

I sympathize wholly with the aim of CSSB 227, that is, the applications in the permitting process for state agencies should be coordinated and simplified. It is certainly undesirable for a timber operator, for instance, to have to contact over 30 different federal and state agencies in order to obtain requisite operating permits.

It is my opinion, however, that the subject bill does not meet this objective in any significant way. I think it is necessary to separate the type of permits which the state issues into two separate categories. These are regulatory permits, i.e., the permits the State issues through its police power and proprietary permits, i.e., the permits issued by the State because it is the owner of the resources to be used. A permit issued under the police power of the State is one in which the aim is to protect the general public health and welfare. A proprietary permit, on the other hand, is issued to insure that use of state owned resources is in the best interest of the owners of those resources - all the people of the State.

Title 38 deals extensively with the authority of the Department of Natural Resources as the steward of the state's natural resources. AS 38.05 in particular details statutory requirements which the Department must meet in granting any permit to utilize state resources.

CSSB 227 does not (nor should it) relieve the Department from complying with any of these requirements. Thus, for those actions for which the permitting authority falls under Title 38, the procedure outlined under CSSB 227 would have the opposite effect of that which is intended. Instead of shortening and simplifying the process for the applicant, it would merely add another layer of bureaucracy to the already substantial

statutory requirements. The time span which currently has a roughly six month minimum would be substantially increased and a separate hearing process added.

I urge that in your deliberations on this bill that you consider exclusion of those permits which the State issues in its role as landlord as opposed to permits which it issues in its role as sovereign. We will be happy to work with you in drafting necessary amendments to Title 38 which could make the "one-stop" process of CSSB 227 more workable.

Please contact me if I may be of assistance to you.

Yours truly,

Ted

Theodore G. Smith, Director
Division of Land and Water Management

cc: Ernst W. Mueller
Frances A. Ulmer

SB

280

STATE of ALASKA

MEMORANDUM

TO: The Honorable Alvin Osterback
Chairman, House Resource Comm.

DATE: May 19, 1977

SUBJECT: Soil Survey Report (Requested during the hearing on SB 230)

FROM: F.S. Hensinger, DVM
Dept. of Nat. Res. (Agric.)

Attached is some material referencing the soil survey work that was done this past year under a cooperative effort indicated in the report.

There was a 25.0 contribution by the State for their share. A final report by the Soil Conservation Service will be available in July, and a copy will be furnished your committee.

Please see that Rep. Malone receives the second copy, as he was the member of your Resource Committee that specifically requested the information.

UNITED STATES DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE
2221 East Northern Lights Blvd., Suite 129, Anchorage, Alaska 99504

May 13, 1977

Mr. Allan Linn, Director
Division of Agriculture
P.O. Box 1088
Palmer, Alaska 99645

As the result of a request from the NANA Regional Native Corporation to the Alaska Soil Conservation District, Range and Soil Surveys were conducted by the USDA Soil Conservation Service on the reindeer grazing lands within the NANA Corporation boundaries last summer. A cooperative agreement between the SCS, Alaska SCD, NANA Corporation and the BLM was executed calling for cooperation among each of these agencies to accomplish the work. In addition, a cooperative agreement was signed between SCS, the Alaska SCD and the Bureau of Indian Affairs which provided for BIA funding up to $50,000 to be used in part for the Kotzebue area Range and Soil Survey. A breakdown of funding that went into the field work is as follows:

SCS	55,000
NANA Corp.	25,000
BIA	25,000
State of Alaska	25,000

Funds were used for a variety of purposes including a $45,000 contract with the University of Alaska, Geophysical Institute for assistance in using LANDSAT imagery and for collaborating in developing new technology for making surveys in the tundra areas of the State. Other sizable expenditures were for helicopter service, helicopter fuel, salaries for plant scientists and soil scientists, aides, per diem costs and airplane transportation.

A great deal more SCS time has gone into the development of the Range and Soil Survey Report after the close of the field season. It is estimated that an additional $25,000 of SCS funds will be expended to complete the Kotzebue area Range and Soil Survey Report which is due to be published in July 1977. This includes time spent in developing range site descriptions, soil descriptions, LANDSAT imagery map work, plant and soil laboratory analysis and printing costs.

During the past winter SCS initiated a study of snow conditions and its relation to reindeer range management in the area. This will be an ongoing study but during the past year SCS spent $5,000 in this endeavor.

The total area covered in the survey in approximately 4.5 million acres including the grazing permit areas of NANA Corporation, Karmun, Hadley and Grey. Development of new survey methods using LANDSAT imagery, computer technology and ground truth data collection by a team of field scientists using a helicopter for transportation permitted us to survey this large area in a short time. It was also done at a very low cost when compared to costs using conventional methods. BLM estimated that it would cost $104,000 to make range surveys on only 500,000 acres in the area.

The purpose of making the Range and Soil Survey is to provide inventory data necessary for range management planning. Through good range management by the reindeer herders, red meat production should be increased and the winter and summer grazing areas will be properly utilized. The Survey will present a scientific documentation of the potential value of the various range sites in the region.

Upon completion of the Range Survey the SCS will work with the reindeer herders and the BLM in developing individual range management plans.

The reindeer herders association at Nome have asked that range and soil surveys and the range planning work of the SCS and Alaska Soil Conservation District continue until all of the grazing lands on the Seward Peninsula are covered. That is an additional 12 to 15 million acres.

We feel that this project has been very successful in developing new methodology that will have far reaching benefits to the State of Alaska. I am attaching other documents that may provide additional information.

T. G. Freeman, acting

Weymeth E. Long
State Conservationist.

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-107

UNITED STATES GOVERNMENT

Memorandum

Date
No. Copies Rec'd

__St. Cons.
__St. Cons. Sec.
__St. Res. Cons. ✓
__Res. Cons.
__Soil Scientist
__Soil Sc.
__Sa. Surv. Sup.
__Wtr. Res. Sp.
__Fairbanks
__Homer
__Palmer
__PM Sp.

TO : Ted Freeman, State Resource Conservationist, Anchorage

DATE: September 10, 1976

FROM : Jim Preston, Range Conservationist, Homer

SUBJECT: CONS - NANA Range/Soil Survey including the following four reindeer grazing leases: Karmun, NANA (old Clark), Hadley, and Gray.

Objective of Survey:
To provide the soil/range resource inventory data necessary for range management planning interpretations.

1. Increasing reindeer red meat production within the scope of range conservation planning.
2. Depicting in scientific documentation the potential value of surveyed area as its best use being for reindeer range.
3. To prepare a range plan for each of the four grazing leases.

Work Done:
Starting on 7-28-76 and finishing up one month later (about 8-26-76) SCS surveyed 4,500,000 acres. (refer to forthcoming memo from Preston to Freeman on use of Landsat in range/soil survey on Seward Peninsula-1976. This memo by Preston was also inputted by T. George, B. Fibich, and P. Scorup. Therefore, its tardiness is explained.)

Twelve to fifteen range site descriptions will be extracted from the 75 SCS-RANGE - 417's, "Plant Yield Records," executed on this 4,500,000 acre survey. Landsat color products dictate perimeters of study. If a range site could be called a sample area, 75 ÷ 15 = 5 SCS-417's. Each SCS- 417 reflects ten sample plots, thus 5 x 10 = 50 sample plots per sample area. This, of course, is guesstimation only as we are a long way from actually knowing how many range site descriptions we will end up with in this 4,500,000 acre NANA survey.

Work Remaining:
Refer to Umnak/Unalaska Survey Report dated 9-10-76 for step by step procedures in progressing from raw "plant yield record" data to planning stage, including follow-up.

Recommendations:
That a comprehensive range plan be prepared for the four grazing leases. In these plans will exist the basic and necessary maps, interpertations and narratives (Refer again to Umnak/Unalaska Report) plus an interpretive map showing accumulated snow depth, hard pack areas, prevailing wind direction and blown bare areas. Year by year follow-up will refine this data.

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

JEP:rw

THE USE OF SATELLITE IMAGERY IN THE RANGE AND SOIL SURVEY OF NANA CORPORATION LANDS OF THE SEWARD AND BALDWIN PENINSULAS

by

William R. Fibich, Soil Conservation Service
April 1977

A range survey is an inventory of the vegetation present on the land. The vegetation occurs in definite patterns, or native plant communities which can be identified and located on a map. A native plant community usually consists of a variety of different species of plants which are well adapted to living together on a particular part of the landscape.

The purpose of a range survey is to identify and describe the native plant communities in an area, to determine their food potential, and to indicate on a map their size and location. This vegetative inventory can then be used in planning the overall management of particular kinds of animals which will be living in harmony with these native plant communities. Plants are selective in regard to the kind of soil on which they live. There are different kinds of soil. Some soils are too wet, some are too dry, and some are just right for certain kinds of plants. Just as there are different soils there are different kinds of plant communities which inhabit these various soils. We, therefore, have a definite correlation between a particular soil and the plants which live on that soil. An inventory of the soils is an important part of the range survey.

In the process of making this range survey for the NANA Corporation the use of satellite imagery contributes mostly by showing the locations, patterns, and size of the various plant communities and their associated

soils. Satellite images are very similar to colored aerial photographs in appearance and are the result of variously reflected light from the earth's surface. These different light intensities are assigned individual colors. Each unique native plant community and its associated soil exhibits a particular ability to reflect light. The reflected light is collected by the satellite and a color-patterned image is the result. Since the color blue is usually assigned to the reflectance of water, the oceans, lakes, and streams are clearly defined. The land and water surface of the earth is easily identified, and a comparative linear scale can be established for the image.

The next step in this range survey was to investigate the various colors of the image. This investigation includes the complete inventory and classification of the principal plants and soils within the individual colors. This data supplies information such as pounds of feed available per acre, time of the year and location on the range the feed is available, and soil conditions which may affect the movement and health of the reindeer.

There are a few considerations one must understand when using these images to assist in the inventory of the range and soils. Within any one color there usually are two or more native plant communities and their associated soils. Also, in less than 10 percent of this study area of four million acres, there were instances where two different plant communities were represented by the same color, and where two different colors represented the same plant community.

~~DRAFT~~
1975

NANA CORPORATION AREA RANGE AND SOIL SURVEY

It is recognized by the NANA Regional Native Corporation that a good range inventory is the first step toward a successful reindeer herding operation. During the summer of 1975 the NANA Corporation requested the assistance of the Alaska Soil Conservation District and the USDA Soil Conservation Service in conducting Range and Soil Surveys on the designated Reindeer Grazing Permit Areas within the region.

In a range survey plant communities are identified and correlated with soil types. The extent and location of plant communities are mapped to be used in management plans. Yield data is then obtained to allow computation of the volume of plant material available for grazing. With this information, recommended stocking rates can be developed and management practices planned to allow for optimum production of the herd and proper protection of the range. The range and soil surveys will be the basis for comprehensive range management plans.

PRELIMINARY WORK

The total area involved is approximately five million acres in size and includes the current reindeer allotments held by Lawrence Grey (1,190,400 acres), Paul Hadley (2,232,320 acres), Charlie Clark (814,080 acres), and Alfred Karmun (689,250 acres). The NANA Reindeer Enterprizes, Inc. expects to soon be granted the permit for the Grey allotment by BLM. Because this area was too large to permit the SCS to complete the requested surveys within a reasonable time using conventional methods, it was necessary to devise a new and modern system to do the job. With the aid of the University of Alaska Geophysical Institute, a system using Satellite Imagery and computer

analysis of Landsat data was developed. A field test of the process was conducted on a small portion of the reindeer range of the Baldwin Peninsula during the late summer of 1975. It was found that with adequate ground truth field work by competent soil and range technologists that it was feasible to produce the range and soil inventory using Landsat data.

1976 WORK PLAN

This project is to refine the new technique, developed in 1975 and to test applicability over the whole area. During the 1976 field season, SCS will work with the University of Alaska Geophysical Institute in developing the use of Satellite Imagery and Landsat data in conducting soil and range surveys in the NANA region. Extensive field work will be conducted throughout the four permit areas by a technical team consisting of an SCS range specialist, a soil scientist, and a technologist from the University of Alaska Geophysical Institute. Field information will be correlated with Landsat data during the field season. It is estimated that four weeks of field time, using a helicopter for transportation, will be required to complete the investigation on the four to five million acres. Field studies are scheduled to be carried out during the month of August.

Estimated budget for the project is as follows:

SCS		
SCS technical assistance (field and office)		$30,000
SCS per diem and misc. expense		7,000
Helicopter	72 hours @ $400	28,000
Landsat technology cost		45,000
Total		$110,000

UNITED STATES DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE
2221 East Northern Lights Blvd., Suite 129, Anchorage, Alaska 99504

May 13, 1977

Mr. Allan Linn, Director
Division of Agriculture
P.O. Box 1088
Palmer, Alaska 99645

As the result of a request from the NANA Regional Native Corporation to the Alaska Soil Conservation District, Range and Soil Surveys were conducted by the USDA Soil Conservation Service on the reindeer grazing lands within the NANA Corporation boundaries last summer. A cooperative agreement between the SCS, Alaska SCD, NANA Corporation and the BLM was executed calling for cooperation among each of these agencies to accomplish the work. In addition, a cooperative agreement was signed between SCS, the Alaska SCD and the Bureau of Indian Affairs which provided for BIA funding up to $50,000 to be used in part for the Kotzebue area Range and Soil Survey. A breakdown of funding that went into the field work is as follows:

SCS	55,000
NANA Corp.	25,000
BIA	25,000
State of Alaska	25,000

Funds were used for a variety of purposes including a $45,000 contract with the University of Alaska, Geophysical Institute for assistance in using LANDSAT imagery and for collaborating in developing new technology for making surveys in the tundra areas of the State. Other sizable expenditures were for helicopter service, helicopter fuel, salaries for plant scientists and soil scientists, aides, per diem costs and airplane transportation.

A great deal more SCS time has gone into the development of the Range and Soil Survey Report after the close of the field season. It is estimated that an additional $25,000 of SCS funds will be expended to complete the Kotzebue area Range and Soil Survey Report which is due to be published in July 1977. This includes time spent in developing range site descriptions, soil descriptions, LANDSAT imagery map work, plant and soil laboratory analysis and printing costs.

During the past winter SCS initiated a study of snow conditions and its relation to reindeer range management in the area. This will be an ongoing study but during the past year SCS spent $5,000 in this endeavor.

The total area covered in the survey in approximately 4.5 million acres including the grazing permit areas of NANA Corporation, Karmun, Hadley and Grey. Development of new survey methods using LANDSAT imagery, computer technology and ground truth data collection by a team of field scientists using a helicopter for transportation permitted us to survey this large area in a short time. It was also done at a very low cost when compared to costs using conventional methods. BLM estimated that it would cost $104,000 to make range surveys on only 500,000 acres in the area.

The purpose of making the Range and Soil Survey is to provide inventory data necessary for range management planning. Through good range management by the reindeer herders, red meat production should be increased and the winter and summer grazing areas will be properly utilized. The Survey will present a scientific documentation of the potential value of the various range sites in the region.

Upon completion of the Range Survey the SCS will work with the reindeer herders and the BLM in developing individual range management plans.

The reindeer herders association at Nome have asked that range and soil surveys and the range planning work of the SCS and Alaska Soil Conservation District continue until all of the grazing lands on the Seward Peninsula are covered. That is an additional 12 to 15 million acres.

We feel that this project has been very successful in developing new methodology that will have far reaching benefits to the State of Alaska. I am attaching other documents that may provide additional information.

T. G. Freeman, acting

Weymeth E. Long
State Conservationist.

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-107

UNITED STATES GOVERNMENT

Memorandum

Date
No. Copies Rec'd

__St. Cons.
__St. Cons. Sec.
__St. Res. Cons.
__Res. Cons.
__Soil Scientist
__Ad. Sec.
__Sa. Surv. Sup.
__Wtr. Res. Sp.
__Fairbanks
__Homer
__Palmer
__PM Sp.

TO : Ted Freeman, State Resource Conservationist
Anchorage

DATE: September 10, 1976

FROM : Jim Preston, Range Conservationist, Homer

Jim

SUBJECT: CONS - NANA Range/Soil Survey including the following four reindeer grazing leases: Karmun, NANA (old Clark), Hadley, and Gray.

Objective of Survey:
To provide the soil/range resource inventory data necessary for range management planning interpretations.

1. Increasing reindeer red meat production within the scope of range conservation planning.
2. Depicting in scientific documentation the potential value of surveyed area as its best use being for reindeer range.
3. To prepare a range plan for each of the four grazing leases.

Work Done:
Starting on 7-28-76 and finishing up one month later (about 8-26-76) SCS surveyed 4,500,000 acres. (refer to forthcoming memo from Preston to Freeman on use of Landsat in range/soil survey on Seward Peninsula-1976. This memo by Preston was also inputted by T. George, B. Fibich, and P. Scorup. Therefore, its tardiness is explained.)

Twelve to fifteen range site descriptions will be extracted from the 75 SCS - RANGE - 417's, "Plant Yield Records," executed on this 4,500,000 acre survey. Landsat color products dictate perimeters of study. If a range site could be called a sample area, 75 ÷ 15 = 5 SCS-417's. Each SCS- 417 reflects ten sample plots, thus 5 x 10 = 50 sample plots per sample area. This, of course, is guesstimation only as we are a long way from actually knowing how many range site descriptions we will end up with in this 4,500,000 acre NANA survey.

Work Remaining:
Refer to Umnak/Unalaska Survey Report dated 9-10-76 for step by step procedures in progressing from raw "plant yield record" data to planning stage, including follow-up.

Recommendations:
That a comprehensive range plan be prepared for the four grazing leases. In these plans will exist the basic and necessary maps, interpertations and narratives (Refer again to Umnak/Unalaska Report) plus an interpretive map showing accumulated snow depth, hard pack areas, prevailing wind direction and blown bare areas. Year by year follow-up will refine this data.

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

JEP:rw

THE USE OF SATELLITE IMAGERY IN THE RANGE AND SOIL SURVEY OF NANA CORPORATION LANDS OF THE SEWARD AND BALDWIN PENINSULAS

by

William R. Fibich, Soil Conservation Service
April 1977

A range survey is an inventory of the vegetation present on the land. The vegetation occurs in definite patterns, or native plant communities which can be identified and located on a map. A native plant community usually consists of a variety of different species of plants which are well adapted to living together on a particular part of the landscape.

The purpose of a range survey is to identify and describe the native plant communities in an area, to determine their food potential, and to indicate on a map their size and location. This vegetative inventory can then be used in planning the overall management of particular kinds of animals which will be living in harmony with these native plant communities. Plants are selective in regard to the kind of soil on which they live. There are different kinds of soil. Some soils are too wet, some are too dry, and some are just right for certain kinds of plants. Just as there are different soils there are different kinds of plant communities which inhabit these various soils. We, therefore, have a definite correlation between a particular soil and the plants which live on that soil. An inventory of the soils is an important part of the range survey.

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soils. Satellite images are very similar to colored aerial photographs in appearance and are the result of variously reflected light from the earth's surface. These different light intensities are assigned individual colors. Each unique native plant community and its associated soil exhibits a particular ability to reflect light. The reflected light is collected by the satellite and a color-patterned image is the result. Since the color blue is usually assigned to the reflectance of water, the oceans, lakes, and streams are clearly defined. The land and water surface of the earth is easily identified, and a comparative linear scale can be established for the image.

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1976 WORK PLAN

This project is to refine the new technique, developed in 1975 and to test applicability over the whole area. During the 1976 field season, SCS will work with the University of Alaska Geophysical Institute in developing the use of Satellite Imagery and Landsat data in conducting soil and range surveys in the NANA region. Extensive field work will be conducted throughout the four permit areas by a technical team consisting of an SCS range specialist, a soil scientist, and a technologist from the University of Alaska Geophysical Institute. Field information will be correlated with Landsat data during the field season. It is estimated that four weeks of field time, using a helicopter for transportation, will be required to complete the investigation on the four to five million acres. Field studies are scheduled to be carried out during the month of August.

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Helicopter 72 hours @ $400	28,000
Landsat technology cost	45,000
Total	$110,000

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

April 25, 1977

TO: Senator John Sackett

FROM: Senator Jalmar Kerttula

SUBJECT: Department of Natural Resources, Div. of Agri.

The proposed appropriation provides State funding for contractual services with U.S. Department of Agriculture, Soil Conservation Service. Services provided will be soil and/or range surveys on the soils of Alaska to increase the resources data for the benefit of State Department of Natural Resources, other State agencies and the using public. Service will be arranged to allow the State a higher voice in establishing priorities to S.C.S. work activities in Alaska by having Soil Conservation Board of Alaska participate in survey area priority decisions.

At a current cost near 75¢ per acre, this amount will provide survey services to up to 67,000 acres of Alaska land. Exact locations are not finalized. Reconnaissance studies by S.C.S. indicate Alaska contains about 20,000,000 acres of tillable lands. Soil surveys facilitate land-use planning and implementation programs.

Senator Jalmar Kerttula
State of Alaska
Pouch Y, State Capitol
Juneau, Alaska 99811

Dear Senator Kerttula:

I would like to provide additional justification for Senate Bill No. 280, an Act making a special appropriation to the Department of Natural Resources, Division of Agriculture, to fund state participation in the National Cooperative Soil Survey.

1. The needs for resource inventories in Alaska are enormous. Decisions involving the use of Alaska's lands now and in the future will have substantial impact on the well being of future generations of Alaskans.

2. Soil inventories produced through the National Cooperative Soil Survey provide resource data of considerable value for all types of land planning and use. No maps of large areas of land are made in such detail and involve so many significant factors as do soil maps.

3. The soil survey program includes: (1) determining the important characteristics of soils, (2) classifying soils into defined classificational units, (3) establishing and plotting on maps the boundaries among kinds of soil, and (4) correlating and predicting the behavior of soils under defined sets of management practices including agriculture, forestry, civil engineering and wildlife management.

4. The ultimate usefulness of soil surveys depends upon accurate soil correlation. This process involves (1) comparing local classificational units with those already defined and named in the general system of classification, (2) recognizing, establishing and naming new units consistent with the system, (3) grouping geographic units into named and defined soil associations, and (4) arranging the units into keys or groups to bring out principles and relationships.

5. In spite of the need for soil surveys in Alaska, detailed soil surveys are available for a smaller acreage of land in Alaska than in any other state, except the very smallest states. Nevertheless, Alaska's needs for detailed soil surveys are greater than any other state.

6. At the present time, soil surveys in Alaska are accomplished entirely by soil scientists of the Soil Conservation Service, USDA, ostensibly in cooperation with the Agricultural Experiment Station, University of Alaska, under a cooperative agreement. In actuality, the State of Alaska employs no soil scientists to cooperate with the Soil Conservation Service in the National Cooperative Soil Survey.

7. Thus, the State of Alaska has no direct contact with the soil survey program in the state, and no voice in decisions regarding soil classification or correlation within the state. Yet Alaska relies heavily on soil surveys published by the USDA in developing legislation regarding land use and in making long term decisions regarding land use.

8. Senate Bill No. 280 would provide funds to permit the State of Alaska to be directly involved operationally and in a decision-making capacity regarding the classification, correlation and survey of soils in Alaska.

Sincerely,

James V. Drew
Director, Agricultural Experiment Station

BILL ANALYSIS

ASSIGNMENT DATE_____

UNASSIGNED_____

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Natural Resources	State Affairs	SB 280

DEPARTMENT POSITION

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
Allan Linn	4-20-77		

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☐ POSITION APPROVED ☐ POSITION DISAPPROVED

BY: DATE:

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING) Unknown

(2) a. ORGANIZATIONAL SUPPORT FOR BILL

Agricultural Agencies, Soil Conservation Subdistricts

(2) b. ORGANIZATIONAL OPPOSITION TO BILL

Unknown

(3) PROGRAM EFFECTS OF BILL

Requires request to other Divisions of DNR regarding their nominations for areas of priority for soil survey. Effort should be very nominal.

(4) FISCAL IMPACT: ☐ NONE ☐ FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

None

(6) COMMENTS:

a) See fiscal note for expenditure procedure and use of data.

b) Department and Administration priority regarding this type of expenditure for this FY budget unknown.

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 280
Title Appropriation to Fund State Participation in National Crop Soil Survey
Requested by Senate Finance Date 4-20-77

II. FISCAL DETAIL
Agency Affected Dept of Natural Resources, Division of Agriculture
Program Category Affected Development
Budget Request Unit(s) Affected Administration & Support

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		50.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		50.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		50.0				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		0				
PART TIME		0				
TEMPORARY		0				

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Proposed appropriation provides State funding for contractual services with U.S. Department of Agriculture, Soil Conservation Service. Services provided will be soil and/or range surveys on the soils of Alaska to increase the resources data for the benefit of State Department of Natural Resources, other State agencies and the using public. Services will be arranged to allow the State a higher voice in establishing priorities in S.C.S. work activities in Alaska by having Soil Conservation Board of Alaska participate in survey area priority decisions.

At a current cost near 75¢ per acre, this amount will provide survey services to up to 67,000 acres of Alaska land. Exact locations are not finalized. Reconnaissance studies by SCS indicate Alaska contains about 20,000,000 acres of tillable lands. Soil surveys facilitate land-use planning and implementation programs.

IV. DATE April 20, 1977 PREPARED BY Allen Linn, Director
AGENCY DNR, Division of Agriculture
PHONE 745-3236

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

SB

306

TESTIMONY OF RUSSELL W. CAHILL, DIRECTOR

ALASKA STATE PARKS

ON SENATE BILL 305

"CABINS IN STATE PARKS"

Murkowski
Sen. Poland
needs copies
Put in log

Mr. Chairman, Members of the Committee, the Department of Natural Resources believes this legislation is superfluous. Division of Parks has full authority to construct cabins in State Parks at this time. The master plans for Denali Park and Kachemak Park call for public use cabins. However, during the public process of producing a bond bill and bond issue for the ballot in 1976, we heard nothing from either the public or the Legislature which would have indicated that public use cabins were in the high priorities for State Park development.

Those of you who were here in the last session may recall that the request for capital funds for State Parks was cut in half by this Committee before it ever reached the Finance Committee of the House. The development needs passed on to us in legislative and public meetings were for campgrounds, auto access, sanitary facilities, and trail access to the back country: not cabins. Our proposed projects reflected those needs and are now law.

There is a letter of intent which was passed by the Senate with this bill and which not only instructs the Division to build the cabins, but tells us where to put them. It seems to me that the Senate Resources Committee, which has been reluctant even to hold hearings on any new park proposals, now wants to manage the existing Park System.

Considering the issues here, I believe this bill doesn't have any substance and is unnecessary. The Senate cut our district operations budget by more than $100,000 this year. The Free Conference Committee version of that budget still includes a $79,000 cut in district operations. The majority of that money was for garbage pickup in the State Park System and yet, funds to implement this cabin legislation (approximately $135,000 of general fund expenditures the first year), are nowhere to be found in the '78 fiscal budget.

Finally, this legislation calls for the Division of Parks to consult with local organizations to minimize the costs associated with this construction. In my experience, these groups then receive a preference right for the use of the cabins. Indeed, in many cases, such as the Sierra Club's former lodge in Yosemite National Park and many others, the cabins become a bone of contention between the general public and the organizations. In addition, this bill suggests that primary consideration be given to potential use of trails, rivers, lakes, and seashore by residents of Alaska. If you look at status plats around most of the lakes in southcentral Alaska and around the coast of Kachemak Bay State Park and several other coastal areas of Southcentral, you will find that the State, under the "open to entry" program, turned over much of the lakeshores and rivershores of the State to private ownership for recreation purposes. We have no quarrel with that use, however, we have found that the public has been effectively cut-off from many of these lakeshore areas by this allocation of land. We in the Division of Parks and I in particular feel that some of these lakes and rivers should be left open to continued public use without cabins or other structures. I believe

you would be surprised to find the number of people who wish to canoe and kayak along the few lakeshores that are in the State Park System and To camp in a place where there are no cabins.

I suggest that if this legislature wishes to have public cabins in State Parks, it should pass a small bond issue in 1978 and go to the voters with it. Unless the funds are provided to do this work, passage of this bill is tantamount to handing a hungry person a photograph of a meal and asking that person to eat the picture.

Second Session - Ninth Legislature

I. REQUEST

Bill No. S.B. 306

Title: Cabins Within State Parks and State Game Refuges

Requested by: Senator Croft Date: 5/4/77

Return Date Requested: 5/4/77

Agency: Natural Resources Program: Parks and Recreation

II. FISCAL DETAIL

Budget Request Unit(s) Affected: 10-46-7-02-00-00 District Operations
10-46-7-03-00-00 Park Management

A. EXPENDITURES: (Thousands of dollars)

	OBJECT	FY 76	FY 77	FY 78	FY 79	FY 80	FY 81
100	PERSONAL SERVICES			26.4	29.0		
200	TRAVEL			4.0	4.4		
300	CONTRACTUAL			5.0	5.5		
400	COMMODITIES			6.0	6.6		
500	EQUIPMENT			10.0	2.0		
600	LAND & STRUCTURES			95.0			
700	GRANTS, CLAIMS, ETC.						
	TOTAL			146.4	47.5		

B. FUNDING: (Thousands of dollars)

GENERAL FUND			146.4*	47.5		
FEDERAL FUNDS						
OTHER						

C. POSITIONS:

PERMANENT/TEMPORARY	/	/	2/	2/	/	/
MAN MONTHS (P./T.)	/	/	20/	20/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attachment.

*As indicated on the fiscal analysis form (attached), potential Federal funds are obligated through FY 79. If the program were not implemented until FY80, then 50 percent of the cost for constructing the cabins (50% of 95.0) could come from Federal funds rather than general funds.

IV. ATTACHMENTS

V. DATE: 5/4/77 PREPARED BY: Russell W. Cahill

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

H/S 50

FISCAL ANALYSIS

DEPARTMENT	SPONSOR (PRINCIPAL	BILL NO.
Natural Resources	Croft	SB 306
DIVISION POSITION	**CO-SPONSORS OR COMMITTEE SPONSORS**	**DATE LAST AMENDED**
Cautious neutrality	Huber	

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
Russell Cahill	4/15/77	LeResche	

FISCAL EFFECTS OF BILL

(1) CHANGES IN PERSONNEL

Add 10 man months Park Ranger I
10 man months Trades Helper WG VII

(2) CHANGES IN GOVERNOR'S PROPOSED BUDGET

(3) CAN COSTS BE ABSORBED

No

(4) REVENUE/EXPENDITURE CLASSIFICATION AND FUND — SOURCE (GENERAL FUND/BUDGET, FEDERAL FUNDS, BONDS, SPECIAL APPROPRIATIONS)

Add:	Personal Services - annually	26.4 G.F.
	Travel	4.0 G.F.
	Contractural Services	5.0 G.F.
	Commodities (repairs & maintenance)	6.0 G.F.
	Equipment - 10.0 the first year and 2.0 per year thereafter	
	Capital costs - 9 cabins one time	*FY78 95.0 G.F. or bonds
		*FY80 47.5 G.F. or bonds 47.5 Federal funds

COMMENTS:

*Federal funds would be available in FY80. State has them obligated through FY79. State funds could be obtained through a general obligation bond in 1978 if this becomes law.

V. DATE: 5/4/77 PREPARED BY: ____

BILL ANALYSIS

ASSIGNMENT DATE_____

UNASSIGNED_____

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Natural Resources	Croft	SB 306

DEPARTMENT POSITION

Cautious Neutrality. If decision regarding placement of cabins is left in the hands of DNR or ADF&G, the Department is supportive. Fiscal Impact is adverse and cannot be absorbed by existing programs.

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
Russell Cahill	4/15/77	LeResche	

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☐ POSITION APPROVED ☐ POSITION DISAPPROVED

BY: DATE:

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING) None

(2) a. ORGANIZATIONAL SUPPORT FOR BILL

Unknown

(2) b. ORGANIZATIONAL OPPOSITION TO BILL

Unknown

(3) PROGRAM EFFECTS OF BILL

If cabins are constructed in very remote areas, the costs in manpower and materials for maintenance are normal. If close to roads, they are inordinately high. Cabins attract high vandalism levels and are places for very high visitor conflict levels. Cost of operations are much higher than equal camping site costs. Reservation system will be costly to operate.

(4) FISCAL IMPACT: ☐ NONE ☒ FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

Page 1 - line 10, delete (each State Park) and replace with State parks. Page 1 - lines 12 & 13, delete (each state game refuge) and add State Game refuges. Page 2 - line 10, after "reservation" add and fee

(6) COMMENTS:

Director of Parks is cautious on this. Hundreds of private cabins exist on state leased lands. Often the only undeveloped shore accessible to the public is in state parks. Initial development would require 9 cabins in Parks and Refuges. Fees should be charged. Director considers letter of intent an attempt by legislature to run program. No funds available to do this job in FY78 budget. Would require new appropriation or 1978 bond issue.

Alaska State Legislature

House

HOUSE RESOURCES COMMITTEE

Alvin Osterback, Chairman

Pouch V, State Capitol
Juneau, Alaska 99811
(907) 465-3715

18 May 1977

The Honorable Hugh Malone
Speaker
Alaska State House of Representatives

Dear Representative Malone:

The following is the intent of the House Resources Committee with the passage of HCS for SB 306.

During Fiscal Year 1978 this Act shall be administered as a pilot program, with nine cabins to be constructed in the following state parks and game refuges.

(1) One cabin in Chugach State Park;

(2) one cabin in Kachemak Bay State Park;

(3) one cabin in Denali State Park;

(4) one cabin in Susitna Flats State Game Refuge; and

(5) five cabins in other state parks and state game refuges, to be chosen by the Commissioner of Natural Resources with the concurrance of the Commissioner of Fish and Game.

Sincerely,

Alvin Osterback

Alvin Osterback
Chairman
House Resources Committee

AO:jn

SB
337

STATE of ALASKA

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER

TO: Bob Palmer, Special Projects
Phil Hubbard, Commissioner of Commerce
Mike Smith, Assistant Commissioner
Ted Smith, Director of Lands
Allan Linn, Director of Agriculture

DATE : April 15, 1977

FROM: Bob LeResche
Commissioner

SUBJECT: Delta Agricultural Action Plan

The feasibility report by the Ad Hoc Delta Barley Group, has been completed and reviewed by the Division of Policy Development and Planning. In addition, the Delta Land Management Planning Study is essentially completed. All three of these studies have been very well done, and fit together very well as a guide to future action. The purpose of this memorandum is to establish an action plan for aggressive accomplishment of the recommendations in these three studies.

I am requesting those indicated below to move with all practical speed to accomplish the tasks outlined:

TANANA LOOP AREA: In accordance with the Delta Land Management Planning Study, the Division of Lands should proceed to lay out, plat, and make available for sale around 5,000 acres of land for small farmsteads. This land should be in approximately half-section parcels, and should be an agricultural rights sale. The Division of Lands should work closely with the Division of Agriculture and the University of Alaska, to lay out this land disposal, and to derive the procedure by which it shall occur. Hopefully, disposal can begin by January, 1978.

GENERAL ADMINISTRATIVE TASKS:

1. Definition of "agricultural rights." The Division of Lands should immediately get together with the Department of Law and draw up an acceptable definition of agricultural rights to be included in any sale or lease of these rights. The Division of Agriculture should be consulted during this process. This definition might well contain identification of permitted uses, and the covenants/easements to sale, as well as provisions for recreational access and liability against crop depredation. The Department of Fish and Game should be consulted concerning the latter.

The Director of Lands should report progress to me on this item on June 1.

045.3

2. Appraisal policy for "agricultural rights." The Division of Lands, the Department of Law, and Division of Agriculture should get together once a working definition of agricultural rights is established, to consider principles whereby these rights will be appraised precedent to sale or lease. These agencies should consider whether potential economic viability of a specifically stated farming venture on the land should be an overriding factor in appraisal. The Director of Lands should report to me on this on July 1.

3. Resolution of potential statutory conflicts regarding how much land can be transferred to an individual. The Department of Law and the Division of Lands should work together to resolve these conflicts as they affect conveyance of agricultural rights. The Director of Lands should recommend action to me by July 1.

4. Determination of appropriate method of disposal of agricultural rights. The Division of Lands and Division of Agriculture should derive a set of principles from which decisions can be made in individual cases whether to offer agricultural rights for purchase, lease, or lease-purchase. In addition, they should establish the principles under which future decisions should be made regarding whether leases or purchases should be by bidding, lottery, or negotiation. The Director of Agriculture should make recommendations to me in this regard by July 1.

5. Classification of agricultural lands in the Delta Land Management and Planning Study area. The Division of Lands should complete classification of lands designated as agricultural by the Delta Land Management Plan.

"DELTA BARLEY PROJECT" :

1. Lay out of project. The Division of Lands and the Division of Agriculture shoudl prepare a final project lay-out plan, using the recommendations of the Ad Hoc barley project group, the Delta Land Management planning Study, and the Division of Policy evelopment and Planning report. This final layout should be reviewed by all concerned parties, including especially those who had active involvement with the three above studies. I hope that the project layout can be finalized and accepted by all parties by July 1. The Director of Lands should report progress in this regard to me on July 1.

2. Platting the Division of Lands should proceed rapidly with platting the area pursuant to the approved layout plan. On July 1, the Director of Lands should give me a schedule under which platting will occur.

3. The Division of Parks should initiate an archaeological and historical survey, pursuant to AS 41.35.070, as soon as the final development plan for both the barley project area

and the Tanana Loop area is available. The Director of Parks should let me know as soon as possible a reasonable time schedule for completing this survey.

4. Test plot clearing. The Division of Agriculture, with cooperation from the Division of Lands should arrange for clearing a half-section or full section test plot. The purpose of this clearing will be to test clearing methods, to test moisture retention and blowoff tendancies, and to test barley production. The Division of Agriculture should ensure that representatives of the Department of Fish and Game, Department of Environmental Conservation, the Ad Hoc Group and the University all have ample opportunity to help design the test procedures, and to be present and participate in the actual clearing and manipulation of the test plot as well as any subsequent measurements they may wish to undertake. The Director of Agriculture should give me an action plan and schedule for this test clearing, as well as for all test procedures to be undertaken during fiscal year 1978, by June 1.

5. Design of environmental studies. The Division of Lands should immediately contact the Departments of Fish and Game and Natural Resources, as well as interested members of the Ad Hoc Committee, and request that they design by May 15 specific environmental studies that will be necessary in order to evaluate clearing methods, prepare the final project layout plan, and assist in development of the conservation plan. These studies should be designed in detail and costed out so that we may proceed to implement them without delaying the project unnecessarily.

6. Soil conservation plan. The Division of Agriculture, Division of Lands, Department of Environmental Conservation and the Soil Conservation Service, should begin preparation of a soil conservation plan for the entire Delta Clearwater area. This plan should at least cover soil conservation and erosion control, pesticide use, herbicide and fertilizer use, and water quality. In addition, the plan may consider such things as energy conservation, suggestions for clearing and farm management practices. The Director of Agriculture should give me by June 1, a schedule for completion of this soil conservation plan.

7. Funding alternatives. The Division of Agriculture and the Department of Commerce and Economic Development should assist Mr. Palmer as much as possible in his quest for non-State funds that may be available to finance the Delta Barley project. Hopefully, some specific avenues of approach should be available to us by July.

In addition, Bob Palmer and I are presently preparing a supplemental budget for accomplishing the other directives

included in this memorandum. All interested parties should telephone me by May 1 with specifics regarding any additional funding they will need to accomplish these directives during fiscal year 1978.

8. Timber sales. The Division of Lands should make announcements as soon as possible offering timber within areas planned for clearing to local residents at a minimal fee, to cover at least the cost of administration of timber removal. These announcements should be in compliance with the final project layout to be derived above, and should be offered if possible by August 1.

9. Local government and farmers cooperative. The Division of Agriculture, Department of Community and Regional Affairs and Department of Commerce and Economic Development should develop an active program of contact with the City of Delta Junction and local farmers, designed to clarify the long-term role of local government and any potential farmers cooperative organizations in future agricultural development in the Delta area. I would suggest it would be very beneficial for the State to provide a similar level of aid to Delta farmers, including both those involved in the Tanana Loop "small" acreage farms and in the Delta Barley project, as we are currently providing to fishermen interested in nonprivate, nonprofit aquaculture projects. I would suggest that the Department of Commerce and Economic Development review the contract that the Division of Policy Development and Planning has with the Southeast aquaculture Organization and consider creating a similar relationship between the State and Delta farmers.

