HB
133

See Also CSSB 241
For Senate Version
of Land Bill

Oxford Pendaflex
STOCK No. 753 1/3
MADE IN U.S.A.

Municipal Name	Approximate* Area in Acres	STATE OWNED LAND WITHIN Municipal Boundary (Tentatively Approved & Patent)			State Selected Land within Municipal Boundary (Only Selected or Proposed)			Maximum④ Vacant Unappropriated Unreserved by Date	10% of Maximum Vacant Unappropriated Unreserved	Existing④ Vacant Unappropriated Unreserved as of 12/31/77	10% of existing Vacant Unappropriated Unreserved	Lands Lost To ANCSA	
		General 6(b)	Trust School, Univ. Mental Health	Community Grant 6(a)	General Selections① 6(b)	Trust School, Univ. Mental Health	Community Grant 6(a)					Minimum	Maximum
Bristol Bay Borough	729,922	19,386②			205,500			19,380. 6/30/65	1,940	2,922⑤	290	78,500	82,830
City & Borough of Juneau	1,664,631	4,160	11,829	3,145	9000	200	23,661⑥	4,359 6/30/71	440	1,655	165		
City & Borough of Sitka	1,884,786	249	3,182	1,522	0	0	5,695 6,960⑥	1,491 12/31/77	149	1,491	150		
Fairbanks North-Star Borough	5,177,436	1,443,888②			1,493,677			934,035 12/31/69	93,405	628,934	62,890		
Haines Borough	628,467	15,847②			127,249		2,631⑥	10,804 6/30/74	1,080	1,474	150		
Kenai Peninsula Borough	10,168,341	1,943,968②			661,555			1,557,781 6/30/65	155,780	409,764⑤	40,980		
Ketchikan Gateway Borough	842,409	4	12,430	4204	0	6,257	24,430⑥	4,146 6/30/68	415	4,113	410		
Kodiak Island Borough	3,142,029	623,997②			198,600			505,970 6/30/67	50,610	159,582⑤	15,960	300,000	350,000
Matanuska-Susitna Borough	15,445,936	4,076,592②			6,076,224			3,552,088 6/30/68	355,210	821,433④	82,145		
Municipality of Anchorage	1,376,476	229,476	1806 HN 2294 Sc 6,200 Un. 10,300 total	73	240,000③	7,765 HN 550 Sc 8315 total	0	208,615 6/30/67	20,865	6,720	670		
North Slope Borough	59,297,495	4,155,739②			2,198,485			6,447 6/30/74	645	6,447	645		

☒ Acreage in this category was not computed

① This column includes only those lands that the state can reasonable expect to receive title to from its General Selections, D-2 Proposals, etc.

② This includes lands granted under 6(a), Community Grant

③ This figure does not include those lands granted under P.L. 94-204 under Recreation & Public Purposes.

Campbell Tract	3,892 + (xx) to be added later
Pt. Campbell	1,282
Pt Woronzoff	325
Goose Lk.	19.9
Total	5,519.9ac.

⑤ This figure shows impact from native village selections based upon a maximum impact figure as if affects State General Grant Land.

⑥ This figure represents acreage that the State has nominated for possible selection. Subject to Forest Service Approval.

④ "VUU" means "vacant, unappropriated, unreserved lands." VUU land is General Grant land (tentatively approved or patented to the State by the United States under Section 6(a) or 6(b) of the Alaska Statehood Act) which:

(A) has not been set aside by statute for one or more particular uses or purposes; or

(B) has not been approved for patent to a municipality under AS 29.18.190-200; or

(C) is unclassified or, if classified under AS 38.05.3 is classified for agricultural, grazing, commercia industrial, private recreation, residential, utility, or open-to-entry purposes.

Alaska Division of Lands 5/1/80

Alaska Advocate F: CSHB 133

Washington:

In a decision that could dramatically affect Native land ownership on Kodiak and nearby islands, the U.S. Circuit Court of Appeals in Washington, D.C., has overturned a lower court ruling that 11 challenged villages are eligible for land benefits, under the Native Claims Settlement Act.

Initially the U.S. Bureau of Indian Affairs found the villages eligible, but that decision was overturned by the secretary of the interior after a hearing before an appeals board.

The Natives sued in district court in Washington and Judge Gerhard Gesson found that congressional hearings critical of the implementation of the act had an unfair influence on the secretary's decision. Granting a summary judgment, he ruled all the challenged villages eligible.

Officials at the U.S. Department of Interior and the state attorney general's office were reluctant to discuss the details of the circuit court's recent decision overturning Gessell's ruling, since a copy of the decision had not arrived yet in Alaska.

However, they said they understood that essentially the circuit court sent the case back to the district court for consideration of each village's claim for eligibility.

Seven of the 11 challenged villages are in the Koniag region. Two are in Cook Inlet, and one in the Bering Straits and Aleut regions. Together, the villages would be eligible for more than 750,000 acres of land.

OSHB 133

Anchorage Daily News, Wednesday, April 26, 1978—17

Land grant legislation in 5th version

JUNEAU (AP) — The fifth version of a so-called "compromise" bill to grant Alaska municipalities nearly one million acres of state land has won Senate Resource Committee approval.

But the legislation still has two committees to go through before reaching the floor, and if the bill's history is any indication, it is likely to undergo further changes there.

Four different versions of the legislation were drafted during consideration by House lawmakers. And before passing the bill out of committee Monday, the Senate Resources panel approved substantial changes in the House bill. The changes almost assure that the bill will end up in a free conference committee.

The biggest change was to delete a formula drafted by Rep. Russ Meekins, D-Anchorage, which gave several municipalities, including Anchorage, considerably more land.

The Resources panel rejected the formula and the resulting acreage allotments in the House bill. Instead, the committee decided to return to an earlier version which at one time reportedly had the approval of all municipalities except the North Slope Borough.

However, the Resources panel voted to stick with the House allotment for the North Slope Borough — 89,850 acres — and at the urging of Resources Chairwoman Kay Poland, D-Kodiak, agreed to hike Kodiak's acreage from 45,200 in the House bill to 56,000 acres.

Under the Resources bill several of the municipalities would get less land than under the House bill.

Anchorage Times Friday, May 12, 1978

Senate Panel Identifies Acreage For Anchorage

By DON HUNTER
Times Staff Writer

A state Senate committee has identified some 10,000 to 16,000 acres of state land available for selection by Anchorage under a years-old promise, says an Anchorage legislator.

Sen. Joe Orsini, R-Anchorage, Thursday said the Senate Community and Regional Affairs Committee arrived at the figure during a hearing earlier this week.

A bill to accomplish the land transfers is now in Orsini's committee.

Under legislation approved several years ago, boroughs and cities across the state are entitled to select 10 percent of the vacant, unrestricted and unappropriated state land within their boundaries.

Under the 10 percent formula, Anchorage is entitled to some 20,865 acres.

The regional affairs committee is working to resolve disputes between some local governments, including Anchorage, and the state administration over the amount of suitable state land available for selection within their boundaries. Anchorage earlier had contended that only about 8,400 acres of appropriate state lands are available here.

State officials, said Orsini, had contradicted that claim, contending that up to a quarter-million acres of land was available for selection to meet Anchorage's 20,000-acre entitlement.

Municipal and state officials faced off on the issue before the committee Tuesday, Orsini said.

The committee had the two sides "go over it item by item and concept by concept," he said.

The 10,000 to 16,000 acres of available land identified by the committee Tuesday includes some 5,000 to 8,000 acres of trust land, but not the 5,000-acre Campbell tract, Orsini said.

The Campbell tract is federal land scheduled for joint management by the federal, state and local governments under restrictions that limit its use to a specific park plan. Earlier, the tract was included in Anchorage's entitlement by the Senate natural resources committee, an action strongly protested by the municipality.

Orsini said the regional affairs committee determined that the tract "has fairly severe restrictions" and that it "wouldn't be suitable to include it with the generally more suitable land."

Another question integral to resolution of the lands issue is whether municipalities that are unable to select their entitlements should receive cash in lieu of lands.

So far, the committee has conducted hearings on land in Anchorage and Kodiak, Orsini said. Next week, the body will take up questions over land selections in Southeast.

After the measure leaves the regional affairs committee, it will be considered by the senate finance committee before reaching the Senate floor. There, a floor fight may develop over differing versions of the measure.

"We're trying to get a bill out of this committee that will be acceptable to everybody," Orsini said.

F: CSHB 133

5-22-78

~~THE CITY AND BOROUGH OF JUNEAU~~	~~LEE SHARP~~
THE CITY AND BOROUGH OF SITKA	CITY MANAGER'S OFFICE ✓
KETCHIKAN GATEWAY BOROUGH	CITY MANAGER'S OFFICE ✓
NORTH SLOPE BOROUGH LOBBYIST	KIM HUTCHINSON 586-1776 ✓
KENAI PENINSULA BOROUGH	MAYOR'S OFFICE ✓
HAINES BOROUGH	MAYOR'S OFFICE ✓
BRISTOL BAY BOROUGH	MAYOR'S OFFICE ✓

The Senate Community and Regional Affairs Committee will be taking up a committee substitute for SCS CSHB 133 "MUNICIPAL LAND SELECTION". The meeting is scheduled for Thursday May 25, 3:00 PM. 100 ASSM B. BLDG.

3520
APOC 4864

Ben, All of the above have been notified.
Thanks

2-5/24

HCR 135-

Original sponsors: Parr, Brown and Cowper

IN THE HOUSE BY THE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 133 (C&RA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE SECOND SESSION

A BILL

For an Act entitled: "An Act relating to selection and transfer of state land to municipalities; and providing for an effective date."

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

* Section 1. STATEMENT OF PURPOSE. The purposes of this Act are to remove uncertainties in the existing municipal land selection law of the state; to provide for an immediate, final determination and settlement of municipal land entitlement; to provide for the completion of rational ownership patterns for sound land management; to provide for expeditious patent of land to municipalities to fulfill their respective entitlements; and to provide payment for land within certain municipalities which are unable to receive full entitlement rights in appropriate vacant, unappropriated, unreserved land.

* Sec. 2. AS 29.18 is amended by adding new sections to read:

ARTICLE 3A. GENERAL GRANT LAND.

Sec. 29.18.201. DETERMINATION OF ENTITLEMENT OF BOROUGHS AND UNIFIED MUNICIPALITIES. The general grant land entitlement of each of the municipalities in this section is the amount set out opposite each:

(1) Municipality of Anchorage -- 44,893 acres;

(2) City and Borough of Juneau -- 13,600 acres;

(3) City and Borough of Sitka -- 9,200 acres;

(4) Bristol Bay Borough -- 1,940 acres;

(5) Fairbanks-North Star Borough -- 112,000 acres;

(6) Haines Borough -- 1,080 acres;

(7) Kenai Peninsula Borough -- 155,780 acres;

(8) Ketchikan Gateway Borough -- 9,200 acres;

(9) Kodiak Island Borough -- 50,600 acres;

(10) Matanuska-Susitna Borough -- 355,210 acres;

(11) North Slope Borough -- 89,850 acres.

Sec. 29.18.202. DETERMINATION OF ENTITLEMENT FOR CITIES. (a) The general grant land entitlement of a city eligible to receive general grant land under the former provisions of secs. 190 - 200 of this chapter repealed by this Act is 10 per cent of the maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of each city at any time between the initial date of eligibility under former secs. 190 - 200 of this chapter and the effective date of this Act.

(b) Within six months of the effective date of this Act, the director shall determine the entitlement for each city eligible to receive general grant land under (a) of this section and certify that entitlement to the city.

Sec. 29.18.203. STATUS OF ENTITLEMENTS. (a) General grant land entitlements provided in secs. 201 and 202 of this chapter constitute vested property rights which shall be fulfilled as provided in sec. 204 or sec. 207 of this chapter, but no municipal selection vests any interest in or right to receive a particular tract of land except as provided by sec. 204 of this chapter.

(b) General grant land entitlements vested under secs. 201 and 202 of this chapter may be exercised at any time before the date which is two years after the expiration of the state's right to make selections under secs. 6(a) or (b) of the Alaska Statehood Act (P.L. 85-508); however, the time limitation imposed by this subsection does not apply

(1) to payments in lieu of land under sec. 207 of this chapter; or

(2) to the portion of an entitlement which cannot be satisfied by that date because of a shortage of appropriate available land.

Sec. 29.18.204. FULFILLMENT OF LAND ENTITLEMENTS. (a) The acreage of each municipality's land selections under former secs. 190 - 200 of this chapter for which patent has been issued before the effective date of this Act shall be credited toward fulfillment of the entitlement of that municipality.

(b) All approved selections under former secs. 190 - 200 of this chapter for which patent has not been issued to a municipality on the effective date of this Act shall be reviewed by the director within nine months of the effective date of this Act. Any approved selection of land which was vacant, unappropriated or unreserved on the date of selection is valid as of the date of the approval under the former secs. 190 - 200 of this chapter, and a patent shall be issued to the municipality within three months after approval by the director of a plat of survey. The acreage shall be credited toward fulfillment of the municipality's entitlement. No municipality is entitled to receive patent under this chapter to more than its entitlement determined under sec. 201 or 202 of this chapter. Any prior approval by the director of municipal selections for land which was not vacant, unappropriated or unreserved on the date of selection shall be rescinded, and patent may not be issued except when disposal to a third party by sale or lease has occurred. Transfers of land to municipalities under this chapter are subject to AS 38.05.321. Classification actions as reflected upon the land status records of the Department of Natural Resources are determinative of land classification status for purposes of this chapter.

(c) All municipal land selections under former secs. 190 - 200 of this chapter not approved as of the effective date of this Act shall be recognized by the director as representing the priority interests of the

municipalities, and the selections shall be given first consideration under (e) of this section unless the municipality indicates different priorities.

(d) On the effective date of this Act and for five years thereafter, no classification of a parcel of general grant land in excess of 3,200 acres under AS 38.05.300 shall be effective, unless otherwise required by law, if the municipality in which the parcel is located, within 30 days after receipt of notice of the proposed classification, advises the director in writing that it does not consent to the classification and indicates the reasons for its nonconsent.

(e) Each eligible municipality and the director shall jointly consider which vacant, unappropriated, unreserved land, including federal land of interest to a municipality which may be selected by the state as general grant land, located within the boundaries of the municipality, is appropriate for municipal selection and approval by the director to fulfill any remaining municipal general grant land entitlement. The joint consideration made by the parties shall include a cooperative land planning process which will, in addition to the normal objectives of such a process, seek to identify both local and state interests in tracts of vacant, unappropriated and unreserved land remaining within the municipality. Adjacent tracts shall be considered simultaneously except when such simultaneous consideration would cause significant delay or expense. Once a tract has been jointly considered, it may be selected by a municipality.

(f) Each selection shall be approved or disapproved for patent by the director under (g) of this section within nine months of its selection by a municipality, and a patent shall be issued to the municipality within three months after approval by the director of a plat of survey.

(g) In reviewing a municipal selection, the director shall consi-

der the state's responsibilities for developing and protecting values which are of greater than local concern, including development which will have statewide impact, and critical environmental concerns. Land considered appropriate for municipal selection is land that is suitable and appropriate for an identifiable present or future municipal use or for disposal to private use by the municipality by sale or other means. A selection by a municipality of land which is primarily of local concern shall be approved. When the interests of the state may be protected through the conveyance of title that is less than a fee title, the municipality, at its option, may accept the title in acre-for-acre fulfillment of its entitlement. Specific state responsibilities to be considered, if those responsibilities have not been authorized or delegated by the state to a municipality, include air quality; water, minerals and energy; timber; agriculture; fish and wildlife and their habitat which is of greater than local concern; public recreation, natural, historical, and archaeological areas of greater than local concern; transportation facilities of greater than local concern; communications; and public safety. Specific municipal interests to be considered include

(1) [land suitable for] residential, commercial and industrial needs; and

(2) other responsibilities of the local government, including but not limited to, support of municipal services; education; local transportation; private recreation; public recreation, natural, historical and archaeological areas of local concern; and other responsibilities authorized or delegated by the state to the municipality.