10. The Division of Agriculture, Division of Lands, Department of Commerce and Economic Development should together prepare a draft of qualifications for those who will qualify to purchase or lease large tracts of agricultural rights in the Delta barley area. These criteria should follow those discussed by the Ad Hoc Group and the Division of Policy Development and Planning, and should include experience factors, financial qualifications, and other factors. I would suggest that these criteria be derived solely on the basis of maximizing the probability of success of the Delta farming venture, and not on the basis of insuring that enough qualified farmers will be immediately available. The Director of Agriculture should give me a draft list of criteria by July 1.

I feel if we can accomplish all of the above on approximately the time scale outlined, we will have made a very positive step toward achieving a new and viable renewable resource industry in Alaska, planned and endorsed by local residents, financially responsible, and environmentally sound. Upon our accomplishment of all of the above, and upon qualification of the requisite number of potential private participants (i.e., upon sufficient showing of private demand by qualified

individuals) I would intend to make approximately 50,000 acres of land available for barley production in the Delta area as outlined by previous plans.

I sincerely hope we all can work together compatibly in pursuing this exciting prospect.

cc: Governor Jay S. Hammond

BL:lb

The primary purpose of this land clearing operation is to test an alternative method of clearing land when the vegetative cover consists primarily of heavy moss cover and black spruce timber.

Technicians of the U.S. Soil Conservation Service have devised this system and believe that it has a number of significant advantages over the conventional method of bulldozing all material--including the top soil that adheres to the roots of the vegetation--into large "berm piles". Those berm piles are then burned or allowed to decompose over the next 20 years or so.

The clearing process proposed is explained in some detail in the accompanying correspondence from Mr. Burt Clifford, U.S. Soil Conservation Service.

Recent estimates for clearing and breaking costs received from Mr. Dennis Green, heavy equipment contractor in Delta Junction and generally recognized in that area as one of the most qualified and reasonable land clearing contractors, yield the following cost data regarding the clearing method to be tested:

Clearing	$100/acre
Clean-up of burn residue	$20/acre
"Breaking	$30/acre
TOTAL	$150/acre

Mr. Green recently completed clearing 2,000 acres of somewhat similar timber for a private individual, using the conventional "berm pile" method. His charges were $338,000.

It is hoped that the alternative method of land clearing that will be used on the test plot will result in a number of advantages:

1. No loss of top soil since the vegetation and any soil adhering to the roots will only be moved the width of a bulldozer blade;

2. No berm piles to inhibit farming operations, reduce acreage available for production and provide an eyesore;

3. Lower costs--since the vegetation will be moved to a much shorter distance than with the conventional methods of clearing land.

Contractors in the Fairbanks-Delta Junction area who are expected to bid on the large clearing project (60,000 to 70,000 acres), if the legislature ultimately approves such a project, recently stated to Dr. C. E. Lewis, Agricultural Economist, University of Alaska, that at least 2,000 acres should be included in the test plot. They stated that anything less would not yield significant data on which they could base contract bids.

Enclosure

LAND CLEARING
SHEAR AND BURN METHOD

Burton L. Clifford - Resource Conservationist
USDA - Soil Conservationist

The method of shearing stands of woodland and removal of the woody materials by fire is not a new method. It has several distinct advantages for clearing large blocks of agricultural lands which include speed, low cost, and nutrient retention.

STANDARD CLEARING METHOD

Land clearing is done with large crawler tractors equipped with angle blades, bulldozing the vegetation after the ground is frozen. The vegetation (woods and moss) is dozed into long berm rows, normally running lengthwise of the field. The berms, depending on vegetation and snow conditions will be 150 to 200 feet apart. Width ranges from 30 to 45 feet, height approximately 20 feet. If a good job of dozing is completed, the newly cleared area between the large berms can be broken (plowed). If not, hand labor is needed to remove remaining sticks and small logs before breaking. Approximately 20-25 percent of the field will be under berms.

The berms are allowed to dry through the summer. After the fire season they are set ablaze. The residue is generally rebunched and reburned. Any soil residue in the berm piles is scattered or disbursed in the field. The process of berm removal is slow, usually requiring 2 - 3 years to dispose of the debris. It is expensive costing three to four times per acre over the original clearing method.

A disadvantage of this clearing method is that the berms hinder farm operations. The area between the berms is generally irregular. The area under the berms cannot be farmed. By the time the berms are removed, and the soils under them planned, five to six years have been spent developing this 25 percent of the field. This method is slow and expensive. Total costs including berm removal is running approximately $150+ per acre for the complete clearing job.

Another disadvantage is that the operator must be skilled in clearing methods. An unskilled operator generally includes a high volume of top soil in the berm rows, adding to both cost and time for removal. Land clearing by this method is a specialized art.

This has become the "standard" method in Alaska. This is largely due to restrictions about burning during the dry season. Fire has an important role in development. Homesteading started in the late fifties in the Clearwater because of old wildfire burns. These burns removed the moss ground cover, stripped the boughs from the spruce trees, and allowed the remaining standing residue to dry. With only dry tree stems left, clearing was easy. The bulldozed residue burned clean in the berms. Clearing cost ran about 50% below unburned areas. These areas have now been developed and all future agricultural lands will be developed from mature woodland stands.

In summary, the main disadvantages of this present method are:

1. Slow and costly - In unburned areas, approximately 1/2 to 3/4 of an acre can be cleared per tractor hour. At $60 per hour, costs would be $80 to $120 per acre for the initial bulldozing. With berm removal included, costs will run $150 to $200 per acre.
2. Berms are created. They have a considerable amount of moss and green plant materials in their composition. Any snow included is slow to thaw, and berms remain wet for long periods of time. Assuming that berms only have vegetation materials, it takes an average of three years for final removal. Berms and berm removal also seriously affects the establishment of windbreaks.
3. Snow conditions - Heavy snow conditions not uncommon to the Clearwater, rapidly increase cost, place berms closer together, increase size, and decrease their removal rate.
4. Operators - Operators inexperienced in agricultural clearing tend to place too much soil in the berms. Operators are generally experienced in construction clearing where cost and soil removal are not major factors.

SHEAR AND BURN CLEARING METHOD

This method was used in the Fairbanks area in the late 1950's with considerable success. An old Army surplus D-8 caterpillar tractor with an angle cable dozer was used for the shearing operation. Used grader blades were welded flat at the base of the dozer to form a knifelike blade that would float over the frozen soil, shearing the vegetation. The blade was angled and the tractor operated around a field, much the same way as cutting hay. The blade sheared the vegetation and rolled it into small compact dirt free windrows.

The field was allowed to dry part of the summer then a fire was set around the entire perimeter. The resulting fire thoroughly burned the dryed vegetation, leaving the field almost completely cleared and ready for the breaking process with little additional dozer work. This work was done on permafrost soils with black spruce and deep moss ground cover. The dry moss was necessary to provide fuel to burn the large trees. The method was fast and cheap, but was discontinued with the inability of farm operators to obtain fire permits for burning during summer months.

Modern tractors equipped with hydraulically controlled angle blades can shear better than the above described blade. They have the advantage of "down" pressure, where the older cabled blades had to "float". The hydraulic blade provides positive control that allows an operator to shear vegetation with ease. He can easily control the blade for depth of cut.

The shear and burn method of land clearing is briefly:

1. To shear the vegetation at the soil surface from its root or ground support, and roll into small (4' to 6' diameter) windrows.
2. Dry the vegetation to a low enough moisture content that the materials would be totally consumed in place by fire.
3. Burn in predesigned fuel cells based on vegetation type and compartment size at a time that total consumption of the materials will occur.

It is proposed that the shear and burn method be used in all large scale clearing operations. On a project level adequate fire control can be provided to burn residues during the dry summer months.

The vegetation would be sheared on frozen soil conditions with angled blade to form the vegetation into windrows. In the black spruce areas, this, because of the frost conditions, could extend well into the summer months.

The windrows, small and close together, would range from approximately 10' to 20' apart. Width depends on clearing method (figure 1.). The merits of each method needs to be examined, for both ease and speed of clearing, drying capabilities, and burning capabilities.

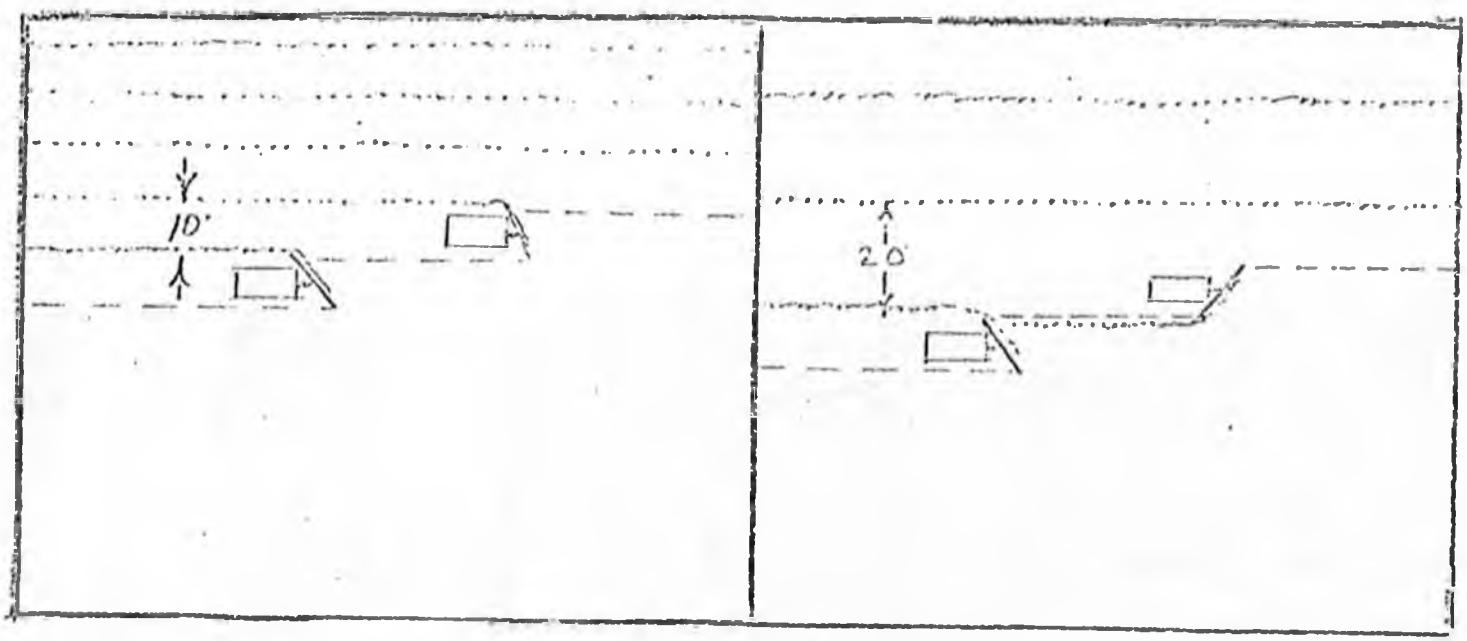


Figure 1: Two tractors are working together - on the left, they are working around a field making single windrows. On the right the tractors are combining two into a single windrow. The advantages and disadvantages of each need evaluation.

All woodland can be cleared by this method. The main difference would be burning dates. Total cosumption of the materials should occur in black spruce and heavy moss ground cover the first summer following clearing. Hardwoods would require a second season for drying. In both cases, the date of the burn should be determined by the dryness (moisture content) of the largest tree stems in the proposed burn. Fuel cells will be formed in compartments for (1.) the type of vegetation to be burned and (2.) the size of the desired burn. It is most important to restrict all burning before and after clearing until the cell has dried to provide the maximum burn efficiency. The more vegetation present, the hotter and cleaner the burn. The large tree stems must be consumed completely during the burn for maximum efficiency of time and money. In case some stems were not completely consumed by the burn, clean up would be relatively fast and economical. Burning can be conducted when favorable atmospheric conditions prevail causing little likelihood of local smoke problems. Dry materials create less smoke.

In summary, the shear and burn clearing method has the following advantages:

1. Low cost - The ground is covered much faster. One operator noted he thought he could maintain three miles per hour. At this rate, 3.6 acres per hour would be covered 3 $60/hour = $17.00 per acre. At two miles per hour, 2.42 Ac/Hr = $25.00 per acre; at one mile per hour, 1.2 Ac/Hr = $50.00 per acre. In all of the above, the cost is far below standard methods, and no berms are created. Without the necessity of berm removal land clearing costs are reduced far below the "standard" clearing method. Allowing cost for burning and some clean up, it is suggested with good operators that the cost may be well below $100.00 per acre.
2. Less soil disturbance - Soil would not be pushed into large berms. Any soil that is disturbed would not be piled. Breaking and farming methods would level any disturbed situations.
3. Operators without clearing experience can be used. Again any soil disturbance created by such an operator can easily be remedied. The ground fire would do an excellent cleanup of small sticks and broken stems normally left on the ground.
4. Heavy snow conditions presents no major problems. The material is only to be sheared and rolled. The snow would not be a load factor under these conditions. It would melt rapidly and thoroughly during break up.
5. Excellent fire control - With the clearing residue rolled and fuel cells delinated, excellent control can be maintained during burning.
6. The land can be cropped earlier. Dr. Wooding, Agronomist, Alaska Experiment Station, suggests that this method would save a full year during the development stage by eliminating the need for decomposition of organic material on the soil surface, normally a problem when "standard" clearing methods are used.

7. Scarification for new forestation - Windbreaks could be developed from natural regeneration of the woodland. Fire acts as a scarifier for this new start. Areas formally burned in the Clearwater have excellent stands of hardwoods with a spruce understory.

Questions and Concerns:

1. The materials must be burned during the warm dry summer months which is the peak fire season. Will agencies with fire management responsibilities cooperate so the burn can be carried out with reasonable safety and still attain maximum effectiveness?
2. Methods to determine ideal time to burn for naximum benefits are needed. This involves the moisture content of the vegetation, and design and construction of the fuel cells.
3. Actual costs - It would be well to demonstrate this method on the conditions found in the Clearwater to determine the true results. At present, contractors do not fully understand this concept, and do not have a feel for costs.
4. The advantage (if any) of a single versus double blade windrow relating to speed of clearing, burning efficiencies, and fire control is needed.

It is suggested that a trial be started immediately on the two predominant vegetation types found in the Clearwater area, black spruce and hardwoods. Two 160 acre tracts are proposed as a minimum, one in each vegetation pattern.

The layout should be such that each tract is a mile long. On 160 acre tracts, this would amount to four 40 acre tracts end to end - 1320' x 5280'. The mile run is needed to test travel time rates. In the actual clearing process, it is envisioned that the runs would be very long between turns. The 40 acre tracts might be ideal for fuel cells for trial burning this summer.

One technique that has surfaced is chaining the vegetation before clearing. This process mainly orientates the vegetation. The question is if it is necessary, or could a heavy roll bar frame be attached to the top of the tractor blade achieve the same purpose. A roll bar would eliminate one operation (chaining) saving time and money. This is necessary information on both vegetation types.

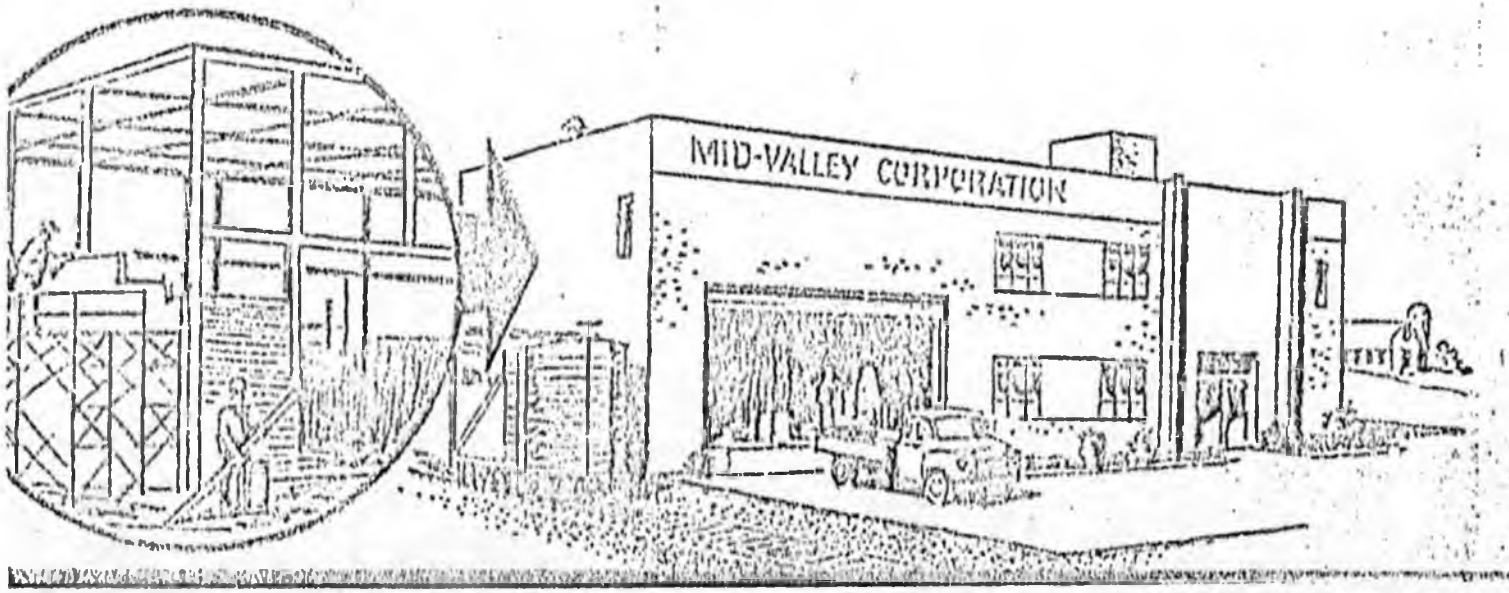
Such a trial would place the Delta barley proposal on a much firmer footing relative to clearing costs. This is a major aspect of the proposal, and should be verified. It would create a demonstration for contractors to observe, putting them on a more competitive bid basis. If this is a viable method, it would serve as a pattern to plan all future agricultural development in interior Alaska.

, Nevada, New Mexico, and Utah) is underway to mine the cost of producing and marketing crops and tock on irrigated lands in the Southwestern States. This mation will afford a sound basis for planning and ilishing agri-businesses in these areas with special lits for American Indians, Mexican-Americans, and r low-income people.

erative work with a national consulting firm and try has determined factors which motivate industries stablish plants in nonmetropolitan areas, the role of munities in plant establishment, and the reaction of tudied communities to new plants. This work is im- ng communities' opportunities to attract branch plants.

operative project (Economic Development Adminis- n, Montana State University and Agricultural Ex- iment Station, and Economic Development Association astern Montana) has determined the feasibility and of producing, processing, and marketing livestock from n Montana. This will, hopefully, upgrade returns to tana stockmen, who are currently producing livestock d at over $600 million annually, and may provide tional employment to as many as 200 people, including rican Indians.

rogram is available to all persons without regard to race, creed, , sex, national origin, or political affiliation.



Address inquiries for assistance to:
Dr. Jackson E. Simpson, Director
Agri-business Program
Agricultural Research Service
Federal Center Building
Hyattsville, Maryland 20782
Telephone 301-436-8194

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Washington, D.C. Issued August 1972

Agricultural Research Serv

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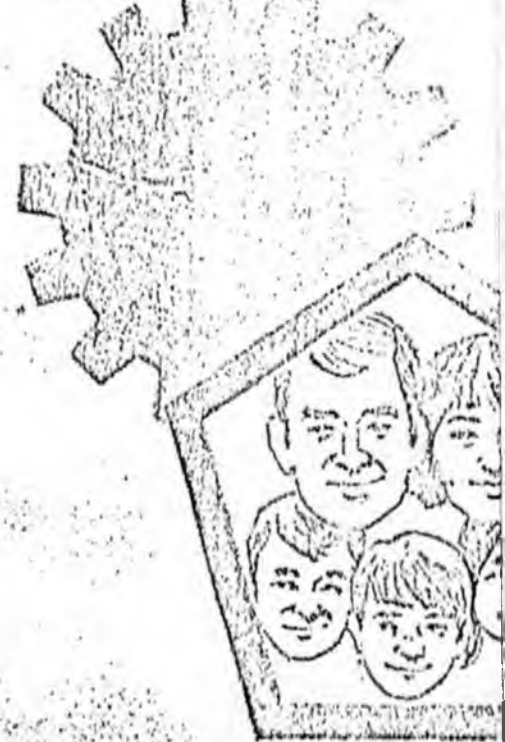
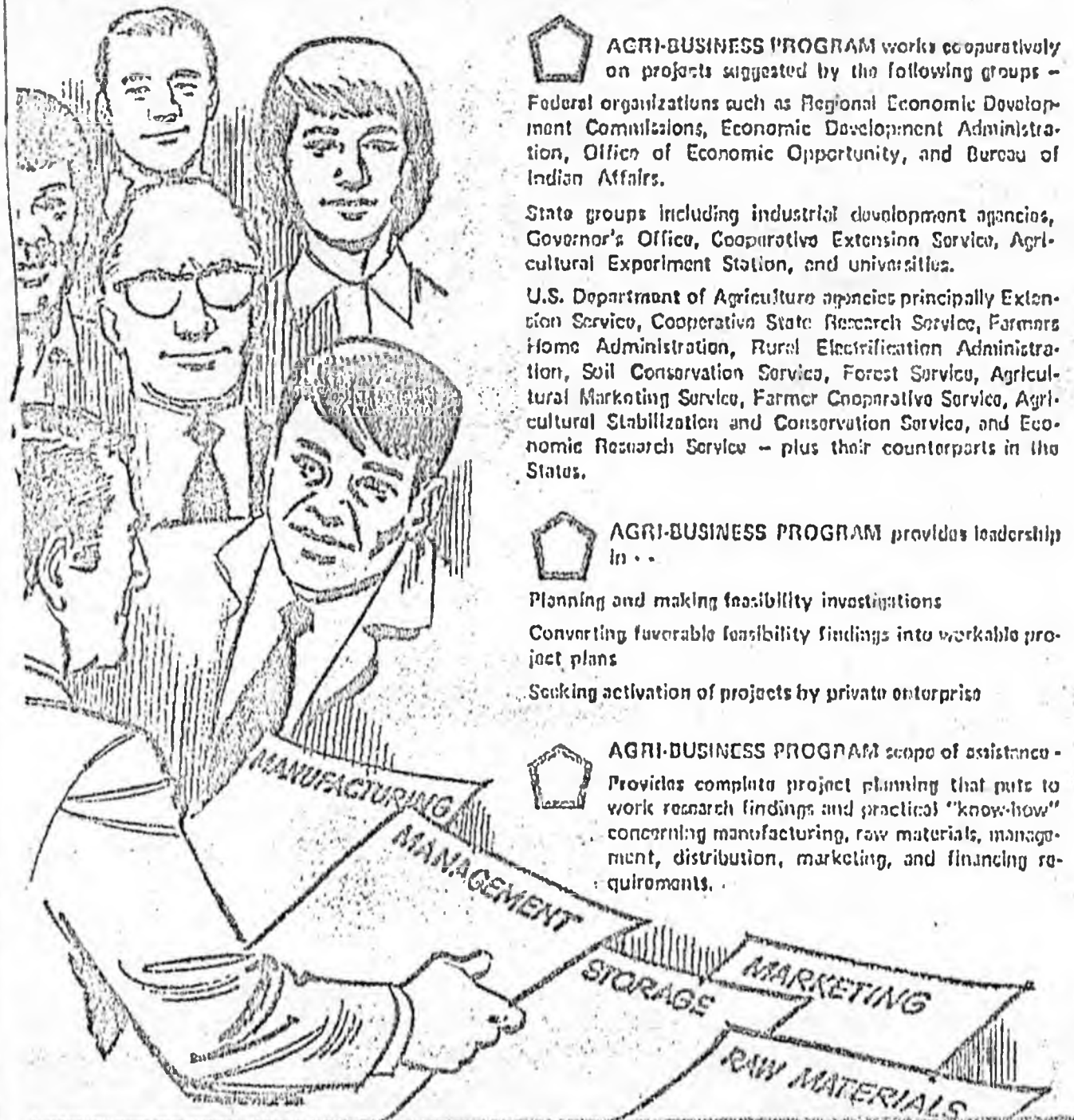


U.S. Department of Agric

AGRI-BUSINESS PROGRESS — AGRICULTURAL RESEARCH SERVICE

AGRI-BUSINESS PROGRAM helps plan and establish profit-making businesses that provide jobs for loans. The aim is more jobs and higher paying jobs for rural people. This is the key to helping rural s themselves -- and the basis for giving people pride, hope, and a desire to keep trying. It will mean more people finding rural America the most desirable place to live.



AGRI-BUSINESS PROGRAM works cooperatively on projects suggested by the following groups --

Federal organizations such as Regional Economic Development Commissions, Economic Development Administration, Office of Economic Opportunity, and Bureau of Indian Affairs.

State groups including industrial development agencies, Governor's Office, Cooperative Extension Service, Agricultural Experiment Station, and universities.

U.S. Department of Agriculture agencies principally Extension Service, Cooperative State Research Service, Farmers Home Administration, Rural Electrification Administration, Soil Conservation Service, Forest Service, Agricultural Marketing Service, Farmer Cooperative Service, Agricultural Stabilization and Conservation Service, and Economic Research Service -- plus their counterparts in the States.

AGRI-BUSINESS PROGRAM provides leadership in . .

Planning and making feasibility investigations

Converting favorable feasibility findings into workable project plans

Seeking activation of projects by private enterprise

AGRI-BUSINESS PROGRAM scope of assistance -

Provides complete project planning that puts to work research findings and practical "know-how" concerning manufacturing, raw materials, management, distribution, marketing, and financing requirements.

manifest practical time ... livestock, soils, water ... new products and processes, human nutrition, ... needs, and marketing facilities and techniques).

Assists in production of commodities and materials, ... facturing, distribution, warehousing, selling, servicing ... ations, construction, and related activities.

Expedites needed research-development to bolster ... ising projects.

Commercializes new products, operations, and ... through demonstration projects rather than through ... range development channels.

AGRI-BUSINESS PROGRAM has given ... assistance in all 50 states and Puerto Rico on ... than 2,000 projects -- concerning installatio... more than $1 billion of agri-business facilities ... generate annual returns of over $3 billion. Ty... examples --

Cooperative investigations (Four-Corners Regional ... mission, Arizona Department of Economic Planning ... Development, and USDA Forest Service) have sh... feasibility for establishing a Southwestern pine stum... plant which would produce products valued above ... million and employ more than 300 people, incl... many American Indians.

Cooperative work (National Broom Council, Econ... Development Administration, and Texas Agricultural ... periment Station) is developing a mechanical broom ... harvester that will stabilize a $40 million industry, main... broomcorn farmers in depressed areas, and give employ... to several hundred Negroes and handicapped people in ... 30 States.

Cooperative assistance (Vincennes University, Purdue ... versity, Economic Development Administration, and U... Farmers Home Administration) to depressed area... Indiana for the first commercialization of crambe (o... oilseed) is giving added income to over 100 farmers ... employment to more than 150 people.

Commercialization of newly developed quick-cooking ... bean products is being realized from a cooperative st... (Four-Corners Regional Commission, Colorado State ... versity, USDA Economic Research Service) of the ma... potential for these products. Will increase returns to ... bean growers and provide additional jobs.

DELTA AGRICULTURE PROJECT

An Approach to Baseline Surveys and Research

A well designed and coordinated series of studies would contribute to the success of the proposed farming project and related resource uses in the Delta Project area and would permit improved planning for later agricultural developments elsewhere. Delta baseline studies would assess hydrologic, meteorologic, soil, vegetation, and wildlife resources in the project area and in nearby, similar, undisturbed areas, both before and during project implementation.

Many state and federal agencies and units of the University of Alaska have the talents, equipment, and other resources to accomplish the varied elements of these ecosystem studies. None of these agencies presently has the funds to put these resources to work. Moreover, no means has been identified to assure that individual agency studies are part of a systematic program designed to meet objectives efficiently.

The following approach is proposed:

1) The Legislature should be asked to appropriate $150,000 for baseline studies critically needed in May-June 1977 (see attached list A).

2) The FY 78 budget should contain $90,000 for state share of baseline studies and project coordination in FY 78 (see attached list B and C)

3) The supplemental and FY 78 monies should be appropriated to the Department of Natural Resources for redistribution to state agencies as per lists A, B, and C.

4) The School of Agriculture and Land Resources Management should be designated as coordinator of research design, research activities, and reporting.

additional research participation and additional funding from appropriate federal agencies such as ARS, SCS, USGS, FS, and others (List C).

List A. Critical projects for May-June 1977.

1) Meteorologic data collection, especially wind force and direction, evaporation rates, ground temperatures (DNR) $4,000

2) Hydrologic studies: spring runoff patterns, water quality in Delta-Clearwater (DNR) $3,000

3) Spring mammal and bird population and distribution; fish distribution (ADFG) $3,000

TOTAL FY 77 $10,000

List B. FY 78 Baseline research

*1) Hydrologic studies (DNR) $20,000

*2) Soil characteristics, chemical residue levels (DEC) $15,000

3) Water quality Delta-Clearwater (DEC) $ 5,000

*4) Meteorologic studies (DNR) $20,000

*5) Vegetation mapping (DNR) $ 5,000

*6) Fish and wildlife populations (ADFG) $15,000

List C. FY 78 Coordination

1) Salary, travel, services $10,000

TOTAL FY 78 $90,000

*Studies to be done on Delta project area and control area.

SB
428

NOTIFICATION

BILL	LETTER/PHONE	INFORMED	HEARING DATE
SB 428am	3/3/78	Sen. Poland	3/7/78
	3/4	Sen. Huber	"
	3/3	Commercial Fisheries Entry Comm.	"
	"	Dept. of Fish and Game	"
	3/4	United Fishermen of Alaska	"
	"	Peter Froehlich, Asst. A.General	"
	"	Keith Specking	"

AGO 122871

8/1/78

Work session agenda items

Bump up

Bump down

H R

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL / POUCH K – STATE CAPITOL
JUNEAU 99811

March 7, 1978

The Honorable Alvin Osterback
Chairman, House Resources Committee
Alaska State House of Representatives
Capitol Building, Room 118
Juneau, Alaska 99801

Re: Comments on Senate floor amendment to SB 428 am (Page 3, lines 14-16)

Dear Representative Osterback:

The Commercial Fisheries Entry Commission has asked me to attend the House Resources Committee hearing this afternoon to offer testimony on a provision added to SB 428 am on the floor of the Senate. Unfortunately, an unexpected conflict in my schedule will prevent my attendance at the hearing today, so I am writing to briefly summarize my comments on the floor amendment. These comments were, for the most part, offered to the Senate Resc s Committee at a hearing on this bill on February 6, 1978 d discussed at some length before the committee declined to amend the bill along the lines of the floor amendment which narrowly passed.

The floor amendment at issue is Part II of Amendment 3 offered by Senator Huber, which substituted new language for AS 16.43.355(h) as follows:

> (h) The permit holder may appeal to the superior court for, and is entitled to, trial de novo of the board's action. Either party to the appeal may demand a jury trial. SB 428 am, Page 3, Lines 14-16; Senate Journal on page 241. (Emphasis added).

There are three problems with this amendment, in my view, and they are underlined above. First, it states that a permit holder, aggrieved by the administrative revocation of his permit because he supplied false information to the commission, is entitled to trial de novo on appeal. In many

appeals to court of administrative decisions, trial de novo is unnecessary, redundant, and wasteful of the time and resources of the court and both parties. A record containing all the evidence considered by the agency is before the court and, therefore, there is usually no reason to develop the evidence over again. AS 44.62.570(d) governs all appeals from administrative decisions not specifically the subject of a particular statute to the contrary. It gives the court discretion to augment the administrative record or hold a hearing (not "trial") de novo, if appropriate; i.e., if there is new relevant evidence that could not have been offered to the agency, or if relevant evidence was improperly excluded by the agency. This approach is much more efficient and flexible than that embodied in the above quoted floor amendment, which would allow permit holders to drag out appeals to the detriment and expense of all involved.

The second problem with the amendment is that it refers to "the board's action" (Page 3, Line 15) when the decision involved is that of the commission; i.e., the Commercial Fisheries Entry Commission.

The third problem is that the amendment states that either party to an appeal "may demand a jury trial" (Page 3, Line 16). This is a novel and inappropriate approach to appeals of administrative decisions. The only questions involved in such an appeal are legal issues (See AS 44.62.570(a) and (b)), whereas juries are only capable of considering factual issues. Nonetheless, the implication of the objectionable language of the floor amendment is that, if a party demands a jury trial, the court has no discretion and must grant one. This incongruity would render such appeals unworkable, if not impossible to conduct in practice.

In conclusion, I strongly suggest that the original language of AS 16.43.355(h) be reinstated in place of the Senate floor amendment at Page 3, Lines 14-16 of the bill. This would insure that appeals of permit revocation decisions would be conducted in the same time-tested manner as nearly all other appeals from administrative decisions, and in accord with AS 44.62.560 and .570 of the Administrative Procedure Act. It would be the most equitable and efficient means to provide for judicial review.

Alternatively, the following language would give an aggrieved permit holder a right to request a hearing de novo before a judge, even if there is no new or improperly excluded evidence, while foreclosing the totally inappropriate possibility of "jury trial."

I.

(h) A permit holder may appeal the commission's decision to a superior court. At the request of either party to an appeal, the court, in its discretion, may hold a hearing de novo.

I hope these comments are of some assistance in your consideration of this bill.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Peter Froehlich
Peter B. Froehlich
Assistant Attorney General

PBF:bvd

cc: House Resources Committee Members
Art Peterson, Assistant Attorney General
Commercial Fisheries Entry Commission

H 1Cs

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

COMMERCIAL FISHERIES ENTRY COMMISSION

POUCH KB
JUNEAU, ALASKA 99811

March 6, 1978

The Honorable Alvin Osterback
Chairman, House Resources Committee
Alaska State House of Representatives
Capitol Bldg. - Room 118
Juneau, Alaska 99801

Dear Representative Osterback:

You have requested the comments of the Commercial Fisheries Entry Commission SB 428 am, which is currently before the House Resources Committee.

Upon second reading in the Senate, SB 428 was amended by several floor motions, about which we would submit the following for your committee's consideration:

The first amendment offered appears at page 2, line 5, beginning with the words "The hearing place..." (Senate Journal page 241). The purpose of this amendment is to provide that the revocation hearing take place at or near the place of residence of the permit holder. The Commission anticipates few revocation hearings and therefore it does not feel that these provisions are unduly oppressive. However, it may well be that the permit holder would desire to have a hearing at a place other than the Judicial District in which he resides. Inasmuch as the referenced section of SB 428 mandates a hearing within the permit holder's Judicial District, the Commission would suggest that the language of that section be amended to allow the permit holder to waive the mandatory requirements appearing on page 2, line 5-7. In this regard, the following language is offered:

> "Unless waived in writing, the hearing place shall be held within the Judicial District in which the permit holder resides for those residing in the State of Alaska. The hearing place shall be at the discretion of the Commission for those permit holders residing outside the State of Alaska;"

While this amendment will undoubtedly have some impact on the Commission's budget because of the added requirement for Commission and staff travel, possible transportation of records, etc., the exact magnitude cannot be determined at this time. The Commission would expect revocation hearings to be rare, and if that is the case attendant costs could probably be absorbed without a specific budgetary increase. Consequently, we recommend no change in the fiscal note accompanying this bill.

The second amendment offered is of two parts (Senate Journal pp. 241-2). Part I appears at page 1, line 21 of SB 428. That amendment added the word "materially" after the word "correct" appearing at line 21. The Senate Resource Committee version of SB 428 did not contain the word "materially." Inasmuch as the word "knowingly" appears in the language of section 16.43.355(a), it is felt by the Commission, that if a person intentionally submitted false information knowing of the falsehood, the use of the modifier "materially" served a superfluous purpose. In effect, what Part I of the amendment accomplishes is to attach culpability to big lies while protecting those lies which are small. A problem also exists in defining the term "materially" as it is necessarily vague. The Commission feels that where proscribed action can result in the revocation of a person's entry permit, the statute should be drawn without words of vagueness. In light of the gravity of permit revocation, it is only fair that a person be specifically apprised of the prohibited conduct.

The second portion of this floor amendment appears at page 3, line 14-16 of SB 428. SB 428 as passed by the Senate Resources Committee provided for an appeal of a Commission permit revocation decision pursuant to the Administrative Procedure Act. A discussion of the scope of that appeal process appears in the House Resource Committee file on SB 428. The floor amendment offered provides that all appeals of a Commission decision to revoke a permit shall be in the scope of a trial de novo. In reference to section (h) appearing at page 3, lines 14-16, Peter Froehlich of the Department of Law will attend the Tuesday committee meeting and offer testimony on those provisions.

While this amendment does not directly affect the Commission's function, it does place what may be excessive burdens upon the permit holder. A full trial over matters previously presented at an administrative hearing will result in added and repetitive costs to the permit holder due to the formal and extended nature of court trials. A

full trial, as opposed to oral arguments, would be more difficult to accommodate on the court calendar due to the amount of time a trial requires. This could result in delays of the resolution of the permit holder's case. It should also be noted that the appeal is from the "Commission's" decision rather than the "board's" decision.

In light of the foregoing, it is respectfully submitted that the interest of the fisherman would be furthered by reinstatement of the language originally appearing in the bill as passed out by the Senate Resource Committee:

h. "Judicial review of a commission determination under this section may be had in accordance with AS 44.62.560-44.62.570." (SB 428 as passed by the Senate Resources Committee page 3, lines 10-12.)

This would provide the fisherman with the option of an appeal to the courts at a lower cost and consuming less time than a full scale trial de novo, with or without a jury.

A third floor amendment was offered as section 5 of SB 428 and relates to the transfer of a permit after court ordered suspension of use privileges thereunder (Senate Journal pp. 242-3). The Commission supports this amendment.

The Commission concurs with the remainder of SB 428 am in the form in which it is now before you.

Thank you for the opportunity to comment on this bill. A member of the Commercial Fisheries Commission will be present when SB 428 am comes before the House Resources Committee, Tuesday March 7, 1978 at 1:30 p.m. to answer any questions.

Sincerely,

Allan Adasiak
Chairman

01-A6LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

COMMERCIAL FISHERIES ENTRY COMMISSION

POUCH KB – JUNEAU 99811

February 3, 1978

The Honorable Kay Poland
Chairman, Senate Resources Committee
Alaska State Senate Pouch V
Juneau, Alaska 99811

Dear Senator Poland:

Re: SB 428

Regarding Senator Tillion's question regarding the term "willfully" as it appears in Sec. 3 of SB 428 at page 3 line 13 and page 4 line 2, we have contacted Dan Hickey at the Department of Law. Mr. Hickey indicated that the term "willfully" appearing at page 3 line 13 should be omitted. The term "willfully" as used at page 4 lines 2 and 6 should be deleted and the word "knowingly" substituted in its place. A letter from Ann Carpinetti of Mr. Hickey's office confirming the above-mentioned amendments should be received by your committee shortly, if it has not been received already.

The propriety of the term "other unavoidable hardship" appearing at page 1 line 12 has been addressed by Pete Froehlich, the Commission's Assistant Attorney General. His statements regarding this wording should have been received by you by now. If not, his letter will be forthcoming shortly.

The Commission will be happy to send a representative to the Monday, February 6, Committee meeting to answer any questions. The Commission has also requested that Pete Froehlich attend the meeting to answer any legal questions the Committee may wish to advance.

If there are any further questions or other service you may require, please feel free to contact me at the Commission. Your assistance in this matter is greatly appreciated. The Commissioners are presently out of town holding previously scheduled public hearings or I'm sure one of them would have

responded personally to the Committee's inquiries.

Respectfully,

David V. George
Legal Advisor

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU 99811

February 1, 1978

The Honorable Kay Poland
Chairman, Senate Resources
Committee
Alaska State Legislature
Pouch V, Capitol Building
Juneau, Alaska 99811

Re: SB 428, relating to commercial fishing permits

Dear Senator Poland:

It has come to my attention that a question arose at the January 31, 1978 hearing on this bill before your committee concerning the words "other unavoidable hardship" as used on page 1, line 12 of the bill. I am writing to share with you and the committee my thoughts on this language.