(h) Every decision of approval or disapproval of a municipal selection by the director under (f) of this section shall include a written explanation of the decision based upon the criteria of (g) of

this section. Before issuing any decision to disapprove a selection, the director shall notify the affected municipality in writing, by certified mail, of his reasons for the proposed decision. The municipality shall have 30 days from receipt of the proposed decision to respond to the director in writing enumerating the reasons for which the municipality believes the proposed decision to be in error. After receipt of the municipality's statement of reasons, or after expiration of the period in which the municipality may respond to the proposed decision, the director shall, within 30 days, affirm, modify or reverse his proposed decision in writing and give written notice of his decision to the municipality. The decision of the director constitutes final administrative action in the matter.

(i) A municipality may appeal an adverse decision by the director to the superior court in accordance with AS 44.62.560 - 44.62.570.

Sec. 29.18.205. SCHOOL, UNIVERSITY AND MENTAL HEALTH LAND. (a) If the entitlement determined in sec. 201 of this chapter [or certified by the director under sec. 202(b) of this chapter] results in a per capita entitlement for the municipality of less than one-half acre, the municipality may select vacant school, university or mental health land within the municipality in partial fulfillment of its land entitlement under this chapter. School, university or mental health land may be selected notwithstanding the fact that these lands are not unappropriated and unreserved within the meaning of this chapter and secs. 190 and 200 of this chapter, repealed by this Act, but each selection of school, university or mental health land by a municipality must be vacant, unappropriated, or unreserved land as defined in this chapter, except that it need not be general grant land.

(b) The acreage of school, university or mental health land, if any, within a municipality may not be included in the determination of

entitlement under sec. 201 or 202 of this chapter.

(c) Land conveyed under this section will be credited against a municipality's remaining land entitlement under this chapter.

(d) Within six months after a request by a municipality for selection of school, university, or mental health land, the director shall identify state general grant land of approximately equal value to the land requested by the municipality, and shall propose the replacement land for the concurrence of the appropriate board. If a proposal by the director is rejected by the board, the director shall meet with the board as often as necessary to determine the type and amount of equal value replacement land that would be required to obtain the board's concurrence, and shall propose the replacement land for consideration by the board. The replacement land shall thereafter be managed for the purposes for which the land selected by the municipality was acquired by the Territory and State of Alaska.

(e) The notice and review provisions of AS 38.05.305 and 38.05.345 are applicable to the designation of other state land as school, university or mental health land in replacement of land selected under this section. The provisions of AS 38.50 and AS 38.05.032 do not apply to such designations under this section. The provisions of AS 38.05.-030(a), 38.05.030(e), and 38.05.035(a)(13) which require the approval of the respective trust board before disposal of lands by the director do not apply to selections of school, university or mental health land by a municipality under this section.

(f) For purposes of determining the per capita entitlement under (a) of this section, the resident population of the municipality shall be determined as of the effective date of this Act by the commissioner of the Department of Community and Regional Affairs and reported to the director.

Sec. 29.18.206. SELECTION AND CONVEYANCE PROCEDURE. (a) All municipal selections shall, whenever possible, be made in reasonably compact tracts, taking into account the use capabilities of a tract and its relationship to surrounding land uses. A selection filed by a municipality which has not been approved by the director may be relinquished at any time. An approved selection may be relinquished by a municipality if the relinquishment is approved by the director. An approved selection relinquished by a municipality increases the remaining entitlement of the municipality on an acre-for-acre basis.

(b) By August 1 of each year the director shall certify to each municipality having an entitlement under secs. 201 and 202 of this chapter the acreage of patented selections, approved selections not yet patented, pending municipal land selections neither approved nor disapproved by the director, and the remaining entitlement of the municipality.

(c) If land selected by a municipality is unsurveyed at the time of approval, the director shall survey, or may approve the municipality's survey of, the exterior boundaries of an approved selection without interior subdivision, and shall issue patent in terms of the exterior boundary survey. The cost of the survey shall be borne by the municipality. If land selected by a municipality has been surveyed at the time of its selection, the boundaries shall conform to the public land subdivisions established by the approved survey.

(d) The director may approve municipal selections of land which has been tentatively approved or patented to the state by the federal government, but he may not issue patent to a municipality until the land has first been patented to the state. After approval of a selection by the director, but before patent to a municipality, the municipality may execute conditional leases and make conditional sales only with the

Sec. 29.18.207. PAYMENT ~~IN LIEU OF~~ for land DEFICIENCY [LAND]. (a) There is established within the general fund the Alaska municipal land account for the following purposes:

(1) providing payment to municipalities for a deficiency of land [which it has selected and which is not] physically suitable for the purposes described in sec. 204(g)(1) of this chapter; or

(2) providing payment to municipalities for certain lands selected by the state and conveyed to a Native corporation under the provisions of the Alaska Native Claims Settlement Act.

(b) A municipality shall receive payment for its deficiency land from the account established in (a) of this section. A municipality is eligible to receive payment for deficiency land [land] if, on January 1, 1981, the amount of land which it has selected and for which approval has been given by the director constitutes approval of an entitlement that amounts to less than one-third acre per capita of appropriate vacant, unappropriated, unreserved land [which meets the standard of] sec. 204(g)(1) of this chapter. A municipality entitled to payment under this subsection may receive an amount not to exceed $ 1000 per acre for a number of acres equal to one-third acre per capita for the number of residents of the municipality on July 1, 1978, less any appropriate vacant, unappropriate, unreserved land selected by the municipality before January 1, 1981, which is physically suitable for the purposes described in sec. 204(g)(1) of this chapter. No payment may be made to a municipality under this subsection in excess of $9,000,000 or of three-quarters of all sums appropriated by the legislature to meet the requirements of this subsection, whichever is lower.

(c) If a municipality selected vacant, unappropriated, unreserved land on or before December 18, 1971, to which the state had received tentative approval or patent, and such land was also selected by a Native corporation organized under the Alaska Native Claims Settlement Act (P.L. 92-203), and title to that land is ultimately vested in that Native corporation, the municipality may, at its option, request payment [in lieu of] for land from the account established in (a) of this section. The acceptance of payment under this subsection by a municipality con

stitutes a relinquishment of any other right, title or claim to the land by that municipality. The total payment to a municipality under this section may not exceed $1,000 per capita for each person resident in the municipality on July 1, 1978, ~~as determined by the Department of Community and Regional Affairs and reported to the director. An annual payment to a municipality under this subsection may not exceed payment in satisfaction of an entitlement of 1,000 acres per year.~~

(d) The governor shall annually submit to the legislature a request for an appropriation to the account for the municipalities which are eligible to receive payments under (b) of this section or which have elected to receive payments under (a) of this section. The request for appropriation shall distinguish between amounts necessary to make payments for deficiency land under (b) of this section and those required to make payments in lieu of land under (c) of this section.

(e) For purposes of fulfilling entitlements under this section, the legislature is authorized to appropriate

(1) not more than $4,000,000 per fiscal year, and not more than $12,000,000 in total, for the purpose of paying entitlements under (b) of this section;

(2) not more than $1,000,000 per fiscal year, and not more than $8,000,000 in total, for the purpose of paying entitlements under (a) of this section.

(f) If an annual appropriation is not sufficient to meet the amount due to all municipalities which have elected to accept payment in lieu of land under (b) or (a) of this section, the governor shall apportion the appropriation among the municipalities in proportion to the payment calculated for each municipality for that year. When a distribution of payments is made under (a) of this section, the remaining entitlement of a municipality to which payment is made shall be reduced in an amount equal to the number of acres for which payment was received. An appropriation made under this section is in addition to other grants and entitlements authorized to municipalities.

consent of the director. Conditional sales and conditional leases made before the effective date of this Act do not require the consent of the director.

(e) Nothing in this chapter affects a valid existing claim, location or entry under the laws of the state or the United States whether for homestead, mineral, right-of-way or other purposes. Nothing in this chapter affects the rights of an owner, claimant, locater or entryman to the full use and enjoyment of the land so occupied.

Sec. 29.18.207. PAYMENT IN LIEU OF DEFICIENCY LAND. (a) There is established within the general fund the Alaska municipal land account for the purpose of allowing eligible municipalities to receive payment in lieu of deficiency land for entitlements provided in secs. 201 and 202 of this chapter.

(b) A municipality may obtain payment in lieu of deficiency land only in accordance with (c) or (d) of this section.

(c) If on January 1, 1981 the amount of land selected by a municipality for which approval has been given by the director constitutes an approval of an entitlement which is less than one-third acre per capita of appropriate vacant, unappropriated, unreserved land which is physically suitable for residential, commercial or industrial development in accordance with sec. 204(g)(1) of this chapter, the municipality shall receive payment in lieu of the deficiency land from the account established in (a) of this section. A municipality receiving payment under this subsection is entitled to an amount not to exceed a payment of $1,000 per acre for a number of acres equal to one-third acre per capita of land multiplied by the number of residents of the municipality on July 1, 1978 as determined by the Department of Community and Regional Affairs and reported to the director, less any appropriate vacant, unappropriated, unreserved land selected by the municipality

before January 1, 1981, which is physically suitable for the purposes described in sec. 204(g)(1) of this chapter. No payment may be made to a municipality under this subsection in excess of $9,000,000 or of three-quarters of all sums appropriated by the legislature to meet the requirements of this subsection, whichever is lower.

(d) If a municipality selected vacant, unappropriated, unreserved land on or before December 18, 1971, to which the state had received tentative approval or patent, and such land was also selected by a Native corporation organized under the Alaska Native Claims Settlement Act (P.L. 92-203), and title to that land is ultimately vested in that Native corporation, the municipality may, at its option, request payment in lieu of land from the account established in (a) of this section. The acceptance of payment under this subsection by a municipality constitutes a relinquishment of any other right, title or claim to the land by that municipality. The total payment to a municipality under this section may not exceed $1,000 per capita for each person resident in the municipality on July 1, 1978, as determined by the Department of Community and Regional Affairs and reported to the director. [An annual payment to a municipality under this subsection may not exceed payment in satisfaction of an entitlement of 1,000 acres per year.]

(e) The governor shall annually submit to the legislature a request for an appropriation to the account for the municipalities which are eligible to receive payments under (c) of this section or which have elected to receive payments under (d) of this section. The request for appropriation shall distinguish between amounts necessary to make payments for deficiency land under (c) of this section and those required to make payments in lieu of land under (d) of this section.

(f) For purposes of fulfilling entitlements under this section, the legislature is authorized to appropriate

(1) not more than $4,000,000 per fiscal year, and not more than $12,000,000 in total, for the purpose of paying entitlements under (c) of this section;

(2) not more than $1,000,000 per fiscal year, and not more than $8,000,000 in total, for the purpose of paying entitlements under (d) of this section.

(g) If an annual appropriation is not sufficient to meet the amount due to all municipalities which have elected to accept payment in lieu of land under (c) or (d) of this section, the governor shall apportion the appropriation among the municipalities in proportion to the payment calculated for each municipality for that year. When a distribution of payments is made under (d) of this section, the remaining entitlement of a municipality to which payment is made shall be reduced in an amount equal to the number of acres for which payment was received. An appropriation made under this section is in addition to other grants and entitlements authorized to municipalities.

Sec. 29.18 208. AUTHORIZATION FOR LAND EXCHANGES. The director, with the concurrence of the commissioner, and any municipality are authorized to exchange land or interests in land when it is in the public interest. Land or interests in land exchanged under this section must be of approximately equal value, including the non-monetary value of public benefits. Exchange procedures shall comply with applicable law and municipal ordinances. The notice and review provisions of AS 38.05.305 and 38.05.345 are applicable to exchanges of land under this section. The provisions of AS 38.50 do not apply to exchanges of land under this section.

Sec. 29.18.209. PUBLIC PURPOSE AND EXPANSION NEEDS. (a) Consistent with the best interests of the state, if a municipality does not contain and cannot reasonably acquire sufficient nonfederal land within

its boundaries to meet its legitimate needs for public or private settlement or development, it shall be the policy of the state to selec federal land reasonably necessary to meet the needs of the municipality and to make the land selected available to the municipality under AS 38.05.315 or (b) of this section.

(b) Where state land is the most logical location for demonstrated municipal expansion for nonpublic settlement and development purposes, and when an exchange of land under sec. 208 of this chapter is not possible or is not in the public interest, it is the policy of the state to sell or lease the land at public auction. The state may contract with a municipality to act as its agent in an auction of state land under applicable statutes. When a municipality acts as the agent of the state in an auction, the municipality may retain from the proceeds of the auction the expenses which the director determines to be necessary and reasonable.

(c) Nothing in this chapter limits or impairs the authority of the director to transfer land to municipalities, without limit or consideration, for public purposes in accordance with AS 38.05.315. If there is a remaining entitlement of the municipality, land transferred under AS 38.05.315 shall be credited toward fulfillment of the entitlement.

Sec. 29.18.210. ELECTION OF BENEFITS. (a) A municipality which on the effective date of this Act is engaged in litigation, or which becomes engaged in litigation, regarding a claim to state land under former secs. 190 - 200 of this chapter shall elect either to obtain the benefits provided in secs. 201 - 212 of this chapter or to pursue the litigation and thereby waive any claim to entitlement under secs. 201 - 212 of this chapter. An election shall be made by filing a motion for dismissal with prejudice in the court in which the litigation is pending. If the claim involves a municipality identified in sec. 201 of

this chapter, the municipality shall file its motion for dismissal within 60 days of the effective date of this Act. If the claim involves a municipality not listed in sec. 201 of this chapter, the municipality shall file its motion for dismissal within 60 days after receiving the certificate of entitlement provided by the director under sec. 202(b) of this chapter. Failure of the municipality to file a motion for dismissal during the time period provided in this subsection shall be considered a waiver of entitlement under secs. 201 - 212 of this chapter.

(b) A municipality which was eligible to file land selections under the former secs. 190 - 200 of this chapter and which does not enter into litigation over a claim to rights under those sections before the expiration of the time period within which it could make an election under (a) of this section shall be considered to have elected to receive benefits under secs. 201 - 212 of this chapter and to have waived any claim which might have been raised under former secs. 190 - 200 of this chapter.

(c) The provisions of secs. 201 - 212 of this chapter do not affect the rights, if any, of any party to litigation regarding the former AS 29.18.190 - 29.18.200 or 29.18.420, which litigation is maintained by a municipality that has elected not to obtain the benefits provided by secs. 201 - 212 of this chapter.

Sec. 29.18.211. ADMINISTRATION. The commissioner may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) necessary to carry out the purposes of secs. 201 - 212 of this chapter.

Sec. 29.18.212. DEFINITIONS. In secs. 201 - 212 of this chapter, unless the context otherwise requires,

(1) "appropriate vacant, unappropriated, unreserved land" means vacant, unappropriated, unreserved land which meets the criteria for municipal selection under sec. 204(g) of this chapter;

(2) "approved selection" means a municipal land selection which has been approved in writing by the director for transfer of patent to a municipality;

(3) "director" means the director of the division of lands, Department of Natural Resources, or his designee;

(4) "general grant land" means land patented or tentatively approved to the state from the United States under secs. 6(a) or (b) of the Alaska Statehood Act;

(5) "mental health land" means land granted under Title II, sec. 202 of P.L. 84-830, as amended before or after the effective date of this Act;

(6) "municipal land selection" means a request by a municipality, filed in writing with the director under authority of secs. 190 - 200 of this chapter repealed by this Act or under secs. 201 - 212 of this chapter for vacant, unappropriated, unreserved general grant land within its municipal boundaries in partial fulfillment of its municipal entitlement;

(7) "municipality" means a home rule or general law city or organized borough of any class, and includes unified municipalities established under AS 29.68.240 - 29.68.440;

(8) "patent" means a document, issued by the director to a municipality for a previously approved selection, which conveys and quitclaims all the right, title and interest of the state without reservation or condition except as may be required by law;

(9) "remaining entitlement" means the general grant land entitlement determined in accordance with sec. 201 or 202 of this chapter, reduced by the total acreage of approved selections, including both patented and unpatented parcels;

(10) "school land" means those rectangular sections 16 and 36

within each township surveyed on or before January 3, 1959, and confirmed and transferred to the State of Alaska upon its admission under sec. 6(k), Alaska Statehood Act, 72 Stat. 339, and any other land designated solely for school revenues;

(11) "university land" means all sections 33 reserved to the university under 38 Stat. 1214, as amended (48 U.S.C. 353) and all land granted to or reserved for the benefit of the university;

(12) "vacant, unappropriated, unreserved land" means general grant land as defined in (4) of this section, excluding minerals as required by sec. 6(i) of the Alaska Statehood Act, which

(A) has not been set aside by statute for one or more particular uses or purposes;

(B) has not been approved for patent to a municipality under secs. 201 - 212 of this chapter or former secs. 190 - 200 of this chapter repealed by this Act; or

(C) is unclassified or, if classified under AS 38.05.-300, is classified for agricultural, grazing, commercial, industrial, private recreational, residential, utility or open-to-entry purposes, or where classified in accordance with an agreement between a municipality and the state providing for state management of land of the municipality.

* Sec. 3. AS 38.05.321 is repealed and reenacted to read:

Sec. 38.05.321. RESTRICTION ON SALE, LEASE OR OTHER DISPOSAL OF AGRICULTURAL LAND. (a) The sale, lease or other disposal of state land classified as agricultural land transfers only rights for agricultural purposes, and all other interests in the land remain with the state unless otherwise required by law.

(b) State land classified as agricultural land which has been selected by a municipality under AS 29.18.190 - 29.18.200 or 29.18.204-

(e) may be approved by the director for patent under AS 29.18.204(f); however, only rights in the land for agricultural purposes may be transferred and all other interests in the land will remain with the state. Agricultural land approved for patent to a municipality under AS 29.18.-204(f) shall be credited, acre for acre, toward fulfillment of that municipality's entitlement under AS 29.18.201 or 29.18.202. If the director later determines it to be in the best interests of the state to transfer some or all of the additional rights in that approved or patented agricultural land, those rights shall pass without consideration to the municipality in which the land is located. The provisions of sec. 69(c) of this chapter apply to transfer of rights, other than agricultural rights, transferred by the director under this section.

(c) The provisions of this section do not apply to state land classified as agricultural land which has been selected by a municipality under the provisions of AS 29.18.190 - 29.18.200 if the selection is an approved selection before April 1, 1978 and is otherwise valid under AS 29.18.204(b).

* Sec. 4. (a) The general grant land entitlement of a municipality incorporated after the effective date of this Act is 10 per cent of the total acreage of vacant, unappropriated, unreserved land within the boundaries of the municipality on the date of incorporation of that municipality.

(b) Within six months of the date of incorporation of a municipality which is incorporated after the effective date of this Act, the director shall determine the entitlement of each municipality eligible to receive general grant land under (a) of this section and certify the entitlement to the municipality.

* Sec. 5. Consistent with the best interests of the state, in the selection of general grant land it is the policy of the state to make available the maximum land area from which municipalities may fulfill land entitlements

under AS 29.18.201 - 29.18.212.

* Sec. 6. AS 29.18.190, 29.18.200, and 29.18.420 are repealed.

* Sec. 7. REPORT. Within 30 days after the convening of each regular session of the Eleventh and Twelfth Legislatures and the first regular session of the Thirteenth Legislature, the director of the division of lands shall report to the legislature on the implementation of AS 29.18.201 - 29.18.212 in sec. 2 of this Act.

* Sec. 8. This Act takes effect July 1, 1978, except that AS 29.18.207, added by sec. 2 of this Act, takes effect January 1, 1981.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER / 323 E. 4TH AVENUE – ANCHORAGE 99501

May 19, 1978

The Honorable Joesph Orsini
Chairman
Senate Community and Regional Affairs Committee
Pouch V
Juneau, AK 99811

Dear Joe:

Following the completion of testimony before your committee on the Municipal Land Selection Bill (SCS CSHB 133), I felt it appropriate to forward some comments from the Administration based upon information brought out at the hearings, as well as discussions with the representatives of individual municipalities.

As I suggested at the hearings, and as has been echoed by several of the municipalities, we feel that it is important that the Senate Resources Committee Bill be used as the "mark-up vehicle." While your committee may wish to make several amendments to the legislation, the Resources Committee Substitute represents the most finely honed version to date and is certainly the most suitable version upon which to build at this time.

In reviewing the May 5, 1978 letter to you from Theodore D. Berns of the Anchorage Municipality, I believe several comments on the suggested amendments in Exhibit D of that letter are appropriate. With respect to suggested amendments nos. 3 and 5, Ted is addressing the need to clarify the difference between land that is merely "vacant, unappropriated, unreserved," and land which is vacant, unappropriated, unreserved which is actually appropriate for municipal ownership. In other words, there might be mountaintops, glaciers, and coastlines which are by definition vacant, unappropriated, unreserved, yet are clearly not appropriate for municipal ownership. The State supports a clarification of this issue, but we would do so in a slightly different manner than the language suggested in Exhibit D of Ted's letter.

10-J2LH

We suggest that the definitions section (29.18.212) be amended by the addition of a new definition no. (1) which would read:

> (1) "Appropriate vacant, unappropriated, unreserved land" means vacant, unappropriated, unreserved land which meets the criteria for municipal selection under Section 204(g) of this chapter;

In referring to Section 204(g) the definition incorporates the specific municipal criteria found in that subsection and therefore clearly differentiates between all vacant, unappropriated, unreserved land and land in that category which is actually appropriate for municipal ownership. By using this new definition, the suggested amendments nos. 3 and 5 in Exhibit D of Ted's letter may be changed to merely refer to this definition. Specifically, with respect to suggested amendment no. 3 on page 2, line 28 (SCS CSHB 133) the language would read:

> "or to that portion of an entitlement that cannot be satisfied by such date due to a lack of appropriate vacant, unappropriated, unreserved land."

The intent of suggested amendment no. 5 may then be manifested by adding on page 9, line 1, between the words "the" and "vacant," the word "appropriate."

Ted's suggested Amendment no. 4 on page five, at line 12, is acceptable to the State and we would not object to its inclusion in the bill. Likewise, with respect to suggested amendment no. 1 on page 1, at line 17-18, the State would not object to this deletion.

Suggested amendment no. 2 on page 1, at line 24, which would increase Anchorage's entitlement by 115 percent, causes us concern. While we again question, as has Senator Hackney, when the continual spiral of increases for municipal entitlements in this legislation will end, our specific concern here is that the 240,280 acres of selected land cited as being within the Anchorage Municipality is incorrect. That figure, as brought before your committee, includes substantial "double filed" acreage--land which has been filed on for selection by the State at different times or under different selection entitlements. While an exact determination of the degree of double filing would be a very time consuming effort, our best estimate of this double filing, giving Anchorage the benefit of any doubt, is approximately 72,000 acres. Reducing the 240,000 figure by 72,000 acres leaves approximately 168,000 acres of state

selected land. Ten percent of this total yields a figure of 16,800 acres. When added to Anchorage's existing entitlement of 20,865 acres, a more correct total of 37,665 acres is obtained.

Although not listed in Exhibit D of Ted's May 5 letter, Anchorage has requested that language found in Section 29.18.210(c) of the House bill (CSHB 133 (Finance) am) be reinserted in the Senate version (page 12, lines 8-11). This language, which refers to land conveyed to the State under Section 12(d)(2) of Public Law 94-204 is acceptable to the State provided that the ultimate entitlement for Anchorage is not in excess of the 37,665 acre figure addressed above.

With respect to Section 29.18.207, concerning payments in lieu of land, I have indicated several times that the Administration feels that the cumulative total of payments to all communities under this section should not total more than 20 million dollars. At present it appears that only the municipalities of Anchorage and perhaps Kodiak will qualify for payments under this section. I also understand that these municipalities are amenable to amendatory language, probably in Subsection (f), which would limit the total amount of in lieu revenue payments any one municipality could receive to a maximum of 10 million dollars. If language is included in that subsection which limits the total cumulative payments to all municipalities under this act to a total of 20 million dollars, and limits the total cumulative payments any one municipality can receive under this act to 10 million dollars, the Administration can support this section. Our suggested language is as follows:

> Once the total of cumulative in lieu revenue payments to a municipality under this section has reached 10 million dollars, there exists no obligation on the part of the State to provide further in lieu revenue payments to that municipality for any of its remaining entitlement. Once the total accumulative in lieu revenue payments to all municipalities under this section has reached 20 million dollars, there exists no obligation on the part of the State to provide further in lieu revenue payments for any remaining entitlement of any municipality.

The purpose of this language is to ensure that the artificially inflated entitlements of communities, where appropriate state land for municipal selection may not exist, do not return to haunt the State for additional revenue payment in the future. The remaining entitlements would, however, remain effective should additional appropriate land be received by the State within a municipality.

A major problem which we have all wrestled with throughout consideration of this legislation has been that of the trust lands. Your suggestion that appropriate trust lands be made available for municipal selection without the need for concurrence of the respective trust board has considerable merit in that it would significantly speed up the conveyance process. There are, however, two corollary considerations which must be addressed. First, if the trust boards are not to be formally approached for their approval, trust land selected by a municipality should be treated no differently than general selection lands selected by a municipality. That is, they should be subject to the same processes found in subsections (e) through (i) of Section 204. Second, while there may be a requirement to identify other lands of equal value for exchange with the municipally-selected trust lands, no specific time limit for identification or culmination of an exchange should be given. If the trust boards do not have approval authority, the rapidity of the conveyance process would simply outstrip the capability of the Department of Natural Resources to formally execute exchanges. Specific identification and accounting of all trust lands conveyed to municipalities would of course be kept for the execution of exchanges at a later time.

I would like to take this opportunity to thank you for your diligent and detailed review of this legislation. If I can supply any further information please do not hesitate to let me know.

Sincerely,

Mike

MICHAEL C. T. SMITH
Assistant Commissioner

Municipality of Anchorage

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

GEORGE M. SULLIVAN, MAYOR

OFFICE OF THE MUNICIPAL ATTORNEY

May 5, 1978

Senator Joseph Orsini, Chairman
Senate Community & Regional
Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Orsini:

On May 2, 1978, the Anchorage Assembly adopted Resolution AR 78-61 (copy attached as Exhibit A) dealing with SCS CS HB 133, presently before your Committee. In this resolution, the Assembly, together with the Municipal Administration, point to the inequitable treatment received by Anchorage under the present version of HB 133. The following is a brief summary of the major points:

With respect to land entitlement figures, at least seven, and probably more, of the municipalities listed on pages 1-2 of the bill have had their entitlements substantially increased over a literal application of the 10% VUU formula contemplated by existing law. For example, one municipality has been increased from 25 acres to 9,200, another has gone from 440 acres to 13,600 acres, and another has been adjusted from 645 acres to 89,850 acres. Anchorage, on the other hand, has remained at its 10% figure of 20,865 acres even though this entitlement results in by far the lowest per capita entitlement of any local government in the state.

SCS CS HB 133 also deleted language that would have prevented the area known as the "Campbell Tract" (approximately 5,000 acres) from being deducted from the Anchorage entitlement if that land eventually is transferred to the Municipality. Use of the Campbell Tract is restricted, by federal act, to a specific park plan that contemplates management by the state and federal governments as well as the Municipality. Any change in use from that listed in the federally recognized plan, even for such things as necessary expansion of local roads, may well require approval by the Congress. To my knowledge, no other municipality has had

land that is so restricted and encumbered counted against its land selection entitlement. Anchorage should not be forced to decide whether to reject a transfer of the Campbell Tract in order to prevent using a major part of its remaining entitlement for land that is subject to severe use restrictions.

In the Senate Resources Committee, a great deal of rhetoric was addressed to the point that Anchorage should not be entitled to receive any payments in lieu of land under A.S. 29.18.207 in the proposed legislation. The Committee reviewed figures from the Alaska Division of Lands (ADL) attempting to create the impression that there is ample available land to meet the Anchorage entitlement of 20,865 acres. As discussed later in this letter, subsequent investigation has revealed that these figures are, at best, misleading, and in fact, have been acknowledged to be in error by ADL staff. The figures presented by the State speak in large part to land for which the State does not even have tentative approval or lands that are otherwise clearly not presently available for local selection. Of the small amount of land that might be available for selection by Anchorage, most is clearly inappropriate and therefore unavailable for municipal use under the criteria advanced by the State on pages 4-5 of SCS CS HB 133. (See Exhibit B)

The figures advanced by ADL to the Senate Resources Committee are an attempt to create the illusion of adequate, appropriate state land in Anchorage that would, I can assure you, disappear once the bill is enacted into law. The simple fact is, as anyone who is even remotely familiar with Anchorage land clearly knows, the Municipality cannot expect with any assurance to obtain any appreciable amount of its entitlement in the form of land in the forseeable future. It is, however, the Municipality's position, as stated in the Assembly's Resolution, to accept any appropriate state land within the Municipality in partial satisfaction of its entitlement.

It is the position of the Municipality that Anchorage be entitled to payment in lieu of land for any portion of its entitlement that cannot be satisfied through a timely transfer of appropriate state land. Hollow promises concerning various types of land that "might" be available "sometime" for use by the Municipality are unacceptable. It is my belief that a majority, if not all, municipalities in the state support the in lieu payment schedule in SCS CS HB 133 as at least a small attempt to achieve equity for Anchorage taxpayers in a final settlement of the land selection program.

Based on the attached analysis (Exhibit B) of appropriate state land in Anchorage, it is anticipated that Anchorage might eventually request payment in lieu of land for up to 12,500 acres of entitlement. This would mean that Anchorage would receive approximately $16,875,000 in payments over approximately four

years under the present entitlement figure of 20,865 acres. In the Resources Committee, great concern was expressed over any payment to Anchorage. However, that Committee added language to the bill that may result in payment to Kodiak Island Borough of up to $26,000,000 based on a legal argument concerning the Native Claims Act (ANCSA) which is tenuous at best. The logic of such action is difficult to fathom.

The State Administration has indicated that it will not accept an in lieu payment system that would commit the State to payment of over approximately $20,000,000. Apparently this figure is advanced as the Administration's "bottom line" regardless of the time period over which municipalities are willing to accept payment. Again, the logic of this position is difficult to understand when the value of state land to be transferred to other municipalities under the bill could be over one billion dollars ($1,000,000,000.). (See attached analysis, Exhibit C). The Administration apparently either believes that Alaska land does not readily translate into money (a position so naive it cannot be accepted) or (more likely) that by attempts to frighten the Legislature with large dollar figures and veiled threats of veto, it can force Anchorage legislators to accept less than an equitable settlement for their municipality.

One other alternative that has received some discussion is to force Anchorage to select state land in other boroughs or in the unorganized borough in satisfaction of its entitlement. Although it is conceivable that such a plan could have merit, it would clearly force the Municipality into a speculative gamble on the availability of suitable land not already subject to selection by other boroughs or native claims. The potential administrative expense and land management problems that such a proposal would entail are substantial. The Municipality could not know beyond mere speculation what land it might receive or what the costs associated with such land might be. Although the Assembly's resolution did not specifically address this option, as the Municipal Attorney, I would be forced to advise against such an uncertain solution to an equitable settlement for Anchorage.