In my opinion, it is possible for the Commercial Fisheries Entry Commission to administer this criteria for temporary emergency transfer of permits both fairly and restrictively. The entire sentence containing the language at issue reads:

> The commission shall adopt regulations providing for the temporary emergency transfer of entry permits and interim use permits when illness, disability, death, or other unavoidable hardship prevents the permit holder from participating in the fisher." (Emphasis added).

In accordance with the well-established principle of statutory construction of ejusdem generis, where general words follow a listing of specific words, the general words are construed to embrace only circumstances similar in nature to those emumerated by the previous specific words. (See 2A Sands, Sutherland Statutory Construction, § 47.17, 4th Ed. 1973). Thus, "other unavoidable hardship" includes only circumstances similar in nature and gravity to illness, disability and death.

The phrase "unavoidable circumstances" is used in the Commission's regulations at 20 AAC 05.630(a)(5). In that context, the Commission has interpreted the phrase to mean circumstances (1) beyond one's control which prevent his participation in a fishery, (2) in frustration of his specific definite intent to do so, (3) despite all reasonably possible efforts. Applying the same meaning to "unavoidable hardship," along with the principle of ejusdem generis, results in the interpretation that only serious hardship beyond one's control which frustrates his specific and definite intent to participate in a fishery despite all reasonably possible efforts would be included within the scope of those words.

This seems to be a sufficiently narrow criteria for emergency transfers, while at the same time allowing for the myriad of possible types of unavoidable hardship which may properly justify such a transfer

I hope this letter is of some help in your further consideration of this bill. Please contact me if any questions on this matter remain.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Peter B. Froehlich
Assistant Attorney General

PBF:bvd

cc: Allan Adasiak

SB428 am

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

POUCH KC – STATE CAPITOL
JUNEAU, ALASKA 99811

February 6, 1978

The Honorable Kay Poland
Senator
State of Alaska
Pouch V
Juneau, Alaska 99811

Re: SB 428

Dear Senator Poland:

It is my understanding, after discussing Senate Bill 428 with a representative from the Commercial Entries Fisheries Commission, that your committee desired some comment from the Criminal Division of the Department of Law regarding the level of culpability under proposed amendments which would be required to be proven for conviction of certain prohibited acts under AS 16.43, which regulates entry into Alaska commercial fisheries.

Section 3 of Senate Bill 428 amends AS 16.43.360(a) in part by adding the requirement that a person be proved to have acted wilfully before he may be convicted of a statutory or regulatory violation of the chapter. (p.3, line 13). Presently no proof of the violator's state of mind is necessary under the language of the statute to establish a violation under AS 16.43.360(a). I would recommend deleting this portion of the amendment from the bill. It is difficult to establish a wilfull state of mind in prosecuting violations of regulatory provisions, and generally no conscious state of mind is constitutionally required for regulatory violations. Unless there is some other purpose for the amendment, I see no reason to make enforcement of AS 16.43 more difficult for the state.

Section 4 of the bill amends AS 16.43.360(b), which prohibits making a false statement of fact in an application

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for renewal of an interim use or entry permit. The proposed amendment in part adds the requirement that a person be proved to have acted wilfully (p. 4, lines 2 and 6) before he may be convicted of violating the subsection. Apparently the purpose of this amendment is to avoid the prosecution under the sub-section of persons who mistakenly mistate facts on an application or renewal form. I would recommend substituting "knowingly" for "wilfully" on page 11, lines 2 and 6. While both terms are similar and indicate a state of mind where the offender is aware that he or she is making a false statement, the use of "knowingly" is suggested because it is more precise and additionally, complies with the efforts by the Criminal Code Revision Subcommission to clarify and limit the terms used to define culpable mental states for criminal offenses. The proposed criminal code employs four mental states: intentional, knowing, reckless, and criminal negligence. If criminal prohibitions in other titles of the Alaska Statutes also use these states of mind, our statutes will be easier for people to understand and for the courts to interpret.

Thank you for the opportunity to comment on Senate Bill 428.

Very truly yours,

AVRUM M. GROSS
ATTORNEY GENERAL

DANIEL W. HICKEL
CHIEF PROSECUTOR

By: Anne Carpeneti
Anne Carpeneti
Assistant Attorney General

AC:lw

cc: Art Peterson
Assistant Attorney General

STATE of ALASKA

MEMORANDUM

TO: The Honorable Kay Poland
Chairman, Senate Resources Committee
Alaska State Senate

DATE : February 3, 1978

FROM: David V. George
Commission Legal Advisor
Commercial Fisheries Entry Commission

SUBJECT: Letter of Explanation of SB 428 re cost of proceeding under proposed section relating to administrative revocation of permit

Senator Huber has raised the question of whether judicial review under the Administrative Procedure Act (APA) as provided in Section 2 of SB 428, would act as a defacto financial prohibition to the permit holder's judicial review of the administrative agency's action. The sections of the APA brought into issue are AS 44.62.560 and 570. Copies of these sections are appended to this reply.

SB 428 Section 2 of the Administrative Level:

Due process requires that the proposed revocation of a permit be preceded by notice of the proposed action, and that the permit holder be afforded an opportunity to be heard prior to a resolution of the issues.

SB 428 Section 2 proposes a mechanism for administrative revocation of a permit by the Commercial Fisheries Entry Commission. This power does not presently exist. SB 428 could have stopped there and left the Commission with the obligation to adopt regulations regarding the procedure to be employed which were consistent with due process. However, because of the gravity of the potential consequences of permit revocation, the Commission felt it was appropriate for the Legislature to provide for an administrative revocation procedure which ensured the respect of the permit holder's due process rights. This legislative statement in effect says: "If you cheat you'll be punished, but we are going to make sure that the State plays by the rules so that it doesn't cheat you."

Before any administrative hearing then, the State must give notice of the proposed action. The permit holder is given the opportunity to appear at the hearing, with or without counsel, and give his side of the story. The responsibility of the permit holder at the hearing is no greater than that required at any administrative hearing--he may, if he wishes, show up and contest the proposed action.

Section 2(b)(2) imposes a greater burden on the State, however. Section 2(b)(2) requires that before the Commission acts it must have received an affidavit setting forth facts warranting permit revocation. The notice requirements of Section 2(b)(2-6) were drafted requiring specificity on everything reasonably necessary to apprise the permit holder of the potential loss involved and the basis of the proposed action. This specificity will help guarantee a meaningful hearing.

Under SB 428, the State is also required, when holding the hearing, to provide a hearing officer who will act as the presiding officer of the hearing. The hearing officer is at the expense of the State, but will employ his legal background to aid both the permit holder and the Commission in the presentation of necessary facts. It is believed that use of a hearing officer will help insure greater impartiality as well as a more concise record.

In review, the formal hearing procedures required by SB 428 at the administrative level impose additional burdens only upon the State and not upon the party against whom the action is proposed.

SB 428 Section 2 and the Judicial Level:

Senator Huber has expressed concern that affording judicial review of the Commission's decision pursuant to AS 44.62.560-570 might be financially unfeasible for the permit holder to pursue. It was apparently Senator Huber's concern that a "de novo" judicial review might lower the cost of this review were a less formal administrative hearing held at the outset.

Due process requires the right of judicial review of the Commission's decision, whether the administrative hearing is formal or informal. The nature of the review would ultimately dictate the amount of expense to the permit holder. The proper forum for review is the Superior Court. [AS 22.10.020, 22.15.050, 44.62.560]

Were the Superior Court to hold a "trial de novo", cost to the litigant would be greatly increased. Evidence submitted at the administrative hearing, whether it was formal or informal, would have to be reintroduced at a "trial de novo" subject to all appropriate objections and cross-examination rights of the State. Witnesses would have to appear, perhaps for the second time, and the litigant himself would be making a second appearance thus increasing travel expenses.

Pre-trial discovery may be in order requiring additional costs. Since a trial of three or four days is much more difficult to schedule on the court calendar than a half-day argument (as would be the case were there not a "trial de novo"), greater delay could be anticipated than if the case were one of simple appellate review. All told, an informal administrative hearing followed by a trial "de novo" at the judicial level would substantially increase, rather than decrease, the direct cost to the permit holder.

Review under AS 44.62.560 generally amounts to a review of the record of the administrative hearing to determine the propriety of the administrative action taken. An appellant is required to transmit the record of the administrative agency hearing to the Superior Court at his own cost and provide a cost bond on appeal. In the Commission's experience, for cases involving permit decisions, this is usually no more than $350.00. The Superior Court may, in its discretion, order additional evidence or require a hearing "de novo." [570(d)] Therefore, Sections 560 and 570 of AS 44.62 do provide for the possibility of a "de novo" hearing where justice requires.

Conclusion

Section 2 of SB 428 as proposed will increase the responsiveness of State government at the administrative level, while imposing no greater burden upon the permit holder than would a less formal administrative hearing procedure.

Judicial review of an administrative determination under AS 44.62.560 and 570 provides a much less costly avenue of review than would a mandatory trial "de novo." Notwithstanding, Sections 560 and 570 do allow sufficient discretion whereby the Superior Court may order a trial "de novo" where justice dictates.

It would therefore appear that SB 428 provides a fair method of civil revocation of an entry permit, which is also the least costly alternative available.

DVG:eb

requires the agency to make findings of fact regarding conditions which have changed since the imposition of the penalty at least one year previous. 1963 Ops. Att'y Gen., No. 10.

Sec. 44.62.560. Judicial review. (a) Judicial review by the superior court of a final administrative order may be had by filing a notice of appeal in accordance with the applicable rules of court governing appeals in civil matters. Except as otherwise provided in this section, the notice of appeal shall be filed within 30 days after the last day on which reconsideration can be ordered, and served on each party to the proceeding. The right to appeal is not affected by the failure to seek reconsideration before the agency.

(b) The complete record of the proceedings, or the parts of it which the appellant designates, shall be prepared by the agency. A copy shall be delivered to all parties participating in the appeal. The original shall be filed in the superior court within 30 days after the appellant pays the estimated cost of preparing the complete or designated record or files a corporate surety bond equal to the estimated cost.

(c) The complete record includes (1) the pleadings, (2) all notices and orders issued by the agency, (3) the proposed decision by a hearing officer, (4) the final decision, (5) a transcript of all testimony and proceedings, (6) the exhibits admitted or rejected, (7) the written evidence, and (8) all other documents in the case.

(d) Upon order of the superior court, appeals may be taken on the original record or parts of it. The record may be typewritten or duplicated by any standard process. Analogous rules of court governing appeals in civil matters shall be followed where this chapter is silent, and when not in conflict with this chapter.

(e) The superior court may enjoin agency action in excess of constitutional or statutory authority at any stage of an agency proceeding. If agency action is unlawfully withheld or unreasonably withheld, the superior court may compel the agency to initiate action. (§ 24 (ch 2) ch 143 SLA 1959)

Cross reference. — See note to AS 44.62.570.

This section and AS 44.62.570 prescribe the manner and scope of judicial review. Mobil Oil Corp. v. Local Boundary Comm'n, Sup. Ct. Op. No. 989 (File No. 1947), 518 P.2d 92 (1974).

But they do not address the form of an agency's determinations. Mobil Oil Corp. v. Local Boundary Comm'n, Sup. Ct. Op. No. 989 (File No. 1947), 518 P.2d 92 (1974).

When review is proper. — Review is proper where postponement of appellate review until a final judgment is entered by the superior court may result in injustice because of impairment of a legal right and where the order sought to be reviewed is of such substance and importance as to justify deviation from the normal appellate procedure by way of appeal and to require the immediate attention of this court. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

When order is final. — An order by the trial court as a general rule is said to be final if it completely and finally disposes of the contested claims on their merits. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

The term "finality" is subject to several definitions. Mukluk Freight Lines v. Nabors Alas. Drilling, Inc., Sup. Ct. Op. No. 967 (File No. 1870), 516 P.2d 408 (1973).

the superior court to assert jurisdiction and grant preliminary relief in a case where an agency has established a permanent rate. A.J. Industries, Inc. v. Alaska Pub. Serv. Comm'n, Sup. Ct. Op. No. 622 (File No. 1173), 470 P.2d 537 (1970), rev'd on other grounds on rehearing, 483 P.2d 198 (1971).

Appeal to court to obtain review and return to court to continue litigation are separate processes. — Appealing to a court for the purpose of obtaining review of an inferior tribunal's order and returning to a court with retained jurisdiction for the purpose of continuing litigation are separate and distinct legal processes. Greater Anchorage Area Borough v. City of Anchorage, Sup. Ct. Op. No. 856 (File No. 1569), 504 P.2d 1027 (1972).

Court apprising parties of right to seek review did not retain jurisdiction. — A lower court which merely apprised the parties of their rights to seek judicial review of an administrative adjudication under this chapter did not retain jurisdiction. Greater Anchorage Area Borough v. City of Anchorage, Sup. Ct. Op. No. 856 (File No. 1569), 504 P.2d 1027 (1972).

Applied in Wilson v. Employment Security Comm'n, 6 Alaska L.J. No. 3, p. 93 (March, 1968); Jager v. State, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975); Moore v. State, Sup. Ct. Op. No. 1284 (File Nos. 2551, 2587), 553 P.2d 8 (1976).

Stated in Alaska Transp. Comm'n v. Alaska Airlines, Inc., Sup. Ct. Op. No. 429 (File No. 881), 431 P.2d 510 (1967); Matanuska-Susitna Borough v. Lum, Sup. Ct. Op. No. 1179 (File Nos. 2241, 2250), 538 P.2d 994 (1975).

Cited in Læge v. Martin, Sup. Ct. Op. No. 131 (File No. 256), 379 P.2d 447 (1963); R.C.A. Serv. Co. v. Liggett, 2 Alaska L.J. No. 1, p. 7 (Jan., 1964); King v. Alaska State Housing Auth., Sup. Ct. Op. No. 917 (File No. 1613), 512 P.2d 887 (1973); Alaska Pub. Util. Comm'n v. Greater Anchorage Area Borough, Sup. Ct. Op. No. 1139 (File No. 2314), 534 P.2d 349 (1975).

Am. Jur. reference. — 42 Am. Jur., Public Administrative Law, § 185.

Sec. 44.62.570. Scope of review. (a) An appeal shall be heard by the superior court sitting without a jury.

(b) Inquiry in an appeal extends to the following questions: (1) whether the agency has proceeded without, or in excess of jurisdiction; (2) whether there was a fair hearing; and (3) whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

(c) The court may exercise its independent judgment on the evidence. If it is claimed that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by (1) the weight of the evidence, or (2) substantial evidence in the light of the whole record.

(d) The court may augment the agency record in whole or in part, or hold a hearing de novo. If the court finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing, the court may (1) enter judgment as provided in (e) of this section and remand the case to be reconsidered in the light of that evidence; or (2) admit the evidence at the appellate hearing without remanding the case.

(e) The court shall enter judgment setting aside, modifying, remanding, or affirming the order or decision, without limiting or controlling in any way the discretion legally vested in the agency.

(f) The court in which proceedings under this section are started may stay the operation of the administrative order or decision until (1) the

court enters judgment, (2) a notice of further appeal from the judgment is filed, or (3) the time for filing the notice of appeal expires.

(g) No stay may be imposed or continued if the court is satisfied that it is against the public interest.

(h) If further appeal is taken, the supreme court may, in its discretion, stay the superior court judgment or agency order.

(i) If a final administrative order or decision is the subject of a proceeding under this section, and the appeal is filed while the penalty imposed is in effect, finishing or complying with the penalty imposed by the administrative agency during the pendency of the proceeding does not make the determination moot. (§ 25 (ch 2) ch 143 SLA 1959)

This section and AS 44.62.560 prescribe the manner and scope of judicial review. Mobil Oil Corp. v. Local Boundary Comm'n, Sup. Ct. Op. No. 989 (File No. 1947), 518 P.2d 92 (1974).

But they do not address the form of an agency's determinations. Mobil Oil Corp. v. Local Boundary Comm'n, Sup. Ct. Op. No. 989 (File No. 1947), 518 P.2d 92 (1974).

Questions for review. — One type of administrative decision on questions of law involves questions in which the particularized experience and knowledge of the administrative personnel goes into the determination. When this type of question is presented to the court for review, deference should be given to the administrative interpretation, since the expertise of the agency would be of material assistance to the court. The other kind of case presents questions of law in which knowledge and experience in the industry affords little guidance toward a proper consideration of the legal issues. These cases usually concern statutory interpretation or other analysis of legal relationships about which courts have specialized knowledge and experience. Consequently, courts are at least as capable of deciding this kind of question as an administrative agency. Swindel v. Kelly, Sup. Ct. Op. No. 812 (File Nos. 1416, 1418), 499 P.2d 291 (1972).

Leasing decisions of the division of lands and Department of Natural Resources are subject to judicial review. Such judicial review would be governed by the relevant provisions of the Administrative Procedure Act (AS 44.62). Swindel v. Kelly, Sup. Ct. Op. No. 812 (File Nos. 1416, 1418), 499 P.2d 291 (1972).

Four principal standards of review. — In interpreting this section the supreme court has recognized at least four principal standards of review of administrative decisions. These are the "substantial evidence test" for questions of fact; the "reasonable basis test" for questions of law involving agency expertise; the "substitution of judgment test" for questions of law where no expertise is involved; and the "reasonable and not arbitrary test" for review of administrative regulations. Jager v. State, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

The reasonable basis approach should be used for the most part in cases concerning administrative expertise as to either complex subject matter or fundamental policy formulations. Swindel v. Kelly, Sup. Ct. Op. No. 812 (File Nos. 1416, 1418), 499 P.2d 291 (1972).

Application of the reasonable basis test is extremely useful where the administrative action under review resembles executive as opposed to legislative or judicial activity, where the decision under review clearly has nothing to do with the agency's rule making function. Swindel v. Kelly, Sup. Ct. Op. No. 812 (File Nos. 1416, 1418), 499 P.2d 291 (1972).

This section is made applicable to review of final orders of the Public Utilities Commission by AS 42.05.551. Jager v. State, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

Whether proposed utility rates were designed to and could meet competition, shift sales of gas from winter to summer, and achieve interruptibility, are all questions of fact of the type traditionally reviewed under a substantial evidence standard. Jager v. State, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

Public Utilities Commission's decision whether to conduct a rate investigation is similar to the type of decision involving agency expertise in a mixed law and fact setting subject to the "reasonable basis" standard of review. Jager v. State, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

LETTER OF INTENT

The Honorable Hugh Malone
Speaker of the House

Dear Mr. Speaker:

In passing out the Committee Substitute for SB 428 am the Committee hereby recommends that the Judiciary Committee review the new language in the bill.

Sincerely,

Alvin Osterback

Alvin Osterback, Chairman
House Resources Committee

SB

447

COMMITTEE REPORT

HOUSE

4/20/78

FURTHER: FINANCE

Date: April 24, 1978

Mr. Speaker:

The Committee on RESOURCES has had CSSB 477 (Fin)
"An Act relating to licensing of sport fishing, hunting and trapping."

under consideration and (a majority of the committee) (the committee reports it back as follows)

( ) recommends it do pass ( ) recommends it do not pass

( ) recommends it do pass with attached amendment(s)

( ) recommends it be replaced with CS for _____

and _____ ( ) new title ( ) same title

( ) AND attaches a Letter of Intent ( ) New Fiscal Note

( ) reports it back without recommendation

( ) and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Chairman

H 60 (rev. 6/77)

POSITION PAPER ON

CS FOR SENATE BILL NO. 477

An Act entitled: "An Act relating to licensing of sport fishing, hunting and trapping."

This bill would provide privileged access to Alaska's fish and game resources through 25¢ hunting, fishing, and trapping licenses to persons whose need for same included both financial hardship, and substantial use of these resources for personal use as food.

This department would be required to provide to the Department of Revenue a sum equal to the difference in revenues received for the special licenses, and the normal cost of $25, for each year this provision was in effect.

The department supports the concepts contained in this legislation, as it would appear to benefit persons with legitimate needs, while restricting widespread and indiscriminate participation.

There would be no administrative impact on this department. The amount of general funds required to reimburse the Department of Revenue for the cost of subsidizing the purchase price of the licenses themselves however, is not budgeted and would be needed if the subsidy is to be made available without jeopardizing current programs.

At current rates of participation, 6,000 such licenses could reasonably be expected to be sold by Department of Revenue agents, if no restrictive policies were implemented in FY79.

Therefore, the Department estimates a maximum subsidy amount of $148,500. As the impact of future regulations for this program cannot readily be predicted from our information, a lesser amount may suffice, however we would not wish to speculate in this area and would therefore request funds for the current projection of 6,000 license subsidies.

Recommended by: Richard R. Wilson — 4-18-78

Richard R. Wilson, Director
Division of Public Assistance

Date

Approved by: Helen D. Beirne — 4-20-78

Helen D. Beirne, Commissioner
Department of Health & Social Services

Date

POSITION PAPER/Department of Health and Social Services

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SENATE BILL NO. 477
Title "An Act relating to licensing of sport fishing and hunting."
Requested by _____ Date 4/12/78

II. FISCAL DETAIL
Agency Affected DEPARTMENT OF HEALTH AND SOCIAL SERVICES
Program Category Affected SOCIAL AND ECONOMICS ASSISTANCE TO THE GENERAL POPULATION
Budget Request Unit(s) Affected ELIGIBILITY DETERMINATION

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	148,500	148,500	148,500	148,500	148,500	148,500
TOTAL	148,500	148,500	148,500	148,500	148,500	148,500

FUNDING (Thousands of Dollars)

GENERAL FUND	148,500	148,500	148,500	148,500	148,500	148,500
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Eric S. Hansen

IV. DATE 4/12/78 PREPARED BY ERIC S. HANSEN, TRAINING SPECIALIST
AGENCY DHSS/DIVISION OF PUBLIC ASSISTANCE
PHONE 465-3347

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33–001 (Rev. 12/77)

1973 Twenty-five Cent License Survey Estimates

CSGB &77 Make Copies

A random sample of 511 of 6,658 was selected.

141 (27.6%) of the sample responded.

2,412 (36.2%) of the 6,658 did not fish.

1973 Annual Income of 25¢ Licenses

Income (dollars)	Number	Percentage
Less than 5000	5,715	85.8
5,000 - 10,000	577	8.7
10,000 - 15,000	262	3.9
15,000 - 20,000	52	0.8
20,000 - 25,000	52	0.8
More than 25,000	0	0.0
Total	6,658	100.0

14.2% had annual incomes exceeding $5,000

1973 Expenditures (Dollars) or 25¢ Licensees

Type of Expenditure	Amount	Mean Per Licensee	Percentage
Gear	195,207	29.32	10.7
Boat	1,215,045	182.49	66.9
Food	234,447	35.21	12.9
Transportation	94,189	14.15	5.2
Lodging	28,993	4.35	1.6
Miscellaneous	46,417	6.97	2.6
Licenses	1,665*	.25	0.1
Total	1,815,963	272.75	100.0

*Includes expenditures for 25¢ licenses only. $12,702 (a mean of $1.90 per licensee) was spent on other licenses (commercial and 25¢ replacements).

Residences of 25¢ Licensees[1]

	1973		1974		1975		Total	
	No.	%	No.	%	No.	%	No.	%
Anchorage	844	18.3	1017	18.1	809	16.9	2670	17.8
[2]Fairbanks	487	10.6	446	7.9	204	4.3	1137	7.6
[3]Juneau	126	2.7	191	3.4	159	3.3	476	3.2
Palmer	84	1.8	165	2.9	150	3.1	399	2.7
Kenai	109	2.4	169	3.0	97	2.0	375	2.5
Nome	114	2.5	136	2.4	123	2.6	373	2.5
Homer	86	1.9	134	2.4	139	2.9	359	2.4
Bethel	50	1.1	87	1.5	117	2.4	254	1.7
Seward	98	2.1	98	1.7	41	.9	237	1.6
Ketchikan	66	1.4	74	1.3	95	2.0	235	1.6
Fort Yukon	80	1.7	74	1.3	77	1.6	231	1.5
Willow	66	1.4	85	1.5	78	1.6	229	1.5
Wasilla	63	1.4	88	1.6	66	1.4	217	1.4
Soldotna	55	1.2	63	1.1	51	1.1	169	1.1
Talkeetna	49	1.1	65	1.2	52	1.1	166	1.1
Elsewhere	2234	48.5	2735	48.6	2536	52.9	7505	49.9
Total	4611	100.1	5627	99.9	4794	100.1	15032	100.1

1. Fifteen residences with highest three year totals.
2. Includes College, Alaska
3. Includes Auke Bay, Alaska

1974* Ages of 25¢ Licensees

Age Category	Number	Percentage
16-20	656	9.8
21-25	1513	22.7
26-30	1211	18.2
31-35	605	9.1
36-40	555	8.3
41-45	403	6.1
46-50	454	6.8
51-55	151	2.3
56-60	151	2.3
61-65	404	6.1
Over 65	555	8.3
Total	6,658	100.0

Mean Age = 36.6

*There was a mean delay of about one year between purchase of license (1973) and receipt of questionnaire (1974). No respondents indicated they were 16 years of age. An estimated 50 fishermen were 17 years of age at the time they received the questionnaire.

SCR

68

HEARING NOTIFICATION TO ADMINISTRATION

BILL NUMBER	LETTER DATE	INFORMED	HEARING DATE
HB 118	phone 1/27	Rep. Eliason, Commercial Fisheries, S.Gross, Rep. Gardiner	1, 31
SCR 68	phone 1/27	Sen.Ziegler, D.Nat.Res.(Conheady) AK Loggers Assoc.	1/31
HB 652	phone 1/27	Rep.Cowper, D.Nat.Res(Conheady) Commerce, Carolyn Burg	~~1/2~~ 1/31
HB 563	phone 1/27	Rep.Swanson, Pete Jeans, AK Pipeline Env.Conservation, Nat. Res. Oil & Gas P. Conheady	2/2 Surveillance, Comm
CSHB 573	phone 1/27	P.Jeans	2/2
HB 624	phone 1/27	Rep.Snider, D.Rev.	2/2
HB 625	phone 1/27	Rep.Anderson, Fish&Game, Nat.Res. (P. Conheady)	2/2
HJR 53	phone 1/27	Rep.Gardiner	2/2
all of above	memo 1/27	Keith Specking	1/31 // 2/2

WESTERN STATES LEGISLATIVE FORESTRY TASK FORCE • 1107 9TH STREET • SACRAMENTO, CA 95814 • PHONE (916) 322 4395

J. WILSON STEEN Chairman
Idaho State Senator

ROBERT J. BROWN, Vice-Chairman
Montana State Senator

CALIFORNIA
Senator John Garamendi
Senator Ray Johnson
Assemblyman Barry Keene
Assemblyman Norm Waters

IDAHO
Senator Kermit Kiecert
Representative Gary Ingram
Representative C. Wendell Mills

OREGON
Senator Ted Hallock
Senator Mike Thorne
Representative Bud Byers
Representative Robert "Bob" Brogoitti

WASHINGTON
Senator Lowell Peterson
Senator Pat Wanamaker
Representative John Martinis
Representative Art Moreau

MONTANA
Senator John Manley
Representative Dorothy Bradley
Representative Joe Kanduch

RICHARD A. ROBYN
Executive Secretary

January 25, 1978

SCR 68

Representative Alvin Osterback
Chairman, House Committee on Resources
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

We were pleased to learn that the Alaska Legislature is considering a resolution which would permit your state to become a member of the Western States Legislative Forestry Task Force.

I thought perhaps the enclosed information might be of help to you in considering membership. Enclosed is a copy of a letter to Representative Mike Miller, as well as our 1976 Annual Report, a recent report prepared by Chairman Steen, and a presentation made by the Task Force on the RARE II issue to the Governors of our member states and Ted Smith of your state's Department of Natural Resources.

The Task Force would welcome Alaska as a member, and if we can be of any assistance to you, please do not hesitate to let us know.

Sincerely,

Richard A. Robyn

RICHARD A. ROBYN
Executive Director

RAR/m

enc

COMMITTEE REPORT

HOUSE

1/24/73

FURTHER: _____

_____

Date: 1/31/78

Mr. Speaker:

The Committee on RESOURCES has had SCR 68
Relating to Alaskan participation in the Western States Legislative Forestry Task Force.

under consideration and (a majority of the committee) (the committee reports it back as follows)

( ) recommends it do pass ( ) recommends it do not pass

( ) recommends it do pass with attached amendment(s)

( ) recommends it be replaced with CS for _____

and _____( ) new title ( ) same title

( ) AND attaches a Letter of Intent ( ) New Fiscal Note

( ) reports it back without recommendation

( ) and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

_____

_____

_____

_____

_____

_____

_____

_____

OTHER RECOMMENDATIONS:

_____

_____

_____

_____

_____

_____

_____

_____ Chairman

Vice

H 60 (rev. 6/77)

Alaska Loggers Association, Inc.

111 STEDMAN, SUITE 200
KETCHIKAN, ALASKA 99901
Phone 907-225-6114

July 26, 1977

Honorable Robert Ziegler
Alaska State Senator
Box 7500
Ketchikan, Ak. 99901

Dear Senator Ziegler:

During the Directors' meeting in Fairbanks on July 22, 1977, the most important item of statewide interest was Alaska Loggers Association unanimous endorsement of proposed State of Alaska participation in the Western State Legislative Task Force. The enclosures supply the purposes of the Task Force.

It follows that Alaska Loggers Association desires that legislative support be given this program, hence you and the other members of the Southeastern delegation are being urged to introduce and support enabling legislation.

Sincerely,

Donald A. Bell

Donald A. Bell
General Manager
ALASKA LOGGERS ASSOCIATION

DAB/mjh
cc. Mike Valentine
Clarence Kramer
Don Finney

OREGON FOREST PROTECTION ASSOCIATION

AN ASSOCIATION OF PRIVATE FOREST LANDOWNERS IN OREGON

1326 AMERICAN BANK BUILDING, PORTLAND, OREGON 97205

PHONE 226-4562

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*Ted Young
1st Vice President

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Russell Ellwood
Eastern Lane Forest Protective Assn.

Tim Farrell
East Oregon Forest Protective Assn.

Edward Fedderly
N.W. Oregon Forest Protective Assn.

Robert Larson
West Oregon Forest Protective Assn.

L.E. Lowell
Douglas Forest Protective Assn.

*Frank Lyle
Coos Forest Protective Assn.

Leo Marstad
Klamath Forest Protective Assn.

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Walker Range Patrol Assn.

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Dwight Phipps
Dan Robinson
W. Lee Robinson
Paul Sanders
J. Edward Schnitzer
Mark Storm
R. Sam Taylor
Albert Weyerhaeuser

ASSISTANT MANAGER

David K. Jessup

*Executive Committee

JAMES B. CORLETT
Manager

June 6, 1977

Mr. Donald A. Bell, Secretary Manager
Alaska Loggers Association
111 Stedman Street
Ketchikan, Alaska 99901

Dear Don:

It was good to visit with you briefly by phone regarding the Western States Legislative Forestry Task Force and to learn of your interest in possibly supporting participation by Alaska.

The WSLFTF consists of two Senators and two Representatives respectively, from California, Oregon, Washington, Idaho and Montana. These twenty members are appointed by the Senate and House Leadership of each state.

Each legislative session, which in Oregon is every two years, the legislature must pass a measure which authorizes continued participation in the T.F. The other four states have adopted resolutions similar to Oregon's.

In addition to the Joint Resolution each state adopts an appropriation bill to finance expenses of the T.F. The dollar amount depends on a formula based on the state budget plus the volume of available standing timber. Current assessment allocations are California $37,000, Oregon $16,000, Washington $14,000, Idaho $5000 and Montana $4000; these are round figures. A new Executive Secretary was hired at the meeting in Burlingame on June 4. He is Dick Robyn and he maintains the T.F. office at 1107 9th Street, Sacramento, California 95814, phone (916) 322-4395.

The T.F. has concerned itself with a wide range of Western Forestry issues including major legislation affecting forestry, USFS management budgets, impacts of NEP Act, Endangered Species, Wilderness and land withdrawals, SETA Funding to the states, reforestation, Monongahela and the Zieske case, Sections 208, 303 and 404 and their impacts on the states, in-lieu payments, Resources Planning Act, BLM Organic Act, the National Forest Management Act including a T.F. trip to Congress which was helpful to the cause, Clarke-McNary appropriations, Western insect problems, the drought, Grizzly Bear range set-asides, roadless areas, sealed bidding, etc.

The T.F. has developed numerous resolutions and followed through with many contacts to Congress and the Administrations. The T.F. has worked hard at representing the Western viewpoint on many issues.

On several occasions T.F. members have expressed an interest in Alaskan participation and it came up again last week at the California meeting. The consensus was that Alaska should be invited to participate. My contact with you is intended to provide background information so your associations can make a judgement about supporting enabling legislation in your state.

One other item, twenty-three western forestry oriented associations comprise the Western Forest Resource Council. The Council meets on call of the chairman to consider forestry matters affecting the west. The Council considers liaison with the WSLFTF to be a matter of high priority. For several years my Board of Trustees has authorized me to serve as the liaison man with the T.F. as requested by the Council and it has been a rewarding experience. I believe the T.F. has been very helpful on many western forestry problems of mutual interest to Council members and can be even more effective in the future.

Enclosed are a number of documents which may be helpful as you review this matter.

Sincerely,

Jim Corlett

James B. Corlett
Manager

Enclosures:
1. Oregon Legislative HJR-2
2. Membership of WSLFTF
3. Listing of Task Force meetings
4. Listing of Western Forest Resource Council membership
5. Agenda of WSLFTF meeting June 4 & 5, 1977

cc: Sen. J. Wilson Steen, Chairman WSLFTF
Sen. Bob Brown, Vice Chairman WSLFTF
Rep. Bernard Byers
Sen. Ted Hallock
Dick Robyn
Members Western Forest Resource Council

JC/kp

House Joint Resolution 2

Sponsored by Representative BYERS, Senators HALLOCK, THORNE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Directs President of Senate and Speaker of House to appoint two Senators and two Representatives to serve on Western States Forestry Task Force.

NOTE: Matter in bold face in an amended section is new matter [*italic and bracketed*] is existing law to be omitted. complete new sections begin with SECTION

HOUSE JOINT RESOLUTION 2

Whereas the forest industries of the Western States play a vital role in the economic development of these states; and

Whereas there is an obvious need for developing means for protecting and fostering these forest industries so as to maximize yield while protecting the resource for future generations; and

Whereas the subjects that require interstate cooperation include but are not limited to insect infestations, conservation, production and marketing, all of which know no state boundaries; now, therefore,

Be It Resolved by the Legislative Assembly of the State of Oregon:

(1) The President of the Senate and the Speaker of the House of Representatives join with the presiding officers of the legislatures of Washington, Idaho, Montana and California, each in appointing two Senators and two Representatives to represent Oregon on the Western States Forestry Task Force, which shall operate as a clearinghouse for opinion from all the various interests involved in the Western States forest industries, and which shall include among its duties the duty to report to the legislatures of the participating states and to the state delegations in the United States Congress concerning means of protecting and fostering the forest industries of the participating states.

(2) Copies of this resolution shall be sent to the presiding officers of the legislatures of Washington, Idaho, Montana and California.

WESTERN STATES [illegible]
TASK FORCE MEMBERS

California

Senator John Garamendi

Senator Ray Johnson

Assemblyman Barry Keene

Assemblyman Norm Waters

Idaho

Senator J. Wilson Steen (Chairman)

Senator Kermit Kiebert

Representative Gary Ingram

Representative C. Wendell Miller

Oregon

Senator Ted Hallock

Senator Mike Thorne

Representative Bud Byers

Representative Robert "Bob" Brogoitti

Washington

Senator Lowell Peterson

Senator Pat Wanamaker

Representative John Martinis

Representative Art Moreau

Montana

Senator Robert J. Brown (Vice Chairman)

Senator John Manley

Representative Dorothy Bradley

Representative Joe Kanduch

WESTERN STATES FORESTRY TASK FORCE
LISTING OF MEETINGS

Meeting #	Date	Location
#1	July 12, 13, 1974	Fairmont Hotel, San Francisco, California
#2	September 16, 1974	Haydon Lake, Idaho
#3	November 18, 1974	Benson Hotel, Portland, Oregon
#4	December 12, 13, 1974	State Office Bldg., San Francisco, California
#5	February 23, 1975	State Capitol, Helena, Montana
#6	April 26, 1975	Benson Hotel, Portland, Oregon
#7	July 28, 1975	Edgewater Hotel, Seattle, Washington
#8	January 24, 25, 1976	Hilton Hotel, Portland, Oregon
#9	May 7, 8, 1976	State Capitol Bldg., Sacramento, California
#10	March 22, 23, 1976	Statler Hilton Hotel, Washington, D.C.
#11	August 7, 8, 1976	Rodeway Inn, Boise, Idaho
#12	November 21, 1976	Davenport Hotel, Spokane, Washington
#13	January 29, 1977	Ramada Inn, Boise, Idaho
#14	March 26, 27, 1977	Portland, Oregon
#15	June 4, 5, 1977	Hyatt House, Burlingame, California

WESTERN FOREST RESOURCE COUNCIL MEMBERS
1977

Association	Representative
AMERICAN PLYWOOD ASSOCIATION 1119 A Street Tacoma, Washington 98401 Mr. M. J. "Gus" Kuehene (206) 272-2283	Mr. Paul Ehinger Edward Hines Lumber Company P. O. Box 278 Westfir, Oregon 97492 Mr. Wayne Knauf - Land Owner Com. Louisiana-Pacific Corporation 1300 S. W. Fifth Avenue Portland, Oregon 97201
ASSOCIATED OREGON LOGGERS 1413 Main Street Springfield, Oregon 97477 Mr. Carl Raynor (503) 746-4311	Mr. Russ Graves Mr. Darwin Pullen - Land Owner Com.
CALIFORNIA FOREST PROTECTIVE ASSOCIATION 1127 - 11th Street, Suite 534 Sacramento, California 95814 Mr. John Callaghan (916) 444-6592	Mr. Alfred Merrill - Land Owner Com. Louisiana-Pacific Corporation P. O. Box 158 Samona, California 95564
FEDERAL TIMBER PURCHASERS ASSOCIATION 3900 S. Wadsworth Blvd., Suite 201 Denver, Colorado 80235 Mr. Nicholas Kirkmire (303) 988-5135	Mr. Ira Lieberman Duke City Lumber Company Box 25807 Albuquerque, New Mexico 87125
INDUSTRIAL FORESTRY ASSOCIATION 1220 S. W. Columbia Street Portland, Oregon 97205 Mr. W. D. Hagenstein (503) 222-9505	Mr. Don-Lee Davidson Davidson Industries, Inc. P. O. Box 7 Mapleton, Oregon 97543
INLAND FOREST RESOURCE COUNCIL 320 Savings Center Building Missoula, Montana 59801 Mr. Howie McDowell (406) 728-1710	Mr. Richard Bennett Bennett Lumber Products, Inc. P. O. Box 49 Princeton, Idaho 83857 Mr. Ted Williams Potlatch Corporation P. O. Box 1016 Lewiston, Idaho 83501
MONTANA WOOD PRODUCTS ASSOCIATION 316 Savings Center Building Missoula, Montana 59801 Mr. Robert N. Helding (406) 728-3650	Mr. Arthur Crane Idaho Pole Company P. O. Box 1129 Bozeman, Montana 59715 Robert E. LeProwse - Land Owner Com. Champion Timberlands P. O. Box 434 Bonner, Montana 59823

Association	Representative
NORTH IDAHO FORESTRY ASSOCIATION P. O. Box 657 Coeur d'Alene, Idaho 83814 Miss Louise Shadduck (208) 667-4641	Mr. Joseph Venishnick - Land Owner Committee L. D. McFarland Company P. O. Box 670 Sandpoint, Idaho 83864
NORTHWEST HARDWOOD ASSOCIATION 1303 Terminal Sales Building Portland, Oregon 97205 Mr. David A. Sweitzer (503) 243-2094	Mr. Sandy Bremner
NORTHWEST PINE ASSOCIATION 237 Peyton Building Spokane, Washington 99201 Mr. Jim O'Donnell (509) 747-7343	Mr. Ted Young Brooks-Scanlon, Inc. Box 1111 Bend, Oregon 97701 Mr. Bill Steers Gilchrist Timber Company P. O. Box 638 Gilchrist, Oregon 97737
NORTH WEST TIMBER ASSOCIATION P. O. Box 5554 Eugene, Oregon 97405 Mr. Arnold Ewing (503) 686-9603	Mr. Nate Coleman Lane Plywood, Inc. 465 S. Bertelesen Road Eugene, Oregon 97402
OREGON FOREST PROTECTION ASSOCIATION 1326 American Bank Building Portland, Oregon 97205 Mr. James Corlett (503) 226-4562	Mr. Ron Nutting Georgia-Pacific Corporation 900 S. W. 5th Avenue Portland, Oregon 97204
SOUTHERN IDAHO FORESTRY ASSOCIATION Box 1091 Boise, Idaho 83707 Mr. Glen Youngblood (208) 384-6161	Mr. Dale Anderson Brooks-Willamette Corporation P. O. Box 758 Redmond, Oregon 97756 Mr. Gordon Crupper - Timber Purchasers Com. Edward Hines Lumber Company P. O. Box 167 St. Anthony, Idaho 83445
SOUTHERN OREGON TIMBER INDUSTRIES ASSN. 2680 North Pacific Highway Medford, Oregon 97501 Mr. Martin Craine (503) 773-5329	Mr. Richard Parrish Boise Cascade Corporation Box 100 Medford, Oregon 97501

Association	Representative
WASHINGTON FOREST PROTECTION ASSOCIATION 1411 Fourth Avenue Building Seattle, Washington 98101 Mr. William Larson (206) 623-1500	Mr. John Wilkinson Weyerhaeuser Company P. O. Box 188 Longview, Washington 98632 Mr. Vince Bosquet - Land Owner Committee Weyerhaeuser Company
WESTERN FORESTRY & CONSERVATION ASSOCIATION American Bank Building Portland, Oregon 97205 Mr. Steele Barnett (503) 226-4562	Mr. Oscar Weed Weyerhaeuser Company P. O. Box 389 North Bend, Oregon 97459
WESTERN FOREST INDUSTRIES ASSOCIATION 1500 S. W. Taylor Street Portland, Oregon 97205 Mr. Joseph McCracken (503) 224-5455	Mr. Jack Gates J-C Lumber Company Route 1, Box 239 Philomath, Oregon 97370
WESTERN LUMBER MANUFACTURERS ASSOCIATION 2445 N. W. Irving Street Portland, Oregon 97210 Mr. Ted Hallock (503) 228-5535	Mr. Mason Janes United-Alpine Lumber Company 4800 S. W. Macadam Ave. Portland, Oregon 97201 Mr. Douglas David - Land Owner Committee
WESTERN TIMBER ASSOCIATION 212 Sutter Street San Francisco, California 94108 Mr. George Craig (415) 956-0410	Mr. Gerhart Bendix H-Ridge Lumber Company Box 458 Yreka, California 96097
WESTERN WOOD PRODUCTS ASSOCIATION 1500 Yeon Building Portland, Oregon 97204 Mr. Rus Fredsall (503) 224-3930	Mr. Jay Gruenfeld Potlatch Corporation P. O. Box 1016 Lewiston, Idaho 83501 Mr. Starr Reed Simpson Timber Company 2000 Washington Building Seattle, Washington 98101

WESTERN STATES LEGISLATIVE FORESTRY TASK FORCE • 1107 9TH STREET • SACRAMENTO, CA 95814 • PHONE (916) 322 43[illegible]

15th Meeting

AGENDA
WSLFTF
June 4 and 5, 1977
Burlingame Hyatt House

Saturday, June 4

8:30	AM	Meeting called to order
8:45		Item I-Reports and discussion 1. Sealed Bidding 2. Other aspects, National Forest Management Act, 1976 3. RPA Assessment update 4. Wilderness legislation 5. Section 404, Water Pollution Control Act 6. Miscellaneous
10:00		Break
10:15		Item II-The drought and its impact on forestry
12:15	PM	Lunch
1:30		Item III-Mill closures due to limited timber supplies - Impact of factors such as Small Business Set Aside Program
2:30		Item IV-Executive Session - Personnel Matters
5:30		Recess

Sunday, June 5

8:30	AM	Reconvene. Item V-Legislative reports of states
9:30		Item VI-Staff Report on Task Force Budget
10:00		Item VII-Unfinished business
11:00		Adjourn

WILDERNESS OVERKILL

A supplement to the APA Management Report spotlighting preservationist efforts to set aside more wilderness than the nation can afford.