Attached to this letter as Exhibit D, are suggested specific amendments to SCS CS HB 133 together with brief explanations of the reasons for such amendments. It should be noted that Anchorage has not and does not begrudge other boroughs their relatively large entitlements under the proposed bill. Certainly no one would argue that all of the circumstances existing when the land selection program was started exist today. Consequently, it could be argued that it would be in the best interests of Anchorage to propose a simple repeal of the old program. The sale of state land could then be used to fund local government programs on some sort of equitable, per capita basis. The Municipality has not taken such a position and has instead agreed to work toward an equitable settlement of the old land selection program. With this

in mind, I urge your committee and all Anchorage legislators to adopt the attached amendments to SCS CS HB 133.

If you have any questions concerning the above, please contact me at 264-4237. Thank you for the opportunity to comment on this legislation.

Sincerely yours,

DEPARTMENT OF LAW

Theodore D. Berns
Municipal Attorney

TDB:ah

Enclosures

cc: All Anchorage Legislators

Exhibit "A"

Submitted by: Chairman of the Assembly
at the request of the Mayor
Prepared by: Department of Law
For Reading:

ANCHORAGE, ALASKA
AR NO. 78-61

A RESOLUTION REQUESTING EQUITABLE TREATMENT OF ANCHORAGE IN SETTLEMENT OF THE MUNICIPAL LAND SELECTION PROGRAM.

WHEREAS, the Alaska Legislature has had House Bill 133 entitled, "An Act relating to selection and transfer of state land to municipalities; and providing for an effective date" under consideration, and the Senate Resources Committee has recently reported out SCS CSHB 133 for further consideration by the Senate Community and Regional Affairs Committee; and

WHEREAS, the intent of the present version of HB 133 is to provide for an immediate, equitable settlement of municipal land entitlements under the municipal land selection program existing pursuant to AS 29.18.190 - .200; and

WHEREAS, land entitlements confirmed under HB 133 have been substantially adjusted upward for several municipalities other than Anchorage from the actual figure of ten percent (10%) of state vacant, unappropriated and unreserved land within local boundaries as contemplated by AS 29.18.190 - .200; and

WHEREAS, Anchorage has been denied any similar adjustment of its land entitlement notwithstanding the fact that the Municipality is already scheduled to receive by far the lowest per capita land entitlement of any local government in the state; and

WHEREAS, there exists no justification in law or fact for such inequitable and discriminatory treatment of Anchorage in the settlement of disputes over the municipal land selection program; and

WHEREAS, there is a serious shortage of appropriate and available state land for municipal selection in the Anchorage area as well as a shortage of funds available for land acquisition and other land related needs of municipal residents; and

WHEREAS, HB 133 provides for payment in lieu of land to municipalities such as Anchorage that are unable to obtain sufficient, appropriate state land to meet their entitlements; and

WHEREAS, such in-lieu payments are desperately needed to assist in meeting the land related needs of the Municipality but are threatened by the discriminatory and inequitable treatment of the land entitlement established for Anchorage in HB 133;

NOW, THEREFORE, the Anchorage Assembly in conjunction with the Municipal Administration hereby resolves:

Section 1. That the position of Anchorage with respect to HB 133 is to accept every available acre of appropriate state land within the Municipality in partial satisfaction of its land entitlement; and

Section 2. That Anchorage residents are entitled to equitable, nondiscriminatory treatment with respect to other municipalities in the upward adjustment of land entitlement figures under HB 133 over the entitlements authorized by a strict application of AS 29.18.190 - .200; and

Section 3. That land, such as the area commonly known as the Campbell tract, that is subject to preexisting federal or state restrictions on use or management not be counted toward the Municipality's land entitlement, and that the Municipality

be required to count against its entitlement only land that is appropriate for municipal selection, and subject exclusively to municipal control.

Section 4. That Anchorage be entitled to payment in-lieu of land for any portion of its land entitlement that cannot be satisfied through a timely transfer of appropriate state land, and that such payment, as a minimum, follow the payment scale and other payment provisions expressed in SCS CSHB 133; and

Section 5. That the Governor and Legislature be reminded that both the total and per capita dollar value of state lands to be transferred to many other municipalities under HB 133 far exceeds the amount that could possibly be awarded to Anchorage as payment in-lieu of land, and that equity demands the Administration's support for funding any in-lieu payment system established by HB 133.

Section 6. That the Senate Community and Regional Affairs Committee address the inequities and discriminatory treatment of Anchorage under the present SCS CSHB 133 and that all Anchorage legislators make the expeditious passage of an acceptable version of HB 133 a matter of highest priority for the present legislative session.

Passed and approved by the Anchorage Assembly, this _____ day of _____, 1978.

_____
Chairman

ATTEST:

_____
Municipal Clerk

"A"

EXHIBIT B

ANCHORAGE LAND STATUS

It should be noted that the following figures are the result of a cooperative effort between municipal staff and ADL personnel to determine the status of government owned land in Anchorage. Data and records at both the State and local level is at best imprecise. However, the figures below represent the best possible estimates to date.

State Land

Trust Lands
(not presently available
for selection)

Mental Health	1,806 acres
School	2,294
University	6,200
TOTAL:	10,300

It should be noted that a great deal of these trust lands would probably not be suitable for land exchanges under the proposal contained in SCS CS HB 133.

Vacant, Unappropriated,
Unreserved Lands 6,720 acres

Of the 6,720 acres identified by the State as VUU on maps presented to the Municipality, analysis has shown that probably no more than 1,700 acres that would meet the criteria for local selection and use outlined on pages 4-5 of the proposed bill.

Selected from the Federal
Government (No Tentative Approval) 240,280 acres

Virtually all of these lands are located east of Chugach State Park. There is presently no way of knowing for certain whether all or part of this land would be available or appropriate for local selection under the proposed bill.

Municipal Land

Patented or Approved	4,253 patent
To Anchorage	2,475 TA
	6,728 acres

Under AS 29.18.204(b) of the proposed bill, some or all of the 2,475 acres of TA land could be rejected as inappropriate for local selection. There is no way to know at this time precisely how many acres could be affected.

It should also be noted that state records show another 9,770 acres of municipal selections for which TA has not been received. This figure, however, includes over 5,000 acres of Campbell Tract and other lands that apparently do not meet VUU criteria. As noted above, from data supplied by the State and from working with ADL staff, it appears that only up to 1,700 acres of VUU land would be available to Anchorage in addition to land for which TA or Patent has been received.

Summary Of Lands
Available To Anchorage

Patent	4,253
TA	2,475
To be selected	1,700
	8,428 acres
Entitlement under SCS CS HB 133	20,865
-	8,428
Remaining Entitlement	12,437 acres

EXHIBIT C

ANALYSIS OF SCS CS HB 133

Assume: Average land values equal $1,500 per acre

Population figures are from revenue sharing data

Value of Land Transferred to
Municipalities Under SCS CS HB 133

1. Kenai Peninsula Borough

Entitlement	=	155,780 acres
Land value	=	$233,670,000
Population	=	24,611

Per capita value = $9,495

2. Fairbanks North Star Borough

Entitlement	=	112,000 acres
Land value	=	$168,000,000
Population	=	60,227

Per capita value = $2,789

3. Mat-Su Borough

Entitlement	=	355,210 acres
Land value	=	$532,815,000
Population	=	16,724

Per capita value = $31,859

4. Ketchikan Gateway Borough

Entitlement	=	9,200
Land value	=	$13,800,000
Population	=	11,490

Per capita value = $1,201

5. Kodiak Borough

Entitlement = 56,500
Land value = $84,750,000
Population = 7,901

Per capita value = $10,726

6. Bristol Bay Borough

Entitlement = 1,940
Land value = $2,910,000
Population = 1,311

Per capita value = $2,219

7. City and Borough of Juneau

Entitlement = 13,600
Land value = $20,400,000
Population = 20,465

Per capita value = $997.

8. Haines Borough

Entitlement = 1,080
Land value = $1,620,000
Population = 1,924

Per capita value = $842.

EXHIBIT D

SUGGESTED AMENDMENTS TO SCS CS HB 133

1. Page 1, lines 17-18: Delete "to assist in meeting costs of acquisition of land to meet public needs."

   Although this would no doubt be a legitimate use of in lieu payments, actual expenditures of funds should be left to the decision of local elected officials. Other boroughs have for years sold land received from the state and have used the proceeds for public purposes without restrictions. Anchorage should be allowed the same flexibility with respect to any in-lieu payments received under HB 133.

2. Page 1, line 24: Delete "20,865" and insert "44,893."

   The state has selected 240,280 acres of land in Anchorage but has not yet received tentative approval. Consequently, the figure was not included in the 20,865 acres listed in SCS CS HB 133. Since the bill fixes and thereby cuts off entitlements, it is only fair for Anchorage to be credited with at least 10% of the above-described state selected land.

3. Page 2, line 28: Add "or to that portion of an entitlement that cannot be satisfied by such date due to a shortage of appropriate available state land."

   This amendment would allow municipalities such as Anchorage more time to fill their entitlements with appropriate state land should it become available in the future. In Anchorage, for example, it is possible that land controlled by the Army or Air Force could become available in the future and be used to fill part of any remaining entitlement for which in lieu payment had not been reviewed.

4. Page 5, line 12: Add after the period-

   "Land deemed appropriate for municipal selection shall be land that is suitable and appropriate for an identifiable present or future municipal use or for disposal to private use by the municipality by sale or other means."

   This language would protect municipalities from possible abuse of the broad criteria expressed in subsections (g) and (h) on pages 4 and 5. The intent of the language is to minimize disputes with the state over the type of land that is appropriate for local selection and management.

5. Page 9, line 10: Add after the period-

"In certifying a municipality's remaining entitlement and available vacant, unappropriated, unreserved land under this subsection, only land meeting the criteria for local selection and use under 204(g) of this chapter shall be considered."

The purpose of this amendment is to eliminate ambiguity in applying the payment in lieu of land formula. Since only VUU land meeting the criteria of 204(g) can be approved for transfer to municipalities, it is only consistent to use these lands in applying the in lieu payment formula.

6. Page 10, Line 13: "Except as provided in (g) of this section," (Comment)

This language has the effect of possibly allowing Kodiak Island Borough to receive up to $26,000,000 in in lieu payments. Kodiak's claim is based on a legal theory concerning lands selected under the Native Claims Act (ANCSA) over which there is no doubt considerable disagreement. It is by no means clear that Kodiak will not be able to obtain many of the disputed lands for which payment might be claimed under this section. If, as the State Administration indicates, the dollar impact of the bill must be limited to less than full compensation for all municipalities entitled to in lieu payment, any per capita limit should be applied evenly to all municipalities.

F. C>HB-133

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC
PHONE: 586-6440
JUNEAU, ALASKA 99801

20002 NL KENAI ALASKA 50 05-24 0945A ADT

PMS SEN JOSEPH ORSINI

JUNEAU

WE WISH TO AFFIRM OUR SUPPORT OF SCS-CH-HB133, MUNICIPAL LAND SELECTION AS PRESENTLY WRITTEN.

MAYOR VINCENT O REILLY, CITY OF KENAI

COLE, HARTIG, RHODES, NORMAN & MAHONEY
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 201
717 K STREET
ANCHORAGE, ALASKA 99501
(907) 274-3576

HOYT M. COLE
ROBERT L. HARTIG
JAMES D. RHODES
JOHN K. NORMAN
ROBERT J. MAHONEY
BERNARD J. DOUGHERTY
MICHAEL W. SHARON
G. RODNEY KLEEDEHN
J. MICHAEL ROBBINS
ROGER H. BEATY
STEPHEN D. ROUTH
WEV W. SHEA

OF COUNSEL:
G. KENT EDWARDS

KODIAK OFFICE:
KODIAK PLAZA, BOX 503
KODIAK, ALASKA 99615
(907) 486-3143
(907) 486-3144

May 8, 1978

REPLY TO: Anchorage

The Honorable Joseph Orsini
State Senator
Chairman, Community & Regional
Affairs Committee
State Senate
Pouch V
Juneau, AK 99811

Re: Municipal Land Selection Bill
CSCSHB 133
Our File 101-28

Dear Senator Orsini:

The Kodiak Island Borough, in its consideration of the subject legislation, is of the opinion that the bill, properly presented, could offer a fair and equitable solution to the Borough's unique dilemma. It was with the assurances that the Kodiak Island Borough's problems would be resolved that support was forthcoming for the bill, both last term and again this term of the legislature.

The Borough has received some criticism from the Department of Natural Resources, Division of Lands, and individual legislative members claiming that the Borough had agreed to certain provisions; i.e., 1) on the amount of the land entitlement; and 2) the manner and method by which the Borough would be compensated for its land entitlements.

As you are aware, the Borough could only support the general concept envisioned in the legislation. At such time as it might be determined that the bill was not fair or equitable to the Kodiak Island Borough residents, the Borough would necessarily need to obtain amendments or even oppose the bill if it would be detrimental to the Borough's interests.

With regard to the amount of land entitlement, the Borough accepted the entitlement as prepared by the Division of Lands, subject, however, to the opportunity to review the State's maps and figures. After review, the Borough claimed over 60,000 acres, whereas the State only authorized 45,200 acres. By the Division of Lands' own figures, the Borough was able to convince the State that the entitlement was at least 50,600 acres, and it has since been agreed in the Senate Resources Committee that 56,500 acres was a satisfactory compromise.

In addition, the Borough was led to believe that the State administration was supportive of in-lieu payments when it could be shown that satisfactory land was not available. More than anywhere else within the State, the State administration was aware of the land conflict problems present in Kodiak. They are also aware that it could be argued morally, if not legally, that the State was responsible in part for that problem.

All this is to say, as you and your fellow legislators know, that, as more facts are developed and the legislation advanced, every party must review its position to determine whether it can continue to support particular legislation. The Kodiak Island Borough has acted, and continues to act, in an atmosphere of openness and fairness, and is desirous of the passage of legislation this term which would not only protect its citizens, but provide fair compensation for those lands which, because of land selection conflicts, may not be available to the Borough. Short of these assurances, the Borough would recommend that the legislation <u>not be passed</u>.

COMMENTS

From the beginning, the Borough has stressed the unique problem of Kodiak with regard to the land selection conflicts brought about in part by the State's failure to adjudicate Borough selections at the time they were received and, secondly, because of the problems raised by the Alaska Native Claims Settlement Act. Prior to the passage of the Claims Act in December, 1971, the Borough had made some 27 land selections, encompassing 38,187.70 acres. Of this amount, 9,807.5 acres were tentatively approved to the Borough and 2,120.67 acres were patented to the Borough. It should be noted that all the land selected by the Borough had been previously tentatively approved to the State by the federal government.

Of further note is the fact that some 25,966.45 acres of the remaining land selected by the Borough from the total 38,187.70 acres have been top-filed by individual native groups under the Alaska Native Claims Settlement Act. Some 7,459 acres of land were selected in the Bells Flats area, a portion of which has since been quit-claimed to individual residents of Kodiak and on which homes have been constructed. Also, some 6,440 acres of land were selected in the Monashka Bay area for the purposes of developing the water supply for the residents of Kodiak. Tens of thousands of dollars have been expended on that particular tract of land in planning and developing that watershed.

As you are aware, the individual native groups have been authorized, under the Alaska Native Claims Settlement Act, to select tentatively approved lands in their areas. As a result, and in order to satisfy their entitlements, the native groups have top-filed on those selections previously made by the Borough and from recent communications with the Bureau of Land Management, it appears that most, if not all, of those native selected lands will be transferred to the individual native groups. As a result, and in order to protect its third party interests, the Borough has determined that it is necessary to file administrative appeals in these conflict areas. To date, none of the appeals has extended beyond the administrative level; however, at such time as an adverse administrative decision is received, the Borough must then consider whether an appeal to the appropriate Court is required. If such a decision is made by the Borough to file an appeal, it is submitted that the question of legality of particular provisions of the Alaska Native Claims Settlement Act might arise, which could place a cloud on any land transferred to the native corporations by the Bureau of Land Management or an injunction to prevent such transfer.

The Borough has consistently stated that it would do everything in its power to avoid the necessity of litigating these problems. It fully repects the native groups' needs and rights and wishes to assist in the implementation of the Alaska Native Claims Settlement Act. The Assembly does, however, recognize its fiduciary obligation to all of its citizens, and when faced with the reality of what it feels are established third party interests in the tentatively approved lands, and the fact that these lands and interests may be thwarted, it must act to ensure that its interests are protected.

AS 29.18.207(g)

For those lands selected by the Borough prior to the Native Claims Settlement Act and in which title is ultimately placed in the native groups, the Borough has recommended that § 29.18.207(g) be adopted. For the total 25,966.45 acres of land and utilizing the formula under § 29.18.207(c), the fiscal note would be approximately $24 million. However, the Borough is attempting to resolve the issue of the Monashka Bay lands which would release some 4-6,000 acres from that figure. You will note that, under § 29.18.207(f) we have made an exception of our (g) paragraph in order that the $250 per capita would not limit recovery under that particular paragraph.

AS 29.18.210

In our testimony before the Senate Resources Committe, we requested that § 29.18.211 be amended to reflect that the lands under .208(g) would not apply. I note that .211 in the Senate Resources Bill is now .210 in the final version, and that that particular language is not present. In the event that Kodiak does not receive a fair and equitable amount for the lands which it loses under .208(g), the Borough would require that those particular lands be exempted under the election of benefits clause. There is some question whether, in the event the Borough would be required to litigate the individual land conflicts against the native corporations, former AS 29.18.190-29.18.200 would be an issue.

State Compensation

Some questions have been raised by individual legislators and the administration as to why the State should compensate the Borough for those lands which the Borough had selected and to which, ultimately, title is received by the native corporations. It should be noted that these lands were selected prior to the Alaska Native Claims Settlement Act and were obvious lands which were needed by the Borough and which were given great priority. Because of the State's failure to adjudicate the Borough selections, and because

the State's offer to Congress permitting the native groups to select tentatively approved lands, the whole problem of land selection conflicts arose. Again, the Borough does not fault the administration in its actions to resolve the Alaska Native Claims Settlement Bill which was then stalemated in Congress. Certainly, the action by the administration helped to resolve a serious problem, resulting in a break in the logjam and the final passage of the bill. However, it should be further noted that the Borough and the State had entered into a management agreement, whereby the State was acting as a trustee for those lands selected by the Borough. In fact, the State classified lands, at the request of the Borough, and also held timber and land sales at its request. It could be argued that the State owed a moral, if not a legal, duty to protect the Borough's interests with regard to those lands.

As the Borough argued in the Resources Committee, in the event satisfactory legislation is not passed by the legislature this term, the Borough must consider filing a lawsuit against the State under a contract theory for compensation for those lands which were lost by virtue of the native selections. That suit would bring in issue the Borough-State agreement, rights under AS 29.18.190-29.18.200, and the Alaska Native Claims Settlement Act. Assuming that the Borough does have a legal argument and would be successful in that litigation, the measure of damages would probably be in the form of money, based upon the value of the lands lost. Therefore, it would seem that, if the legislature agrees that the State does have a moral or legal obligation to the Borough, and recognizing the need to resolve the land conflict problems, and in order not to cause hardship to the native corporations, who obviously must receive their lands, compensation to the Borough in money for those particular lands would seem to be an equitable solution.

It is noted that the bill, as passed by the Senate Resources Committee, contains, in Section 7 on page 16, that AS 29.18.207 enacted in Section 2 of the Act would not take place until July 1, 1982. The Borough would express its concern regarding this section. If the Borough is to agree to withhold its rights of litigation, it can be argued that it should be compensated immediately or within a reasonable time for this forbearance.

Mr. Tubbs, land consultant for the Kodiak Island Borough, and I will be present at the Community and Regional Affairs Committee meeting on May 11th and will be happy to provide facts regarding the Borough's position and to answer any questions which you may have regarding the Borough's position on the bill.

Yours truly,

COLE, HARTIG, RHODES,
NORMAN & MAHONEY
Counsel for Kodiak Island Borough

By: Robert L. Hartig
Robert L. Hartig

RLH:kh

cc: Client

MANAGEMENT AGREEMENT

This agreement made and entered into this 17 day of [illegible], 1965 between the State of Alaska, Department of Natural Resources, Division of Lands, hereinafter referred to as the State and the Kodiak Island Borough, organized and existing pursuant to the laws of the State of Alaska, hereinafter referred to as the Borough.

WITNESSETH:

WHEREAS, Title 7 - Article 2 - Sec. 07.10.150, Alaska Statutes vests the Borough with the authority to select certain of those state-owned lands which lie within the Borough boundaries, and,

WHEREAS, the aforementioned statute further provides that the Borough is vested with the authority to manage, lease or sell the lands so selected, and,

WHEREAS, the Borough does not at this time have the financial ability nor the manpower to initiate and maintain an efficient land management program, and,

WHEREAS, the State, through the Division of Lands, does maintain the staff capability and is willing to enter into an agreement for the management of Borough selected lands, NOW THEREFORE,

The Borough does by these presents delegate to the State the authority to manage Borough selected lands and the State, through the Division of Lands, agrees to accept management authority over said lands upon the following terms and conditions to wit:

1. All lands disposed of by the State, pursuant to this agreement, shall first be subjected to a land use plan and such plan shall, prior to becoming final, be reviewed jointly and agreed upon by the Borough and the State.

2. Prior to disposal by the State of any lands selected pursuant to Section 6(b) Public Law 85-503, General Grant lands, the Borough shall first be afforded the opportunity to select the same for its use or disposal in accordance with the terms of this agreement.

3. Upon selection of eligible lands by the Borough, the State shall, without delay, note the same on the records to be maintained by the Division of Lands, and the State shall periodically thereafter make an accounting to the Borough revealing acreage entitlement, acreage selected, acreage disposed of and such other information as shall be deemed necessary for the purpose of keeping the Borough properly informed.

4. All leases, sales or other disposals which are made by the State on behalf of the Borough pursuant to this agreement shall be made only with consent of the Borough and shall be conducted in accordance with the Alaska Land Act (Title 38, A.S.) and the regulations promulgated by the State pursuant thereto. All lands which have been selected by the Borough, as herein provided, and which the Borough may wish to sell, lease or otherwise dispose of shall be sold, leased or disposed of in accordance with the provisions of this agreement for so long as the agreement shall remain in full force and effect.

5. All monies received by the State from the sale, lease or other disposal of Borough lands shall be deposited with the Department of Revenue, State of Alaska. Upon request of Borough Assembly and certification by the Director that payment is in order, the monies so deposited shall be transferred to the Borough. The State shall, during the month of January of each year that this agreement is in effect, render an accounting of all monies received from disposals conducted during the course of the year. Concurrent with the final accounting the State shall withhold survey, appraisal and other appropriate direct management costs, exclusive of overhead costs, from the total receipts.

6. To preserve the principle and integrity of sustained yield forest management and protection, those forest and grazing lands selected by the Borough shall remain under the direct management of the Division of Lands with all revenues from such forest and grazing lands or forest products being transferred to the Borough at the same time and in the same manner as stipulated in Item #5 of this agreement.

Nothing in this agreement shall prevent, through mutual agreement, the reclassification of any lands subject to this contract as provided in the Classification regulations of the Division of Lands, State of Alaska.

This agreement shall remain in full force and effect until such time as it may be cancelled or modified by mutual agreement between the parties. This agreement may also be cancelled by one party provided it gives the other party one (1) year notice of such cancellation.

KODIAK ISLAND BOROUGH

By _____
President of the Assembly

By _____
Borough Chairman

ATTEST:

_____
Borough Assembly Clerk

STATE OF ALASKA

By _____
Director, Division of Lands

CONCURRED:

_____
Commissioner, Department of Natural Resources

APPROVED AS TO FORM:

_____
for Attorney General, State of Alaska

ADDENDUM TO
LAND MANAGEMENT AGREEMENT

WHEREAS, the Kodiak Island Borough and the State of Alaska Department of Natural Resources Division of Lands entered into a Land Management Agreement dated June 17, 1965, and

WHEREAS, the parties hereto desire to amend said Agreement by adding thereto a new paragraph to be entitled Paragraph 7.

NOW, THEREFORE, it is hereby agreed by and between the parties hereto that the Land Management Agreement be and the same is hereby amended by adding thereto Paragraph 7 to read as follows:

"7. In the event that specific parcels of Borough selected lands, adjudicated by the Alaska Division of Lands to be eligible for patent to the Borough, are desired by the Borough for exclusive Borough use and/or management, the same, upon proper notice to the Division shall be patented to the Borough and the management thereof, including subsequent disposal, shall no longer be subject to this Agreement.

When lands have been patented to the Borough as provided in this Section, the Borough agrees that, prior to any disposal of such borough lands, where the same lie adjacent to or are interspersed with State-owned lands, the proposed program of disposal will be subject to joint review between the Borough and the Division, and likewise, State-owned land disposals will be subject to such joint review."

In all other respects the original agreement will remain the same.

KODIAK ISLAND BOROUGH

By _____
Presiding Officer

By _____
Borough Chairman

LANDS SELECTED PRIOR TO DECEMBER 18, 1971

Selection Number	Acres Selected	Acres Tentatively Approved to Borough	Acres Patented to Borough	Acres of Borough Selections on State Tentatively Approved Land Involved in Native Selections	Remarks
1	16.51	16.51	16.51	0	
2	46.26	46.26	46.26	0	
3	15 ±	-	-	0	Within 2 miles of Kodiak
4	175.12	175.12	175.12	0	
5	3.59	3.59	3.59	0	
6	159.75	159.75	159.75	0	
7	15.85	15.85	15.85	0	
8	210.06	177.57	170.36	0	
9	39.29	39.29	19.85	19.44	Port Lions area
10	69.61	69.61	0	0	
11	17.84	17.84	17.84	0	
12	7,199.	7,459.	788.4	7,459.	Bells Flat area
13	387.88	387.88	387.88	0	Within 2 mile limit
14	58.01	0	0	58.01	Port Lions
15	14,331.	0	0	8,900.	Shuyak
16	0.17	0.17	0.17	0	Within 2 mile limit
17	4.85	4.85	4.85	0	Within 2 mile limit
18	202.51	202.51	202.51	0	Within 2 mile limit
19	110.78	110.78	110.78	0	Within 2 mile limit
20	0	0	0	0	Not applicable to AS 29.18.199
21	0.92	0.92	0.92	0	Within 2 mile limit
22	250.	120.	0	250.	Chiniak
23	11,451.52	0	0	6,440.	Monashka Bay
24	310.	0	0	0	Within 2 mile limit
25	2,000.	0	0	2,000.	Chiniak
26	840.	800.	0	840.	Chiniak
27	0.184	-	-	0	Not applicable
	38,187.70	9,807.5	2,120.67	25,966.45	

LANDS SELECTED AFTER DECEMBER 18, 1971

28	2,611.	0	0	965.
29	2,330.	0	0	2,330.
30	5,750.	0	0	5,750.
31	2,590.	0	0	1,680.
32	2,940.	0	0	2,090.
33	1,735.	0	0	820.
34	2,500.	0	0	1,220.
35	2,020.	0	0	2,020.
36	540.	0	0	540.
37	2,490.	0	0	1,940.
38	1,925.	0	0	0
39	1,655.	0	0	0
40	1,920.	0	0	1,920.
41	22,545.	0	0	0
Total:	53,551.	0	0	21,275.
Total From Above:	38,187.70	9,807.5	2,120.67	25,966.45
Grand Total:	91,738.70	9,807.5	2,120.67	47,241.45

Note: Total tentatively approved lands to State on Kodiak Island are in the amount of 623,937.12 acres.

F: CSHB 133

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
P.O. Box 1628, Juneau, Alaska 99802

5450
May 9, 1978

Members of the
Alaska State Legislature

Reference is made to the Chugach Natives, Inc. proposal of March 13, 1978 (enclosed) to select-exchange 150-200 thousand acres of the Chugach and Tongass National Forests.

Because of the pending State and local community land selections totaling 247,596 acres and the remaining 100,000 acres of land which could be selected for community development, expansion, and recreation purposes, the Forest Service Environmental Analysis Report concluded that all selection and exchange proposals that can significantly affect these selections of National Forest areas must be discussed with the State and local community leaders affected. Similarly, I believe it is essential that recreation, aquaculture, timber, mining, and other user or interest groups which could be affected by this proposal should also have the opportunity to review and comment on the proposed selections and exchanges.

The Forest Service response to the Chugach Natives, Inc. proposal and our suggestions for achieving the necessary public involvement in accord with the requirements of the National Forest Management Act, National Environmental Policy Act, and other laws, are embodied in the enclosed May 3 letter to Mr. G.R. Andersen, Jr. and May 5 letter to the Federal-State Land Use Planning Commissions for Alaska (LUPC).

In our May 5 meeting in Anchorage, convened by the LUPC and including representatives of the Chugach Natives, Inc., State of Alaska, Forest Service, and other parties, we agreed to proceed with the Environmental Impact Statement processes described in the May 3 and May 5 letters. Additionally, the LUPC, Chugach Natives, Inc., and State of Alaska will explore other alternatives for selection-exchange outside the

Chugach and Tongass National Forests. The Forest Service has also agreed to provide at any time the best available information on the impacts of the proposed selections-exchanges for State, LUPC, Congressional or other hearings which may be convened in advance of the issuance of the June and July Environmental Impact Statements.

As the Environmental Impact Statement processes move forward, the Forest Service will keep State/community leaders and other interested parties informed and involved. If you have any questions or suggestions regarding our planned actions relating to the Chugach Natives, Inc. proposals, Forest Supervisor Clay Beal, Chugach National Forest, Pouch 6606, Anchorage, Alaska 99502, or I would appreciate receiving them. I am sure the LUPC, State, and Chugach Natives, Inc. also would welcome your suggestions.

Your interest in this matter is appreciated.

Sincerely,

JOHN A. SANDOR
Regional Forester

4 Enclosures

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
P.O. Box 1628
Juneau, Alaska 99802

1950
5430
May 5, 1978

Ms. Esther Wunnicke and Mr. Walt Parker
Joint State Federal Land Use Planning Comm.
of Alaska
733 W. Fourth Ave.
Anchorage, AK 99501

Dear Chairpersons:

This is in follow-up to the April 25 meeting in the Federal-State Land Use Planning Commission (LUPC) offices in Anchorage concerning the Chugach Natives March 13, 1978 12(c) land exchange and the related 12(b) and 14(h) 8 selection proposals. Forest Supervisor Clay Beal and Jim Calvin of my office participated in that meeting. It was agreed to meet again on May 5 at which time the Forest Service and other agency positions on these selection and exchange proposals would be discussed.

In view of the pending State and local community land selections totaling 247,596 acres and the remaining 100,000 acres of land still to be selected for community development, expansion and recreation purposes all selection and exchange proposals that can significantly effect these selections must be discussed with the State and local community leaders. Similarly, recreation, aquaculture, timber, mining and other users or interest groups should have the opportunity to consider the environmental, social, economic and other impacts of the proposals made. Accordingly, full public disclosure and discussion of the proposals (and alternatives) is essential. The enclosed April 7 letter from Mr. D. L. Finney of Louisiana-Pacific Corporation indicates potential contractual violations may also be involved. I understand SEALASKA and other native communities and corporations are concerned with the proposals and would want to be informed and involved in further discussion of these proposals.

Our suggestion for achieving the necessary public involvement is outlined in my enclosed May 3 letter to Mr. G. R. Andersen, Jr., President of Chugach Natives, Inc. Because of our prior commitments on processing the pending State selections I could not agree to delaying approval of State of Alaska Land Selections (my Feb. 8, 1978 letter also enclosed). Our position remains the same on this point.