No. 6

July 21, 1977

National Support Needed For S. 1787...

The Only Alaska Land Management Bill That Fairly Reconciles Environmental & Economic Interests!

When Alaska was ceded to the United States by Russia 110 years ago, in exchange for the then staggering sum of $7.2 million, many citizens called the acquisition "Seward's Folly," after the Secretary of State who negotiated the purchase.

In recent years, particularly since the attainment of statehood in 1959, most Americans have become aware that in addition to its strategic significance, the immense Alaskan land and water mass, 586,000 square miles in area, is a priceless treasury of scenic grandeur and diverse natural resources of a magnitude that has not even begun to be adequately inventoried.

Alaska is a virtual sub-Continent – a state one-fifth the size of the rest of the nation. In the national interest, it's essential that narrow preservationist-backed legislative proposals affecting the state's natural resources should be set aside and more balanced solutions found, such as S. 1787. The most devastating of the environmentalist-inspired proposals, H.R. 39, would lock up as much as one-third of Alaska – or more than Illinois, Indiana, Wisconsin and Michigan combined. (Map drawn by the Cooperative Extension Service, University of Alaska)

If the far-sighted William Henry Seward were alive today, we think he would approve of this statement by Alaska's Senator Ted Stevens, to the U.S. Senate on June 30, 1977:

"Alaska is at the same time the nation's final storehouse of wilderness and resource values. Natural wonders abound and scores of species of wildlife flourish in unparalleled numbers throughout the state. Natural resources also are found in quantities not available elsewhere in the nation. Thus, Alaska is called upon to be America's principal source of supply for natural resources and also its primary showcase for wilderness and wildlife values. These demands cannot be met to everyone's satisfaction, but this does not mean that a reasonable balance between both goals cannot be struck. That balance can be found, and it is up to Congress to find it."

During recent months, in response to this challenge, Congress has been overwhelmed by legislative proposals that could deeply affect Alaska's future, as well as the national interest, for generations to come.

It is vital for Americans to realize that the great majority of these proposals—in particular H.R. 39, the Alaska National Interest Lands Conservation Act drafted by Congressman Morris Udall (D-Ariz.) with the fervent support of environmental groups—are one-sided efforts to achieve wilderness designation for vast areas of Alaska, well knowing that this designation denies consideration of numerous other values.

H.R. 39 and its counterparts will not achieve the true balance sought by Senator Stevens for the disposition of what has been called the d-2 lands issue.*

THE ONE MEASURE THAT MAKES A SERIOUS EFFORT TO REACH THIS BALANCE IS S. 1787, THE ALASKA NATIONAL INTEREST LANDS ACT DEVELOPED BY SENATOR STEVENS, ALASKA GOVERNOR JAY HAMMOND AND THE STATE'S ONE CONGRESSMAN, DON YOUNG.

Unlike H.R. 39—which would lock up about 150 million of the best of Alaska's 350 million acres as a "no development" zone and playground for wilderness enthusiasts—S. 1787 responsibly addresses the need for flexible management of Alaskan lands, fairly acknowledging the aspirations of native groups, business and tourist interests, resource development interests, and preservation groups.

*Section 17 (d) (2) of the Alaska Native Claims Settlement Act authorized the Secretary of the Interior to withdraw up to 80 million acres of vacant, unreserved and unappropriated federal public lands for study as potential additions to the national parks, wildlife refuges, forests, and wild and scenic rivers systems. Congress authorized these withdrawals to continue through 1978, at which time they will terminate by operation of law. Thus, unless this time frame is extended, Congress has approximately 18 months to make a "final" decision on the d-2 lands issue—an issue aggressively seized by preservatonist organizations and their supporters in the "lower 48" states as an opportunity to rush through Congress more legislation meeting narrow single purpose wilderness goals.

S. 1787 Offers Imaginative Plan For Cooperative Land Management

The key to S. 1787, introduced on the Senate floor June 30 by Senator Stevens, is a working partnership between federal, state and private land management that will enable Alaska to avoid the virtual downgrading to a "poor relation" territorial status that would accompany the enactment of the Udall and other extreme preservationist proposals.

It provides a realistic framework for safeguarding Alaska's unique natural heritage while encouraging a carefully considered approach to the continued development of resources for the benefit of both the regional and national economies.

The Stevens proposal suggests the addition of 25 million acres of new national parks, wildlife refuges, national forests and wild and scenic rivers. Included in these additions would be two new park units, the Gates of the Arctic and Wrangell-St. Elias National Parks, located in the central Brooks Range and South Central Alaska respectively.

TIMBER POTENTIAL RECOGNIZED

The proposal would also establish two major national forests in Alaska's interior. The areas comprising the Porcupine and Yukon Flats National Forests have been identified as containing high potential for agricultural development and timber harvest, and the establishment of these areas as national forests would allow this potential to be developed.

An imaginative aspect of S. 1787 would be the designation of 56 million acres of other lands, withdrawn under Section 17 (d) (2) as Federal Cooperative Lands to be managed by existing federal agencies, including the National Park Service, the U.S. Fish and Wildlife Service, and the U.S. Forest Service.

These lands would be managed in conjunction with the lands designated for cooperative management by the State of Alaska and private landowners under the classification authority of an Alaska Land Classification Commission that would be established by the legislation. In effect, the Commission would

function as a planning and zoning body for lands under its jurisdiction. This would allow for cooperative management and protection of entire ecosystems, avoiding piecemeal and conflicting management of land as often experienced in the "lower 48" states.

Sponsors of the legislation point out that there is considerable incentive for the State of Alaska and private landowners to dedicate lands to cooperative management. The summary of S. 1787 notes that without the dedication of a substantial amount of state lands, the cooperative management program will not be created and lands would continue to be managed by the federal government without any Alaskan participation in management and classification decisions.

It has been proposed that the eight-member Commission should consist of four Commissioners appointed by the President of the United States and four by the Governor of the State of Alaska.

S. 1787 is proof that Alaskans' plea to be heard in the Congress deserves the immediate attention and support of legislators—and citizens everywhere. *This is responsible legislation*—generously framed to allow the rest of America a full partnership role with local citizens, rather than a dictatorial role—in the management of a state that is one-fifth the size of the rest of the nation.

SPECIAL TRUST FUND PROPOSED

The measure includes the innovative and meritorious suggestion that funds derived from the cooperative management of federal lands in Alaska be placed in a special trust fund to be used exclusively for the purchase of private lands in the other 49 states which have been or will be designated as part of the national park, wildlife refuge or wild and scenic rivers system. There is a backlog of such lands, and sufficient funds for their purchase are not anticipated to be appropriated by Congress in the near future.

Alaska

LAND AND WATER

- Alaska has 375,303,000 acres of land and inland waters

OIL AND GAS

- Alaska contains 29.4 percent of *all* U.S. domestic *proven* reserves of oil
- The Trans Alaskan pipeline will provide 1.2 million barrels of oil a day or *8.9 percent of our total U.S. daily consumption*
- Alaska has 11.8 percent of *all* U.S. *domestic* proven gas reserves
- Alaska has 170 million acres of sedimentary basin (potential oil and gas deposits)

HYDRO-ELECTRIC POTENTIAL

- Alaska has 76 sites with potential for 171,839 million Kwy/year

MINERALS

- Immense deposits throughout the State. According to the Bureau of Mines, 28 out of 37 mineral commodities *now imported* into the U.S. are found in Alaska.

AGRICULTURE

- Alaska has 20 million acres with potential for agricultural crops

FOREST PRODUCTS

- Alaska has approximately 106 million acres of forest lands, including about 28 million acres of commercial grade timber

. . .AND MUCH MORE THAT HASN'T EVEN BEEN FOUND YET!

H.R. 39 Hits At S.E. Alaska's No.1 Industry

Land withdrawals proposed in H.R. 39 would do grievous harm to timber harvesting in Southeast Alaska, where the state's wood products industry is concentrated.

Industry spokesmen strongly refute nonsensical but widely publicized preservationist claims that the Tongass National Forest is being destroyed by logging. In the 16-million acre forest, Forest Service plans call for timber harvest on 4 million acres. In addition, just 280,000 acres have been harvested since 1903. This is 4.6 percent of the commercial forest land or 1.8 percent of the total national forest. Moreover, the harvested areas contain some of the most vigorously growing new stands of timber to be found anywhere in the United States.

The point is that in the Tongass National Forest there is an appropriate balance between economy and environment.

Need To Correct Hearings Imbalance

Hearings on the Udall bill, H.R. 39, were held at several locations in the "lower 48" states earlier this spring and summer. The vociferous and superbly drilled preservationist minority was quite successful in dominating testimony at several of the hearings. As the hearings process continues in Alaska through July and August, the need becomes more urgent for correction of this misleading imbalance, and for total rejection of H.R. 39 and other patently inequitable approaches!

As Senator Stevens has stated, "only now are we realizing the immensity of the decision which we created for ourselves in the passage of Section 17 (d)(2). As we approach consideration of this decision in earnest, members of Congress on both sides of the Hill are beginning to realize the tremendous burden that has been placed on us by an artificial deadline. *While there may be a need to provide some immediate protection for some d-2 lands, it is becoming obvious that it is neither necessary nor wise to make a final decision for all time on all d-2 lands in Alaska.*"

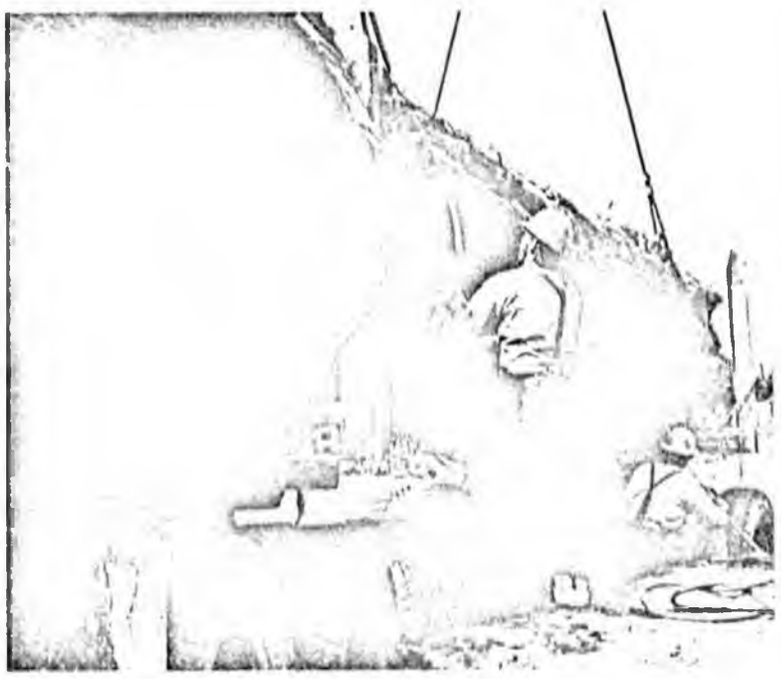
The heart of the d-2 question, Senator Stevens reminds us, is that Congress is called upon to pass final judgment on an area exceeding the combined size of the states of California and Washington, and over five times the size of the acreage presently under the administration of the National Park System created by Congress over the past 100 years.

HASTY ACTION UNDESIRABLE

The issue is of such importance not only to Alaska but to the entire nation that it demands careful, measured action rather than hasty overkill—action that will assure flexible management responsive to many needs.

The American Plywood Association wholeheartedly endorses Senator Stevens' view that S. 1787 strikes the right balance between the dual goals of environmental protection and providing for appropriate and necessary development of Alaska's resources. We strongly urge all our readers to join in the efforts to assure passage of Alaska land management legislation embodying these wise and eminently fair principles, in preference to the self-centered and economically devastating prescriptions of environmental special interest groups.

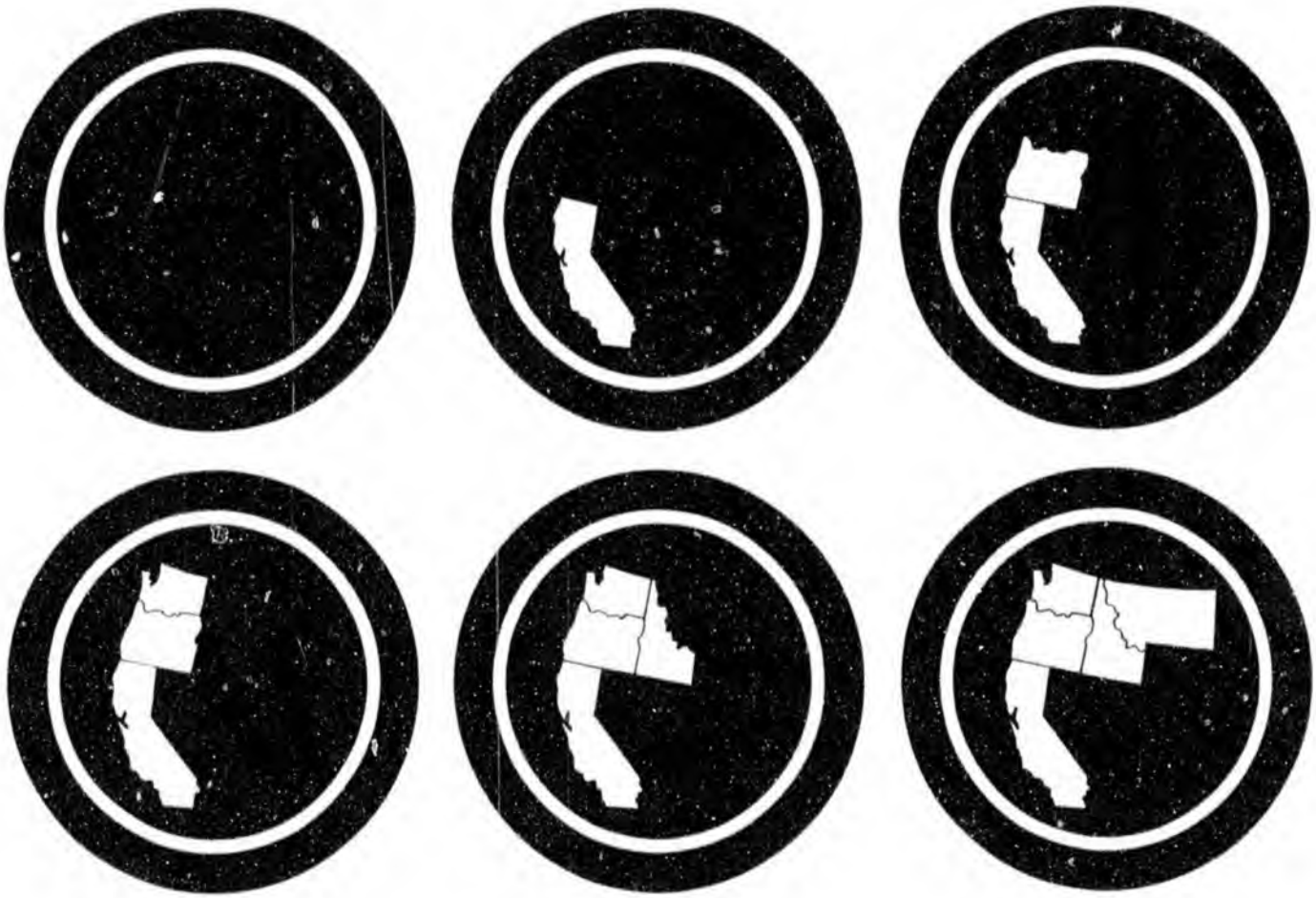
PLEASE WRITE YOUR CONGRESSMAN TODAY IN SUPPORT OF S. 1787—AND IN NO UNCERTAIN TERMS TELL THE HOUSE SUBCOMMITTEE ON GENERAL OVERSIGHT AND ALASKA LANDS (LISTED ON PAGE 5) THAT H.R. 39, H.R. 3454, AND OTHER ONE-SIDED PROPOSALS DESERVE DECENT BUT IMMEDIATE BURIAL!



Harvesting the over-mature, dead and dying coastal forests of Southeast Alaska allows for the growth of healthier trees, as well as providing jobs in the timber industry and badly needed wood products for the public. (Pictures courtesy Alaska Loggers Association)

WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE
1st ANNUAL REPORT

DECEMBER 15, 1976



MEMBERS - WESTERN STATES LEGISLATIVE FORESTRY TASK FORCE

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VICE-CHAIRMAN, Senator Ted Hallock

CALIFORNIA

Senator Randolph Collier *
Senator Lou Cusanovich
Assemblyman Barry Keene
Assemblywoman Pauline Davis *

IDAHO

Senator J. Wilson Steen
Senator Kermit Kiebert
Representative Israel Merrill *
Representative Gary Ingram

MONTANA

Senator Joe Roberts
Senator Bob Brown
Representative William Gwynn *
Representative Joe Magone *

OREGON

Senator Ted Hallock
Senator Mike Thorne
Representative Dick Bonebrake *
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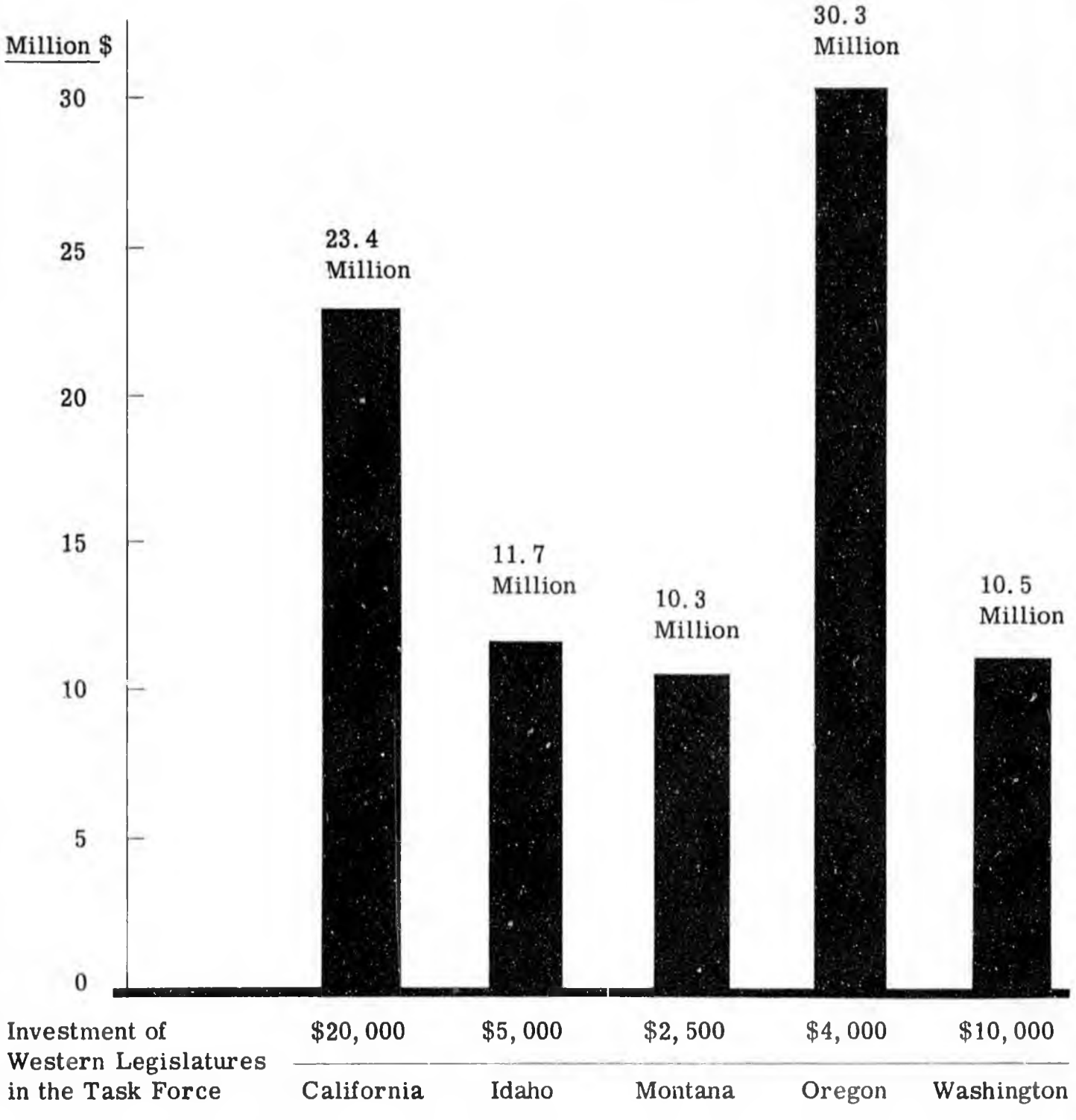
* These members worked on the Task Force until January 1977, but for various reasons will be replaced for the next biennium.

TASK FORCE IN ACTION *

Small legislative investment helped influence increases in federal dollars paid to local governments in the Western States:



* Increase in federal dollars.

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OVERVIEW

Mandate

- Monitor policy of federal agencies and Congress with respect to public resource lands of the West.
- Develop coordinated actions to assure maximum public benefit from management of Western forest resources.
- Develop and coordinate new forestry programs of mutual benefits to the Western States.

Current Programs

- Review proposed congressional forestry legislation.
- Review federal agency actions affecting Western public resource land.
- Review federal agency program and budget needs affecting forestry in the West.
- Review new state forestry programs which could be of mutual benefit.
- Review forestry program proposals of various interest groups and adapt such proposals to the benefit of the Western States.

Action in 1976

Via resolution or testimony in person in Washington, D. C., the Task Force called on Congress to:

- Firmly set into law the authorization to sell timber in national forests and to give the Forest Service flexibility to manage timber subject to environmentally sound guidelines.
- Increased payments to local governments to offset tax losses and larger service requirements caused by federal land ownership.
- Give states maximum control in developing water quality standards on forest lands.
- Provide direction to on-going land use planning in the national forests by establishing national priorities and use goals.

At a specific program level, the Task Force urged Congress to:

- Maintain present levels of federal funds allocated to federal-state cooperative fire protection programs.
- Accelerate access roading in selected areas of the national forests.
- Promote programs for greater wood fiber availability via utilization and reforestation.
- Focus attention on programs to diminish damage caused by forest insects and to increase salvage of

the damaged trees.

Congressional Response

Congressional actions in which the Task Force played a role:

- National Forest Management Act passed to permit sale of timber from national forests and to give U.S. Forest Service management flexibility.

- Payments in Lieu of Taxes Act passed, authorizing about $37.2 million which could be paid to local governments in the member states with qualifying federal lands; legislation passed authorizing an increase approximately $49 million in member states' share of National Forest timber sales receipts.

- Legislation clarifying role of states in setting water quality standards passed both houses, died in conference committee.

- Legislation passed requiring additional information upon which Congress can establish priorities for the national forests; however, no hearings were held to discuss programs that have been recommended for the national forests.

At a program level:

- Cooperative fire fighting funding largely maintained, preserving approximately $3 million for the member states.

- Congress increased federal share of road construction allowing for possibly more access roading.

- Legislation passed calling for greater wood fiber utilization and authorizing up to $200 million for reforestation.

- Congress ordered completion of a Forest Service study on forest insect problems in the West to provide direction and expected funding levels of programs to reduce the impact of forest insects.

CREATION OF THE TASK FORCE

The clash of concerns over jobs and the environment is seldom more clear or vocal than in the debates over the use of the forest resources in the West. This is not surprising. Harvesting and processing of timber, from both public and private land, comprises a mainstay of the economic well-being of thousands of people. At the same time timberland, especially that in the public domain, is subject to intense multiple use pressure. Many of these uses conflict with harvesting timber or serve to point out environmental damage that occurs through such operations.

Since it can pass laws affecting land use and because it owns a substantial amount of the forest resource in the West, the federal government strongly influences the region's welfare. Seemingly minor changes in federal policies can set off major controversies between regional and even national interests and, in turn, become major policy issues.

There seems to be little likelihood that these issues will diminish. By 2020, according to an assessment made under the Resource Planning Act:

- All major recreation activities will increase 50-400%.
- Demand for range forage will increase by 60%.
- Consumptive use of water will rise by 50%.
- Use of wildlife and fish resources will grow greatly.
- Timber demand will double.

The national forests and private timberlands will be under heavy pressure to meet these demands.

Yet, it is critical that we recognize the need to preserve for future generations the freedom of choice to meet new and developing needs. Under the pressure to meet today's growing demands, there is the danger of destroying future options by committing forest lands to uses with irrevocable impacts on the land.

As the forest resource is vitally important to the West and as federal policies directly affect this resource, it is essential that the Western States play a stronger role in the development of federal policies affecting public and private resource lands. This need compelled the state legislatures of California, Idaho, Montana, Oregon and Washington to form, from within their memberships, the Western States Legislative Forestry Task Force in 1974. The Task Force was charged with developing coordinated actions to assure the maximum benefit from the management of all of the region's forest resources.

The Task Force consists of two representatives and two senators from each of the legislatures of the member states. It meets approximately every two months to review national legislative proposals and to analyze actions and budgets of federal agencies having jurisdiction on public resource

lands. Testimony is taken from experts in various forestry-related fields, viewpoints are exchange with various interest groups, and action is taken on common problems.

THE 1976 YEAR - POLICY AREAS

Major Forestry Legislation Passes Congress

The major forestry issue in Congress this year was legislation proposed to rewrite the enabling laws and management directives of the Forest Service. The need for this legislation came from a court decision regarding the Monongahela National Forest in West Virginia which severely limited the ability of the Forest Service to market timber. In response to this decision, timber sales were halted in four Southern States.

Task Force action was sparked when the Monongahela precedent was applied in a decision affecting timber sales on the Tongass National Forest in Alaska, and was thought to jeopardize sale of national forest timber in the five Western States. Because of the gravity of this issue, the Task Force journeyed to Washington, D. C. in March to meet with congressmen and various interest groups. After discussing the issue personally with many of the Western senators and representatives, the Task Force adopted a position calling for support of management flexibility for the Forest Service. This position was made known to Western congressmen in person and through testimony to the Forest Subcommittee of the House Agriculture Committee. It was also vigorously pushed throughout the ensuing congressional debates over proposed forestry legislation.

After considerable debate, each house passed a different bill. In October, the conference committee agreed on major forestry legislation, S. 3091. In October, President Ford signed S. 3091 into law as the National Forest Management Act of 1976.

This Act is favorable to Western forestry and contains a number of items advocated by the Task Force. The Forest Service is given authority to sell timber and flexibility, subject to environmental guidelines, to manage the forest resource in appropriate ways.

Task Force members regard passage of this law as an indication that the Task Force can help provide Congress with input necessary for developing pragmatic forestry legislation. The Act provides the foundation for a strong timber economy in the West. Of equal importance, major steps are taken towards preserving and maintaining the forest resource base.

Payments to Local Governments Increased

One of the major concerns of the Task Force is the impact on the local tax base of the high proportion of land owned by the federal government in the Western States. On many of these lands, national parks and wilderness areas, for example, no federal payments are made. In addition, where payments are made, they are sometimes not sufficient to reimburse local government for providing services to people

using the areas.

As a result of this concern, the Task Force strongly supported legislation before the 94th Congress that provided for greater payments to local governments. Specifically, the Task Force actively pushed the National Forest Management Act of 1976, which adds about $49 million to local payments, and the Payments in Lieu of Taxes Act, which increases local payments by about $37 million. In passing both of these acts, Congress potentially has added over $86 million to the financial base of local governments. This is indicated on page ii of the Report.

The National Forest Management Act was signed into law in October, 1976. The Act contains a provision supported by the Task Force which will increase the payments to counties for roads and schools. Presently 25% of all monies received from each national forest must be paid to the state for distribution in the county of origin for roads and schools. These payments are based on the stumpage value of the timber sold. The National Forest Managment Act of 1976 adds to this value the worth of reforestation expenditures and timber purchaser credit road allotments.

The increased base means more dollars to local government. For the five Western States, the increased payments each year will be approximately:

California	$12.6 million
Idaho	2.4
Montana	1.4
Oregon	25.7
Washington	6.9
	$49.0 million

Also in October, 1976, the President signed into Law H.R. 9719, the Payment in Lieu of Taxes Act. This Act sponsored by the National Association of Counties and advocated by the Task Force staff in a special trip to Washington, D.C. to discuss the issue with Western congressmen, provides for payments to local governments for the first time on a large federal acreage.

This Act provides for maximum payment of 75¢ per acre to counties within whose boundaries are located certain federal lands. Lands include National Park lands, wilderness areas under jurisdiction of the U.S. Forest Service, National Forest lands, lands administered by the Bureau of Reclamation, and lands utilized as reservoirs as part of water development projects under the Army Corps of Engineers or Bureau of Reclamation.

Current federal payments to these counties are not reduced. There is, however, a payment ceiling based on population and total current payments. If existing payments exceed 75¢ an acre, then an additional 10¢ per acre, limited by population, is provided for general expenditure by the counties.

Upon appropriation by Congress, the Payments in Lieu of Taxes Act would bring over $37 million each year to member states of the Western States Legislative Forestry Task Force. By state, these values are:

California	$10.8 million
Idaho	9.3
Montana	8.9
Oregon	4.6
Washington	3.6
	$37.2 million

The Task Force members see the $37 million from the Payments in Lieu of Taxes Act and the $43 million from the National Forest Management Act of 1976 as major gains for local governments in the Western States. These firmly establish a federal commitment to reimburse local governments for services rendered to users of federal lands. Of equal importance, they indicate the size of the federal commitment in Western public lands and reaffirm the need for a group such as the Western States Legislative Forestry Task Force to speak for the interest of the Western States.

Progress Made on Water Quality Role of States

For a number of months the Task Force has been concerned about the impact of the Amendments to the Federal Water Pollution Control Act of 1972. This concern has been centered on two portions of the Act, Section 404 and Sections 208 and 303.

Section 404 provides the Secretary of the Army and the Administrator of the Environmental Protection Agency with authority to regulate "the discharge of dredged or fill material into the navigable waters at specific disposal sites". A U.S. District Court decision in 1975 defined navigable waters as all waters of the United States and required the Army Corps of Engineers to develop revised regulations which expanded its dredge and fill authority to include normal forestry and agriculture activities.

The Task Force strongly objected to the extension of Corps permit authority to normal forestry operations. Traditionally, states, not the Corps, have had responsibility for controlling the effects of timber harvesting and have, in recent years, strongly exercised this authority in the West. In addition, under another section of the Amendments to the Water Pollution Control Act, the Environmental Protection Agency is monitoring state laws regulating water quality from forestry operations.

In an effort to reverse the court decision, the Task Force actively supported attempts in Congress to remove the permit authority of the Corps from forestry operations. The House and the Senate passed different bills (H.R. 9760 and S. 2710) which would have allowed state control. However, a major difference over regulation of wetlands could not be resolved and the bills died in conference committee.

During the congressional debate, the Task Force staff again journeyed to Washington to explain the views of the Task Force to the Western congressional delegations. These meetings with congressmen played a major role in obtaining an exemption of forestry operations from Corps permit authority. More importantly, the principle was clearly set forth that Western States possess the right and responsibility to regulate their forest resources.

Although no legislation was passed, the Task Force feels that considerable progress was made in clarifying with Congress the role of states in regulating private forestry. The Task Force plans to reiterate this position in the next Congress and to once again support

legislation to limit Corps permit authority.

Within the Western States, the Task Force is concerned over the impact of Sections 208 and 303 of the Water Pollution Control Act Amendments of 1972. Section 303 requires that each state have a continuing statewide planning process dealing with water quality standards and implementation that is approved by the Environmental Protection Agency. Section 208 requires that areawide waste treatment management plans be prepared for areas with potential water quality problems, including regulatory programs to control all point and non-point sources of pollution.

In a court suit over these sections, it was ruled that Section 208 planning must be done for all areas of the state rather than just those areas facing water quality problems. Although the decision has been appealed, the EPA has promulgated its final planning regulations. Under these regulations, states are responsible for developing and implementing a program of control non-point sources of water pollution. A state may prescribe "best management practices" which are the required non-point source control programs.

Forestry operations are termed non-point source operations as they do not cause pollution from a single outlet and consequently, are subject to regulations calling for best management practice regulations.

As regulations can prescribe specific harvesting techniques which must be followed, Sections 208 and 303 have a potentially major impact on state forest practice laws. At the very least, the impact of these sections will be to force a review of the effectiveness of present laws. At the other extreme, the Environmental Protection Agency could probably dictate a forest practice act to the state.

The Western States Legislative Forestry Task Force, recognizing both the urgency to protect water quality and the need that the states, not a federal agency undertake this function, have instructed the staff on monitor developments. As the Task Force views water quality control as a critical aspect of forestry problems in the West, it plans to seek pragmatic, effective regulations.

Need for Congressional Priorities and Targets for Forestland Use

A major concern to the Task Force is the fact that Congress has not yet established clear priorities and targets for all uses on the national forests. Until such priorities are set, the Forest Service has no clear guidelines for its planning procedures and must use its own judgement about the optimum combination of uses. Under such circumstances, it is subject to severe pressure from special interest groups. As the planning process is completed in this atmosphere and the land base is allocated to various uses, the nation may find its forestland options restricted by action of a federal agency without specific congressional direction.

A vehicle for examining priorities was developed when Congress passed the Forest and Rangeland Renewable Resources Planning Act of 1974. Under

this legislation, the Forest Service was to assess the forest resource, prepare a series of possible development options, and make a recommendation for a program to be approved and funded by Congress.

In 1976 the Forest Service submitted a program for congressional approval. Congress, so far, has not critically examined the program and has not committed the level of funding needed to sustain the recommended program.

Congress, however, has taken steps to obtain information necessary to a critical examination of any programs recommended for the national forests. Under the National Forest Management Act of 1976, the Secretary of Agriculture is required to report on the potential for increasing wood fiber utilization and wood products recycling. In addition, an increased inventory was directed of the non-timber aspects of the national forests. Requirements for data to evaluate the long term cost and benefits of the program are also strengthened.

The Task Force believes that these steps indicate that Congress intends to examine the recommended program for the national forests. While members of the Task Force are pleased with the National Forest Management Act of 1976, the Task Force feels that too much uncertainty still surrounds the programs recommended under the Resources Planning Act. As decisions made about these programs will have far-reaching effects in the West, steps must be taken to clarify congressional priorities and funding commitments. For this reason the Western States Legislative Forestry Task Force has urged Congress to undertake hearings on the recommended program, to set clear priorities for all forest uses, and to reaffirm the commitment made to a strong multiple use forestry program by augmenting the budget of the Forest Service.

PROGRAM AREAS

Congress Maintains Cooperative Fire Funding

The Task Force, joining with the National Association of State Foresters, asked Congress to maintain a cooperative fire program that provides over $3 million a year in federal funds to the member states for fire control.

Under Section 2 of the Clarke-McNary Act (CM-2) the Forest Service is authorized to help states develop and fund cooperative fire protection programs with the states. Over the years, CM-2 programs have been among the most effective and justifiable cooperative programs. National expenditures have grown to over $23 million with the share of the five Western States being over $3 million. These funds have become an integral part of the member states' firefighting budgets, representing, for example, 21% of Idaho's fire prevention funds.

The Administration in the 1976 Budget had proposed to halve the funding and then to terminate the program in 1978. On the recommendation of the Task Force, the National Association of State Foresters, and others, Congress rejected the Administration's proposal and provided $20 million nationally. About $ million will flow to the Western States.

Greater Federal Role Assumed in Road Building

The Western States Legislative Forestry Task Force believes that one of the major factors slowing management of the national forests, particularly in the West, is that roads have not been constructed to provide access. Many miles of roads still need to be constructed to permit timber management, recreational activity, and other forest uses demanded by a large segment of the population. Roading is also a key element in increasing salvage and management in diseased and dying stands of trees.

The Task Force has taken an active role in trying to identify roading needs and in urging that Congress focus on roading questions. The Task Force has felt that such a focus could lead to greater federal appropriations designated for national forest road development which would facilitate resource protection and management capabilities.