We would be pleased to discuss alternative actions for resolution of the issues and dealing with the proposals Chugach Natives, Inc. have made. As to the possibility of an out-of-court settlement, reference to that is included in the March 13, 1978 proposal by Chugach Natives, Inc. and I understand discussions have been held with Guy Martin and others of the U.S. Department of Interior. Insofar as National Forest lands become involved in such negotiations, I believe it is essential Forest Service and the office of General Counsel at the Washington and Regional levels be involved. Similarly the State, local communities and user-interest groups should be given the opportunity to study and react to actions which will effect them.

We recognize the time requirements involved with the Environmental Impact Statement process. However, with the status of our land management planning on both the Tongass and Chugach National Forests, draft statements covering the proposals can be completed in June and July. We are reordering manpower and funding priorities insofar as possible to process the Chugach Natives, Inc. proposal. If two or three of your staff would be available for work with our Chugach and Alaska Planning Team Staffs we could cover salary costs during the May - July period.

We look forward to working with you on this and related matters.

Sincerely,

JOHN A. SANDOR
Regional Forester

Enclosures

Louisiana-Pacific Corporation

Ketchikan Division

Post Office Box 6600
Ketchikan, Alaska 99901, U.S.A.
Telephone: 907-225-2151
Telex: 099-55-251
Answer back: KAYPULPCO KET

April 7, 1978

Mr. John Sandor, Regional Forester
U. S. Forest Service
Box 1628
Juneau, Alaska 99801

Dear John:

We have just recently learned that the Chugach Natives, Inc. have asked for withdrawals to be made in the Tongass National Forest as a possible solution to their land selection problems under A.N.C.S.A.

We wish to put the Forest Service on notice that we protest any further native selections on any area in the Tongass that would cause a reduction in the annual allowable cut.

We also wish to put you on notice that we view any withdrawals in the Ketchikan working circle as a possible violation of our Long Term Timber Sale Agreement No. A10fs-1042. We are undertaking an investigation of our legal position concerning this possible violation.

We also wish to go on record as viewing the Chugach Natives, Inc. proposal to enter the Tongass as one which is highly controversial, will have a large and lasting effect on the environment, and for which there needs to be an environmental impact statement written.

As we are able to further investigate our legal rights under our timber sale agreement we will notify you of any further action on our part.

Sincerely,

D. L. Finney, Manager
Forestry & Government Affairs

hr
cc: J. Watson

RECEIVED
APR 12 1978
USFS REGION 10
TIMBER MANAGEMENT

RECEIVED
APR 1 [illegible]
REGIONAL FORESTER
FOREST SERVICE
JUNEAU, ALASKA

P.O. Box 1628, Juneau, Alaska 99802

5450

FEB 8 1978

Mr. G. R. "Bob" Andersen, Jr.
President
Chugach Natives, Inc.
912 East 15th Avenue
Anchorage, Alaska 99501

Dear Mr. Andersen:

Thank you for your letter of January 23, regarding the Chugach Natives, Inc. land selection needs.

Your letter specifically requests that we delay approval of State of Alaska land selections until final markup and related Congressional action by both Houses of Congress. We received the State of Alaska's land selection proposals on December 23, 1977, and have a commitment to act on those adjacent to established communities where the need for land is the greatest by February 23 - 60 days following receipt of those proposals. Other outlying selections are to be addressed shortly thereafter and approvals or disapprovals transmitted to the State by mid-March. Because of this commitment and the fact that the Alaska Native Claims Settlement Act does not specify Chugach Natives, Inc. selection rights on the Chugach National Forest, I have decided that I cannot comply with your request. You may appeal my decision in accord with the administrative appeal regulations (copy enclosed). If you wish to discuss this with me and my staff and representatives of the State of Alaska, I will be pleased to do so.

Because of the interest of the Congressional Delegation in this matter as well as that of the State, I have provided copies of this exchange of correspondence to them.

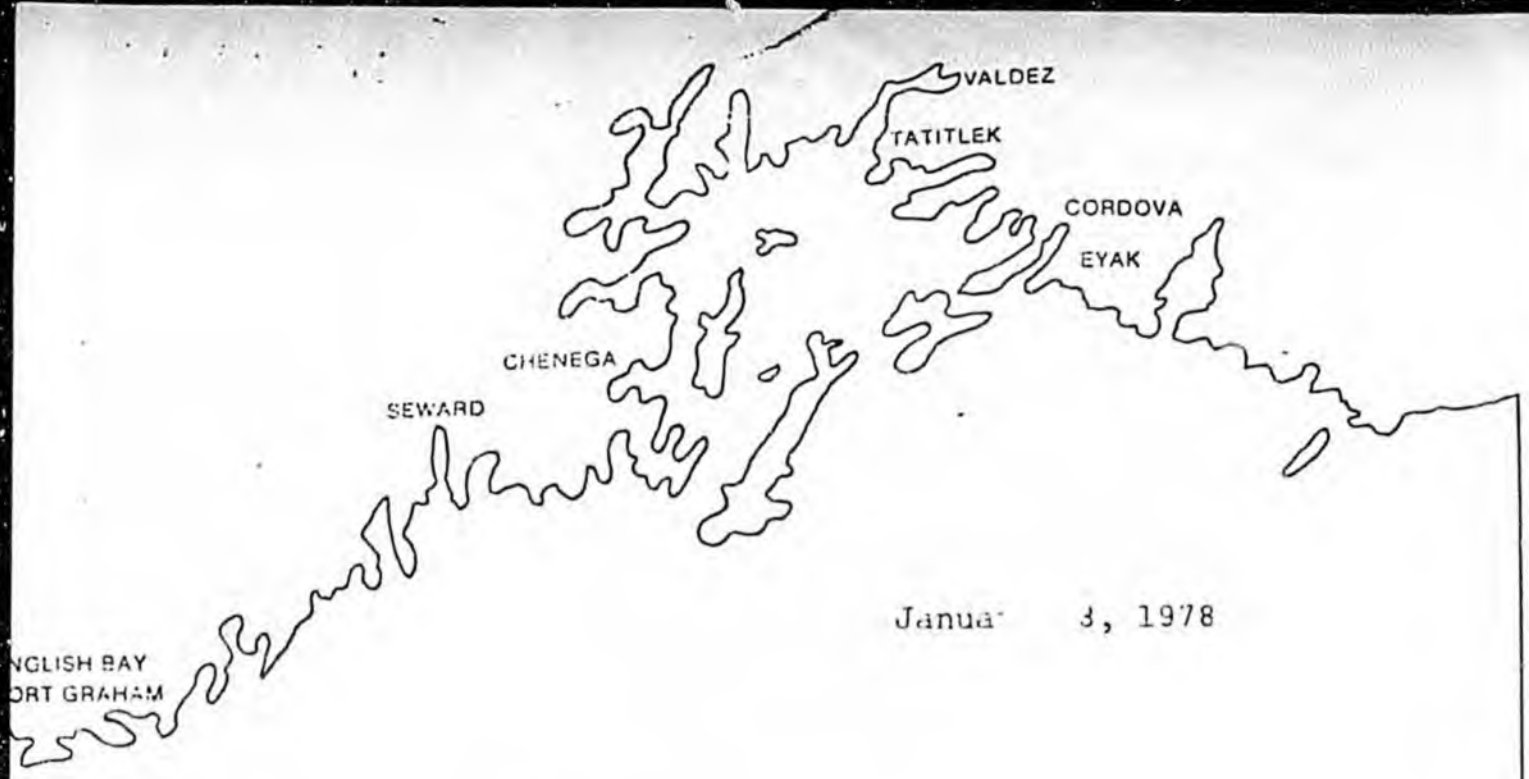
Sincerely,

JOHN A. SANDOR

JOHN A. SANDOR
Regional Forester

Enclosure

cc: Senator Mike Gravel
Senator Ted Stevens
Representative Don Young
Alaska Department of Natural Resources
WO



Janua 3, 1978

Mr. John Sandor, Regional Forester
U. S. Forest Service
P. O. Box 1628
Juneau, Alaska 99801

Dear Mr. Sandor,

In December the State of Alaska filed for a large portion of its entitlement under section 6(a) of the Alaska Statehood Act. Prior to this submission staff from our office met with Commissioner LeResche and his Forest Selection Team in an attempt to persuade them to delay making certain of these selections until the land ownership pattern in some areas was closer to finalization.

Although this specific request was refused, the Commissioner was appreciative of our position. He understands well that during final mark-up on D-2 and even afterwards major decisions on land ownership and implementation of the ANCSA will be made. Some of these could radically alter the existing and anticipated patterns in the Chugach National Forest.

Therefore, Chugach requests that you delay your approval of any of the State's December land selections within the Chugach National Forest until final mark-up on D-2 and any other ANCSA-related amendments is completed by both houses of Congress. At that time we would like to confer with you on the impacts of the State's selections upon our land holdings.

Respectfully yours,

G. R. Andersen

Chugach

G. R. "Bob" Andersen, Jr.

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
P. O. Box 1628, Juneau, Alaska 99802

5450

May 3, 1978

Mr. G. R. Andersen, Jr.
President
Chugach Natives, Inc.
912 East 15th Avenue
Anchorage, Alaska 99501

Dear Bob:

This is in follow up to the April 25 meeting in the Joint Federal-State Land Use Planning Commission (LUPC) offices in Anchorage concerning your March 13, 1978 section 12(c) land exchange and the related 12(b) and 14(h)8 selection proposals. Forest Supervisor Clay Beal and Jim Calvin of my office participated in that meeting.

It was agreed to meet again on May 5 at the same location, and we were asked to present at that time our agency's position on these selection and exchange proposals.

In the light of pending State land selections totaling 247,596 acres and the remaining 100,000 acres of land still to be selected for community development, expansion and recreation purposes, all selection and exchange proposals that can significantly affect these selections must be discussed with the State and local community leaders. Similarly recreation, timber, aquaculture, mining, and other users or interest groups also should have the opportunity to consider the environmental, social, economic and other impacts of the proposals made.

There are also other Native land selections and exchange proposals under consideration which must be taken into account. For example, your proposals for selections on the Tongass National Forest could significantly affect pending and proposed urban and Regional corporation exchanges. Also, although we have not yet confirmed this, your suggestions of possibly selecting lands on Prince of Wales Island could be of concern to the Native villages on that island, as well as the Louisiana Pacific Corporation, which has the long-term timber sale contract that includes timber on that island. As to other areas that could be considered for selection on the Tongass National Forest by the Chugach Natives, Inc., Goldbelt, Inc., Shee Atika, Inc., and Kootznoowoo, Inc. (Angoon), are also looking at alternative opportunities for selection-exchange off Admiralty Island. Thus, proposals for selections on the Tongass National Forest must, in all fairness, be referred to these and other communities and corporations for comment.

Although you report general support of the Sierra Club and other members of the Alaska Coalition for your selection-exchange proposal on the Tongass and Chugach National Forests (providing you do not export the timber to be harvested), not all conservation or environmental groups may do so. Accordingly, we are obligated to contact these organizations for their reactions to these proposals.

Fortunately, the Tongass Land Management Plan is at a stage where your proposal can be promptly incorporated into the Tongass Draft Environmental Impact Statement to be issued in June. Similarly, the development of the Southcentral Area Guide is well underway and the Chugach National Forest Land Management Plan is also in the process of being updated. The available information from these processes and the previously completed Wrangell Mountains Area Guide, along with information available from the Land Use Planning Commission and other agencies, will enable us to issue a draft environmental impact statement on the Chugach National Forest proposals in July.

We and our counsel have concluded that the 1976 National Forest Management Act and the National Environmental Policy Act clearly requires public involvement and the applications of the environmental statement process on decisions of this magnitude. It is our finding that decisions on the proposal submitted constitute major Federal actions and are likely to be controversial. Alternatives to the proposals must be identified and addressed with full public participation before approval or disapproval can be recommended or taken. We clearly recognize the need for prompt action on your March 13, 1978 proposals. As noted above, the Tongass Land Management Plan Draft Environmental Impact Statement to be issued in June will incorporate your proposals covering that Forest. Also, the Chugach National Forest, Alaska Planning Team and other personnel can complete the Draft Environmental Impact Statement for the Chugach National Forest proposals in July. We see an excellent opportunity for strong involvement of the LUPC staff, State of Alaska departments, University of Alaska personnel and other public and private agencies in this effort.

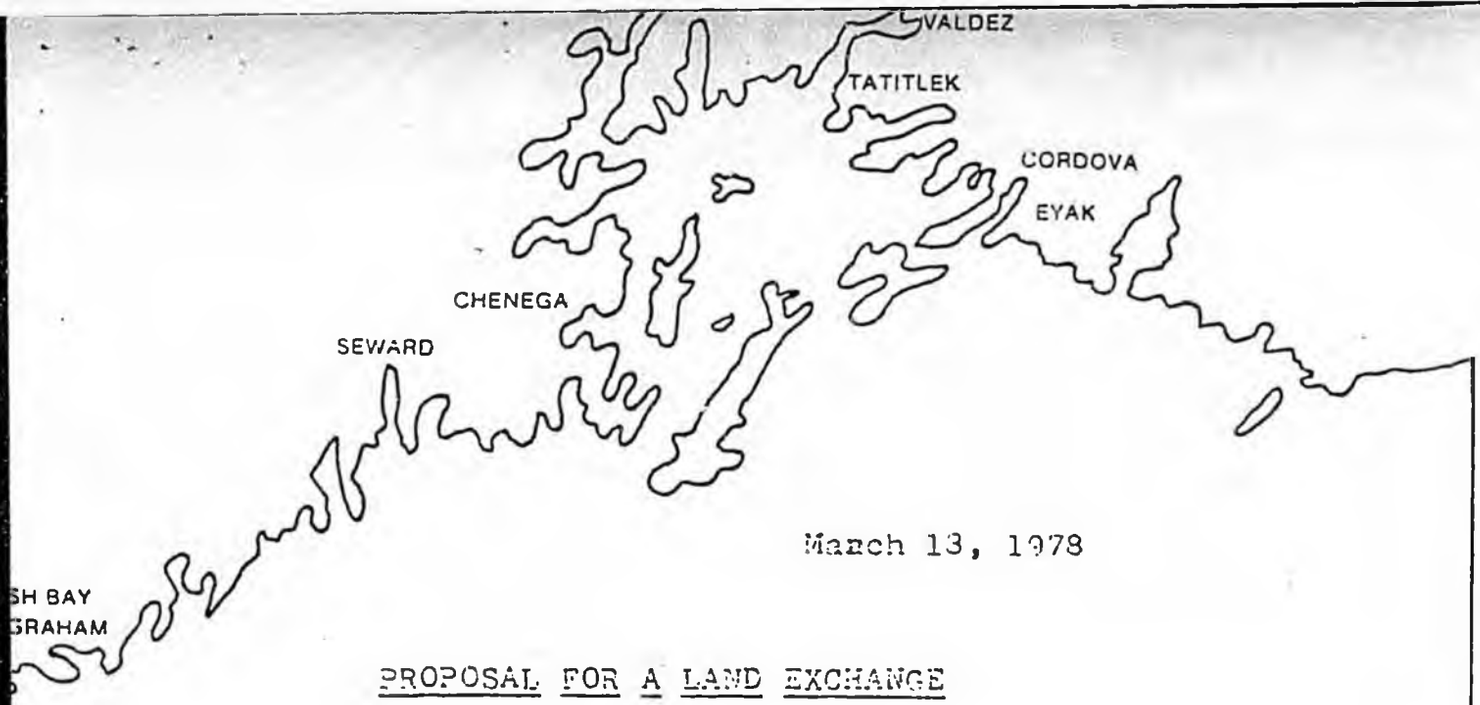
As noted in my letter of April 20, we would appreciate receiving as soon as possible, the specific areas of the Tongass you propose for selection or exchange. These could then be addressed in the draft environmental statement being prepared for the Tongass Land Management Plan. Meanwhile, as we pointed out in our February 8, 1978 letter, we are obligated to proceed with the process of approving State and local community land selections.

We would be pleased to respond to further questions regarding our position or our proposed course of action in this matter.