Discussion of roading questions on the national forests took place in the 94th Congress, both in the budget hearings and in the debates over the National Forest Management Act of 1976. In the budget hearings, Congress agreed that the federal government should assume a larger role in road building on the national forests and raised the general appropriation for roads by about $38 million. However, because of an offsetting decrease by Congress in money available to permit timber purchasers to build roads, the $38 million does not significantly increase the

number of miles of access roads that will be constructed.

In the National Forest Managment Act of 1976, Congress has also indicated a greater reliance on general appropriations for road building. In an effort to increase the competitive posture of small timber purchasers, a provision was added that would allow these purchasers the option to request that the Forest Service construct roads. Also, in an action supported by the Task Force, Congress reaffirmed a current policy that requires that the Forest Service must use appropriated funds to construct roads of a quality superior to those strictly required for seasonal transportation of forest products. This policy is necessary to insure that the costs of roads designed for public use should be borne by the public and not by the timber purchasers.

These actions of the 94th Congress are generally consistent with Task Force thinking. However, the Task Force believes that more money will be necessary to support an accelerated program of access roading. The Task Force recognizes that complex questions and trade-offs are raised by speeding the access road program. Access roads, for exampie, can severely conflict with desires that some areas be classified or studied as wilderness. In addition, there is a great need to coordinate an accelerated access roading program with a final determination of lands that are to be withdrawn from timber production.

Still, consistent with this recognition, the Task Force supports a greater level of funding for access roading in selected areas of the Western national forests. In the coming year the Task Force will work to help select areas needing access roads and will attempt to obtain the level of funding necessary to construct these roads.

Greater Wood Utilization and Reforestation Planned

A recurring theme at the 1976 Task Force meetings was that valuable timber assets are being lost by failing to reforest understocked lands and by wasting usable material at harvest sites. The loss of these assets is particularly acute in the Western States. About one million acres of national forest land needs to be restocked. In addition, a large amount of wood fiber is left on the ground at harvest locations.

Since the pressure is constantly increasing to provide more wood fiber from the national forests, the Task Force strongly feels top priority must be given to thriftier utilization and accelerated reforestation. As early as 1974 and continuing through 1976, the Task Force has requested that the Forest Service and Congress focus attention on problems of reforestation and underutilization.

The 94th Congress was particularly receptive to requests for greater wood fiber utilization. The National Forest Managment Act of 1976 requires that the Secretary of Agriculture assess the potential for greater wood fiber production and utilization and for more wood product recycling. In addition, the Secretary of Agriculture is required to develop utilization standards

and harvesting practices to promote more effective wood use.

Congress also took strong action to reforest understocked national forest lands. Under the National Forest Management Act of 1976, Congress has authorized $200 million annually for reforestation and has instructed that the backlog of understocked acres be reforested within eight years.

The Task Force believes that these actions positively address the needs for more efficient and thorough use of the national forest resources. As it is a large task to reforest and to increase the utilization from national forests in the West, the Task Force plans to monitor these programs and to work for their effective implementation.

Congressional Action Needed on Insect Problems

Estimated annual timber mortality in the four western regions of the U.S. Forest Service totals 1.95 billion board feet lost to insects and 1.85 billion board feet lost to disease as compared to only 140 million consumed by fire. An example of the impact of insect and disease mortality is that a billion board feet of timber is enough to build 900,000 housing units, each with 11,000 board feet of lumber.

Of the amount of timber lost to insects and disease, only a small part is harvested each year. Prompted by the staggering losses and meager salvage, the Task Force has petitioned Congress to take steps to reduce losses and to raise harvest levels of diseased and dead material. These steps include completion of a major survey of insect problems, expanded insect research and control programs, improved pesticide registration procedures, more funding for intensive management programs, and better cooperative prevention programs.

The Task Force, in particular, is pressing for highly accelerated access roading in carefully selected areas and for rapid completion of land use planning in insect prone areas. These steps are prerequisites to effective management and salvage programs.

With the input of the Task Force and others, Congress has recognized the existence of insect and disease problem and possible solutions. Thus Congress has, in budget language, directed completion of a forest insect study by the Forest Service. This analysis, entitled the Western Forest Insect Issues Study, should be available by early in 1977. It is intended to provide needed cost and benefit data on various program proposal.

The Task Force firmly believes that Congress must take action to reduce the amount of timber lost to insects and disease. Consequently, it is the intent of the Task Force to aggressively support congressional funding for programs necessary to meet the insect and disease problems of the Western forests.

THE FUTURE

Aggressive Task Force Action Planned Next Two Years

Based on success to date, the Western States Legislative Forestry Task Force plans an aggressive program for the next biennial period. The Task Force will continue to monitor proposed congressional legislation and to actively advocate the common interest of the Western States in forestry legislation.

The Task Force staff has travelled to each state in an effort to become familiar with regional and local problems and to lay the groundwork for a series of meetings in 1977. These meetings will deal with six areas of critical importance to Western forestry. They are:

1/ Review of the impact of the increasing number of federal laws affecting forestry on private and public lands.

Federal laws affecting use of forest lands in the West have proliferated greatly. No analysis has yet been completed that clearly spells out limitations and extra costs imposed by this growth of legal requirements. The Task Force considers an inventory of the laws and their impact to be an essential element to policy coordination and improvement.

2/ Selective analysis of the budget needs of the Forest Service in each of the Western regions.

The budget process of the U.S. Forest Service, especially as a result of the current implementation of the Resources Planning Act, is extremely complex. As the major management agency on Western public forestland, program needs and performance of the Forest Service are crucial to the interests of the Western States. Consequently, the Task Force believes that it should carefully analyze and, where necessary, work to improve selected programs of the Forest Service. This analysis will also provide information necessary to advocate programs of special Western interest before Congress.

3/ Definition and promotion of areas needing congressional action on the Resources Planning Act.

In 1974, Congress passed the Forest and Rangeland Renewable Resources Planning Act. Commonly called the "Resources Planning Act", this law is the basic planning and budgeting document for the U.S. Forest Service. Under the Act the Forest Service is required to present a recommended program with funding requests to Congress. Congress, then, will review the program and funding needs.

Congress has not yet reviewed the recommendations made by the Forest Service. Because of the

potentially great impact that the recommended program will have in the West, the Task Force will attempt to have Congress review the program next year and to set priorities to guide planning on the national forests.

4/ Analysis of state efforts under federal guidance to control water quality impacts from forestry operations.

A major Task Force concern is the impact of the regulations of federal agencies on water quality control laws in the Western States. An analysis of the entire water quality area is therefore planned.

5/ Development of strong programs for forest insect and disease control.

The Task Force is greatly concerned over the nearly 4 billion board feet of timber lost each year to insects and disease. Strong action is planned to develop and fund appropriate management and control programs.

6/ Review programs for state and federal incentives for forestry on private lands.

One area which has had little attention is the use of federal funds to encourage private timber owners, particularly small owners, to plant trees and manage forestlands. A number of slightly funded federal programs currently exist but, in total, have little impact in the West. The Task Force believes incentives programs should be reviewed critically. It is particularly important to establish the effectiveness and the level of funding that would be required to fully implement a meaningful program.

Expansion Planned

The Task Force, in an effort to significantly expand the amount of national forestland represented by the Task Force, is extending an invitation to the state of Alaska to join the membership. With addition of Alaska, the Task Force would represent about 70% of the volume of softwood growing stock and about one quarter of all the commercial timberland in the United States.

As such it can speak effectively for the forestry interests of the Western States. More importantly, it can speak as the pragmatic voice of practitioners of public policy and can present a unique and vital addition to the development of the nation's forest policy.

TASK FORCE INCOME AND BUDGET

The Western States Legislative Forestry Task Force is funded entirely from appropriations by the state legislatures of the member states. For the biennium 1975 thru 1977, the Task Force income originates as follows:

State	Appropriation	Billed and Recieved	To Bill (Assuming Reappropriation)
California	$20,000 (annual)	$20,000	$10,000
Idaho	5,000 (annual)	5,000	2,500
Montana	2,500 (biennial)	2,500	-
Oregon	4,000 (biennial)	4,000	-
Washington	10,000 (biennial)	10,000	-
		$41,500	$12,500

The Task Force commenced staff operations in February, 1976. The biennial budget has therefore been prorated over 17 months. This is a monthly expenditure of approximately $3,200.00. It should be noted that for a full biennium the monthly budget would be about $2,800.00.

For the 1976-1977 fiscal year the Task Force adopted the following monthly budget guide:

1/	Staff payments	
	a. Executive Secretary	$1,500
	b. Stenographer	400
2/	Office rental and utilities	125
3/	Office supplies	40
4/	Phone	250
5/	Publications and mailings	65
6/	Travel	400
7/	Miscellaneous costs	120
8/	Operating reserve	275
		$3,175

At a business meeting in December in Spokane, the Task Force adopted a staff support budget for the next biennium of $76,500. A new formula for sharing the staff support budget was also adopted.

The formula, based on ability to pay and benefits received, is indicated on the next page:

As a measure of benefit it is possible to use the net volume of softwood sawtimber on commercial timberland in the United States as of 1970, (The Outlook for Timber in the United States, Appendix I, p. 245).

	Volume (Million BF)	% Total in West
California	271,671	21.7
Idaho	130,986	10.4
Montana	100,925	8.1
Oregon	434,671	34.9
Washington	309,802	24.9
	1,248,055	100.0

As a measure of ability to pay, it is possible to use the general revenues for each state in 1975, (State Government Finances in 1975, Table 3, Financial Aggregates: 1975, p. 9).

	Revenue	% Total in West
California	$ 15,628 million	75.0
Idaho	527	2.6
Montana	505	2.5
Oregon	1,534	7.3
Washington	2,631	12.6
	$ 20,825	100.0

Weighting each of these factors equally gives the following combined share of any proposed budget:

	Factor		
State	Ability	Benefit	State Share
California	75.0%	21.7%	48.35%
Idaho	2.6	10.4	6.45
Montana	2.5	8.1	5.30
Oregon	7.3	34.9	21.15
Washington	12.6	24.9	18.75
	100.0	100.0	100.00

Using these percentages the $76,500 budget is allocated as follows:

	Formula Percentage	Share of Total $76,500 Budget
California	48.35	$36,987.75
Idaho	6.45	4,934.25
Montana	5.30	4,054.50
Oregon	21.15	16,179.75
Washington	18.75	14,343.75
	100.00	$76,500.00

TASK FORCE MEETINGS AND WITNESSES

Portland, Oregon
January 23, 24 and 25, 1976

Mr. John Crowell, Chairman, National Forest Products Association Monongehela Task Force

Mr. Bill Clothier, Environmental Protection Agency Region 10, Seattle

Mr. Donald E. Lawyer, United States Corps of Engineers, Portland

Dr. Barney Dowdle, College of Forest Resources, University of Washington

Dr. John L. Walker, Director of Resources Services, Simpson Timber Company, Seattle

Washington, D. C.
March 22, 1976

Dr. Dennis LeMasters, Society of American Foresters, Washington, D. C.

Mr. Joseph McGraff, General Counsel, National Forest Products Association, Washington, D. C.

Dr. John Muench, Chief Economist, National Forest Products Association, Washington, D. C.

Mr. Brock Evans, Chief Legislative Advocate, Sierra Club, Washington, D. C.

Mr. John Davenport, Western Forest Industries Association, Portland

Sacramento, California
May 7 and 8, 1976

Mr. George Craig, Western Timber Association, San Francisco

Mr. Joe McCracken, Western Forest Industries Association, Portland

Mr. Bob Robertson, National Association of Independent Lumbermen, Washington, D. C.

Mr. Mike Harter, Consultant to the Advisory Commission on Intergovernmental Relations, Washington, D. C.

Mr. George Cook, County Supervisors Association of California, Sacramento

Mr. Doug Leisz, Regional Forester for Region 5, U.S. Forest Service, San Francisco

Mr. Bob Ground, United States Forest Service Region 5, San Francisco

Mr. Bob Tyrrel, U.S. Forest Service, Region 6, Portland

Mr. Keith Thompson, U.S. Forest Service, Region 1, Missoula

Mr. John Thompson, Georgia Pacific Corporation, Portland

Mr. John Birch, California Office Bureau of Land Management, Sacramento

Mr. Bob McCarthy, California Office Bureau of Land Management, Sacramento

Mr. Larry Morandi, Council on Inter-governmental Relations, San Francisco

Boise, Idaho
August 7 and 8, 1976

Ms. Louise Shadduck, Idaho Forest Industry Council, Coeur d'Alene

Mr. Dave Graham, U.S. Forest Service, Region 6, Portland

Mr. Bill Carter, U.S. Forest Service, Umitilla National Forest, Oregon

Mr. R. J. Bruning, Special Assistant to Governor Andrus, Boise

Mr. Jay Gruenfeld, Potlatch Corporation, President, Western Forest Resource Council

Mr. Glenn Parsons, Boise Cascade Corporation, Le Grande, Oregon

Mr. John McGhehey, Boise Cascade Corporation, Le Grande, Oregon

Mr. George Kline, Staff Member of Senator Frank Church, Idaho

Mr. Harold Geren, Environmental Protection Agency, Boise

RESOLUTIONS: 1974 TO PRESENT

As this document is the First Annual Report of the Task Force, a chronological record is presented of the resolutions adopted by the Task Force since its inception in 1974.

At the first meeting in mid-1974, a number of issue areas were assigned to Task Force members for special study. After three more meetings involving testimony from a wide range of experts, the investigations of Task Force members led to a series of findings and recommendations adopted in December, 1974.

New issues appeared in 1975 and after considerable study led to resolutions presented in the record. Not included in the record are several letters documenting the role of the Task Force in urging the Environmental Protection Agency to utilize DDT to control tussock moth infestations.

With the hiring of full time staff in 1976, the Task Force greatly increased its visibility. The main form of action is the Task Force resolutions, with vigorous follow-up by letter and personal contact. The 1976 resolutions are presented as part of the record.

FORWARD

The Western States Legislative Forestry Task Force is a permanent fact-finding body created in 1974 by the State Legislatures of California, Oregon, Washington, Idaho and Montana. Comprised of four legislators from each of the five member states, the Task Force is charged with the development of coordinated policies to guide the actions of federal agencies and the states so as to assure the maximum public benefit from the management of western timber resources, including those under federal juridiction.

On the basis of prior public hearings conducted in Idaho, Oregon and California, the Task Force adopted the following policy recommendations at its December 12-13, 1974 meeting in San Francisco.

PUBLIC EMPLOYMENT

Findings

Due to inadequate congressional appropriations, there exists a substantial backlog of reforestation and timber stand improvement work which needs to be undertaken on national forest system lands. In its February, 1974 report to the Congress, the Office of the Comptroller General urged that such work be funded to assure that future national timber demands are met. Current economic conditions have resulted in severe unemployment in the timber resource areas of the West. Increased public employment authorizations, particularly the recent expansion of the Comprehensive Employment and Training Act program, provide important opportunities for undertaking the recommended improvements on national forest lands.

Recommendation

It is recommended that Congress and the President of the United States provide the funding and authority necessary to expand public employment on the national forests directed at reforestation, timber stand improvement and related tasks in order to alleviate unemployment in the timber resources areas of the West and to assure future timber supplies for the nation.

It is recommended that each western state pursue, on an emergency basis and in cooperation with appropriate federal officials, the identification of specific public employment opportunities on national forest lands.

TIMBER SALVAGE

Findings

In its recent report on the subject to the Congress, the General Accounting Office concludes that the annual loss of timber due to natural mortality is equal to that amount harvested each year

from the national forests. Salvage or sanitation sales to recover dead or dying trees are, due to their small size and scattered location, difficult to negotiate under the limitations prescribed in existing federal law. The modernization of these limits or, in the alternatives, the express authorization of funds for the conduct of salvage or sanitation sales would contribute both to the biological integrity of the national forests and to the increased availability of forest products.

Recommendation

It is recommended that the Western States Legislative Forestry Task Force consult with the Chief of the United States Forest Service and interested members of Congress toward identifying the most effective means of expanding salvage and sanitation timber sales on the national forests.

NATIONAL ENVIRONMENTAL POLICY ACT

Findings

The National Environmental Policy Act has given increased visibility and improved public access to decisions affecting the management of the national forests. We heartily support such a purpose. Implementation of the Act has been handicapped, however, by inadequate statutory definition of those agency activities which come within its provisions requiring the preparation of environmental impact statements. Further, funds for implementing the Act (estimated at $22 million per year) have not been expressly authorized by Congress, but have been diverted, instead, from necessary on-going national forest protection and improvement programs.

The inadequacy of statutory standards and the insufficiency of implementation funds have given rise to litigation which has unnecessarily and unreasonably restrained the legitimate utilization of national forest resources.

Recommendation

It is recommended that appropriate committees of the Congress conduct oversight hearings concerning the impact of the National Environmental Policy Act on national timber management programs. Such hearings should evaluate the causes of legal actions currently restraining timber harvest programs and seek remedies to such disputes through the development of more precise statutory standards to guide implementation of the Act.

It is recommended further that funds for the implementation of the National Environmental Policy Act be so designated in the budget of the United States Forest Service in lieu of the present practice of diverting resource protection and improvement funds for such purpose.

FOREST ROAD FUNDING

Findings

United States Forest Service road construction standards, when applied to the development of roads required as a condition to timber sales, result in

roads which are superior in quality to those strictly required for the seasonal transport of forest products. The costs of such roads, beyond those costs properly allocable to timber sales activities, should be borne by the general public. Further, the excessive road development costs currently charged to timber sales reduce the net receipts from such sales and correspondingly reduce the shared revenue entitlements of local governments.

Recommendation

It is recommended that the United States Forest Service revise its policies for the allocation of costs to forest road developments to more accurately reflect the full range of public benefits accruing from improved national forest road facilities.

It is recommended, further, that Congress increase appropriations designated for national forest road development in order to facilitate resource protection and management capabilities and to enhance public use and enjoyment of the national timberlands.

RESOLUTION - FEBRUARY 22, 1976

RELATIVE TO THE CHRISTMAS TREE INDUSTRY

The Western States Legislative Forestry Task Force finds that the Christmas tree industry represents an important economic activity within the member states. The Task Force is concerned by evidence presented to it that U.S. Forest Service officials have failed to recognize adequately the potential role of the national forest system in the production of Christmas trees and, thereby, have diminished Christmas tree harvest opportunities, adversely affected the domestic Christmas tree industry and reduced economic opportunities in the forest industry communities.

The Task Force recommends that the U.S. Forest Service review Christmas tree culture and harvest activities on the national forest system, in cooperation with persons knowledgeable about the Christmas tree industry, toward devising policies and programs to enhance Christmas tree production thereon.

RESOLUTION - JULY 26, 1975

RELATIVE TO AMENDING THE WILDERNESS ACT TO PROVIDE A TIMBER REPLACEMENT PROVISION THEREIN

The Western States Legislative Forestry Task Force, having evaluated the national Wilderness Act program, finds that the unrestrained inclusion of public commercial forest land in the Wilderness Preservation System threatens to substantially diminish the timber production base of certain units of the national forest system, reducing, thereby, timber-related economic activity vital to the welfare of the people of the Western States.

The Task Force has determined that, in addition to wilderness classifications, other factors, such as disease and fire, have diminished the net timber productivity of the national forest system, diminishing, thereby, its ability to contribute adequately to the nation's forest products needs.

Finally, the Task Force finds that there is no deliberate national fiscal policy sufficient to enhance nor even maintain the timber productivity of national lands generally, nor to counteract timber losses attributable to wilderness classification of commercially-useful timber lands, specifically.

Based on the foregoing conclusions, the Western States Legislative Forestry Task Force recommends that the Wilderness Act be amended to provide that each legislative measure incorporating national lands in the Wilderness Preservation System must, as well, authorize and appropriate funds to the Department of Agriculture or Department of Interior, as appropriate, to permit such agency to replace, on national lands available for harvest, the timber production lost to harvest as result of such a wilderness measure.

RESOLUTION

Be it resolved this 23rd day of March 1976, by the Western States Legislative Forestry Task Force that this statement of position be presented to the Congress.

The Western States Legislative Forestry Task Force, created by the state legislatures of Washington, Oregon, California, Idaho and Montana, strongly commends those members of Congress concerned with the disruptive impact on forest resource management and the economy resulting from the Monongahela and Tongass court decisions.

States within the jurisdiction of the Ninth Circuit Court of Appeals harvest about 85% of the total national forest timber, pay about 90% of the national forest gross revenues, and receive about $112.5 million for roads and schools in national forest counties. Congressional action could directly and indirectly affect hundreds of thousands of jobs in the five western states.

The Western States Legislative Forestry Task Force also recognizes the need to preserve and enhance all of the productive elements of the forest resource base. We believe that this can best be accomplished by giving forest managers discretion in the use of proven management techniques.

We therefore wish to go on record as being in full support of the measure as introduced by Senator Humphrey and Congressman Johnson (S. 3091 and H.R. 12503).

It has also come to the attention of the Western States Legislative Forestry Task Force that the President's Budget for the 1977 Fiscal Year proposes to cut Clarke-McNary, Section 2 funds from the $22.596 million in congressional appropriations for the 1976 Fiscal Year to $11.712 million. In addition, the Administration has declared its intention to phase out CM-2 appropriations completely in the 1978 Fiscal Year. Congressional appropriations for forest fire prevention and suppression under Section 2 of the Clarke-McNary Act, have been a vital factor in the protection of forest and water resources in the United States for fifty years. Without this federal support many states could not maintain their forest fire protection programs at the current levels.

The Western States Legislative Forestry Task Force therefore, strongly urges Congress to restore the full $22.596 million CM-2 appropriations for the 1977 Fiscal Year and to resist any attempt to phase out CM-2 program in the future.

RESOLUTION

Be it resolved this 7th day of May, 1976, by the Western States Legislative Forestry Task Force, created by the state legislatures of Washington, Oregon, California, Idaho and Montana, that this resolution be presented to the Congress.

Whereas the Western States Legislative Forestry Task Force on March 23, 1976, resolved to support S. 3091 as introduced by Senator Humphrey;

Whereas S. 3091 has been significantly amended during the Senate mark-up sessions; and

Whereas the Western States Legislative Forestry Task Force opposes the following amendments:

1. Section 5, NATIONAL FOREST SYSTEM RESOURCE PLANNING (to amend in Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974), subdivision (6) (H) (iv), stating:

"(iv) provide that increases in allowable harvest based on intensified management practices such as reforestation, thinnings, or tree improvement, shall be made only upon demonstration that such practices justify increased allowable harvests and that the outputs projected are being secured;"

2. Section 13, LIMITATIONS ON TIMBER REMOVAL (to amend new Sections 13 and 14 to the Forest and Rangeland Renewable Resources Planning Act of 1974) subdivision (a) stating:

" The Secretary of Agriculture shall limit the sale of timber from each national forest to a quantity equal to or less than a quantity which can be removed from such forest annually in perpetuity on a sustained-yield basis. However, the Secretary may exceed the quantity sales limitation from time to time in the case of any forest so long as the average sales of timber from such forest over any ten-year period do not exceed such quantity limitation. In those cases where a forest has less than two hundred thousand acres of commercial forest land, the Secretary may use two or more forest (sic) for purposes of determining (sic) the sustained yield."

3. Section 14, AMENDMENTS TO ORGANIC ACT (new Section 14) stating:

"(14) The length and the other terms of the contract shall be designated to promote orderly harvesting consistent with the principles set out in Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended... The Secretary shall require the purchaser to file as soon as practicable after execution of a contract for any advertised sale with a term of two years or more, a plan of operation, which shall be subject to concurrence by the Secretary. The Secretary shall not extend any contract period with an original term of two years or more

unless he finds (A) that the purchaser has diligently performed in accordance with an approved plan of operation or (B) that the extension sould be in the public interest."

4. Section 20, TRAIL SYSTEMS ACT (amends Section 4 out of the Act) stating:

"Sec. 4. The Secretary is authorized to provide for the acquisition, construction, and maintenance of forest development roads within and near the national forests and other lands administered by the Forest Service in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management thereof, and for utilization of the other resources thereof. Financing of such roads may be accomplished (1) by the Secretary utilizing appropriated funds, (2) by requirements on purchasers of national forest timber and other products, including provisions for amortization of road costs in contracts, (3) by cooperative financing with other public agencies and with private agencies or persons, or (4) by a combination of these methods: or provided, that where roads of a higher standard than that needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed the purchaser of the national forest timber and other products shall not be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate. (16 U.S.C. 535)"

Be it resolved:

The Western States Legislative Forestry Task Force urges the United States Senate to defeat these amendments. The Task Force reaffirms its support of S. 3091 as introduced and should the amendments cited above not be defeated the Task Force will reluctantly be compelled to reverse its former position in support of S. 3091.

RESOLUTION

Be it resolved this 7th day of May, 1976, by the Western States Legislative Forestry Task Force, created by the state legislatures of Washington, Oregon, California, Idaho and Montana, that this resolution be presented to the Congress.

Whereas the federal government is a major landholder in the five Western States, and on many acres pay no local taxes;

Whereas The Public Land Law Review Commission concluded that existing revenue sharing laws are generally inadequate and have not kept pace with increasing financial needs of local jurisdictions;

Whereas previous in-lieu-of-tax proposals have been complex and expensive to administer;

Whereas local governments today, more than ever, badly need funds to support essential services;

Whereas H.R. 9719, in a simple and equitable manner, provides payments to local government for revenue losses cause by federal ownership;

Be it resolved:

The Task Force endorses H.R. 9719, as reported by the House Interior Committee and urges members of Congress to expedite its passage.

RESOLUTION

Be it resolved this 8th day of May, 1976, by the Western States Legislative Forestry Task Force, created by the state legislatures of Washington, Oregon, California, Idaho and Montana, that this resolution be presented to the Congress.

Whereas the Western States Legislative Forestry Task Force recognizes the need to protect water quality and strongly supports efforts to do so;

Whereas within the five Western States there are already programs of environmental control such as forest practices, coastal zone management, and stream channel alteration acts;

Whereas Section 208 of Public Law 92-500 provides that states shall have primary responsibility for monitoring water quality;

Whereas the present interpretation of Section 404 of Public Law 92-500 grants the Army Corps of Engineers powers of permit control over water quality beyond that intended by Congress, and this is an inappropriate function for the Corps and likely to create administrative confusion; and

Whereas immediate action, prior to July 1, is necessary to prevent the adverse effects of this interpretation from taking place;

Be it resolved:

The Western States Legislative Forestry Task Force supports the "Breaux Amendment" to H.R. 9560, as adopted by the House Committee on Public Works and Transportation on April 13, 1976, which clarifies the definition of "navigable waters" and the Army Corps of Engineers' authority to regulate dredge and fill activities.

RESOLUTION

Be it resolved this 8th day of August, 1976, by the Western States Legislative Task Force, created by the state legislatures of Washington, Oregon, California, Idaho and Montana, that this resolution be presented to the Congress.

Whereas the various multiple uses in the national forests compete for the land use base;

Whereas Congress has not reviewed the recommended plan proposed by the United States Forest Service under the Forest and Rangeland Renewable Resources Planning Act of 1974;

Whereas as a result Congress has failed to explicitly define priorities and national targets for the desired level of each use;

Whereas the failure to define priorities and target levels for each use has resulted in haphazard, de facto land use planning in the national forests;

Whereas, in the absence of targets, there has been a continuing withdrawal of national forest land for non-timber uses;

Be it resolved:

The Western States Legislative Forestry Task Force urges Congress to review the recommended plan submitted by the U.S. Forest Service under the Forest and Rangeland Renewable Resources Planning Act of 1974.

The Task Force further urges Congress to set national targets for the production of outputs from the national forests.

The Task Force also urges that Congress review the timber supply needs of the country to see that targets set for non-timber uses do not prevent the attainment of timber supply goals.

RESOLUTION

Be it resolved this 8th day of August, 1976, by the Western States Legislative Forestry Task Force, created by the state legislatures of Washington, Oregon, California, Idaho and Montana, that this resolution be presented to the Congress.

Whereas the Western States Legislative Forestry Task Force supports legislation that provides flexibility to the U. S. Forest Service to manage the national forests in their diverse conditions;

Whereas strong directives are proposed to protect the environment in the development of timber harvest plans;

Whereas HR 15069 is substantially consistent with the introduced version of HR 12503 as supported by the Task Force;

Be it resolved:

The Western States Legislative Forestry Task Force endorses HR 15069, the National Forest Timber Management Reform Act of 1976, as reported by the Forests Subcommittee of the House Agriculture Committee.

RESOLUTION

Be it resolved this 8th day of August, 1976, by the Western States Legislative Forestry Task Force, created by the states legislatures of Washington, Oregon, California, Idaho and Montana, that this resolution be presented to the Congress.

Whereas massive insect infestations of our national forests and nearby private timberlands have disrupted desirable long term management and multiple use goals;

Whereas the mountain pine beetle infestation alone has reached epidemic proportions and already destroyed well over a billion board feet;

Whereas current research levels are so inadequate and response times so slow as to allow defoliating and tree-boring insects to cause major damage directly and through the severe fire hazard presented by dead or defoliated trees;

Whereas it is well known that the younger and stronger trees produced by more intensive forest management are known to be far less vulnerable to insect infestation and fire;

Whereas projected losses will not only disrupt production of needed wood products, but will also intensify the destruction of wildlife habitat and increase levels of unemployment in the wood products and housing industries;

Therefore, be it resolved that the Western States Legislative Forestry Task Force urges Congress to:

(1) Order completion at the earliest possible time of the Western Forest Insect Issues Study now being conducted by the U.S. Forest Service;

(2) Fund an expanded insect research and control program for the western forests;

(3) Create summa. y procedures to reduce the time necessary to register and to apply approved pest controls;

(4) Fund more intensive timber management and salvage programs in areas of actual or high potential infestation;

(5) Instruct the U.S. Forest Service to develop cooperative programs with state and private owners to encourage maximum access to infested areas by, for example, waiving road fees on national forest roads.

WESTERN STATES LEGISLATIVE FORESTRY TASK FORCE • 1107 9TH STREET • SACRAMENTO, CA 95814 • PHONE (916) 322 4395

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Assemblyman Norm Waters

IDAHO
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Representative Robert "Bob" Brogoitti

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Representative Art Moreau

MONTANA
Senator John Manley
Representative Dorothy Bradley
Representative Joe Kanduch

RICHARD A. ROBYN
Executive Secretary

STATEMENT BY THE WESTERN STATES LEGISLATIVE FORESTRY TASK FORCE TO THE GOVERNORS

My name is Barry Keene. I am a member of the Legislative Assembly in the State of California and am privileged to represent the North Coast Counties. I have, from its inception, been a member of the Western States Legislative Forestry Task Force. These remarks are on behalf of that Task Force.

The Western States Legislative Forestry Task Force was formed several years ago by concurrent actions of the State Legislatures in Montana, Idaho, Washington, Oregon and California. Each of the Legislatures appointed two Senators and two Representatives, or Assemblymen, to the Task Force. Creation of the Task Force reflected increasing concerns in our states about the management of the forest resources, particularly on Federal lands. The increasing importance of the forest resources to the economy of these states and the increasing demand for forest lands for recreation and wilderness uses was becoming apparent to all of our legislative bodies.

The first Chairman of the Task Force was Senator Randolph Collier of California. The present Chairman is Senator J. Wilson Steen from Idaho. We meet several times a year in the states represented on the

Task Force and have heard on the occasion of each of its meetings from recognized authorities representing a variety of viewpoints on various issues involving forest land management. The Task Force has studied and made its views known with respect to the implementation of the Resources Planning Act that was passed by Congress in 1974.

We were actively involved in seeking a resolution of the Monongahela problem which led to the passage of the National Forest Management Act in 1976. The Task Force has also presented positions in support of the traditional oral auction bidding procedure for Forest Service timber.

At the most recent meeting of the Legislative Forestry Task Force in Missoula, Montana, the Task Force discussed the second roadless area review and evaluation being carried on by the U. S. Forest Service. This issue is now generally known by the acronym of RARE II. The group unanimously felt that this roadless area question was the most serious forest resource issue with which we had yet dealt. It was this view that led to the unanimous decision to call for this meeting with the chief executive officers, or their representatives, of the five member states and Alaska. We wished to discuss the RARE II problem and to evaluate how each of the states might provide the most meaningful input to help resolve the problem.

The issue we are really addressing is how a large percentage of the National Forests in our states should be managed and for what purposes. A brief recital of how decisions have been made, or not made, for the National Forests will help to put our current dilemma in perspective. There are approximately 187 million acres of National Forest land in the National Forest System -- the national forests and national grasslands.

Management decisions on much of this land has not been difficult. Much of it is grassland and, therefore, its management for grazing and watershed protection has been almost a foregone conclusion. Significant parts of the System contain some of America's most treasured wilderness and have been so des' nated. Indeed, it is in the National Forests that the Wilderness System started nearly two generations ago.

However, at the beginning of this decade, the Forest Service had designated 50 percent of the total acreage as commercial forest land -- land capable of producing 20 cubic feet per acre per year of commercial forest crops, and also land that was, in fact, available for the harvest of commercial forest crops (as distinguished from commercial forest land in wilderness areas or other types of land withdrawals). It is important to keep in our mind that this represented 96 million acres of commercial forest land in the National Forest System. The annual allowable cut of 13.7 billion board feet was based on this acreage and the timber it contained.

Going back several decades, the planning on the commercial forest lands of the National Forest System has been conducted, summarized and published in documents called "Timber Management Plans". Until very recent years, the Timber Management Plan was the only planning document and was the key decision-making process respecting the commercial forest lands. The Timber Management Plan determined the management prescription for these forest lands. The plan considered all multiple use values, determined the volumes of standing timber, the current and prospective growth rates, applied Forest Service policies to the harvest scheduling, and for the ten-year period of the plan, determined an annual allowable

cut. This cut was the basis for the timber selling program. The procedures and requirements for timber management planning were and still are spelled out in regulations of the Secretary of Agriculture. Among other requirements, these regulations require that Timber Management Plans be redone every ten years.

In 1960, Congress passed the Multiple Use Sustained Yield Act which provided broad new guidelines for the management of the National Forests. After passage of this landmark piece of legislation, the National Forests started to develop Multiple Use Plans. Generally, such plans were prepared on each Ranger District. These plans, more precisely than ever before, guided management on the commercial forest lands and other lands in the Ranger Districts. Timber Management Plans, in turn, as they were revised on their ten-year cycle, reflected the management directions contained in these Multiple Use Plans.

It was in the late 50's and early 60's that the problem concerning the commercial forest lands surfaced. Commercial timber harvesting in the National Forests started in most areas after World War II. Prior to that time, commercial timber operations on the National Forests were either minor or nearly non-existent. We have, then, been harvesting timber from the National Forest commercial forest land base for about thirty years. I am told that on the average somewhere between 40 and 60 percent of the commercial forest land upon which the annual allowable cut is based, has been entered. That means some timber harvesting and roadbuilding has occurred on approximately that amount of the commercial land base. I do not have a firm estimate, but it appears reasonable that somewhere between 30 and 45 million acres of commercial forest land

base is unroaded, or roadless. Crucial to an understanding of our dilemma is a realization, however, that the timber sale programs on these Western forests over the past years have been based on all of the commercial forest land base, both roaded and unroaded. The timber sale programs have been based on the explicit assumption that the roadless area component of the commercial forest land base would, in due course, be developed or roaded in some fashion or other. In the late 50's and earliest years of the 60's significant controversy began to develop about the undeveloped or unroaded portions of the commercial forest land base. Pressure began to develop that these unroaded areas should remain unroaded and undeveloped.

Perhaps the first specific reflection of this concern was a letter from Senator Henry M. Jackson of the State of Washington to Secretary of Agriculture Orville Freeman in early 1961, raising concern about these undeveloped commercial forest lands in certain parts of the high country of the North Cascades. Senator Jackson requested that the Department of Agriculture review its policies regarding this high country. This request led to a thorough review on the National Forests in the Oregon/Washington region of management directions on the commercial forest lands in the high country. This study took place in 1961 and led to policy announcements in late 1962 known as the High Mountain Policy for Region Six. The policy delineated four broad resource associations. Each of these associations had key value delineations. In some associations, timber production was a key value and in other associations it was not. The Forest Service carefully stayed away from delineating

specific zones or uses on a map, but rather emphasized multiple use considerations, using the concept of key values. Also, in the decade of the 60's, was the great debate and study in the North Cascades in the State of Washington, leading to the creation by Congress of the North Cascades National Park.

Another key piece of legislation pertinent to today's dilemma was the Wilderness Act passed by Congress in 1964. That Act created a National Wilderness Preservation System. Only lands designated by Congress could be placed into this system, which was to be managed under specific legislative guidelines, calling for a concept of pure wilderness. The Wilderness Act blanketed into the Wilderness System all the existing wilderness and wild areas of the National Forests. Parts of the National Forest System designated at that time as primitive areas were to be studied within a ten-year time frame and recommendations made to Congress for inclusion or exclusion from the Wilderness System. Litigation after the passage of the Wilderness Act settled that lands contiguous to primitive areas under study should also be left in a primitive condition until these studies had been completed and a decision by Congress made. The 1964 Wilderness Act establishing the National Wilderness Preservation System contemplated that the System would be made up of lands from the national forests, national parks and wild life and game refuges, administered by the Fish and Wild Life Service. The national park and refuge lands were also to be studied within a ten-year time frame and recommendations made to Congress respecting lands within these two systems which should be a part of the Wilderness System.

Despite the deliberations and processes just enumerated, the controversy concerning the undeveloped or unroaded portions of the National Forest commercial forest land base continued to escalate through the decade of the 1960's. In response to this increasing controversy, then Chief of the Forest Service, Ed Cliff, by Forest Service Manual dated June, 1967, told the Regions that they should prepare an inventory of roadless areas. The Manual also prescribed standards for selecting the roadless areas and indicated that the inventory of roadless areas should be submitted by the Regions to the Chief's Office by June 30, 1970. In 1969, reflecting the fact that the Regions had not yet really begun to assemble this information, another Manual release was issued extending the deadline for submission of the material to the Chief's Office to June 30, 1972.

The objective of Chief Cliff, I understand, was to obtain an inventory of roadless areas (areas not already in the Wilderness System or in primitive areas then being studied) so that that portion of the roadless inventory which was thought to be suitable and needed as possible wilderness could be withdrawn from development of any kind (commercial forest land and timber withdrawn from the allowable annual cut base) until a more detailed study of each area's wilderness potential could be undertaken following the ten-year evaluation of the then existing primitive areas. It was Chief Cliff's hope that the remaining areas could continue under multiple use management, including timber harvesting, without controversy.

On January 1, 1970, fate intervened in the form of another landmark piece of legislation, the National Environmental Policy Act (NEPA).

Germane to our discussion, Section 102(c) of NEPA mandates that Federal decisions and proposed actions having a significant impact upon the environment should undergo a process known as the Environmental Impact Statement. NEPA mandates that actions under the purview of NEPA should be done by interdisciplinary teams and public involvement is mandated. The relationship between Section 102 of NEPA and proposed timber sales in roadless areas was not long in surfacing. Because of the implications of NEPA, Chief Cliff sent a memorandum to the Regions in 1971 which ordered them to submit their roadless inventories and their recommendations respecting the future of these roadless areas to Washington by June of 1972. The process, four years after the first Manual instruction, began in earnest. This study, announced in 1967, but really starting in 1971, is now known as RARE I (Roadless Area Review Evaluation -- first time). In June of 1972, the Regions did submit their list of roadless areas and their recommendations respecting those areas to Washington. 56 million acres of National Forest land (much of it commercial forest land) not then contained in any wilderness or primitive area, were identified. When the Regions presented their recommendations to Washington in the summer of 1972, it was stated that the lands not recommended by the Region for withdrawal for wilderness study would be immediately available for management, including timber harvesting. Environmental groups protested that there was grossly insufficient time in the summer of 1972 to evaluate 56 million acres of land. An impasse developed and the National Resources Defense Council (NRDC) took the Forest Service to Court. The NRDC asked the Court to mandate that no inventoried roadless area could be entered for development of any kind without going through

the procedure prescribed by Section 102(c) of NEPA. In other words, the inventoried roadless areas would have to undergo a land management planning process accompanied by an EIS before any development could take place. In an historic meeting which took place in the chambers of Federal District Judge Conte in San Francisco on December 1, 1972, the Forest Service agreed with the position of the NRDC and put out Forest Service Manual releases spelling out the new procedure. Based on these representations and the Manual releases, Judge Conte dismissed the lawsuit.

During 1973, the Forest Service concluded its RARE I process and issued its final EIS for RARE I -- a single document for the entire 56 million acres throughout the West. The RARE I decision was that about 12 million acres of the 56 million acres of roadless inventory should be withdrawn from any development pending detailed study and recommendation to Congress for wilderness. Concurrently, the annual allowable cut of the National Forests was reduced from 13.7 billion board feet to 13.3 billion board feet. The remaining 44 million acres of land as per the Conte lawsuit were to go through the land planning process, including EIS procedure. However, the commercial forest land in this 44 million acres continued to be a part of the allowable cut base upon which current timber sale programs are founded.

In the late 1960's, the Forest Service started discussing the pros and cons of a second planning system -- a system that was to be in addition to the Timber Management Plan System required by regulation. In 1972, instructions were sent by the Washington Office of the Forest

Service to the Regions describing this newly adopted second planning system referred to as Land Management Planning as distinct from Timber Management Planning. As a result of the Conte litigation, the Land Management Planning System of the Forest Service has blossomed and for several years now we have had parallel planning systems in effect.

Two seemingly minor, but truly significant, events followed. (1) The Forest Service designated on each of the National Forests large numbers of planning units for which Land Management Plans and EIS's would be prepared. On some forests, I understand as many as 60 individual units were to be planned. (2) Environmental groups made a presentation to then Secretary of Agriculture Earl Butz that in each Land Management Plan and EIS containing roadless areas, wilderness should be considered as an alternative. Secretary Butz concurred. In the past five years, some areas of the Western National Forests have gone through and completed Land Management Planning. Well over half of the roadless areas covered in these plans in the past few years are designated by the plans to remain roadless. Despite the fact that some progress has been made in five years in making land allocation decisions, in many parts of the West, Land Management Planning has bogged down, due to a series of appeals and threatened litigation. One of the principal forests in my own District, the Six Rivers National Forest, has yet to implement a final decision on a Land Management Plan. The result has been a serious deterioration in the timber sale program in that forest.

Two plans have been completed. One is under administrative appeal and the other is being contested in court. The USFS made a settlement

agreement which required them to produce a supplement to the EIS. Because of this, no timber sales can be offered in these units.

The result of the increasing inability of the Forest Service to make land management decisions respecting the roadless areas has meant that the current timber sale programs have had to be concentrated for many years in areas that had already been roaded and in areas from which timber had already been sold. In many of the Western National Forests, this process cannot continue without serious environmental damage. In some Western forests which were heavily roadless, the timber sale programs have already been eroded seriously or completely halted. The best public record to date of this spreading crisis and its impending severity is contained in the record of two U.S. Senate Energy Committee hearings conducted in the State of Idaho this year by Senator Frank Church. Many of the forest industry dependent communities in Idaho spelled out the urgency for resolving decisions on the roadless areas so that their communities could continue to exist, stark testimony to the fact that the Land Management Planning process of the Forest Service, encumbered as it is by NEPA, has bogged down.

The Department of Agriculture has recognized this crisis. Assistant Secretary of Agriculture Rupert Cutler announced earlier this year a new process called RARE II (Roadless Area Review and Evaluation -- second time). RARE II involved the making of a new inventory of roadless areas under significantly different criteria than in the RARE I process. On the 18th of November in the Federal Register, the new inventory was announced. The new inventory of roadless areas contains about 56

million acres. All of the RARE I areas selected for study for wilderness are now abolished and are made part of the RARE II roadless inventory of 66 million acres. It is the Department's intention to evaluate the 2,100-plus roadless areas containing this vast acreage of National Forest land and come up with decisions by the end of 1978. The decision would place this land into three categories. The first category will be lands to be submitted to Congress for inclusion in the National Wilderness Preservation System. The second category will be lands that should be continued under multiple use management, including timber harvesting. The third category of lands will be those where further study is required. The whole RARE II process will be accompanied with an Environmental Impact Statement. The impact statement will of necessity, be similar to the statement which accompanied the RARE I process. It will be nationwide in scope -- programmatic. Even though the Forest Service indicates the impact statement accompanying RARE II will in some way or other be broken down on a state-by-state basis, the type of EIS contemplated will, of necessity, be vastly different from the type of impact statement necessitated by the Conte litigation. Attorneys familiar with environmental law with whom I have discussed this subject are unanimous about two things: (1) the type of EIS contemplated by the Forest Service for returning roadless areas to multiple use management is unlikely to withstand legal challenge; and (2) even in the unlikely event that such a procedure would withstand legal challenge, tremendous delays caused by appeals and litigation before arriving at final decisions would be inevitable.

The course for resolving the roadless area problem has been blazed by Senator Church of Idaho in what is known as the "Gospel Hump Case". To eliminate the threat to a substantial Idaho community, caused by the inability of the Forest Service to make timber in roadless areas available for harvest, Senator Church asked that local environmental groups and local interested citizens negotiate for a compromise in the Gospel Hump area. The local groups, under dire economic duress, did finally agree to a Gospel Hump compromise. Senator Church has inserted that compromise in the American Endangered Wilderness Bill which is now going through Congress. The essence of the Gospel Hump compromise was the instant creation of a 206 thousand acre wilderness area, the circumvention of the National Environmental Policy Act for a few years with respect to the management of 45,000 acres which would be available immediately for timber harvest. With respect to an additional 92,000 acres, additional planning should take place for multiple use with the timber to continue as a part of the allowable harvest base. A key fact about the Gospel Hump legislation is that with respect to the lands to be returned to multiple use, the legislation bypasses the National Environmental Policy Act for a few years. NEPA is a creation of Congress and only Congress can change it.

The impact of one other recent piece of legislation deserves comment. The Resources Planning Act passed by Congress in 1974 required that the Department of Agriculture prepare an assessment of the fiber needs of the United States. The Act also required that the Department come up with a program for the National Forests that would best fulfill the need

No
PAGE 14
IN FILE

American Endangered Wilderness Bill. This bill contains several wilderness area designations in at least seven Western states. One of the things we are observing is that with respect to the decisions for wilderness designation in each state, the Congressional Delegation from that state has great influence. We are also observing that the process by which the Congress can take testimony and evaluate tradeoffs in their proper context is limited. Recognizing these realities, the Legislative Task Force feels that each Western state has a major role to play in evaluating the National Forest land situation in its state and in making its own recommendations to its own Congre ional Delegation respecting the resolution of RARE II. On several occasions this year, officials of the Department of Agriculture have urged environmental and user groups to get together and try to work out compromises. This process is unwise and unworkable. It is unrealistic to expect such agreements except under dire economic distress such as in Central Idaho. Where lies the public interest in such a process? We feel the states have a role in trying to evaluate the public interest in each state and that we may be able to assist our respective Congressional Delegations, leaving finally to Congress the responsibility of seeing that the national interest is satisfied. The Task Force recognizes that some states may not wish to become involved in this process. We also recognize that states who may become involved will do so in different ways. We only urge that each state does become involved and involved in depth.

In coming to grips with the roadless area problem, two basic steps are involved:

I. Collection and presentation of basic information

A. Preparation of maps and accompanying statistical information showing the commercial forest land base for each National Forest within a State at the beginning of this decade. Information is needed about the forest land base, by forest, that made up the 96 million acres of commercial forest land in the National Forest System which was mentioned above.

B. Preparation of map overlays and accompanying statistical data describing what has happened to the commercial forest land base, by forest, since the beginning of this decade.

C. Preparation of map overlays and statistical data relating to the RARE II inventory, including the amount of commercial forest land and timber inventory included.

D. Display of the current five-year timber sale program for each forest for the purpose of determining the degree of threat the roadless area problem has to the local communities. This information would indicate how much time there is left to resolve the problem.

E. Preparation of maps and accompanying data showing the existing wilderness areas, primitive areas officially designated wilderness study areas, areas withdrawn from timber harvest through other land designated, such as disbursed recreation zones, semi-primitive areas, high mountain zones, etc.

F. Accumulation of information, by states and forests, if possible, of the commercial forest land base upon which the RPA timber production goals were predicated.

G. Collection of information about the amount of wilderness areas, by states, upon which the RPA wilderness program was established.

H. Any other significant information.

Two types of assistance would be needed in obtaining this basic information. One would be forestry expertise that could obtain the basic forestry and land information necessary. In addition, expert public relations help would be required to assist in taking the basic information and putting it in form that could be readily understood by laymen such as ourselves and the general public. Too often masses of information become meaningless because they are simply incapable of being understood.

The Task Force sees some merit in the possibility of the data-gathering being done on a centralized basis. We note that the Pacific Northwest Regional Commission is now funded and is beginning a major forestry policy study. It might be possible for the acquisition of the data to be done under the leadership of the Northwest Regional Commission with the States of Montana and California contributing on some appropriate basis. The advantages of a centralized data-gathering operation are, among others, cost efficiency, standardization of data and concepts, and time. Time is of the essence in starting the collection of the basic data. We are assured of complete cooperation of the Forest Service in the effort.

II. Following the collection of the information there would then need to be an evaluation and, ultimately, a recommendation respecting

the disposition of the roadless areas contained in RARE II. Each state would have to decide this process for itself.

This Legislative Task Force would be pleased, from time to time, to provide a forum for reports on the activities and efforts of each of the states. Any other suggestions for help from the Task Force would be appreciated.

J. WILSON STEEN
DISTRICT NO. 22
CAMAS, ELMORE, GOODING
AND TWIN FALLS COUNTIES

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P.O. DRAWER B
GLENNS FERRY, IDAHO 83623
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384-3570 (STATEHOUSE)

COMMITTEES
STATE AFFAIRS
JUDICIARY AND RULES
TRANSPORTATION

Idaho State Senate

ASSISTANT MAJORITY LEADER
CAPITOL BUILDING
BOISE

June 10, 1977

MEMO TO: Idaho Legislative Council

FROM: Senator J. Wilson Steen, Chairman
Western States Legislative Forestry Task Force

Since its inception, in 1974, the Western States Forestry Task Force has developed into an effective liaison between the legislative bodies of the member states, the national congress, and federal agencies involved with forest management.

As particular issues affecting forest management arise, i.e., clearcutting, sealed or oral bidding of timber sales, wilderness areas, drought, etc., the Task Force considers the issue or problem, especially with respect to legislative action that may be needed to help solve or relieve the problem.

The WSLFTF has experienced excellent cooperation from involved agencies of government, industry, and other interested groups who appear before the Task Force, giving testimony and answering questions.

After the Task Force arrives at a decision, their recommendation is usually submitted to all concerned in the form of a Resolution, many times supported by correspondence from each Task Force member to his Congressional Delegation, or from the Executive Secretary of the Western States Legislative Forestry Task Force.

Because of certain federal legislation and new agencies of the federal government, such as the EPA, it became apparent to some of the legislators of the western states that the impact on forest management would be far-reaching, therefore, the Western States Legislative Forestry Task Force was originated to give the five western states who possess and depend a great deal upon forest products a unified position when considering proposed changes of forest practices under the EPA and Resources Planning Act.

One of the first issues the Task Force became involved in was the clearcutting problem brought on by the injunction prohibiting clearcutting of forest lands after the Monongahela and Tongass National Forest decisions. The Task Force reviewed the case and decided it was important enough to travel to

Washington, D.C., as a full committee group to meet with out Western Congressmen and testify before Congressional committee hearings being held on proposed legislation concerning clearcutting in forest management. The Task Force believes this trip was effective in influencing Congress to take a moderate approach to clearcutting laws and regulations that apply to forest management practices in our western states.

Another issue of great importance to the existence of many western communities dependent upon forest products that the Task Force considered and took action on was sealed or oral bidding of timber sales on national forest land. There was a strong effort by a few congressmen to exclude oral bidding of timber sales because of the possibility of collusion among the bidders. After considerable study and information brought before the Task Force, the committee felt going to exclusive sealed bidding of timber sales would not be fair or beneficial to the forest product industry and took a position of opposing only sealed bidding and recommended both oral and sealed bidding be used in timber sales dependent upon circumstances of community dependence and collusive bidding practices. The Task Force felt strongly enough about this to send the Chairman to Washington, D.C., in February 1977, to testify before the Agriculture Department Forest sub-committee who was holding hearings on sealed and oral bidding practices of timber sales. The WSLFTF believes their input into this issue was beneficial in helping influence the drafting of new rules and regulations that appear to be reasonable for sealed and oral bidding of timber sales, and provides protection to communities dependent upon forest resources.

Other issues and problems considered by the Task Force have been water quality problems related to forest practices and management and the changes that would prevail if the Corps of Army Engineers were given exclusive management control over all waters of our nation under the Environmental Protection Act. The Task Force has taken the position that sufficient regulation and management of water quality as it relates to forest practices can be adequately administered by the individual states through their own environmental agencies and the Forest Practices Act, where enacted. The Task Force recommended the federal government retain the original definition of a navigable stream, as used by the Corps of Army Engineers in their past administrative functions and not give them full jurisdiction over all waters and wet lands of our country.

The latest concern and study being performed by the Task Force is on the drought and the effect it is having upon forest management. Considerable testimony was presented at the last Task Force meeting in San Francisco on June 4-5. Dr. Pierre St. Amand, who is with the U.S. Naval Meteorology and Weather Modification Department gave a very interesting speech on weather history, presenting a film made by using satellite weather surveillance photographs put together in a sequence covering the year of 1976. As the film progressed, Dr. St. Amand explained the action of the cloud movements and resulting weather conditions. The Task Force was surprised to learn there does not seem to be any research or extensive study, federal or state, in long range weather forecasting. Dr. St. Amand indicated there are possibly three studies being made on a university level, but their resources are limited because of funding. The Task Force did take action by drafting a resolution recommending federal and state support of an extensive study for long range weather forecasting. This could be quite important in determining programs for drought administration.

The issue of Instant Wilderness expansion was also reviewed at the San Francisco meeting. The Task Force has been considering various wilderness proposals throughout the existence of the committee. The instant expansion of wilderness boundaries without following previous study and hearing procedures was opposed by the committee. The Task Force felt an instant expansion of wilderness boundaries would result in a sudden adjustment affecting forest related industries thus causing an immediate change in the economic base of dependent communities. If further expansion of wilderness areas is needed and feasible it should be done after adequate study and on a time frame to provide community adjustment.

Many other forest management related subjects are also considered by the Task Force but we have covered only the major ones in this report because of the length of a report needed to detail the full work of the committee. Insect control, other diseases of timber, endangered species both fauna and flora, recreation uses, and wild life are some of the other subjects considered.

Respectfully submitted,

J. Wilson Steen

J. Wilson Steen, Chairman
Western States Legislative
Forestry Task Force

WESTERN STATES LEGISLATIVE FORESTRY TASK FORCE • 1107 9TH STREET • SACRAMENTO, CA 95814 • PHONE (916) 322 4395

August 14, 1977

Representative Mike Miller
Chairman, Alaska Legislative Council
Pouch V
Juneau, Alaska 99811

Dear Representative Miller:

The Western States Legislative Forestry Task Force has authorized me to communicate with you in the hope of initiating a dialogue with the aim of bringing the great state of Alaska into the Task Force's membership.

The Task Force is comprised of twenty state legislators, (two Senators and two Representatives), from the states of Idaho, Montana, California, Oregon, and Washington. We meet approximately every two months to review national legislative proposals and to analyze actions and budgets of federal agencies having jurisdiction over public resource lands. After receiving expert testimony in various forestry-related matters and exchanging our ideas and opinions, we generally take action on common problems. As a member of the Oregon delegation since the creation of the Task Force, I can say we have defined a number of common problems and have taken concerted action all to the member states' benefit. The membership of the Task Force believes that Alaska may share the same concerns in forestry-related matters and that it would prove mutually beneficial if Alaska was a member of the Task Force.

For your information and review I am enclosing herewith copies of our Annual Report, dated December 15, 1976, which outlines our past activities and sets forth our income and budget; our financial summary as of April 30, 1977; and, a report submitted by our Chairman, Senator J. Wilson Steen of Idaho, to his Legislative Council.

We have just completed our August 13 and 14 meeting in Spokane, Washington, and I am enclosing herewith, in addition to the above, a copy of our agenda. Our next meeting will be held in Montana in October.

I sincerely hope you will find the material of interest and are able to consider our membership offer in the near future. We would be most happy to meet with you to discuss this matter further if you so desire.

Sincerely,

Representative
Bud Byers

Enclosures (4)

cc Senator J. Wilson Steen
Representative Hugh Malone
Senator John L. Rader

BB:RAR

SJR

36

COMMITTEE REPORT

HOUSE

FURTHER: _____

1/30/78

Date: 1/31/78

Mr. Speaker·

The Committee on RESOURCES has had SJR 36
Relating to land allocation in the Tongass National Forest.

under consideration and (a majority of the committee) (the committee reports it back as follows)

(X) recommends it do pass ( ) recommends it do not pass

( ) recommends it do pass with attached amendment(s)

( ) recommends it be replaced with CS for _____

and _____ ( ) new title ( ) same title

( ) AND attaches a Letter of Intent ( ) New Fiscal Note

( ) reports it back without recommendation

( ) and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

_____

_____

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OTHER RECOMMENDATIONS:

_____

_____

_____

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_____

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_____

_____

_____
Chairman

H 60 (rev. 6/77)

Alaska State Legislature

Senate

JUNEAU, ALASKA

MEMO January 30, 1978

FROM SENATOR ZIEGLER

TO REPRESENTATIVE MALONE
REPRESENTATIVE COTTEN
REPRESENTATIVE OSTERBACK
REPRESENTATIVE COWPER

RE SJR 36

Representative Osterback has very courteously scheduled a hearing on the captioned resolution, pertaining to land allocation in the Tongass National Forest. It is temperate, moderate and merely urges the appropriate officials in Washington, in a gentle way, to allow the Forest Service a little more time within which to complete its homework.

I may be biased, but I can't see how anybody could object to the resolution. On the assumption that I am right, and Representative Osterback's committee moves the resolution, I would appreciate it if it could be promptly calendared, for it is the type ammunition which Representative Cowper can put to good use on the east coast.

Thanks for your anticipated cooperation.

RHZ/pkz

3

Alaska State Legislature

Senate

JUNEAU, ALASKA

MEMO January 30, 1978

FROM SENATOR ZIEGLER

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Thanks for your anticipated cooperation.

RHZ/pkz

3

SJR

37

PUBLIC NOTICE

ALASKA ESKIMO WHALING COMMISSION MANAGEMENT PLAN

Subpart A — Introduction

S100.1 Purpose of regulations

It is the purpose of the regulations contained herein to: (a) insure an efficient subsistence harvest of bowhead whales; and (b) provide a means within the Alaskan Eskimo customs and institution of limiting the bowhead whale harvest in order to prevent the extinction of such species.

S100.2 Scope of Regulations

The regulations contained herein apply to the subsistence hunting of bowhead whales by Eskimos located in the State of Alaska.

Subpart B — Alaska Eskimo Whaling Commission

S100.11 Powers

(a) The Alaska Eskimo Whaling Commission (hereinafter AEWC) is empowered to administer the regulations contained herein to insure that the purposes stated in S100.1 of these regulations are attained.

(b) The AEWC is empowered to enforce these regulations by:

(1) denying any person who violates these regulations the right to participate in hunting the bowhead whale.

(2) acting as an enforcement agent for any governmental entity authorized to enforce these regulations.

(c) The AEWC is empowered to promulgate interim regulations that are in addition to, but not in lieu of, regulations contained herein.

S100.12 Duties

(a) The AEWC shall administer and enforce the regulations contained herein (including any interim regulations).

(b) The AEWC shall conduct village educational programs to facilitate compliance with these regulations, including training programs for whaling captains and crews.

(c) The AEWC shall initiate research for improvement of the accuracy and reliability of weapons.

Subpart C — Regulations

S100.21 Definitions

(a) "bowhead whale" means a whale whose scientific name is Balean mysticetus and which migrates past whaling villages in Alaska.

(b) "captain" means the person in charge of a whaling crew.

(c) "harvest" means to kill and bring to shore or butchering area.

(d) "non-traditional weapons" means any instrument that could be used to harvest a bowhead whale that is not a traditional weapon.

(e) "Scientific Committee" means the committee established pursuant to S100.26 of these regulations.

(f) "traditional weapon" means a harpoon with line attached, darting gun, shoulder gun, lance or any other weapon approved by the AEWC with the concurrence of the Scientific Committee, as such a weapon in order to improve the efficiency of the bowhead whale harvest.

(i) "harpoon with line attached" means. . .

(ii) "darting gun harpoon" means. . .

(iii) "shoulder gun" means. . .

(iv) "lance" means. . .

(g) "whaling crew" means those persons who participate directly in the harvest or attempted harvest of the bowhead whale and are under the supervision of a captain.

(h) "whaling village" means an Alaska Eskimo village in which resides a whaling captain and crew which participates in the harvest or attempted harvest of bowhead whales.

(i) "whaling season" means customary period of time in which the bowhead whale is harvested in either spring or fall.

S100.22 Registration

(a) All whaling captains of whaling crews shall file and register with the AEWC on forms provided by the AEWC for that purpose which discloses his name, address, age, qualifications as captain, names of crew members, and his willingness to abide by the regulations of the AEWC and to require his crew to abide by those regulations.

(b) The AEWC shall take into account any reading or language difficulties in developing procedures and forms for registration.

S100.23 Reports

(a) Each whaling captain shall be responsible for keeping a written record of the number of whales —

(1) attempted to be be harvested by using traditional weapons but not harvested; or

(2) harvested by the captain or his crews.

(3) all sightings of bowhead whales.

(b) Each whaling captain shall report the date, place, and time of any striking not resulting in harvesting and shall describe —

(1) the size of the bowhead whale,

(2) any known later attempted harvest or actual harvest of said whale, and

(3) the reason for the captain or crew not harvesting the whale — e.g. environmental factors, the failure of traditional weapons, or other reason.

PUBLIC NOTICE CONTINUED

(c) Each whaling captain shall make such other reports as the AEWC requires in order to accomplish the purposes of the regulations herein or in order to advance the scientific knowledge of the bowhead whale.

S100.24 Permissable harvesting methods

(a) No whaling captain or crew shall harvest or attempt to harvest the bowhead whale in any manner other than the traditional harvesting manner.

(b) "Traditional harvesting manner" means:

(1) only traditional weapons shall be used; as defined in 100.21(f).

(2) the bowhead whale may be struck with a harpoon darting gun with line and float attached or simultaneously with harpoon and shoulder gun or darting gun.

(3) use of shoulder gun or darting gun:

(i) when accompanied by harpoon with or without darting gun

(ii) after a line has been secured to the bowhead whale

(iii) when pursuing a wounded bowhead whale with a float attached.

S100.25 Traditional proprietary claim

The bowhead whale shall belong to the captain and crew which first strikes the bowhead whale in the manner described in S100.24.

S100.26 Level of harvest

(a) The AEWC shall establish the levels of harvest and attempted harvest for each whaling village during each season. Such levels may be set by methods including, but not limited to, the following:

(i) Specification of number of whaling crews permitted to harvest or attempt to harvest bowhead whales during specified periods;

(ii) Specification of the size or age of whales which may be taken during specified periods, after consultation with the Scientific Committee.

(iii) Specification of the number of whales that may be taken by each crew.

(iv) Specification of the number of bowhead whales which may be harvested or attempted to be harvested by each village.

(b) The level of harvest supported by scientific data shall be no greater than that necessary to meet the nutritional needs of the Eskimo inhabitants of the State of Alaska.

(c) In establishing the levels of harvest and attempted harvest, the AEWC shall not establish levels of harvest or attempted harvest greater than the carrying capacity of the bowhead whale stock supporting scientific data.

(d) The carrying capacity of the bowhead whale stock shall be determined by a Scientific Committee appointed by the Polar Research Board of the National Academy of Sciences. The Scientific Committee shall consist of nine members who are qualified by reason of their education and experience to make objective determination concerning the carrying capacity of the bowhead whale stock.

(e) In determining the carrying capacity of the bowhead whale stock the Scientific Committee shall not consider any prospective threats to the species resulting from oil and gas development within the habitat of such species. This section may further be implemented by the Scientific Committee and the AEWC at a later date.

(f) The mortality rate for attempted harvest shall be determined by the Scientific Committee.

Subpart B — Penalties

S100.31 Denial of participation in harvest:

(a) Any person who the AEWC determines has violated the regulations contained herein shall, after opportunity for a hearing before the AEWC, be prohibited from harvesting or attempting to harvest the bowhead whale for a period of not less than one season nor more than five seasons.

(b) Any person who wilfully violates the regulations contained herein shall be subject to a fine of not more than $1,000 assessed by the AEWC. No person shall harvest or attempt to harvest the bowhead whale until such fine has been paid.

The Alaska Eskimo Whaling Commission
Barrow, Alaska
Jacob Adams, Chairman

Alaska State Legislature

House of Representatives

Official Business

Special Committee
on Subsistence

Pouch V
State Capitol
Juneau, Alaska 99811

Minutes: February 16, 1978
Labor and Management Hearing Room 207, Assembly Building

The meeting was called to order by Rep. Nels A. Anderson, Jr., Chairman, at 2:40 p.m. Committee members in attendance were: Rep. William Akers, Rep. Sam Cotten, Rep. Steve Cowper, Rep. Joe Hayes, Rep. Al Nakak, and Rep. Nels A. Anderson. Rep. Leo Schaeffer was absent.

Rep. Thelma Buchholdt was present to testify on House Bills: 686 and 687; and House Joint Resolutions: 49 and 55. Also present was Rep. Al Osterback of the Resource Committee, George Utermohle, Research Analyst, and Joe Guthrie, Legislative Counsel.

Chairman Anderson gave an activity report and stated that a staff assistant has not been appointed, but that the secretarial position was filled by Elizabeth Ali.

Rep. Buchholdt stated that HB 686 and 687 were companion bills addressing bowhead whaling. She believes in the conservation of natural resources yet recognizes the need for the coastal people to hunt whales. She is convinced of this need and has had meetings regarding the bowhead whaling controversy. She attended the whaling conference in Pt. Barrow and learned from the hearings and the International Whaling Commission (IWC) at the meeting in Tokyo that Alaskans should get a better view of the issue so she has introduced these bills.

HB 687 would make a special appropriation to the Department of Fish and Game for disbursement to the Alaska Eskimo Whaling Commission (AEWC). Rep. Cowper asked who comprised the AEWC and how the money would be spent. The AEWC members are a group of whaling captains from St. Lawrence, Pt. Barrow, Savoonga, Pt. Hope, and Pt. Leigh. $250,000 appropriated from the general fund would enable the AEWC to: 1) gather data on the population, migration, and habits of whales; 2) monitor the subsistence harvest of whales; 3) reduce the number of whales struck and lost; and 4) present data gathered and represent the interest of the Alaskan subsistence whalers to the federal government and the IWC.

The IWC granted the AEWC a quota of 12 whales last year, this quota may change if it is known that there are more whales. Rep. Buchholdt asked that Sec. 2 of Senate Bill 440 sponsored by Senator Ferguson be amended to read: "This Act takes effect March 1, 1978".

Rep. Cowper felt that the committee needed to learn more about this issue. Howevever, Rep. Nakak said that the issues had been discussed to his satisfaction and that the intention of the bill was for the Alaskan Eskimo to be the vehicle to conduct a survey with the National Oceanic and Atmospheric Administration and other conservation groups on the ban on bowhead whaling. The agreement of AEWC and IWC sets a quota of 12 whales, but more information is needed for next years meeting.

Rep. Copwer said that the AEWC information was not accepted by the IWC at the Barrow meeting. He asked whether or not the IWC would accept the data gathered by AEWC. Rep. Anderson replied that when Sen. Poland and Rep. Osterback heard the AEWC, the Alaska Department of Fish and Game had neither the capability or the staff to give accurate data on the whale population and the number of whales lost. The federal government stated that neither side has any answers and that the AEWC could gather data.

Rep. Cowper said that the AEWC may gather data, but should have the sanction of the IWC. Rep. Buchholdt was informed in June last year that there would be a ban after the September hearing. The State Department included Alaskan Eskimos as delegates in the United States membership at the conference. The information given at this conference was conjecture and from various opinions. Funding would be necessary to authenticate the account, to study improved hunting methods, to reduce the number of whales lost, and to get an accurate number of whales. Rep. Cowper stated again that the AEWC must have the sanction of perhaps the U.S. Fish and Wildlife so that the IWC accepts AEWC information.

The IWC has no jurisdiction on subsistence whaling, and Rep. Buchholdt felt that if the Alaska State Legislature cosponsor a bill addressing this issue than the AEWC would have more clout. This would impact the federal government. Rep. Hayes pointed out that House Joint Resolution 49 defines the goals and objectives of the AEWC. The appropriation implements the proposed plan, defines the extent and functions of the AEWC.

Rep. Nakak informed the committee that whaling captains were meeting with arms campanies and manufacturers to improve antiquated hunting methods and guns.

Rep. Hayes told the committee that this bill should be reviewed before its gets to the House floor. Rep. Nakak replied that testimony material was not available and that the Alaska Department of Fish and Game has endorsed the AEWC management plan so that the Subsistence Committee does not have to convince the Department of Commerce or anyone else of the management plan. Rep. Anderson stated that House Bills 686 and 687 would go to the Resource and Finance Committees once they move from the Subsistence Committee.

Rep. Buchholdt said that House Joint Resolution 55 also addresses the whaling issue. HJR 55 requests the Secretary of Commerce to allocate adequate funding to a comprehensive long-term research program on the bowhead and other arctic whales; and to cooperate with

the State of Alaska and the AEWC in the management of the bowhead conservation program. Rep. Hayes felt that he did not have adequate background and would like to get more information. Rep. Anderson said that there is no satisfactory background, but would get a tape of the joint meeting. There has been no action taken to date so House Bills 686 and 687 should move into the Resource Committee. Rep. Nakak moved to pass HB 686. Motion passed.

A motion was made to amend HB 687, Sec. 2 to read: " This Act takes effect March 1, 1978". Rep. Nakak moved to pass HB 687, motion passed.

HJR 49 endorses the AEWC management plan and urges its full support before the International Whaling commission. Rep. Nakak said that the United States is not a whaling nation. The only people who hunt whales are represented by the AEWC. The motion to move HJR 49 passed.

Rep. Buchholdt is very interested in HJR 55 and wishes the legislature to address the conservation of bowhead whale issue. The resolution asks the United States to address this problem. The Congressional delegation has Senator Ted Stevens assurance that they will cooperate in this venture so this resolution should pass to show that the Alaska State Legislature will cooperate. Rep. Nakek moved to pass HJR 55. Rep. Anderson will ask Speaker of the House Malone to refer this resolution to the House Resource Committee.

Discussion of HJR 48 followed. This resolution is a reflection of the desire of rural people who wish recognition of their need to hunt spring birds. They know that there will be considerable resistance to the spring harvest of migratory birds, but it is necessary to augment their food stores when airplanes are unable to land in rural areas. The resolution requests the President of the United States to amend existing treaties to conform to the approach taken in the recent U.S.-U.S.S.R treaty, allowing rural residents of Alaska to hunt migratory game birds in the springtime if consistent with the conservation of migratory birds stocks.

Rep. Buchholdt sees the need for spring hunting from her experience in traveling up north. She said that the treaty has no regard for Native people. The conservation aspects are important and a measure is necessary to protect the birds. Rep. Nakek gave strong support to the resolution, but stated that is is controversial and asked to hold it and not pass it. He felt that Rep. Cotten should have the opportunity to view the resolution and state his opinion to the committee.

A motion was made by Rep. Nakak to adjourn. Rep. Anderson informed the committee of the upcoming Citizen's Participation Conference in Juneau on February 23, 24, and 25. George Utermohle and Joe Guthrie were recognized and thanked for their work in the committee.

HJR 48 was held over for the next meeting. The meeting adjourned at 3:30 p.m.

Respectfully submitted,

Elizabeth C. Ali

Elizabeth C. Ali, Secretary

SJR

49

TELEGRAM

ACA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

20036 NL KENAI ALASKA 50 04-24 0230P AST

PMS REP ALVIN OSTERBACK

JUNEAU

CIAA AGREES WITH SJR49 BY SEN KERTTULA. HIS IS A REASONABLE APPROACH FOR HELPING SALMON RETURNS IN CONTRAST TO THOSE WHO WOULD CURTAIL ALL AQUACULTURE EFFORTS UNTIL THEY WERE ASSURED OPPORTUNITY TO HARVEST NOW REGARDLESS OF CONSEQUENCES. PLEASE SUPPORT THIS RESOLUTION AND HELP SALMON, NOT VESTED INTEREST GROUPS.

COOK INLET AQUACULTURE ASSN FLOYD E HEIMBUCH, MANAGER

95TH CONGRESS
2D SESSION

S. 2762

IN THE SENATE OF THE UNITED STATES

MARCH 17 (legislative day, FEBRUARY 6), 1978

Mr. GRAVEL introduced the following bill; which was read twice and referred to the Committees on Agriculture, Nutrition, and Forestry and Commerce, Science, and Transportation jointly by unanimous consent

A BILL

To provide for the development of aquaculture in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Aquaculture Organic Act of 1978".

SEC. 2. FINDINGS, PURPOSE, AND POLICY.

(a) The Congress finds the following:

(1) The world production of seafood has declined since 1970 and the harvest of some populations of fish and shellfish has exceeded levels of maximum sustainable yield.

(2) Certain stocks of fish and shellfish of importance to the United States are depleted, or are declining, and such depletion or decline has an undesirable impact on both commercial and recreational fisheries.

(3) There is an extensive market for seafood in the United States, but the United States imports in excess of 50 percent of its fish and shellfish for human consumption (which imports are ten times the level of exports), and this dependence on imports as a source of protein makes it difficult to insure continuous supplies and suggests that alternatives such as aquaculture be developed.

(4) Many segments of the world population are now facing serious nutritional deficiencies and food shortages due to adverse climatic conditions and the steady growth of population. These problems will become more severe, and the resulting demand for increased food production will have to be met chiefly through the application of scientific and technological advances from research on aquaculture and other food production systems.

(5) Aquaculture is contributing significantly to world food supplies with production equal to 10 percent of current landings of seafoods and has the potential for increase by a factor of five before the end of this century.

(6) Less than 3 percent of current United States fisheries production results from aquaculture but there is a good potential for expanding production from aquaculture to equal or exceed the worldwide average, thereby helping to provide United States consumers with stable supplies of high quality aquatic foods.

(7) Growth of aquatic plants is a source of food for human and animal consumption as well as a source of industrial materials and energy. The Congress recognizes the importance of developing aquaculture of both plant and animal species.

(8) The stocking of advanced life stages of fish and shellfish produced by aquaculture is a means of rebuilding and augmenting fish and shellfish populations and establishing new fisheries.

(9) The application of aquaculture technology offers opportunities for the recovery of wasted thermal energy, nutrients, and other resources and may be a more efficent use of these resources for food production than current methods of agriculture.

(10) Where water, whether fresh, brackish, or marine is suitable for aquaculture, appropriate consideration should be given to the utilization of such water for aquaculture along with the other uses of such water.

(11) Where land-use management policies may inhibit the development of aquaculture facilities in areas suitable for aquaculture, appropriate consideration should be given to the utilization of these areas for aquaculture along with the other uses of such areas.

(12) Current efforts to develop aquaculture in the United States are highly diffuse, and a strong commitment by the Federal Government will make aquaculture more efficient and competitive, thereby stimulating public and private investment and development.

(13) While many scientific and technological problems are unsolved, there is sufficient knowledge to further the development of aquaculture production systems for many species of fish and shellfish.

(14) The development of aquaculture in the United States has been limited by the inability of producers of aquatic species to obtain adequate capital and a reliable source of seed stock.

(15) Aquaculture in the United States has traditionally concentrated on a few aquatic species, but many others have a potential for commercial and other culture. However, the culture of additional species may include a higher degree of risk than the culture of traditional species, especially during the initial stages.

(16) Government programs that help to reduce the

risks associated with production of agricultural commodities have not been generally available to producers of those aquatic species in which the risk is high.

(17) The rehabilitation and enhancement of the publicly owned fish and shellfish resources are desirable applications of aquaculture technology as a means to increase the general public benefits to be derived from the utilization of these common property resources.

(18) Extensions of jurisdiction over marine resources by numerous nations have resulted in the exclusion of many fishing nations from traditional fishing areas and created a demand in those nations for aquatic foodstuffs. Aquaculture could supply this new demand.

(19) The Select Committee on Nutrition and Human Needs of the Senate has recommended an increase in the fish consumption of the American family. Aquaculture can help to carry out this recommendation.

(b) The purpose of this Act is to promote aquaculture in the United States by—

(1) declaring a national aquaculture policy;

(2) establishing and implementing a national plan for aquaculture; and

(3) developing programs and encouraging activities:

which will result in the coordination of domestic aquaculture efforts, the conservation of existing aquatic resources, the rehabilitation and enhancement of the publicly owned fish and shellfish stocks, the encouragement of commercial aquaculture activities, the creation of new industries and job opportunities, and other national benefits.

(c) Aquaculture has a high potential for agumenting existing commercial and sport fisheries, thereby increasing the supply of aquatic protein for both human and animal consumption and assisting the United States in meeting its future food needs and contributing to the solution of world food problems. It is, therefore, in the national interest, and it is the national policy, to encourage the development of aquaculture.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) The term "aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments, including ocean ranching.

(2) The term "aquaculture facility" means any land, structure, or other appurtenance, if such land, structure, and appurtenance is located within the United States, which is used for aquaculture, including, but not limited to, any laboratory, vehicle, hatchery, rearing pond, raceway, pen, incubator, or other equipment.

(3) The term "aquatic species" means any species, native or introduced, of finfish, mollusk or crustacean or other aquatic invertebrate, amphibian, reptile, or aquatic plant, other than any such species which is primarily used for ornamental purposes.

(4) The term "Fund" means the Federal Aquaculture Assistance Fund established by section 11.

(5) The term "person" means any individual who is a citizen or national of the United States and any corporation, partnership, association, or other entity (including, but not limited to, any community development corporation or fisherman's cooperative) organized or existing under the laws of any State.

(6) The term "Secretary" means the Secretary of Commerce.

(7) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and any other Commonwealth, territory, or possession of the United States.

(8) The term "United States", when used in a geographical context, means all States.

SEC. 4. NATIONAL AQUACULTURE DEVELOPMENT PLAN.

(a) (1) Before the close of the 1-year period beginning on the effective date of this Act, the Secretary, after consultation with the Secretary of the Interior and the Secretary of Agriculture, shall prepare a national aquaculture development plan (hereinafter in this Act referred to as the "plan").

(2) (A) The Secretary shall, after consultation with the Secretary of the Interior and the Secretary of Agriculture, establish an advisory committee for the purpose of assisting the Secretary in formulating a plan responsive to the various regional needs, interests, and approaches to the concept of aquaculture.

(B) Such advisory committee shall be composed of regional subcommittees. The subcommittee regions shall be established as follows:

(i) Eight regional subcommittees shall be created which correspond in geographical composition to the eight regional divisions created under section 302 (a) of the Fishery Conservation and Management Act of 1976.

(ii) Other regional subcommittees shall be created by the Secretary to represent the remaining nonoceanic States which are not a part of the regional subcommittees created by clause (i) of this subparagraph. Such other regional subcommittees shall be established on the basis of the following criteria:

(I) geographical proximity of States to one another,

(II) similarity of States in aquacultural activities and potential, and

(III) other relevant factors.

(C) Membership of the regional advisory subcommittee from any region must include representatives of at least the following groups, where such groups exist in that region:

(i) State fish and game department;

(ii) commercial fishermen;

(iii) fishfood processors;

(iv) private sector aquaculture organizations;

(v) regional fishery management councils;

(vi) Federal Fish and Wildlife Agency;

(vii) recreational fishermen; and

(viii) educational institutions.

(D) The Governors of the various States shall appoint members to the regional advisory subcommittees.

(E) The members of the regional advisory committees established under subparagraph (B), while away from their homes or regular places of business in the performance of services for the committee, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government serv-

ice are allowed expenses under section 5703 of title 5, United States Code.