Sincerely,

JOHN A. SANDOR
Regional Forester

cc: Jt. Federal-State Land Use Planning Comm.
Alaska Dept. of Natural Resources
Senator Stevens
Senator Gravel
Congressman Young
Tongass and Chugach communities
OGC (Portland)
Washington Office



March 13, 1978

PROPOSAL FOR A LAND EXCHANGE

I. Background:

1. Chugach was unable to select any of its section 12(c) entitlement of approximately 350,000 acres from the statutory section 11 withdrawals within its region. Two of our five villages were totally on state selected and tentatively-approved lands, while the other three villages are located within the Chugach National Forest. Therefore, from the very beginning Chugach realized that all of its lands would have to be selected from so-called "deficiency" areas.

2. Prior land appropriations to the state of Alaska and the reservation of the C hugach National Forest, along with the withdrawal of proposed D-2 system lands, virtually exempted the rest of the coastline in the Chugach Region from selection by the regional corporation. Nearly all of the Secretary's deficiency withdrawals for Chugach therefore had to come from inland areas.

3. The Chugach Region is perhaps the smallest in the state of Alaska, with less than 10 million acres within its boundaries. Yet it has without question the most rugged terrain and the highest percentage of snow and ice cover of any region in Alaska. Thus, it was lands of thisscharacter which were eventually withdrawn by the Secretary of the Interior for Chugach's deficiency.

4. Chugach's deficiency withdrawals clearly did not meet the requirement of section 11(a)(1)(A) of the Act, in that they were not"of a character similar to those on which the village is located". Incidentally, all of the five Chugach villages are located on the coastline around the Gulf of Alaska, and the Chugach people have always had a direct dependence on the sea for their dependence and their culture.

Chugach

5. In 1975 Chugach filed litigation against the Secretary, charging, among other things, that the deficiency withdrawals made for the Region were inadequate and in violation of the Secretary's statutory mandate.

6. On January 18, 1977, Chugach withdrew this claim against the Secretary in order to reach an out-of-court settlement of the requirements for compactness and contiguity pertaining to its land selections.

7. Therefore, although the litigation over this issue has ended, it is widely acknowledged that Chugach received both a poor land settlement, when compared with that of the other corporations, and an unjust land settlement with respect to the law.

II. Specific Selection Problems:

A land area equivalent to that in 55 whole townships was withdrawn for selection by the Chugach Regional Corporation. Chugach's 12(c) entitlement is roughly the equivalent of 15 whole townships, or about 350,000 acres.

Of all the lands withdrawn, the approximate equivalent of 30 whole townships, or in excess of 46% of the entire withdrawn area, was covered by either glaciers or ice fields. Of the 35 townships remaining, 14 ice-free ones were within a "dual" D-2/regional deficiency withdrawal in the southern part of the proposed Wrangell Mountains National Park. This left only 21 townships from which "reasonable" land selections could be made. Of these, Chugach wasn't informed that three of them were available for regional deficiency selection until after the selection deadline had expired. Of the 18 townships remaining for possible selection, 2.25 not covered by ice in the Nellie Juan area were discovered to be improperly withdrawn, as they were included in a wilderness study area pursuant to PLO 3665 in 1964.

This left only 15.75 townships, approximately, which were still available for filing on by Chugach, or roughly the equivalent of the Corporation's 12(c) entitlement. By not selecting, or rather not identifying as priority selections, most of the lands within the so-called Ice Worm Peak withdrawal area, Chugach forfeited its earlier "blanket" selection thereon. This reduced the number of townships not covered by ice which were still available for priority selection by Chugach by two more, or now down to 13.75. Finally, I would venture that no more than six or seven of these remaining withdrawal areas which are suitable for selection consist of lands which are not entirely impassable because of their precipitous terrain.

III. Proposal:

We are approaching all possible parties of interest at this time for their support in principle of Chugach's proposed exchange of lands in the Bremner River withdrawal area for alternate selections elsewhere. Additionally, we are seeking comments on the "in-lieu" areas proposed below, and suggestions for other areas. Legislation pending before the Congress to implement section 17(d)(2) of the ANCSA offers an appropriate vehicle into which we can incorporate the terms and conditions of the proposed exchange.

IV. General Areas Where Chugach has an Interest in Acquiring In Lieu Lan

A. Chugach National Forest lands-
1. western Prince William Sound copper belt (ie. Latouche, Knight and Naked Islands). - max. 90,000 acres

2. Bering River coal fields - max. 54,000 acres

B. Yakataga Forelands - max. 75,000 acres
Chugach would be quite interested in obtaining coastal lands between Cape Yakataga and Icy Bay which are now selected by or tentatively approved to the state. This would mean that other federal lands would have to be made available for state selection which the state rates more desirable than the Yakataga lands. Any 3-way trade would also have to be exempt from the section 6(i) restriction in the Statehood against deeding subsurface estate to other parties.

C. Tongass National Forest lands-

D. Cash payment in lieu of some acreage

E. Surplus or Excess federal holdings

F. Others

V. Chugach Concessions:

A. Receive no conveyance of lands in the Ice Worm Peak, Nellie Juan and Keystone Glacier regional deficiency areas.

B. Receive no conveyance of lands within the Controller Bay regional deficiency area (would involve amending CNI/DOI Agreement in CNI v. Andrus (No. 75-2113 Dist of Columbia).

C. Receive no conveyance of lands within the Bremner River watershed, and possibly only along the Copper River in the entire Bremner River regional deficiency area.

VI. Special Terms and Conditions:

A. Amend the partial agreement reached by Chugach and DOI in CNI v. Andrus to allow Chugach to receive conveyance to less than all of the priority selection area which it has identified in the past in the Icy Bay Withdrawal.

B. Amend the same Agreement to allow Chugach to take conveyance to none of its priority selections in the Controller Bay withdrawal area.

C. Include a special provision allowing Chugach to reinstate its now relinquished 12(c) selections in all of the Carbon Mountain withdrawal area. This would only be done after we are assured of obtaining 14(h)(8) lands from the Chugach National Forest. As it stands we were forced to relinquish some of our 12(c) filings in order to make valid 14(h)(8) selections on unappropriated lands.

F: CSHB 133

KETCHIKAN GATEWAY BOROUGH
344 FRONT STREET
KETCHIKAN, ALASKA 99901

May 15, 1978

The Honorable Joseph Orsini, Chairman
Senate Community & Regional Affairs Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99801

Re: Municipa' Entitlement Legislation

Dear Senator Orsini:

Your committee office has advised me that the Committee will be accepting testimony from Southeast Alaska municipal officials on the municipal entitlement bill this Tuesday afternoon. Our meeting schedule precludes my being in Juneau for this hearing, therefore; I am hoping that you will accept and consider this written statement.

The Ketchikan Gateway Borough is extremely anxious to have the municipal entitlement question resolved as rapidly as possible. The bill before you now is very similar to the bill agreed upon early last legislative session. Ketchikan was a party to that agreement and remains firm to our basic support of the legislation.

Ketchikan has a land problem; a problem of land for community expansion. Ketchikan has the highest density use of land of any community within the entire State as we are virtually landlocked, surrounded entirely by National Forest Lands. The State is making a selection of approximately 23,000 acres within our Borough, the majority of which is adjacent or near the present roaded system. These forest selections and the Mental Health lands bounding the City limits are those lands into which the community must expand. If these lands are available for community expansion, they will be so utilized without regard to suitability for such purposes because this is all the land there is and all the land there ever will be in the future.

The "magic acreage" municipal entitlement figure to be included in this legislation simply will be arbitrary in Southeast. A figure of 9,200 or 11,000 acres of community expansion lands for eternity is just a guess. It may be necessary to select 30,000 acres to have 9,200 acres of usable land or there may not be 9,200 acres of usable land in eventual State ownership from which to make our municipal selections. This is information we just don't have today and will take years and be very costly to determine.

There must be an entitlement figure listed at some point and the Southeast boroughs should have entry into the difference (lands in State ownership) if through a legitimate determination process, additional land is needed for community expansion purposes. This flexibility must be written into the legislation. Basically, the State should not be in the land ownership business in Southeast as there are virtually no large State interests in land in Southeast other than to hold land for community needs. This is supported by the State's acceptance of the Borough's recommendation for withdrawal of forest lands with only very minor changes by the State. Therefore, it would be in the best interests of the State and the Ketchikan Gateway Borough that language be included in the municipal entitlement legislation to insure the entry of our Borough into the remaining State lands at such a time in the future that there is an identified need for additional land for community expansion purposes.

I hope these comments will be helpful in your deliberations. Your endeavors toward passage of this legislation are appreciated.

Sincerely yours,

KETCHIKAN GATEWAY BOROUGH

Judith A. Slajer

Judith A. Slajer
Borough Manager

JAS:gb

F: CSSB 133

THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA
155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

DATE: May 23, 1978

FILE NO. CSHB 133

SUBJECT: Land Availability in the Juneau Area

Joseph Orsini, Chairman
Senate Community and Regional Affairs Committee
Pouch V - State Capitol Building
Juneau, Alaska 99803

Dear Senator Orsini,

The following is in response to your request for the municipality's estimation of acreage which is or could be made available in the City and Borough of Juneau and how much is developable. After reviewing the matter with our planning staff, we have concluded that the differences between the figures which were ultimately developed at the hearing on May 16, 1978 are not so significantly at variance from our estimates as to warrant pursuit of the differences. Below is a table which sets forth the figures as I understood them at the hearing and with which our plainning staff has only insignificant differences.

Type	Total Acreage	Developable Acreage	
		Inc. Goldbelt Topfiling	Exc. Goldbelt Topfiling
Mental Health	11,480 (to 12,690)	5,700	5,700
Prior 6(a) selections TA	2,925	1,650	1,650
University	440	200	200
6(b) patented or TA	4,160	780	780
6(b) not TA	9,000 (aprox)		
New 6(a) selections (not TA)	23,618	12,650	8,650
Total: selected, TA, patented	51,623		
Total developable: selected, TA, patented		20,980	
Total developable: selected, TA, patented, less Goldbelt topfiled			16,980

FORM NO. CBJ 7

Of the approximately 4 000 developable acres which have been topfiled by Goldbelt, we estimate that well over 2,000 of those would become available to the state for selection if Goldbelt receives its first priority choices in other areas outside the City and Borough of Juneau. This would increase the 16,980 acres to over 19,000 acres.

As was mentioned at the hearing, the City and Borough withdrew its selection of an area in the Eagle River area. It is estimated that there were well over 2,000 developable acreas in that selection. The withdrawal came after the State National Forest selection team suggested to the City and Borough that it consider whether it wanted to withdraw its Eagle River nomination. Shortly after the state's suggestion, the assembly received a substantial amount of input from conservation oriented groups to drop the nomination. Pursuant to an assembly decision, the nomination was dropped; however, it was fully understood that the parcel could be nominated in the future after more study and planning. Thus, while the state has not counted this particular nomination as part of its developable acreage, it nevertheless does have potential for future selection and would raise each of the developable acreage figures by something in excess of 2,000 acres each.

Please bear in mind that the City and Borough of Juneau is interested not only in developable land but in land which will serve community recreation needs and will provide protection for our watershed. Part of the approximately 9,000 acres of unapproved 6(b) selection may be of interest to the municipality either for recreation or for watershed protection purposes. Also, the Eaglecrest selection of almost 4,000 acres is classified as undevelopable yet it is obvious the community has a great interest in acquiring this "undevelopable" land.

The concept of allowing municipalities to satisfy their entitlement out of developable land is one which has been recently suggested. The City and Borough of Juneau has never taken the position that its entitlement should be satisfied only from developable land. We have always anticipated that if we receive a fair entitlement under the bill, part of the entitlement would be met with land which was not developable. We believe that 28,000 acres is a fair entitlement and that certainly nothing less thant 24,000 should be placed in the bill for Juneau considering its population, area and the special position it occupies, along with some other southeast communities, under section 6(a) of the Statehood Act. We would not expect a "developable lands only" restriction to apply to the City and Borough of Juneau

under the conditions of the more reasonable entitlement suggested. We would, under such circumstances, be looking at well in excess of 50,000 acres out of which to satisfy our entitlement.

I realize that there is some feeling that there must be an end to communities coming in and asking for more land. Please consider the following. When Senate Bill 241 was first introduced, it was the product of all the large communities involved except the North Slope Borough and the three large southeast boroughs. Juneau, Ketchikan and Sitka were not even invited to discuss the land settlement problem, and in fact, to my knowledge, were not even aware that discussions were taking place which would affect them as adversely as was proposed in SB 241. By the time the southeast communities became aware of the discussions and "agreements" the die had been pretty well cast. As you will recall, the state gave the three southeast communities 32,000 acres to divide among themselves and the three communities were told to take it or leave it. Those can hardly be called the conditions under which an "agreement" was reached. Juneau has consistantly requested acreage greater than the 13,600 acres proposed except last year when it agreed to such acreage if the bill could be passed during the last session. Since last year, both Anchorage and Kodiak who were parties to the original agreement, have come in asking for substantially increased entitlements in either acres or dollars. If these communities are given increases, why should a reasonable entitlement be denied to the City and Borough of Juneau which has been requesting an increase all along and which is not asking for an entitlement which will permit it to go into the in lien fund or otherwise receive dollars as with Kodiak and Anchorage.

I should also point out that the Meekins formula has not been entirely taken out of the bill. The acreage for the North Slope Borough is what was produced by the Meekins formula. If some form of equity is being done for the North Slope Borough I strongly suggest that the same can be done for the City and Borough of Juneau. I urge you to increase Juneau's entitlement as requested above.

Very truly yours,

Gerald L. Sharp
City/Borough Attorney

GLS/sm

cc: Senators Willis, Ferguson, Hackney and Sumner

F: C514B
133

Alaska State Legislature

House of Representatives

Office of the Speaker

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Senator Joe Orsini

FROM: Hugh Malone

DATE: June 1, 1978

As you are well aware, there has recently been considerable interest concerning the state's "trust lands."

The need to resolve, or reconcile, complex state land management programs, provide municipalities with valuable and accessible local lands, and to help insure a more adequate return of revenue from state lands - to support those services as designated by the trusts - is most crucial.

The future of our "trust lands": mental health, school and university; lands granted to territorial Alaska by the Federal government; will be profoundly shaped by a variety of pending legislation, if enacted. Presently, a number of bills, i.e., HB 133 (state land selections by municipalities), HB 720 (homesites), and SB 159 (an act relating to state land) deal, to differing degrees, with the "trust lands" issue. HB 477 and SB 562 may become involved in this as well.

Like youself, I agree that fundamental changes are needed in our "trust lands" program, but, because of the burgeoning number of approaches to this problem, coupled with the complexity fc the issue, I'm deeply concerned with the prospect of passing confusing, if not contradictory legislation.

I would urge you to review all pertinent bills; its necessary that all concerned parties be aware of the differing proposals. The need to pass comparable, or uniform legislation - as it pertains to this issue - is no less important than solving the issue itself - if long run legal and administrative complications are to be avoided.

Hugh G

F
C541
133

OUZINKIE NATIVE CORPORATION

P.O. BOX 89

OUZINKIE, ALASKA 99644

June 2, 1978

RE: Senate CS for CS for House Bill No. 133

Dear Senators:

We have just been informed of the miniciple land selection Bill CSCS HB # 133 that has been introduced by Parr, Brown, and Cowper. This action, we believe, is one of the most logical pieces of legislature proposed by the State since the passage of the Alaska Native Claims Act.

It is the Ouzinkie Native Corporation's position that we support State Compensation to municipalities for lands which had been tentatively approved to the State of Alaska, and of which lands have been selected and will eventually be conveyed to Village Corporations, under the Alaska Native Claims Settlement Act.

Compensation to the municiple government by the State, would, in our opinion, resolve much of the friction that has been created between the municiple governments and Village Corporations on the legalities of ownership of land.