(b) The plan shall be formulated at the regional level and coordinated and finalized at the secretarial level. The final plan shall—

(1) identify those aquatic species (hereinafter referred to in this Act as "priority aquatic species") which the Secretary determines to have a potential for culturing on a commercial or other basis, which determination shall be made by the Secretary after taking into account—

(A) the extent of commercial aquaculture, if any, currently being carried out with respect to such species, and the projected biological and economic feasibility of culturing such species;

(B) the extent to which aquaculture research and development have been undertaken, within the public and private sectors, with respect to such species;

(C) the time and resources which will be required to develop aquaculture technology to the point where such species can be cultured on a commercial or other basis; and

(D) such other factors as the Secretary determines to be appropriate; and

(2) contain an aquaculture development program, prepared by the Secretary, for each priority aquatic species.

(c) The aquaculture development program contained in the plan for each priority aquatic species shall set forth those actions which the Secretary determines should be undertaken, and the period of time within which each such action should be completed, to provide for the culture of each such species on a commercial or other basis. Such actions, with respect to each priority aquatic species, shall include—

(1) such research and development, technical assistance, demonstration, extension education, and training as may be necessary and appropriate regarding—

(A) aquaculture facility design and operation,

(B) water quality management,

(C) utilization of waste products (including thermal effluents),

(D) nutrition and the development of economical feeds,

(E) life history, genetics, physiology, and pathology and disease control (including research regarding organisms which may not be harmful to fish and shellfish but are injurious to humans),

(F) processing and market development, and

(G) production management and quality control;

(2) research with respect to the effect of the culture of such species on estuarine and other water areas;

(3) the identification and analysis of any legal or regulatory constraints which may affect the culture of such species;

(4) the development of adequate supplies of seed stock;

(5) the construction, purchase, lease, or acquisition of necessary developmental aquaculture facilities; and

(6) such other actions relating to research and development, technical assistance, demonstration, extension education, and training as such Secretary deems necessary and appropriate.

(d) In preparing an aquaculture development program for any priority aquatic species, and in reviewing any such program pursuant to subsection (f), the Secretary shall, to the extent practicable, take into account any significant action which has been, or which is proposed to be undertaken by any other Federal agency, any State agency, or any person, and which may affect the accomplishment of the program.

(e) Each action under each aquaculture development

program prepared under this section for a priority aquatic species shall be implemented, either individually, jointly, or collectively, by the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, as specified by the Secretary in the program on the basis of—

(1) responsibilities vested in the respective Secretaries by law or any executive action having the effect of law (including, but not limited to, Reorganization Plan Numbered 4 of 1970) ; and

(2) in cases where paragraph (1) does not apply, the experience, expertise, and other appropriate resources which the department, over which the Secretary concerned has jurisdiction, may have with respect to the action required under the program.

(f) (1) The Secretary, in consultation with the Secretary of the Interior, the Secretary of Agriculture, and the chief executive officer of any other Federal agency, any appropriate Regional Fishery Management Council, and any State agency which has significant functions which relate to aquaculture, shall review on an annual basis—

(A) each aquatic species not identified as a priority aquatic species; and

(B) the aquaculture development program established under the plan for each priority aquatic species to determine whether the actions specified in the program

are being accomplished on a successful and timely basis.

(2) If as a result of the review conducted pursuant to paragraph (1) (A), the Secretary determines, after taking into account the criteria set forth in subsection (b) (1), that any aquatic species has a potential for culturing on a commercial or other basis the Secretary shall by regulation amend the plan to identify such species as a priority aquatic species and prepare an aquaculture development program for such species pursuant to subsection (c).

(3) If as a result of the review conducted pursuant to paragraph (1) (B), the Secretary finds that—

(A) any action so specified should be revised, the Secretary shall make such revision to the program as he deems necessary and appropriate; or

(B) sufficient progress is not being made with respect to any such program or that actions taken under any such program indicate that culture of the priority aquatic species concerned is doubtful, the Secretary shall cancel the program.

The Secretary shall by regulation amend the plan whenever any revision or cancellation is made pursuant to this subsection.

SEC. 5. FUNCTIONS AND POWERS.

(a) In implementing the aquaculture development program prepared under section 4 for any priority aquatic

species, the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, as the case may be, shall—

(1) provide advisory, educational, and technical assistance (including training) with respect to culture of the species to interested public and private organizations and individuals, but in providing such assistance, shall, to the maximum extent practicable, avoid duplication of like assistance provided by other Federal agencies;

(2) consult and cooperate with interested persons, Federal, State, and local government agencies, regional commissions, and educational institutions regarding the development of aquaculture technology;

(3) produce, under the authority of section 4(c)(4), and sell at cost seed stock for the priority aquatic species when privately produced seed stock is unavailable, unreliable, or not sufficient to meet production needs;

(4) encourage the implementation of aquaculture technology in the rehabilitation and enhancement of the publicly owned fish and shellfish stocks, as well as the promotion of private commercial aquacultural enterprises;

(5) assist the development of aquaculture by requiring that in areas where multiple land and water

uses exist, aquaculture should be viewed as an important use which should be given appropriate consideration; and

(6) prescribe such regulations as may be necessary to carry out such program.

(b) The Secretary, the Secretary of the Interior, or the Secretary of Agriculture may, incident to such Secretary's implementation of any aquaculture development program—

(1) for the purposes of assessing the biological and economic feasibility of any aquaculture system—

(A) conduct scale tests of the system, and, if necessary for the conduct of any such test, construct, operate, and maintain developmental aquaculture facilities, including, but not limited to, pilot plants for testing laboratory-scale results; and

(B) conduct such other tests or analyses as may be necessary;

(2) develop methods to enhance aquatic species stocks by aquaculture;

(3) carry out such studies and research with respect to aquatic species as may be appropriate regardless of whether such species is or has been identified as a priority aquatic species; and

(4) take such other actions as such Secretary deems necessary and appropriate.

(c) In addition to carrying out such other functions as are required under this Act, the Secretary shall—

(1) establish and maintain an aquaculture information center which shall function as a national clearinghouse for the collection, selection, analysis, and dissemination of scientific, technical, legal, and economic information relating to aquaculture;

(2) conduct appropriate surveys, in coordination with other agencies, of public and private aquaculture being carried out in the United States with respect to each aquatic species for the purpose of acquiring information on acreages, water use, production, culture techniques, and other relevant matters;

(3) arrange for the mutual exchange of information relating to aquaculture with foreign nations; and

(4) conduct a continuing study to determine which existing capture fisheries could be adversely impacted in the marketplace by competition from products produced by commercial aquaculture enterprises significantly aided under this Act, which study shall include an assessment of economic impact by species and by geographical region, and recommended measures to ameliorate any adverse impact. The Secretary shall report to Congress on the findings made under such study

no later than 2 years following the effective date of this Act and every 2 years thereafter.

Any production information submitted to the Secretary by any person under paragraph (2) shall be confidential and shall not be disclosed except to the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, as the case may be, for purposes of carrying out this Act, the advisory committee which may be established under section 4(a) (2) (A), or when required under court order. The Secretary shall by regulation prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information.

(d) (1) The Secretary, the Secretary of the Interior, and the Secretary of Agriculture are each authorized to accept any gift, temporary donation, or devise or bequest of real or personal property, or the proceeds therefrom, or interests therein, for use in carrying out any function that such Secretary may have under this Act. Any such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are deemed by the Secretary concerned to be in accordance with

law and compatible with the purpose for which acceptance is sought.

(2) Any gift or bequest of money, and any proceeds from the sale of other property received as a gift or bequest under this subsection, shall be deposited in a separate account in the Treasury and shall be disbursed upon the order of the Secretary concerned.

SEC. 6. COORDINATION OF FEDERAL AGENCY ACTIVITIES REGARDING AQUACULTURE.

(a) (1) There is established the Interagency Committee on Aquaculture (hereinafter in this section referred to as the "Committee") which shall be composed of the following officers or their designees:

(A) The Secretary, who shall be the Chairman of the Committee.

(B) The Secretary of the Interior.

(C) The Secretary of Agriculture.

(D) The Administrator of the Environmental Protection Agency.

(E) The Administrator of the Energy Research and Development Administration.

(F) The Commissioner of Food and Drugs.

(G) The Administrator of the Small Business Administration.

(H) The Chief of Engineers.

(I) The chief executive officer of any other Federal agency and any Regional Fishery Management Council which the Secretary finds to have significant functions which relate, or may relate, to the development of aquaculture.

(2) The functions of the Committee shall be—

(A) to ensure that there is a continuing exchange of information among the agencies represented on the Committee with respect to the nature and status of the programs or projects being carried out by such agencies which relate, or which may relate, to aquaculture in general or to the implementation of the plan; and

(B) to review on a continuing basis the relevant programs and projects of all Federal agencies to determine whether they are being carried out in compliance with subsection (b).

(b) Each Federal agency which has any function or responsibility with respect to aquaculture or has jurisdiction over any activity which affects, or may affect, the achievement of the purposes of this Act, shall, in consultation with the Secretary and to the maximum extent practicable, carry out such function, responsibility, and activity in a manner which is consistent with the purposes of this Act.

(c) Nothing in this Act shall be construed to amend,

repeal, or otherwise modify the authority of any Federal officer or any Federal agency to carry out any functions relating to aquaculture which are authorized under any other provision of law.

SEC. 7. CONTRACTS AND GRANTS.

(a) The Secretary may carry out any function under this Act, and the Secretary of the Interior or the Secretary of Agriculture may carry out any function relating to any aquaculture development program which he is specified to implement under the plan, through grants to, or contracts with, any other Federal agency, any agency of any State and, subject to the approval of the State, any agency of any political subdivision thereof, any regional commission, any educational institution, or any other person.

(b) Any contract entered into, or any grant made, pursuant to this section shall contain such conditions and limitations as the Secretary concerned shall by regulation prescribe as being necessary and appropriate to protect the interests of the United States; except that no contract may be entered into, and no grant may be made, pursuant to this section unless the applicant submits with his application therefor a certification from each appropriate State agency and each appropriate local government agency stating that nothing in the laws administered by such agency prevents

the carrying out of the project to which the contract or grant will be applied.

(c) The amount of any grant made pursuant to this section may not exceed one-half the estimated cost of the project for which the grant is made.

(d) Any person who receives a grant or contract under this section shall make available to the Secretary concerned and to the Comptroller General of the United States, or any of their authorized representatives, for purposes of audit and examination, any book, document, paper, and record that is pertinent to the funds received by such person under such grant or contract.

SEC. 8. GUARANTEES OF OBLIGATIONS ISSUED FOR AQUACULTURE FACILITIES.

(a) (1) The Secretary may, subject to the provisions of this section, guarantee, or make a commitment to guarantee, the payment of interest on, and the principal amount of, any obligation issued by an obligor for any of the following purposes:

(A) The financing of the construction, reconstruction, or reconditioning of any aquaculture facility (including the financing of the purchase cost of any aquaculture facility to be reconstructed or reconditioned); except that no obligation may be guaranteed under this section later than 2 years after the date

of the completion of the construction, reconstruction, or reconditioning of the aquaculture facility involved.

(B) The acquisition of stocks of aquatic species for any aquaculture facility.

(C) The financing of the initial operating expenses of any aquaculture facility.

(D) The financing of marketing operations exclusively for aquaculture products.

(E) The refinancing of any existing obligation issued for any of the purposes specified in subparagraph (A), (B), (C), or (D), whether or not guaranteed under this section, including, but not limited to, any short-term obligation incurred for the purpose of obtaining temporary funds for refinancing.

Guarantees and commitments to guarantee may be made under this section without regard to section 3679 (a) of the Revised Statutes of the United States (31 U.S.C. 665 (a)).

(2) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to both principal and interest, including any interest, if provided for in the guarantee, which may accrue between the date of default under a guaranteed obligation and the payment in full of the guarantee.

(3) Any guarantee, or commitment to guarantee, made by the Secretary under this section shall be conclusive evi-

dence of the eligibility of the obligation for such guarantee, and the validity of any guarantee, or commitment of guarantee, so made shall be incontestable.

(4) The aggregate unpaid principal amount of all obligations guaranteed under this section and outstanding at any one time shall not exceed $500,000,000.

(b) (1) Obligations guaranteed under this section—

(A) shall have an obligor approved by the Secretary as being responsible and possessing the ability, experience, financial resources, and other qualifications necessary for the adequate operation and maintenance of the aquaculture facilities;

(B) shall be in an aggregate principal amount which does not exceed 87½ percent of the actual cost involved or the depreciated actual cost, as determined by the Secretary;

(C) shall have maturity dates satisfactory to the Secretary, but not to exceed 25 years;

(D) shall provide for payments by the obligor satisfactory to the Secretary; and

(E) shall bear interest (exclusive of charges for the guarantee and service charges, if any) at rates not to exceed such percentage per annum on the unpaid principal as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in

the private market for similar loans and the risks assumed by the Secretary.

(2) In guaranteeing any obligation under this section, the Secretary shall give preference to any person with 40 or fewer employees which, together with its affiliates, is primarily engaged in the business of aquaculture or commercial fishing for aquatic species.

(3) No obligation shall be guaranteed under this section unless the obligor conveys or agrees to convey to the Secretary such security interest as the Secretary may require to reasonably protect the interests of the United States.

(c) (1) The Secretary may charge a fee for any obligation guaranteed under this section, the amount of which shall be established by the Secretary by regulation but which may not exceed one-half of 1 percent per annum of the outstanding principal balance of the obligation. Fee payments shall be made by the obligor to the Secretary when moneys are first advanced under a guaranteed obligation and at least 60 days before each anniversary date thereafter.

(2) The Secretary shall charge and collect from the obligor such amounts as he may deem reasonable for the investigation of the application for any guarantee, for the appraisal of properties offered as security for any guarantee,

and for the inspection of such properties during construction, reconstruction, or reconditioning; except that such charges shall not aggregate more than one-half of 1 percent of the original principal amount of the obligation to be guaranteed.

(3) All fees and other amounts received by the Secretary under the provisions of this subsection shall be deposited in the Fund.

(4) Obligations guaranteed under this section, and agreements relating thereto, shall contain such other provisions with respect to the protection of the security interests of the United States (including acceleration and subrogation provisions and the issuance of notes by the obligor to the Secretary), liens and releases of liens, payments of taxes, and such other matters as the Secretary may prescribe.

(d) (1) In the event of a default, which has continued for 30 days, in any payment by the obligor of principal or interest due under any obligation guaranteed under this section, the obligee or his agent shall have the right to demand, at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 90 days from the date of such default, payment by the Secretary of the unpaid principal amount of said obligation and of the unpaid interest thereon to the date of payment. Within such period as may be specified in the

guarantee or related agreements, but not later than 30 days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid principal amount of the obligation and unpaid interest thereon to the date of payment; except that the Secretary shall not be required to make such payment if before the expiration of such period he finds that there was no default by the obligor in the payment of principal or interest or that such default has been remedied before any such demand.

(2) Payments required to be made by the Secretary under paragraph (1) shall be made by the Secretary from the Fund.

(3) In the event of any payment by the Secretary under paragraph (1), the Secretary shall have all rights in any security held by him relating to his guarantee of such obligations as are conferred upon him under any security agreement with the obligor. Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary may, under such terms and conditions as the Secretary prescribes or approves, complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell any property acquired by him pursuant to a security agreement with the obligor.

(4) After any default referred to in paragraph (1), the Secretary shall take such action against the obligor or

any other parties liable thereunder that, in his discretion, may be required to protect the interests of the United States. Any suit may be brought in the name of the United States or in the name of the obligee and the obligee shall make available to the United States all records and evidence necessary to prosecute any such suit. The Secretary may accept a conveyance of title to and possession of property from the obligor or other parties liable to the Secretary and may purchase the property for an amount not greater than the unpaid principal amount of such obligation and interest thereon. In the event the Secretary receives through the sale of property an amount of cash in excess of any payment made to an obligee under paragraph (1) and the expenses of collection of such amounts, he shall pay such excess to the obligor.

(5) Whoever, for the purpose of obtaining any loan or advance of credit from any person with the intent that an obligation relating to such loan or advance of credit shall be offered to or accepted by the Secretary to be guaranteed, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage relating to an obligation guaranteed by the Secretary, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of the Secretary under this section, makes,

passes, utters, or publishes, or causes to be made, passed, uttered, or published any statement, knowing the same to be false, or alters, forges, or counterfeits, or causes or procures to be altered, forged, or counterfeited, any instrument, paper, or document, or utters, publishes, or passes as true, or causes to be uttered, published, or passed as true, any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income shall be punished by a fine of not more than $5,000, or by imprisonment for not more than 2 years, or both.

(e) The Secretary shall promulgate such rules and regulations as may be deemed necessary or appropriate to carry out the purposes and provisions of this section.

(f) For purposes of this section—

(1) The term "actual cost" of an aquaculture facility, as of any specified date, means the aggregate, as determined by the Secretary, of—

(A) all amounts paid by, or for the account of, the obligor with respect to such facility on or before that date; and

(B) all amounts which the obligor is then obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of such facility.

(2) The terms "construction", "reconstruction", or "reconditioning" include, but are not limited to, designing, inspecting, outfitting, and equipping of the aquaculture facility involved.

(3) The term "depreciated actual cost" means the actual cost depreciated on a straightline basis over the useful life of the property involved as determined by the Secretary.

(4) The term "obligation" means any note, bond, debenture, or other evidence of indebtedness issued for one of the purposes specified in subsection (a).

(5) The term "obligee" means the holder of any obligation.

(6) The term "obligor" means any person primarily liable for payment of the principal of or interest on any obligation.

SEC. 9. DISASTER LOANS.

(a) (1) The Secretary may make one or more loans from the Fund to any person if—

(A) an aquaculture facility, or stock of aquatic species at the facility, or both, that is owned by such person is damaged or destroyed as a result of a natural disaster; or

(B) the stock of aquatic species at an aquaculture facility owned by such person is damaged or destroyed

by disease, pollution, or contamination (caused by reasons other than a natural disaster or the willful or negligent action of such person).

The purpose of any loan made by the Secretary under this section shall be to accomplish one or more of the following objectives:

(i) The repair, rehabilitation, or replacement of such facility.

(ii) The replacement of aquatic species stock.

(iii) To continue aquaculture operations while any such repair, rehabilitation, or replacement is in progress.

(iv) The purchase, construction, or reconstruction of an aquaculture facility at another location if the Secretary finds that—

(I) the damage to the facility is so extensive that its repair or rehabilitation is impracticable;

(II) the replacement of the destroyed facility at the same location is impracticable; or

(III) the pollution or contamination referred to in subparagraph (B) is likely to persist for such period of time that continued aquaculture operations at the same location are impracticable.

(v) To meet payments of principal and interest on any obligation of such person with respect to the facility or stock so damaged or destroyed for such period of time

as the Secretary deems appropriate, taking into account the degree of such damage or destruction.

(vi) To retire in full any such obligation.

(2) No loan may be made under this section for any damage or destruction—

(A) which is fully compensated for by insurance (including insurance paid under section 10) or otherwise; or

(B) for which assistance is available under any other Federal disaster assistance program.

(b) Any loan made pursuant to this section shall—

(1) mature in not more than 20 years;

(2) bear interest at a rate not less than the rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity;

(3) be approved only upon the furnishing of such security or other reasonable assurance of repayment as the Secretary may require; and

(4) be subject to such other terms and conditions as the Secretary may require to protect the interests of the United States.

(c) The Secretary may consent to the modification of any term or condition of any loan made under this section, including, but not limited to, reduction of the rate of inter-

est, deferment of any installment of principal or interest, or change in any security requirement.

(d) All payments of principal and interest on loans made under this section shall be deposited into the Fund.

(e) For purposes of this section, the term "obligation" means any note, bond, debenture, or other evidence of indebtedness issued for the purpose of financing (1) the construction, reconstruction, or reconditioning of an aquaculture facility, (2) the initial operating expenses of any such facility, and (3) the acquisition of stock of aquatic species for any such facility.

(f) (1) Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security for the purpose of obtaining for himself or for any applicant any loan under this section, or extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Secretary under this section, or for the purpose of obtaining money, property, or anything of value under this section, shall be punished by a fine of not more than $5,000, or by imprisonment for not more than 2 years, or both.

(2) Whoever, with the intent to defraud, knowingly conceals, removes, disposes of, or converts to his own use or to that of another, any property mortgaged or pledged to,

or held by, the Secretary pursuant to this section shall be punished by a fine of not more than $5,000, or by imprisonment for not more than 5 years, or both.

(g) No loan may be made by the Secretary under this section for any damage to, or destruction of, any aquaculture facility or stock of aquatic species which occurs on or after the close of the 5-year period beginning on the effective date of this Act.

SEC. 10. INSURANCE AGAINST CERTAIN LOSSES INCURRED IN AQUACULTURE FACILITY OPERATIONS.

(a) As used in this section, unless the context otherwise requires—

(1) The term "direct insurance" means any insurance described in paragraphs (2), (3), and (4).

(2) The term "essential liability insurance" means insurance against all sums which the owner of an aquaculture facility becomes legally obligated to pay as damages because of bodily injury or property damage caused by the aquaculture facility, the operation of such facility, or the aquatic species cultured at such facility.

(3) The term "essential property insurance" means insurance against direct loss of, or direct damage to, the real or personal property of an aquaculture facility caused by perils as they are defined and limited in

standard fire policies and extended coverage endorsements thereon as approved by the State insurance authority, and insurance against loss of, or damage to, the real or personal property of an aquaculture facility from such perils as the Secretary by regulation shall specify, including, but not limited to vandalism, malicious mischief, burglary, and theft.

(4) The term "essential stock insurance" means insurance against loss of, or damage to, any aquatic species being cultured at an aquaculture facility due to unavoidable or natural causes, including, but not limited to, drought, pollution, hail, frost, wind, winterkill, freeze, lightning, fire, excessive rain, flood, snow, wildlife, hurricane, tornado, insect or parasite infestation, disease, and such other unavoidable or natural causes as the Secretary by regulation shall specify.

(5) The term "insurer" includes any insurance company or group of companies under common ownership which is authorized to engage in the insurance business under the laws of any State.

(6) The term "owner" means any person having an insurable interest in an aquaculture facility or aquatic species stock.

(7) The term "pool" means any pool or association of insurers in any State which is formed, associated, or

otherwise created for the purpose of making insurance more readily available.

(8) The term "reasonable premium rate" means that premium rate determined by the Secretary, which would permit the purchase of any direct insurance coverage by a reasonably prudent person in similar circumstances with due regard to the costs and benefits involved.

(b) The Secretary may by regulation define any technical or trade term necessary in the administration of this section, insofar as any such definition is not inconsistent with the provisions of this section.

(c) (1) The Secretary shall conduct, within 6 months after the effective date of this Act, and annually thereafter, a study to determine whether direct insurance is generally available to owners at reasonable premium rates, through insurers, pools, or a suitable program adopted under State law.

(2) (A) If the Secretary finds, as a result of the study referred to in paragraph (1), that essential property insurance or essential liability insurance is not available at reasonable premium rates in any State and such insurance has not been provided by State action, the Secretary may establish a program to provide such insurance in such State, if the Secretary considers the issuance of such insurance neces-

sary and appropriate to carry out the purposes and policy of this Act.

(B) Any essential property insurance or essential liability insurance issued by the Secretary under this paragraph shall be subject to such terms and conditions, and to such deductibles and other restrictions and limitations as the Secretary deems appropriate; except that the Secretary may not provide essential property insurance or essential liability insurance with respect to—

(i) any aquaculture facility or stock of aquatic species which the Secretary determines to be uninsurable due to the failure of the owner to follow established principles for operating aquaculture facilities or culturing aquatic species, as the case may be; or

(ii) any aquaculture facility which the Secretary determines to lack reasonable protective measures to prevent loss or damage.

(3) (A) If the Secretary finds, as a result of the study referred to in paragraph (1), that essential stock insurance is not available at reasonable premium rates in any State and that such insurance has not been provided by State action, the Secretary shall establish a program to provide such insurance in such State.

(B) Any essential stock insurance issued by the Secretary under this paragraph shall be subject to such terms

and conditions and to such deductibles and other restrictions and limitations as the Secretary deems appropriate; except that the Secretary may not provide essential stock insurance with respect to any stock of aquatic species if the Secretary determines such stock to be uninsurable due to the failure of the owner to follow established principles for culturing aquatic species or due to the lack of reasonable protective measures at the aquaculture facility concerned to prevent the loss of, or damage to, the stock being cultured.

(d) (1) In determining the premium rate for any direct insurance offered from time to time under subsection (c) (2) or (3), the Secretary shall consult with persons knowledgeable and experienced in insurance, including, but not limited to, State insurance regulatory authorities, and may take into consideration with respect to the insurance concerned, the nature and degree of risk involved, the protective devices employed, the extent of past and anticipated losses, the prevailing rate for similar coverages, the economic importance of the insurance, and the relative abilities of the particular classes and types of insureds to pay the actual premium for such coverage.

(2) (A) The Secretary may not establish the premium rate for any direct insurance at less than 50 percent of the actual premium rate for such insurance.

(B) For purposes of subparagraph (A), the actual

premium rate for any direct insurance offered under this section shall be determined as follows:

(i) If insurance of the same kind is generally offered by insurers or pools in the State concerned, the actual premium rate shall be that rate which the Secretary determines to be the median premium rate for all such insurance so offered.

(ii) If insurance of the same kind is not generally offered by insurers or pools in the State concerned, the actual premium rate shall be that rate which the Secretary determines to be the rate at which insurers or pools in such State would offer such insurance, taking into account actuarially sound principles applicable to the elements making up such rate, including, but not limited to, claim losses, general administrative expenses, acquisition expenses, taxes, license fees, and profits.

In making determinations under clauses (i) and (ii), the Secretary shall consult with the insurance regulatory authority of the State concerned and any rate advisory organization licensed by such State.

(3) Nothing in this section shall be construed to prohibit or require either the adoption of uniform national rates or the periodic modification of the currently estimated reasonable premium rates for any particular coverage, class,

State, or risk on the basis of additional information or actual loss experience.

(e) (1) The Secretary may enter into any contract, agreement, treaty, or other arrangement with any insurer or pool to provide reinsurance coverage with respect to any direct insurance issued by such insurer or pool, in consideration of payment of such premiums, fees, or other charges by insurers or pools which the Secretary deems to be appropriate, after consultation with persons knowledgeable and experienced in insurance.

(2) Reinsurance issued under this subsection shall reimburse an insurer or pool for its total proved and approved claims for covered losses resulting from providing the direct insurance concerned during the term of the reinsurance contract, agreement, treaty, or other arrangement, over and above the amount of the insurer's or pool's retention of such losses, as provided in such reinsurance, contract, agreement, treaty, or other arrangement entered into under this section.

(3) Such contracts, agreements, treaties, or other arrangements may be made without regard to section 3679 (a) of the Revised Statutes of the United States (31 U.S.C. 665 (a)), and shall include any terms and conditions which the Secretary deems necessary to carry out the purposes of this section. The premium rates and terms and conditions of such contracts, agreements, treaties, or other ar-

rangements with an insurer or pool shall be uniform in any one year throughout the country.

(f) (1) All premiums received by the Secretary under this section shall be deposited into the Fund.

(2) The Secretary, in a suit brought in the appropriate United States district court, shall be entitled to recover from any owner, insurer, or pool the amount of any unpaid premium lawfully payable to the Secretary by such owner, insurer, or pool under any direct insurance or reinsurance issued under this section.

(3) No action or proceeding shall be brought for the recovery of any premium due the Secretary, or for the recovery of any premium paid to the Secretary in excess of the amount due, unless such action or proceeding is commenced within 5 years after the right accrued for which the claim is made; except that, if the insurer has made or filed with the Secretary a false or fraudulent statement or other document with intent to evade, in whole or in part, the payment of premiums, the claim shall not be deemed to have accrued until its discovery by the Secretary.

(g) In order to provide for maximum efficiency in the administration of the insurance and reinsurance program provided under this section, and in order to facilitate the expeditious payment of any claims under such program, the Secretary may enter into contracts with any insurer, pool,

or person, for the purpose of providing for the performance of any of the following functions:

(1) The estimation or determination of any amounts of payments for reinsurance or direct insurance claims.

(2) The receipt, disbursement, and accounting for funds in making payments for reinsurance and direct insurance claims.

(3) The auditing of the records of any insurer, pool, or person to the extent necessary to assure that proper payments are made.

(4) The establishment of the basis of liability for reinsurance or direct insurance payments, including the total amount of proved and approved claims which may be payable to any insurer, pool, or owner, and the total amount of premiums earned by any insurer or pool in the respective States from direct insurance or reinsurance.

(5) The provision of assistance in any manner provided for in the contract to further the purposes of this section.

(h) The Secretary may, with the consent of the agency concerned, accept and utilize, on a reimbursable basis, the officers, employees, services, facilities, and information of any Federal agency with respect to any insurance matter which is within the purview of this section.

(i) The Secretary may prescribe regulations establishing the general method or methods by which proved and approved claims for losses are paid under any direct insurance or reinsurance issued under this section. Proved and approved claims shall be paid from the Fund.

(j) The Secretary, in providing any direct insurance or reinsurance under this section may adjust and pay all claims for proved and approved losses covered by such insurance and, upon the disallowance by the Secretary, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant, within one year after the date of mailing of notice of disallowance or partial disallowance of the claim, may institute an action on such claim against the Secretary in the United States district court for the district in which the insured owner or reinsured insurer or pool resides or principally conducts business, and jurisdiction is hereby conferred upon such court to hear and determine such action without regard to the amount in controversy.

(k) The face amount of direct insurance and reinsurance coverage outstanding and in force at any one time under this section shall not exceed $1,000,000,000.

(l) No direct insurance or reinsurance may be issued by the Secretary under this section after the close of the 5-year period beginning on the effective date of this Act.

SEC. 11. FEDERAL AQUACULTURE ASSISTANCE FUND.

(a) There is established in the Treasury of the United States a Federal Aquaculture Assistance Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out, and administering, sections 8, 9, and 10. The Fund shall consist of—

(1) any sums appropriated to the Fund;

(2) any fees received by the Secretary in connection with any guarantee made under section 8;

(3) recoveries and receipts received by the Secretary under security, subrogation, and other rights and authorities under sections 8, 9, and 10;

(4) payments of principal and interest received by the Secretary under any loan made under section 9;

(5) premiums paid to, or recovered by, the Secretary for any direct insurance or reinsurance issued by the Secretary under section 10; and

(6) moneys deposited pursuant to the last sentence of subsection (b).

All payments made by the Secretary to carry out the provisions of sections 8, 9, and 10 (including reimbursements to other Government accounts) shall be paid from the Fund, only to the extent provided in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of sections 8, 9, and 10 shall be kept on deposit or

invested in obligations of, or guaranteed by, the United States.

(b) If at any time the moneys in the Fund are not sufficient to pay any amount the Secretary is obligated to pay under section 8(d)(1) or any direct insurance or reinsurance claim under section 10, the Secretary shall issue to the Secretary of the Treasury notes or other obligations (only to such extent and in such amounts as may be provided for in appropriation Acts) in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury prescribes. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations to be issued hereunder and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury at any time may sell any of the notes or other obligations acquired

by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Moneys borrowed under this subsection shall be deposited in the Fund and redemptions of such notes and obligations shall be made by the Secretary from the Fund.

SEC. 12. REPORT AND RECOMMENDATIONS.

Before the close of the 90th day after the close of the 3-year period beginning on the effective date of this Act, the Secretary shall review the operation and effectiveness of the disaster loan program provided for under section 9 and the insurance program provided for under section 10 and shall submit a report thereon to the Congress, together with the recommendation of the Secretary as to whether or not either such program should be continued and, if the Secretary recommends continuation, such suggestions as the Secretary may have for improving the operation and effectiveness of such program.

SEC. 13. AUTHORIZATION OF APPPOPRIATIONS.

(a) For purposes of carrying out the provisions of this Act (other than sections 8, 9, or 10), there are authorized to be appropriated, notwithstanding any authorization for appropriations in any other Act in effect before the date of the enactment of this Act—

(1) to the Department of Commerce, not to exceed—

(A) $4,000,000 for the fiscal year 1979,

(B) $15,000,000 for the fiscal year 1980, and

(C) $17,000,000 for the fiscal year 1981;

(2) to the Department of the Interior, not to exceed—

(A) $2,000,000 for the fiscal year 1979,

(B) $7,500,000 for the fiscal year 1980, and

(C) $8,500,000 for the fiscal year 1981; and

(3) to the Department of Agriculture, not to exceed—

(A) $2,000,000 for the fiscal year 1979,

(B) $7,500,000 for the fiscal year 1980, and

(C) $8,500,000 for the fiscal year 1981.

(b) There are authorized to be appropriated, without fiscal year limitation, to the Fund such sums as may be necessary and appropriate for purposes of carrying out sections 8, 9, and 10; but not to exceed $500,000,000 for the purposes of section 8 and not to exceed $250,000,000 for the purposes of section 9.

SEC. 14. EFFECTIVE DATE.

This Act shall take effect October 1, 1978.

95TH CONGRESS
2D SESSION

S. 2762

A BILL

To provide for the development of aquaculture in the United States, and for other purposes.

By Mr. GRAVEL

MARCH 17 (legislative day, FEBRUARY 6), 1978

Read twice and referred to the Committees on Agriculture, Nutrition, and Forestry and Commerce, Science, and Transportation jointly by unanimous consent

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

Vol. 124 WASHINGTON, FRIDAY, MARCH 17, 1978 No. 39

Senate

By Mr. GRAVEL:

S. 2762. A bill to provide for the development of aquaculture in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation and the Committee on Agriculture, Nutrition, and Forestry, jointly, by unanimous consent.

NATIONAL AQUACULTURE ORGANIC ACT OF 1978

● Mr. GRAVEL. Mr. President, I am introducing today legislation to focus national attention on the long neglected activity of aquaculture.

Aquaculture is the controlled cultivation of aquatic plants and animals. It is practiced in various degrees of intensity throughout the world and the time is now right for concerted action in the United States.

By introducing the National Aquaculture Organic Act of 1978, I hope to promote the concept of aquaculture by encouraging increased and coordinated activity in this area by public, private, educational, and almost any other, seriously interested party.

AQUACULTURE—AN OVERVIEW

The world activity in aquaculture is wide and varied. China has been cultivating fish for over 2000 years. Japan now produces more than 10 percent of its seafood needs through aquaculture. And Russia has been giving aquaculture increased attention.

The United States has been dabbling in various forms of aquaculture for a considerable period of time, but a Library of Congress report (aquaculture—1976—serial No. 94–31) indicates that aquaculture in the United States has grown insignificantly compared to such activities in other parts of the world. The species which are presently receiving the most attention in the United States are salmon, catfish, trout, oysters, crayfish, clams, and shrimp. The potential for increased production of these species, as well as the production of species heretofore uncultured in the United States is very promising.

My home State of Alaska has been involved in the cultivation of fin fish since the late 1800's. With more than 50 percent of the entire U.S. coastline located within the State of Alaska, one can understand why my interest in aquaculture is great. The potential for marine aquaculture development within Alaska is truly incredible, not to mention the vast possibilities for future freshwater-cultivation.

AQUACULTURE—MARKET POTENTIAL

World fishery resources were once thought to be practically unlimited. This has been clearly shown not to be the case. The world resources are now estimated by some experts to be capable of yielding a maximum global harvest of 100 to 150 million metric tons per year. More conservative estimates rarely exceed 100 million metric tons, including that of the National Oceanic and Atmospheric Administration, which estimates that the 100 million metric ton figure will be met by 1980. This suggests that a world shortage of fish products is possible in the foreseeable future.

World per capita fish consumption has increased over the past several years and in the United States alone has risen to a present level of 12.9 pounds per person per year. Reliable estimates project American consumption to increase to 15.2 pounds by the year 2000. A Library of Congress study has predicted that in the same period of time overall demand for seafood products in the United States, both edible and industrial, is expected to increase by a full 80 percent.

All these indicators suggest that the demand for fish products will only continue to increase in the years to come. With wild fish stock exploitation reaching maximum levels, per capita consumption of fish products on the rise, and the world population expected to increase from a level of 4 billion today to 6 billion by the turn of the century, aquaculture must be viewed as a promising possibility in helping to meet these food demands.

AQUACULTURE—ECONOMIC POTENTIAL

For a nation practically surrounded by water and replete with possible sites for raising inland fish species, fishery imports into the United States are surprisingly high. In 1976 the United States imported 4.6 billion pounds of edible fishery products valued at $1.7 billion, and 1.6 billion pounds of industrial fishery products worth $.5 billion. This adds up to $2.2 billion of American money sent abroad to purchase fishery products. The U.S. fishery exports in 1976 amounted to 241 million pounds, valued at only $330 million.

This leaves a net annual trade deficit of practically $2 billion for foreign fish products. Stated another way, close to 65 percent of fish consumed in the United States is imported from foreign countries.

The studious application of aquaculture techniques could help to reverse this unfavorable balance of trade situation. A promotion of aquaculture will result in the creation of many new jobs, fishery employment on a year-round rather than a seasonal basis, and an overall stability to the historical boom or bust fishery economy.

NATIONAL AQUACULTURE ORGANIC ACT—INTENT

Mr. President, the National Aquaculture Organic Act of 1978 will provide long overdue impetus to the promotion of aquaculture in the United States. My desire is to encourage the development of aquaculture of all types in all parts of the United States. This would include encouraging aquaculture for marine, as well as fresh water, species; for aquatic plants, as well as aquatic animals; for presently cultured species, as well as species as yet untested by the techniques of aquaculture; and for the rehabilitation and enhancement of public fisheries, as well as the promotion of commercial enterprises.

To accomplish these goals, my legislation designates the Department of Commerce as the agency with ultimate responsibility. The Commerce Department will, however, operate in close conjunction with the Departments of Agriculture and Interior, as both those Departments have proven themselves expert in many important aspects of aquaculture.

There are many facets to aquaculture, and I believe no single agency can or should be named the exclusive authority. The better approach is to tap the existing expertise of the several Departments and coordinate all aquaculture efforts through the Department of Commerce.

An Interagency Committee on Aquaculture will be formed to facilitate and coordinate information and activities among the three Departments, as well as all other agencies and parties involved.

My legislation also provides for the formulation of a national aquaculture development plan. This plan, to be drawn up in the year following enactment, will embody concrete suggestions on specific directions and priorities to pursue in the development of aquaculture in the United States.

A grant program will encourage participation in what is generally considered a rather expensive enterprise. These grants will allow the private entrepreneur to get involved in a venture that would otherwise, by virtue of prohibitive startup costs, be reserved for large corporations or the individual of great wealth.

A Federal aquaculture assistance fund is created for three purposes: First, to facilitate aquaculture financing by guaranteeing loans made to aquaculture operations since such loans have historically been unreasonably difficult to obtain; second, to make disaster loans for aquaculture stocks which are destroyed by unavoidable diseases; and third, to provide insurance coverage to aquaculture operations in those instances where insurance is not otherwise available.

NATIONAL AQUACULTURE ORGANIC ACT—COMPARISON TO OTHER AQUACULTURE LEGISLATION

Mr. President, the bill I offer today is in many respects similar to other pieces of aquaculture legislation already introduced in the Senate. S. 1043, introduced by Senator BENTSEN and of which I am a cosponsor, and S. 2218 and S. 2582, introduced by Senators STONE and WEICKER, respectively, all make numerous points which coincide with the proposals I have here. H.R. 9370, a House aquaculture bill that just recently passed that Chamber by a vote of 234 to 130, is also similar in many regards to this piece of legislation.

There are, however, three important new areas which my bill emphasizes, and I should like briefly to explain them.

First, unlike the other aquaculture legislation I would require that the national aquaculture development plan be formulated at the regional level in advisory subcommittees and finalized at the national level by the National Advisory Committee. In a country as large as ours, with aquaculture interests as varied as they are, regional input for this national plan is an absolute necessity.

To insure adequate input from interests as diverse as shrimp farmers in Florida, salmon ranchers in Alaska, oyster raisers in Maine, and catfish farmers in the Midwest, information must be gathered on a regional basis. Only persons intimately familiar with the regional needs and conditions of the various parts of this country can provide such particularized data.

Second, I add the enhancement and rehabilitation of traditional publicly owned fish stocks as a major goal to be addressed by this legislation. It seems obvious that in addition to encouraging development of commercial aquaculture for the private sector, we should not overlook the desirability of rehabilitating the numerous depleted fish stocks which are of vital importance to the public sector.

The third and final issue of importance is the problem of land and water access for aquaculture facilities. I believe the contributions which aquaculture can make in helping to meet nutritional needs, stimulating commercial activity, and enhancing existing fisheries warrant its being given due consideration in land and water use management deliberations.

Aquaculture is certainly an activity that has been neglected in this country for too long. The numerous benefits to be

gained—commercial, nutritional, and conservational, among others—have not yet been fully appreciated. Passage of this legislation will be a positive step toward translating these benefits into tangible realities.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2762

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Aquaculture Organic Act of 1978".

SEC. 2. FINDINGS, PURPOSE, AND POLICY.

(a) The Congress finds the following:

(1) The world production of seafood has declined since 1970 and the harvest of some populations of fish and shellfish has exceeded levels of maximum sustainable yield.

(2) Certain stocks of fish and shellfish of importance to the United States are depleted, or are declining, and such depletion or decline has an undesirable impact on both commercial and recreational fisheries.

(3) There is an extensive market for seafood in the United States, but the United States imports in excess of 50 percent of its fish and shellfish for human consumption (which imports are ten times the level of exports), and this dependence on imports as a source of protein makes it difficult to insure continuous supplies and suggests that alternatives such as aquaculture be developed.

(4) Many segments of the world population are now facing serious nutritional deficiencies and food shortages due to adverse climatic conditions and the steady growth of population. These problems will become more severe, and the resulting demand for increased food production will have to be met chiefly through the application of scientific and technological advances from research on aquaculture and other food production systems.

(5) Aquaculture is contributing significantly to world food supplies with production equal to 10 percent of current landings of seafoods and has the potential for increase by a factor of five before the end of this century.

(6) Less than 3 percent of current United States fisheries production results from aquaculture but there is a good potential for expanding production from aquaculture to equal or exceed the worldwide average, thereby helping to provide United States consumers with stable supplies of high quality aquatic foods.

(7) Growth of aquatic plants is a source of food for human and animal consumption as well as a source of industrial materials and energy. The Congress recognizes the importance of developing aquaculture of both plant and animal species.

(8) The stocking of advanced life stages of fish and shellfish produced by aquaculture is a means of rebuilding and augmenting fish and shellfish populations and establishing new fisheries.

(9) The application of aquaculture technology offers opportunities for the recovery of wasted thermal energy, nutrients, and other resources and may be a more efficient use of these resources for food production culture.

(10) Where water, whether fresh, brackish, or marine is suitable for aquaculture, appropriate consideration should be given to the utilization of such water for aquaculture along with the other uses of such water.

(11) Where land-use management policies may inhibit the development of aquaculture facilities in areas suitable for aquaculture, appropriate consideration should be given to the utilization of these areas for aquaculture along with the other uses of such areas.

(12) Current efforts to develop aquaculture in the United States are highly diffuse, and a strong commitment by the Federal Government will make aquaculture more efficient and competitive, thereby stimulating public and private investment and development.

(13) While many scientific and technological problems are unsolved, there is sufficient knowledge to further the development of aquaculture production systems for many species of fish and shellfish.

(14) The development of aquaculture in the United States has been limited by the inability of producers of aquatic species to obtain adequate capital and a reliable source of seed stock.

(15) Aquaculture in the United States has traditionally concentrated on a few aquatic species, but many others have a potential for commercial and other culture. However, the culture of additional species may include a higher degree of risk than the culture of traditional species, especially during the initial stages.

(16) Government programs that help to reduce the risks associated with production of agricultural commodities have not been generally available to producers of those aquatic species in which the risk is high.

(17) The rehabilitation and enhancement of the publicly owned fish and shellfish resources are desirable applications of aquaculture technology as a means to increase the general public benefits to be derived from the utilization of these common property resources.

(18) Extensions of jurisdiction over marine resources by numerous nations have resulted in the exclusion of many fishing nations from traditional fishing areas and created a demand in those nations for aquatic food-stuffs. Aquaculture could supply this new demand.

(19) The Select Committee on Nutrition and Human Needs of the Senate has recommended an increase in the fish consumption of the American family. Aquaculture can help to carry out this recommendation.

(b) The purpose of this Act is to promote aquaculture in the United States by—

(1) declaring a national aquaculture policy;

(2) establishing and implementing a national plan for aquaculture; and

(3) developing programs and encouraging activities;

which will result in the coordination of domestic aquaculture efforts, the conservation of existing aquatic resources, the rehabilitation and enhancement of the publicly owned fish and shellfish stocks, the encouragement of commercial aquaculture activities, the creation of new industries and job opportunities, and other national benefits.".

(c) Aquaculture has a high potential for augmenting existing commercial and sport fisheries, thereby increasing the supply of aquatic protein for both human and animal consumption and assisting the United States in meeting its future food needs and

contributing to the solution of world food problems. It is, therefore, in the national interest, and it is the national policy, to encourage the development of aquaculture.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) The term "aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments, including ocean ranching.

(2) The term "aquaculture facility" means any land, structure, or other appurtenance, if such land, structure, and appurtenance is located within the United States, which is used for aquaculture, including, but not limited to, any laboratory, vehicle, hatchery, rearing pond, race, cage, pen, incubator, or other equipment.

(3) The term "aquatic species" means any species, native or introduced, of finfish, mollusk or crustacean or other aquatic invertebrate, amphibian, reptile, or aquatic plant, other than any such species which is primarily used for ornamental purposes.

(4) The term "Fund" means the Federal Aquaculture Assistance Fund established by section 11.

(5) The term "person" means any individual who is a citizen or national of the United States and any corporation, partnership, association, or other entity (including, but not limited to, any community development corporation or fisherman's cooperative) organized or existing under the laws of any State.

(6) The term "Secretary" means the Secretary of Commerce.

(7) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and any other Commonwealth, territory, or possession of the United States.

(8) The term "United States", when used in a geographical context, means all States.

SEC. 4. NATIONAL AQUACULTURE DEVELOPMENT PLAN.

"(a)(1) Before the close of the 1-year period beginning on the effective date of this Act, the Secretary, after consultation with the Secretary of the Interior and the Secretary of Agriculture, shall prepare a National Aquaculture Development Plan (hereinafter in this Act referred to as the 'plan').

"(2)(A) The Secretary shall, after consultation with the Secretary of the Interior and the Secretary of Agriculture, establish and advisory committee for the purpose of assisting the Secretary in formulating a plan responsive to the various regional needs, interests, and approaches to the concept of aquaculture.

"(B) Such advisory committee shall be composed of regional subcommittees. The subcommittee regions shall be established as follows:

"(i) Eight regional subcommittees shall be created which correspond in geographical composition to the eight regional divisions created under section 302(a) of the Fishery Conservation and Management Act of 1976.

"(ii) Other regional subcommittees shall be created by the Secretary to represent the remaining non-oceanic States which are not a part of the regional subcommittees created by clause (i) of this subparagraph. Such other regional subcommittees shall be established on the basis of the following criteria:

"(I) geographical proximity of States to one another,

"(II) similarity of States in aquacultural activities and potential, and

"(III) other relevant factors.

"(C) Membership of the regional advisory subcommittee from any region must include representatives of at least the following groups, where such groups exist in that region:

"(i) State fish and game departments;

"(ii) commercial fishermen;

"(iii) fishfood processors;

"(iv) private sector aquaculture organizations;

"(v) regional fishery management councils;

"(vi) Federal fish and wildlife agency;

"(vii) recreational fishermen; and

"(viii) educational institutions.

"(D) The governors of the various States shall appoint members to the regional advisory subcommittees.

"(E) The members of the regional advisory committees established under subparagraph (B), while away from their homes or regular places of business in the performance of services for the committee, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(b) The plan shall be formulated at the regional level and coordinated and finalized at the secretarial level. The final plan shall—".

(1) identify those aquatic species (hereinafter referred to in this Act as "priority aquatic species") which the Secretary determines to have a potential for culturing on a commercial or other basis, which determination shall be made by the Secretary after taking into account—

(A) the extent of commercial aquaculture, if any, currently being carried out with respect to such species, and the projected biological and economic feasibility of culturing such species;

(B) the extent to which aquaculture research and development have been undertaken, within the public and private sectors, with respect to such species;

(C) the time and resources which will be required to develop aquaculture technology to the point where such species can be cultured on a commercial or other basis; and

(D) such other factors as the Secretary determines to be appropriate; and

(2) contain an aquaculture development program, prepared by the Secretary, for each priority aquatic species.

(c) The aquaculture development program contained in the plan for each priority aquatic species shall set forth those actions which the Secretary determines should be undertaken, and the period of time within which each such action should be completed, to provide for the culture of each such species on a commercial or other basis. Such actions, with respect to each priority aquatic species, shall include—

(1) such research and development, technical assistance, demonstration, extension education, and training as may be necessary and appropriate regarding—

(A) aquaculture facility and operation,

(B) water quality management,

(C) utilization of waste products (including thermal effluents),

(D) nutrition and the development of economical feeds,

(E) life history, genetics, physiology, and pathology and disease control (including research regarding organisms which may not be harmful to fish and shellfish but are injurious to humans),

(F) processing and market development, and

(G) production management and quality control;

(2) research with respect to the effect of the culture of such species on estuarine and other water areas;

(3) the identification and analysis of any legal or regulatory constraints which may affect the culture of such species;

(4) the development of adequate supplies of seed stock;

(5) the construction, purchase, lease, or acquisition of necessary developmental aquaculture facilities; and

(6) such other actions relating to research and development, technical assistance, demonstration, extension education, and training as such Secretary deems necessary and appropriate.

(d) In preparing an aquaculture development program for any priority aquatic species, and in reviewing any such program pursuant to subsection (f), the Secretary shall, to the extent practicable, take into account any significant action which has been, or which is proposed to be undertaken by any other Federal agency, any State agency, or any person, and which may affect the accomplishment of the program.

(e) Each action under each aquaculture development program prepared under this section for a priority aquatic species shall be implemented, either individually, jointly, or collectively, by the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, as specified by the Secretary in the program on the basis of—

(1) responsibilities vested in the respective Secretaries by law or any executive action having the effect of law (including, but not limited to, Reorganization Plan Numbered 4 of 1970); and

(2) in cases where paragraph (1) does not apply, the experience, expertise, and other appropriate resources which the department, over which the Secretary concerned has jurisdiction, may have with respect to the action required under the program.

(f)(1) The Secretary, in consultation with the Secretary of the Interior, the Secretary of Agriculture, and the chief executive officer of any other Federal agency, any appropriate Regional Fishery Management Council, and any State agency which has significant functions which relate to aquaculture, shall review on an annual basis—

(A) each aquatic species not identified as a priority aquatic species; and

(B) the aquaculture development program established under the plan for each priority aquatic species to determine whether the actions specified in the program are being accomplished on a successful and timely basis.

(2) If as a result of the review conducted pursuant to paragraph (1)(A), the Secretary determines, after taking into account the criteria set forth in subsection (b)(1), that any aquatic species has a potential for culturing on a commercial or other basis the Secretary shall by regulation amend and plan to identify such species as a priority aquatic species and prepare an aquaculture development program for such species pursuant to subsection (c).

(3) If as a result of the review conducted pursuant to paragraph (1)(B), the Secretary finds that—

(A) any action so specified should be revised, the Secretary shall make such revision to the program as he deems necessary and appropriate; or

(B) sufficient progress is not being made with respect to any such program or that actions taken under any such program indicate that culture of the priority aquatic species concerned is doubtful, the Secretary shall cancel the program.

The Secretary shall by regulation amend the plan whenever any revision or cancellation is made pursuant to this subsection.

SEC. 5. FUNCTIONS AND POWERS

(a) In implementing the aquaculture development program prepared under section 4 for any priority aquatic species, the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, as the case may be, shall—

(1) provide advisory, educational, and technical assistance (including training) with respect to culture of the species to interested public and private organizations and individuals, but in providing such assistance shall, to the maximum extent practicable, avoid duplication of like assistance provided by other Federal agencies;

(2) consult and cooperate with interested persons, Federal, State, and local government agencies, regional commissions, and educational institutions regarding the development of aquaculture technology;

(3) produce, under the authority of section 4(c)(4), and sell at cost seed stock for the priority aquatic species when privately produced seed stock is unavailable, unreliable, or not sufficient to meet production needs;

"(4) encourage the implementation of aquaculture technology in the rehabilitation and enhancement of the publicly owned fish and shellfish stocks, as well as the promotion of private commercial aquacultural enterprises;

"(5) assist the development of aquaculture by requiring that in areas where multiple land and water uses exist, aquaculture should be viewed as an important use which should be given appropriate consideration; and",

(6) prescribe such regulations as may be necessary to carry out such program.

(b) The Secretary, the Secretary of the Interior, or the Secretary of Agriculture may, incident to such Secretary's implementation of any aquaculture development program—

(1) for the purposes of assessing the biological and economic feasibility of any aquaculture system—

(A) conduct scale tests of the system, and, if necessary for the conduct of any such test, construct, operate, and maintain developmental aquaculture facilities, including, but not limited to, pilot plants for testing laboratory-scale results; and

(B) conduct such other tests or analyses as may be necessary;

(2) develop methods to enhance aquatic species stocks by aquaculture;

(3) carry out such studies and research with respect to aquatic species as may be appropriate regardless of whether such species is or has been identified as a priority aquatic species; and

(4) take such other actions as such Secretary deems necessary and appropriate.

(c) In addition to carrying out such other functions as are required under this Act, the Secretary shall—

(1) establish and maintain an aquaculture information center which shall function as a national clearinghouse for the collection, selection, analysis, and dissemination of scientific, technical, legal, and economic information relating to aquaculture;

(2) conduct appropriate surveys, in coordination with other agencies, of public and private aquaculture being carried out in the

United States with respect to each aquatic species for the purpose of acquiring information on acreages, water use, production, culture techniques, and other relevant matters;

(3) arrange for the mutual exchange of information relating to aquaculture with foreign nations; and

(4) conduct a continuing study to determine which existing capture fisheries could be adversely impacted in the marketplace by competition from products produced by commercial aquaculture enterprises significantly aided under this Act, which study shall include an assessment of economic impact by species and by geographical region, and recommended measures to ameliorate any adverse impact. The Secretary shall report to Congress on the findings made under such study no later than 2 years following the effective date of this Act and every 2 years thereafter.

Any production information submitted to the Secretary by any person under paragraph (2) shall be confidential and shall not be disclosed except to the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, as the case may be, for purposes of carrying out this Act, the advisory committee which may be established under section 4(a)(2)(A), or when required under court order. The Secretary shall by regulation prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information.

(d)(1) The Secretary, the Secretary of the Interior, and the Secretary of Agriculture are each authorized to accept any gift, temporary donation, or devise or bequest of real or personal property, or the proceeds therefrom, or interests therein, for use in carrying out any function that such Secretary may have under this Act. Any such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are deemed by the Secretary concerned to be in accordance with law and compatible with the purpose for which acceptance is sought.

(2) Any gift or bequest of money, and any proceeds from the sale of other property received as a gift or bequest under this subsection, shall be deposited in a separate account in the Treasury and shall be disbursed upon the order of the Secretary concerned.

SEC. 6. COORDINATION OF FEDERAL AGENCY ACTIVITIES REGARDING AQUACULTURE.

(a)(1) There is established the Interagency Committee on Aquaculture (hereinafter in this section referred to as the "Committee") which shall be composed of the following officers or their designees:

(A) The Secretary, who shall be the Chairman of the Committee.

(B) The Secretary of the Interior.

(C) The Secretary of Agriculture.

(D) The Administrator of the Environmental Protection Agency.

(E) The Administrator of the Energy Research and Development Administration.

(F) The Commissioner of Food and Drugs.

(G) The Administrator of the Small Business Administration.

(H) The Chief of Engineers.

(I) The chief executive officer of any other Federal agency and any Regional Fishery Management Council which the Secretary finds to have significant functions which relate, or may relate, to the development of aquaculture.

(2) The functions of the Committee shall be—

(A) to ensure that there is a continuing exchange of information among the agencies represented on the Committee with respect to the nature and status of the programs or projects being carried out by such agencies which relate, or which may relate, to aquaculture in general or to the implementation of the plan; and

(B) to review on a continuing basis the relevant programs and projects of all Federal agencies to determine whether they are being carried out in compliance with subsection (b).

(b) Each Federal agency which has any function or responsibility with respect to aquaculture or has jurisdiction over any activity which affects, or may affect, the achievement of the purposes of this Act, shall, in consultation with the Secretary and to the maximum extent practicable, carry out such function, responsibility, and activity in a manner which is consistent with the purposes of this Act.

(c) Nothing in this Act shall be construed to amend, repeal, or otherwise modify the authority of any Federal officer or any Federal agency to carry out any functions relating to aquaculture which are authorized under any other provision of law.

SEC. 7. CONTRACTS AND GRANTS.

(a) The Secretary may carry out any function under this Act, and the Secretary of the Interior or the Secretary of Agriculture may carry out any function relating to any aquaculture development program which he is specified to implement under the plan, through grants to, or contracts with, any other Federal agency, any agency of any State and, subject to the approval of the State, any agency of any political subdivision thereof, any regional commission, any educational institution, or any other person.

(b) Any contract entered into, or any grant made, pursuant to this section shall contain such conditions and limitations as the Secretary concerned shall by regulation prescribe as being necessary and appropriate to protect the interests of the United States; except that no contract may be entered into, and no grant may be made, pursuant to this section unless the applicant submits with his application therefor a certification from each appropriate State agency and each appropriate local government agency stating that nothing in the laws administered by such agency prevents the carrying out of the project to which the contract or grant will be applied.

(c) The amount of any grant made pursuant to this section may not exceed one-half the estimated cost of the project for which the grant is made.

(d) Any person who receives a grant or contract under this section shall make available to the Secretary concerned and to the Comptroller General of the United States, or any of their authorized representatives, for purposes of audit and examination, any book, document, paper, and record that is pertinent to the funds received by such person under such grant or contract.

SEC. 8. GUARANTEES OF OBLIGATIONS ISSUED FOR AQUACULTURE FACILITIES.

(a)(1) The Secretary may, subject to the provisions of this section, guarantee, or make a commitment to guarantee, the payment of interest on, and the principal amount of, any obligation issued by an obligor for any of the following purposes:

(A) The financing of the construction,

reconstruction, or reconditioning of any aquaculture facility (including the financing of the purchase cost of any aquaculture facility to be reconstructed or reconditioned); except that no obligation may be guaranteed under this section later than 2 years after teh date of the completion of the construction, reconstruction, or reconditioning of the aquaculture facility involved.

(B) The acquisition of stocks of aquatic species for any aquaculture facility.

(C) The financing of the initial operating expenses of any aquaculture facility.

(D) The financing of marketing operations exclusively for aquaculture products.

(E) The refinancing of any existing obligation issued for any of the purposes specified in subparagraph (A), (B), (C), or (D), whether or not guaranteed under this section, including, but not limited to, any short-term obligation incurred for the purposes of obtaining temporary funds for refinancing.

Guarantees and commitments to guarantee may be made under this section without regard to section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665(a)).

(2) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to both principal and interest, including any interest, if provided for in the guarantee, which may accrue between the date of default under a guaranteed obligation and the payment in full of the guarantee.

(3) Any guarantee, or commitment to guarantee, made by the Secretary under this section shall be conclusive evidence of the eligibility of the obligation for such guarantee, and the validity of any guarantee or commitment of guarantee, so made shall be incontestable.

(4) The aggregate unpaid principal amount of all obligations guaranteed under this section and outstanding at any one time shall not exceed $500,000,000.

(b)(1) Obligations guaranteed under this section—

(A) shall have an obligor approved by the Secretary as being responsible and possessing the ability, experience, financial resources, and other qualifications necessary for the adequate operation and maintenance of the aquaculture facilities;

(B) shall be in an aggregate principal amount which does not exceed 87½ percent of the actual cost involved or the depreciated actual cost, as determined by the Secretary;

(C) shall have maturity dates satisfactory to the Secretary, but not to exceed 25 years;

(D) shall provide for payments by the obligor satisfactory to the Secretary; and

(E) shall bear interest (exclusive of charges for the guarantee and service charges, if any) at rates not to exceed such percentage per annum on the unpaid principal as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary.

(2) In guaranteeing any obligation under this section, the Secretary shall give preference to any person with 40 or fewer employees which, together with its affiliates, is primarily engaged in the business of aquaculture or commercial fishing for aquatic species.

(3) No obligation shall be guaranteed under this section unless the obligor conveys or agrees to convey to the Secretary such security interest as the Secretary may require to reasonably protect the interests of the United States.

(c)(1) The Secretary may charge a fee for any obligation guaranteed under this section, the amount of which shall be established by the Secretary by regulation but which may not exceed one-half of 1 percent per annum of the outstanding principal balance of the obligation. Fee payments shall be made by the obligor to the Secretary when moneys are first advanced under a guaranteed obligation and at least 60 days before each anniversary date thereafter.

(2) The Secretary shall charge and collect from the obligor such amounts as he may deem reasonable for the investigation of the application for any guarantee, for the appraisal of properties offered as security for any guarantee, and for the inspection of such properties during construction, reconstruction, or reconditioning; except that such charges shall not aggregate more than one-half of 1 percent of the original principal amount of the obligation to be guaranteed.

(3) All fees and other amounts received by the Secretary under the provisions of this subsection shall be deposited in the Fund.

(4) Obligations guaranteed under this section, and agreements relating thereto, shall contain such other provisions with respect to the protection of the security interests of the United States (including acceleration and subrogation provisions and the issuance of notes by the obligor to the Secretary), liens and releases of liens, payments of taxes, and such other matters as the Secretary may prescribe.

(d)(1) In the event of a default, which has continued for 30 days, in any payment by the obligor of principal or interest due under any obligation guaranteed under this section, the obligee or his agent shall have the right to demand, at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 90 days from the date of each default, payment by the Secretary of the unpaid principal amount of said obligation and of the unpaid interest thereon to the date of payment. Within such period as may be specified in the guarantee or related agreements, but not later than 30 days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid principal amount of the obligation and unpaid interest thereon to the date of payment; except that the Secretary shall not be required to make such payment if before the expiration of such period he finds that there was no default by the obligor in the payment of principal or interest or that such default has been remedied before any such demand.

(2) Payments required to be made by the Secretary under paragraph (1) shall be made by the Secretary from the Fund.

(3) In the event of any payment by the Secretary under paragraph (1), the Secretary shall have all rights in any security held by him relating to his guarantee of such obligations as are conferred upon him under any security agreement with the obligor. Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary may, under such terms and conditions as the Secretary prescribes or approves, complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell any property acquired by him pursuant to a security agreement with the obligor.

(4) After any default referred to in paragraph (1), the Secretary shall take such action against the obligor or any other parties liable thereunder that, in his discretion, may be required to protect the interests of the United States. Any suit may be brought in the name of the United States or in the name of the obligee and the obligee shall make available to the United States

all records and evidence necessary to prosecute any such suit. The Secretary may accept a conveyance of title to and possession of property from the obligor or other parties liable to the Secretary and may purchase the property for an amount not greater than the unpaid principal amount of such obligation and interest thereon. In the event the Secretary receives through the sale of property an amount of cash in excess of any payment made to an obligee under paragraph (1) and the expenses of collection of such amounts, he shall pay such excess to the obligor.

(5) Whoever, for the purpose of obtaining any loan or advance of credit from any person with the intent that an obligation relating to such loan or advance of credit shall be offered to or accepted by the Secretary to be guaranteed, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage relating to an obligation guaranteed by the Secretary, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of the Secretary under this section, makes, passes, utters, or publishes, or causes to be made, passed, uttered, or published any statement, knowing the same to be false, or alters, forges, or counterfeits, or causes or procures to be altered, forged, or counterfeited, any instrument, paper, or document, or utters, publishes, or passes as true, or causes to be uttered, published, or passed as true, any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income shall be punished by a fine of not more than $5,000, or by imprisonment for not more than 2 years, or both.

(e) The Secretary shall promulgate such rules and regulations as may be deemed necessary or appropriate to carry out the purposes and provisions of this section.

(f) For purposes of this section—

(1) The term "actual cost" of an aquaculture facility, as of any specified date, means the aggregate, as determined by the Secretary, of—

(A) all amounts paid by, or for the account of, the obligor with respect to such facility on or before that date; and

(B) all amounts which the obligor is then obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of such facility.

(2) The terms "construction", "reconstruction", or "reconditioning" include, but are not limited to, designing, inspecting, outfitting, and equipping of the aquaculture facility involved.

(3) The term "depreciated actual cost" means the actual cost depreciated on a straightline basis over the useful life of the property involved as determined by the Secretary.

(4) The term "obligation" means any note, bond, debenture, or other evidence of indebtedness issued for one of the purposes specified in subsection (a).

(5) The term "obligee" means the holder of any obligation.

(6) The term "obligor" means any person primarily liable for payment of the principal of or interest on any obligation.

SEC. 9. DISASTER LOANS.

(a)(1) The Secretary may make one or more loans from the Fund to any person if—

(A) an aquaculture facility, or stock of aquatic species at the facility, or both, that is owned by such person is damaged or destroyed as a result of a natural disaster; or

(B) the stock of aquatic species at an aquaculture facility owned by such person is damaged or destroyed by disease, pollution, or contamination (caused by reasons other than a natural disaster or the willful or negligent action of such person).

The purpose of any loan made by the Secretary under this section shall be to accomplish one or more of the following objectives:

(i) The repair, rehabilitation, or replacement of such facility.

(ii) The replacement of aquatic species stock.

(iii) To continue aquaculture operations while any such repair, rehabilitation, or replacement is in progress.

(iv) The purchase, construction, or reconstruction of an aquaculture facility at another location if the Secretary finds that—

(I) the damage to the facility is so extensive that its repair or rehabilitation is impracticable;

(II) the replacement of the destroyed facility at the same location is impracticable; or

(III) the pollution or contamination referred to in subparagraph (B) is likely to persist for such period of time that continued aquaculture operations at the same location are impracticable.

(v) To meet payments of principal and interest on any obligation of such person with respect to the facility or stock so damaged or destroyed for such period of time as the Secretary deems appropriate, taking into account the degree of such damage or destruction.

(vi) To retire in full any such obligation.

(2) No loan may be made under this section for any damage or destruction—

(A) which is fully compensated for by insurance (including insurance paid under section 10) or otherwise; or

(B) for which assistance is available under any other Federal disaster assistance program.

(b) Any loan made pursuant to this section shall—

(1) mature in not more than 20 years;

(2) bear interest at a rate not less than the rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity;

(3) be approved only upon the furnishing of such security or other reasonable assurance of repayment as the Secretary may require; and

(4) be subject to such other terms and conditions as the Secretary may require to protect the interests of the United States.

(c) The Secretary may consent to the modification of any term or condition of any loan made under this section, including, but not limited to, reduction of the rate of interest, deferment of any installment of principal or interest, or change in any security requirment.

(d) All payments of principal and interest on loans made under this section shall be deposited into the Fund.

(e) For purposes of this section, the term "obligation" means any note, bond, debenture, or other evidence of indebtedness issued for the purpose of financing (1) the construction, reconstruction, or reconditioning of an aquaculture facility, (2) the initial operating expenses of any such facility, and (3) the acquisition of stock of aquatic species for any such facility.

(f)(1) Whoever makes any statemen knowing it to be false, or whoever willfull overvalues an security for the purpose o obtaining for himself or for any applican and loan under this section, or extensior thereof by renewal, deferment of action, o otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the actior of the Secretary under this section, or for the purpose of obtaining money, property or anything of value under this section, shall be punished by a fine of not more than $5,000, or by imprisonment for not more than 2 years, or both.

(2) Whoever, with the intent to defraud, knowingly conceals, removes, disposes of, or converts to his own use or to that of another, any property mortgaged or pledged to, or held by, the Secretary pursuant to this section shall be punished by a fine of not more than $5,000, or by imprisonment for not more than 5 years, or both.

(g) No loan may be made by the Secretary under this section for any damage to, or destruction of, any aquaculture facility or stock of aquatic species which occurs on or after the close of the 5-year period beginning on the effective date of this Act.

SEC. 10. INSURANCE AGAINST CERTAIN LOSSES INCURRED IN AQUACULTURE FACILITY OPERATIONS.

(a) As used in this section, unless the context otherwise requires—

(1) The term "direct insurance" means any insurance described in paragraphs (2), (3), and (4).

(2) The term "essential liability insurance" means insurance against all sums which the owner of an aquaculture facility becomes legally obligated to pay as damages because of bodily injury or property damage caused by the aquaculture facility, the operation of such facility, or the aquatic species cultured at such facility.

(3) The term "essential property insurance" means insurance against direct loss of, or direct damage to, the real or personal property of an aquaculture facility caused by perils as they are defined and limited in standard fire policies and extended coverage endorsements thereon as approved by the State insurance authority, and insurance against loss of, or damage to, the real or personal property of an aquaculture facility from such perils as the Secretary by regulation shall specify, including, but not limited to vandalism, malicious mischief, burglary, and theft.

(4) The term "essential stock insurance" means insurance against loss of, or damage to, any aquatic species being cultured at an aquaculture facility due to unavoidable or natural cases, including, but not limited to, drought, pollution, hail, frost, wind, winterkill, freeze, lightning, fire, excessive rain, flood, snow, wildlife, hurricane, tornado, insect or parasite infestation, disease, and such other unavoidable or natural causes as the Secretary by regulation shall specify.

(5) The term "insurer" includes any insurance company or group of companies under common ownership which is authorized to engage in the insurance business under the laws of any State.

(6) The term "owner" means any person having an insurable interest in an aquaculture facility or aquatic species stock.

(7) The term "pool" means any pool or association of insurers in any State which is formed, associated, or otherwise created for the purpose of making insurance more readily available.

(8) The term "reasonable premium rate" means that premium rate determined by the Secretary, which would permit the purchase of any direct insurance coverage by a reasonably prudent person in similar circumstances with due regard to the costs and benefits involved.

(b) The Secretary may by regulation define any technical or trade term necessary in the administration of this section, insofar as any such definition is not inconsistent with the provisions of this section.

(c)(1) The Secretary shall conduct, within 6 months after the effective date of this Act, and annually thereafter, a study to determine whether direct insurance is generally available to owners at reasonable premium rates, through insurers, pools, or a suitable program adopted under State law.

(2)(A) If the Secretary finds, as a result of the study referred to in paragraph (1), that essential property insurance or essential liability insurance is not available at reasonable premium rates in any State and such insurance has not been provided by State action, the Secretary may establish a program to provide such insurance in such State, if the Secretary considers the issuance of such insurance necessary and appropriate to carry out the purposes and policy of this Act.

(B) Any essential property insurance or essential liability insurance issued by the Secretary under this paragraph shall be subject to such terms and conditions, and to such deductibles and other restrictions and limitations as the Secretary deems appropriate; except that the Secretary may not provide essential property insurance or essential liability insurance with respect to—

(i) any aquaculture facility or stock of aquatic species which the Secretary determines to be uninsurable due to the failure of the owner to follow established principles for operating aquaculture facilities or culturing aquatic species, as the case may be; or

(ii) any aquaculture facility which the Secretary determines to lack reasonable protective measures to prevent loss or damage.

(3)(A) If the Secretary finds, as a result of the study referred to in paragraph (1), that essential stock insurance is not available at reasonable premium rates in any State and that such insurance has not been provided by State action, the Secretary shall establish a program to provide such insurance in such State.

(B) Any essential stock insurance issued by the Secretary under this paragraph shall be subject to such terms and conditions and to such deductibles and other restrictions and limitations as the Secretary deems appropriate; except that the Secretary may not provide essential stock insurance with respect to any stock of aquatic species if the Secretary determines such stock to be uninsurable due to the failure of the owner to follow established principles for culturing aquatic species or due to the lack of reasonable protective measures at the aquaculture facility concerned to prevent the loss of, or damage to, the stock being cultured.

(d)(1) In determining the premium rate for any direct insurance offered from time to time under subsection (c) (2) or (3), the Secretary shall consult with persons knowledgeable and experienced in insurance, including, but not limited to, State insurance regulatory authorities, and may take into consideration with respect to the insurance concerned, the nature and degree of risk involved, the protective devices employed, the

extent of past and anticipated losses, the prevailing rate for similar coverages, the economic importance of the insurance, and the relative abilities of the particular classes and types of insureds to pay the actual premium for such coverage.

(2)(A) The Secretary may not establish the premium rate for any direct insurance at less than 50 percent of the actual premium rate for such insurance.

(B) For purposes of subparagraph (A) the actual premium rate for any direct insurance offered under this section shall be determined as follows:

(i) If insurance of the same kind is generally offered by insurers or pools in the State concerned, the actual premium rate shall be that rate which the Secretary determines to be the median premium rate for all such insurance so offered.

(ii) If insurance of the same kind is not generally offered by insurers or pools in the State concerned, the actual premium rate shall be that rate which the Secretary determines to be the rate at which insurers or pools in such State would offer such insurance, taking into account actuarially sound principles applicable to the elements making up such rate, including, but not limited to, claim losses, general administrative expenses, acquisition expenses, taxes, license fees, and profits.

In making determinations under clauses (i) and (ii), the Secretary shall consult with the insurance regulatory authority of the State concerned and any rate advisory organization licensed by such State.

Nothing in this section shall be construed to prohibit or require either the adoption of uniform national rates or the periodic modification of the currently estimated reasonable premium rates for any particular coverage, class, State, or risk on the basis of additional information or actual loss experience.

(e)(1) The Secretary may enter into any contract, agreement, treaty, or other arrangement with any insurer or pool to provide reinsurance coverage with respect to any direct insurance issued by such insurer or pool, in consideration of payment of such premiums, fees, or other charges by insurers or pools which the Secretary deems to be appropriate, after consultation with persons knowledgeable and experienced in insurance.

(2) Reinsurance issued under this subsection shall reimburse an insurer or pool for its total proved and approved claims for covered losses resulting from providing the direct insurance concerned during the term of the reinsurance contract, agreement, treaty, or other arrangement, over and above the amount of the insurer's or pool's retention of such losses, as provided in such reinsurance, contract, agreement, treaty, or other arrangement entered into under this section.

(3) Such contracts, agreements, treaties, or other arrangements may be made without regard to section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665 (a)), and shall include any terms and conditions which the Secretary deems necessary to carry out the purposes of this section. The premium rates and terms and conditions of such contracts, agreements, treaties, or other arrangements with an insurer or pool shall be uniform in any one year throughout the country.

(f)(1) All premiums received by the Secretary under this section shall be deposited into the Fund.

(2) The Secretary, in a suit brought in the appropriate United States district court, shall be entitled to recover from any owner, insurer, or pool the amount of any unpaid premium lawfully payable to the Secretary by such owner, insurer, or pool under any direct insurance or reinsurance issued under this section.

(3) No action or proceeding shall be brought for the recovery of any premium due the Secretary, or for the recovery of any premium paid to the Secretary in excess of the amount due, unless such action or proceeding is commenced within 5 years after the right accrued for which the claim is made; except that, if the insurer has made or filed with the Secretary a false or fraudulent statement or other document with intent to evade, in whole or in part, the payment of premiums, the claim shall not be deemed to have accrued until its discovery by the Secretary.

(g) In order to provide for maximum efficiency in the administration of the insurance and reinsurance program provided under this section, and in order to facilitate the expeditious payment of any claims under such program, the Secretary may enter into contracts with any insurer, pool, or person, for the purpose of providing for the performance of any of the following functions:

(1) The estimation or determination of any amounts of payments for reinsurance or direct insurance claims.

(2) The receipt, disbursement, and accounting for funds in making payments for reinsurance and direct insurance claims.

(3) The auditing of the records of any insurer, pool, or person to the extent necessary to assure that proper payments are made.

(4) The establishment of the basis of liability for reinsurance or direct insurance payments, including the total amount of proved and approved claims which may be payable to any insurer, pool, or owner, and the total amount of premiums earned by any insurer or pool in the respective States from direct insurance or reinsurance.

(5) The provision of assistance in any manner provided for in the contract to further the purposes of this section.

(h) The Secretary may, with the consent of the agency concerned, accept and utilize, on a reimbursable basis, the officers, employees, services, facilities, and information of any Federal agency with respect to any insurance matter which is within the purview of this section.

(i) The Secretary may prescribe regulations establishing the general method or methods by which proved and approved claims for losses are paid under any direct insurance or reinsurance issued under this section. Proved and approved claims shall be paid from the Fund.

(j) The Secretary, in providing any direct insurance or reinsurance under this section may adjust and pay all claims for proved and approved losses covered by such insurance and, upon the disallowance by the Secretary, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant, within one year after the date of mailing of notice of disallowance or partial disallowance of the claim, may institute an action on such claim against the Secretary in the United States district court for the district in which the insured owner or reinsured insurer or pool resides or principally conducts business, and jurisdiction is hereby conferred upon such court to hear and determine such action without regard to the amount in controversy.

(k) The face amount of direct insurance

and reinsurance coverage outstanding and in force at any one time under this section shall not exceed $1,000,000,000.

(i) No direct insurance or reinsurance may be issued by the Secretary under this section after the close of the 5-year period beginning on the effective date of this Act.

SEC. 11. FEDERAL AQUACULTURE ASSISTANCE FUND.

(a) There is established in the Treasury of the United States a Federal Aquaculture Assistance Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out, and administering, sections 8, 9, and 10. The Fund shall consist of—

(1) any sums appropriated to the Fund;

(2) any fees received by the Secretary in connection with any guarantee made under section 8;

(3) recoveries and receipts received by the Secretary under security, subrogation, and other rights and authorities under sections 8, 9, and 10;

(4) payments of principal and interest received by the Secretary under any loan made under section 9;

(5) premiums paid to, or recovered by, the Secretary for any direct insurance or reinsurance issued by the Secretary under section 10; and

(6) moneys deposited pursuant to the last sentence of subsection (b)

All payments made by the Secretary to carry out the provisions of sections 8, 9, and 10 (including reimbursements to other Government accounts) shall be paid from the Fund, only to the extent provided in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of sections 8, 9, and 10 shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(b) If at any time the moneys in the Fund are not sufficient to pay any amount the Secretary is obligated to pay under section 8(d)(1) or any direct insurance or reinsurance claim under section 10, the Secretary shall issue to the Secretary of the Treasury notes or other obligations (only to such extent and in such amounts as may be provided for in appropriation Acts) in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury prescribes. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations to be issued hereunder and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury at any time may sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Moneys borrowed under this subsection shall be deposited in the Fund and redemptions of such notes and obligations shall be made by the Secretary from the Fund.

SEC. 12. REPORT AND RECOMMENDATIONS.

Before the close of the 90th day after the close of the 3-year period beginning on the effective date of this Act, the Secretary shall review the operation and effectiveness of the disaster loan program provided for under section 9 and the insurance program provided for under section 10 and shall submit a report thereon to the Congress, together with the recommendation of the Secretary as to whether or not either such program should be continued and, if the Secretary recommends continuation, such suggestions as the Secretary may have for improving the operation and effectiveness of such program.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

(a) For purposes of carrying out the provisions of this Act (other than sections 8, 9, or 10), there are authorized to be appropriated, notwithstanding any authorization for appropriations in any other Act in effect before the date of the enactment of this Act—

(1) to the Department of Commerce, not to exceed—

(A) $4,000,000 for the fiscal year 1979,

(B) $15,000,000 for the fiscal year 1980, and

(C) $17,000,000 for the fiscal year 1981;

(2) to the Department of the Interior, not to exceed—

(A) $2,000,000 for the fiscal year 1979,

(B) $7,500,000 for the fiscal year 1980, and

(C) $8,500,000 for the fiscal year 1981; and

(3) to the Department of Agriculture, not to exceed—

(A) $2,000,000 for the fiscal year 1979,

(B) $7,500,000 for the fiscal year 1980, and

(C) $8,500,000 for the fiscal year 1981.

(b) There are authorized to be appropriated, without fiscal year limitation, to the Fund such sums as may be necessary and appropriate for purposes of carrying out sections 8, 9, and 10; but not to exceed $500,000,000 for the purposes of section 8 and not to exceed $250,000,000 for the purposes of section 9

SEC. 14. EFFECTIVE DATE.

This Act shall take effect October 1, 1978.