F: CSSB
84 (

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER / 323 E. 4TH AVENUE - ANCHORAGE 99501

April 14, 1978

The Honorable Joseph Orsini
Chairman, Senate & Community
Regional Affairs Committee
Pouch V
Juneau, AK 99811

Re: Municipal Land Selection Regulations

Dear Joe:

As you know, despite agreement last year by the State and almost all municipalities concerning the municipal land selection question, manifested originally in CSHB 133, that legislation has had a very checkered and sporadic history. Because settlement of this issue is of critical importance to both the State and the municipalities with respect to future land and resource management, particularly land disposals, both the State and the municipalities are concerned that the issue be settled in the very near future. While we would still prefer that appropriate legislation be enacted, the State is looking at the alternative of individual settlements with each municipality under existing law to address this matter if legislation presently before the Senate Resources Committee is not adopted this session.

Attached is a copy of draft regulations, as sent to each municipality, which would serve as the basis for any such settlements. These regulations will be needed whether or not the present legislation is enacted and, as discussed in the attached cover letter to each municipality, we are requesting a review of these regulations at this time to ensure that they meet with municipal approval and can serve as the basis for individual settlements should pending legislation not be enacted.

10-J2LH

If you have any questions concerning these regulations, please do not hesitate to ask.

Sincerely,

Mike

Michael C. T. Smith
Assistant Commissioner

Enclosures

DRAFT REGULATIONS
IMPLEMENTING
AS 29.18.190 - .200

11 AAC _____. DETERMINATION OF ENTITLEMENT FOR MUNICIPALITIES. (a) The general grant land entitlement of a municipality in existence on January 1, 1978 and which is eligible to receive general grant land under the provisions of AS 29.18.190 - .200 is 10 per cent of the maximum total acreage of vacant, unappropriated, unreserved land within the boundaries of each such municipality at any time between the initial date of eligibility under AS 29.18.190 - .200 and January 1, 1978.

(b) The general grant land entitlement of a municipality created subsequent to January 1, 1978 and which is eligible to receive general grant land under the provisions of AS 29.18.190 - .200 is 10 per cent of the total acreage of vacant, unappropriated, unreserved land within the boundaries of each such municipality on the date such municipality first becomes eligible for a land entitlement under AS 29.18.190 - .200.

(c) The general grant land entitlement of a municipality which enlarges its boundaries by annexation shall, upon the effective date of such annexation, be increased by an amount equal to 10 per cent of the vacant, unappropriated, unreserved land within such annexed area on the effective date of annexation.

(d) The general grant land entitlement of a municipality which is created by the unification, merger or consolidation of two or more municipalities pursuant to AS 29.68.030-.440 shall be the sum of the entitlements of each of the constituent municipalities at the time of such unification, merger, or consolidation.

(e) The general grant land entitlement of a borough containing one or more cities of any class within its boundaries shall be 10 per cent of only that vacant, unappropriated, unreserved land within the borough but outside the boundaries of each city within the borough.

(f) The general grant land entitlement of a city which is subsequently formed within a borough shall be 10 per cent of the vacant, unappropriated, unreserved land

within the boundaries of the city, and the borough's land entitlement shall be reduced by such amount.

(g) The director shall annually determine the entitlement for each municipality eligible to receive general grant land under (a) and (b) of this section and certify that entitlement to the municipality.

Authority: AS 29.18.190
AS 29.18.200
AS 38.05.035

11 AAC _____. STATUS OF ENTITLEMENTS. (a) No municipal selection vests any interest in or right to receive a particular tract of land except as provided by sec. ___ of this chapter.

(b) General grant land entitlements determined under secs. _____ of this chapter may be exercised at any time before the date which is two years after the expiration of the State's right to make selections under secs. 6(a) or (b) of the Alaska Statehood Act (P.L. 85-508).

Authority: AS 29.18.190
AS 29.18.200
AS 38.05.035

11 AAC _____. FULFILLMENT OF LAND ENTITLEMENTS.

(a) The acreage of each municipality's land selections under AS 29.18.190 - .200 for which patent has been issued before the effective date of these regulations shall be credited toward fulfillment of the entitlement of that municipality.

(b) All approved selections under AS 29.18.190 - .200 for which patent has not been issued to a municipality on the effective date of these regulations shall be reviewed by the director within nine months after the effective date of these regulations. Any approved selection of land which was vacant, unappropriated or unreserved on the date of selection is valid as of the date of the approval, and a patent shall be issued to the municipality within three months after approval by the director of a plat of survey. The acreage shall be credited toward fulfillment of the municipality's entitlement.

(c) Any prior approval by the director of municipal selections for land which was not vacant, unappropriated or unreserved on the date of selection shall be rescinded, and patent

may not be issued except when disposal to a third party by sale or lease has occurred.

(d) Transfers of land to municipalities under AS 29.18.190 - .200 are subject to AS 38.05.321 regarding the preservation of the State's agricultural land base. Classification actions as reflected upon the land status records of the Department of Natural Resources are determinative of land classification status under this chapter.

(e) All municipal land selections under AS 29.18.190-200 not approved as of the effective date of these regulations shall be recognized by the director as representing the priority selection interests of the municipalities, and such selections shall be given first consideration under (f) of this section unless the municipality indicates different priorities.

(f) Each eligible municipality and the director shall jointly consider which vacant, unappropriated, unreserved land, including federal land of interest to the municipality which may be selected by the state as general grant land, located within the boundaries of the municipality, is appropriate for municipal selection and approval by the director to fulfill any remaining municipal general grant land entitlement.

(1) The joint consideration made by the parties may include a cooperative land planning process which will, in addition to the normal objectives of such a process, seek to identify both local and state interests in tracts of vacant, unappropriated and unreserved land remaining within the municipality.

(2) Adjacent tracts shall be considered simultaneously except when such simultaneous consideration would cause significant delay or expense.

(3) Once a tract has been jointly considered, it may be selected by a municipality.

(g) Each selection must be approved or disapproved for patent by the director under (h) of this section within nine months of its selection by a municipality, and a patent shall be

issued to the municipality within three months after approval by the director of a plat of survey.

(h) In reviewing a municipal selection for approval or disapproval, the director shall consider the state's responsibilities for developing and protecting values which are of greater than local concern, including development which will have statewide impact, and critical environmental concerns.

(1) Specific state responsibilities to be considered, if such responsibilities have not been authorized or delegated by the state to a municipality, include air quality; water; minerals and energy; timber; agriculture; grazing; fish and wildlife and their habitat; public recreation, natural, historical, and archaeological areas of greater than local concern; access to public land and water; transportation; communications; and public safety.

(2) Specific municipal responsibilities to be considered by the director include residential, commercial and industrial needs; support of municipal services; education; local transportation; private recreation; public recreation, natural, historical and archeaological areas of local concern; and other responsibilities authorized or delegated by the state to a municipality.

(3) A selection by a municipality of land which is primarily of local concern shall be approved.

(4) When the interests of the state may be protected through the conveyance of title that is less than a fee title, the municipality, at its option, may accept the title in acre-for-acre fulfillment of its entitlement.

(i) Every decision of approval or disapproval of a municipal selection by the director under of this section shall include a written explanation of the decision based upon the criteria of (h) of this section.

(1) Before any decision to disapprove a selection becomes effective, the director shall notify the affected municipality in writing, by certified mail, of his reasons for the proposed decision.

(2) The municipality shall have 30 days from receipt of the proposed decision to respond to the director in writing enumerating the reasons for which the municipality believes the proposed decision to be in error. Any decision disapproving a selection to which the municipality makes no timely response to the director shall automatically become final on the thirty-first day after receipt by the municipality of THE PROPOSED DECISION.

(3) Upon timely receipt of the municipality's statement of reasons, the director shall, within 30 days, affirm, modify or reverse his proposed decision in writing and give written notice of his decision to the municipality. The decision of the director, or the failure of THE MUNICIPALITY to respond to the director within 30 days after receipt of the proposed decision, constitute final administrative action in the matter.

(h) A municipality may appeal an adverse decision by the director to the superior court under AS 44.62.560-44.62.570.

(k) No municipality is entitled to receive patent pursuant to this chapter to more than its entitlement as determined under sections _____(a) or (b) of this chapter.

Authority: AS 29.18.190
AS 29.18.200
AS 38.05.035
AS _____

11 AAC _____. SELECTION AND CONVEYANCE OF AGRICULTURAL OR GRAZING LANDS. (a) State land classified as agricultural or grazing land which has been selected by a municipality under AS 29.18.190 - 29.18.200 may be approved by the director for patent; however, only rights in the land for agricultural or grazing purposes may be transferred, and all other interests in the land will remain with the state. Agricultural or grazing land approved for patent to a municipality shall be credited, acre for acre, toward fulfillment of that municipality's entitlement under AS 29.18.190 - .200. If the director later determines it to be in the best interests of the state to transfer some or all of the additional rights in that approved or patented agricultural or grazing land, those rights shall be conveyed without

consideration to the municipality in which the land is located.

(b) The provisions of this section do not apply to state land classified as agricultural or grazing land which has been selected by a municipality under the provisions of AS 29.18.190-29.18.200 if the selection is an approved selection before the effective date of these regulations.

Authority: AS 29.18.190
AS 29.18.200
AS 38.05.035
AS _____

11 AAC _____. SCHOOL, UNIVERSITY AND MENTAL HEALTH LAND. (a) A municipality may select vacant school, university or mental health land within the municipality in partial fulfillment of its land entitlement under AS 29.18.190 - .200. School, university or mental health land may be selected notwithstanding the fact that these lands are not unappropriated and unreserved within the meaning of this chapter and secs. 190 and 200 of AS 29.18.190 - .200. Each selection of school, univeristy or mental health land by a municipality must be of vacant, unappropriated, or unreserved land as defined in this chapter, except that it need not be general grant land.

(b) The acreage of school, university or mental health land, if any, within a municipality shall not be included in the determination of entitlement under secs. ___ - ___ of this chapter.

(c) Upon receipt of a selection by a municipality of school, university or mental health land, the director shall determine whether the land selection should be approved. The decision of the director shall be based upon the criteria of sec. _____ of this chapter, and shall follow the procedures set out in sec. _____ of this chapter. Land approved for selection under this section will be credited against a municipality's remaining land entitlement under this chapter.

(d) No selection of school, university or mental health land may be approved by the director under this section without the concurrence of

(1) the state Board of Education, for school land;

(2) the Board of Regents of the University of Alaska, for university land; or

(3) the members of the Mental Health Land Board specified in AS 38.05.035(13), for mental health land.

(e) Prior to the approval under (d) of this section of a municipal selection of school, university or mental health land, the director, with the concurrence of the respective board, shall designate appropriate state general grant land of approximately equal value as school, university or mental health replacement land, and shall remove the trust classification from the selected MUNICIPAL land. The replacement land shall thereafter be managed for the purposes for which the land selected by the municipality was acquired by the Territory and State of Alaska.

Authority: AS _____

11 AAC _____. SELECTION AND CONVEYANCE PROCEDURE.

(a) All municipal selections of state land pursuant to this chapter shall be made by submission of a form approved by the director for this purpose, and shall be signed by a municipal officer whose authority to sign such selection forms on behalf of the municipality shall be on file with the director.

(b) All municipal selections shall be made in reasonably compact tracts, taking into account the use capabilities of a tract and its relationship to surrounding land uses.

(1) A selection filed by a municipality which has not been approved by the director may be relinquished at any time.

(2) An approved selection may be relinquished by a municipality if the relinquishment is approved by the director.

(3) An approved selection relinquished by a municipality shall increase the remaining entitlement of the municipality on an acre-for-acre basis.

(c) A municipality may maintain selections for not more than 110 per cent of its remaining entitlement. Municipal selections for general grant land which was withdrawn under sec. 11(a)(2) and selected under sec. 12 of the Alaska Native Claims

Settlement Act (43 U.S.C. 1601 et seq., P.L. 92-203) is not included in the limitation of this subsection.

(d) Municipal selections may be filed only upon lands patented or tentatively approved from the United States to the State.

(e) If land selected by a municipality is unsurveyed at the time of approval, the director shall survey, or may approve the municipality's survey of, the exterior boundaries of an approved selection without interior subdivision, and shall issue patent in terms of the exterior boundary survey. The cost of the survey shall be borne by the municipality. If land selected by a municipality has been surveyed at the time of its selection, the boundaries shall conform to the public land subdivisions established by the approved survey.

(f) The director may approve municipal selections of land which had been tentatively approved or patented to the state by the federal government, but he shall not issue patent to a municipality until the land has first been patented to the state.

(g) Borough selections of state land inside the boundaries of any city contained within the borough shall not be approved until each such city has received approval or patent to its entire general grant land entitlement, unless such city shall approve in writing of the borough's selection.

(h) Prior to approval of a municipal land selection, the director shall give public notice of his proposed action pursuant to AS 38.05.305 and AS 38.05.345.

(i) After approval of a selection by the director, but before patent to the municipality, the municipality may execute conditional leases and make conditional sales only with the consent of the director. Conditional sales and conditional leases made before the effective date of these regulations do not require the consent of the director.

(j) Nothing in this chapter shall affect a valid existing claim, location or entry under the laws of the state or the United States, whether for homestead, mineral, right-of-way or other purposes. Nothing in this chapter shall affect the

rights of an owner, claimant, locater or entryman to the full use and enjoyment of the land so occupied.

11 AAC _____. LAND EXCHANGES. (a) The director, with the concurrence of the commissioner, and any municipality may exchange land or interests in land when it is in the public interest.

(b) Land or interests in land exchanged under this section must be of approximately equal value, including the non-monetary value of public benefits. Exchange procedures shall comply with applicable law and municipal ordinances.

Authority: AS _____
AS _____

11 AAC _____. OTHER LAND TRANSFERS. Nothing in this chapter limits or impairs the authority of the director to transfer land to municipalities, without limit or consideration, for public purposes in accordance with AS 38.05.315. If there is a remaining entitlement of the municipality, land transferred under AS 38.05.315 shall be credited toward fulfillment of that entitlement.

Authority: AS 38.05.315
AS 38.05.035

11 AAC _____. DEFINITIONS. In secs. ___ - ___ of this chapter, unless the context otherwise requires,

(1) "approved selection" means a municipal land selection which has been approved in writing by the director for transfer by patent to a municipality;

(2) "commissioner" means the Commissioner in the Department of Natural Resources, or his designee.

(3) "director" means the director of the division of lands, Department of Natural Resources, or his designee;

(4) "eligible municipality" means a municipality which on the date of eligibility contains vacant, unappropriated unreserved state general grant land within its boundaries.

(5) "general grant land" means land patented or tentatively approved to the state from the United States under secs. 6(a) or (b) of the Alaska Statehood Act;

(6) "mental health land" means land granted under Title II, sec. 202 of P.L. 84-830, as amended;

(7) "municipal land selection" means a request by a municipality, filed in writing with the director under authority of AS 29.18.190 - .200, for vacant, unappropriated, unreserved general grant land within its municipal boundaries in partial fulfillment of its municipal entitlement;

(8) "municipality" means a home rule or general law city or organized borough of any class, and includes unified municipalities established under AS 29.68.240 - 29.78.440;

(9) "patent" means a document, issued by the director to a municipality for a previously-approved selection, which conveys the quitclaims all the right, title and interest of the state without reservation or condition except as may be required by law;

(10) "remaining entitlement" means the general grant land entitlement determined in accordance with secs. ___-___ of this chapter, reduced by the total acreage of approved selections, including both patented and unpatented parcels;

(11) "school land" means those rectangular sections 16 and 36 within each township surveyed on or before January 3, 1959, and confirmed and transferred to the State of Alaska upon its admission under sec. 6(k), Alaska Statehood Act, 72 Stat. 339; lands selected in lieu thereof; and any other land designated solely for school]ir]pses pr revenues;

(12) "university land" means all sections 33 reserved to the university under 38 Stat. 1214, as amended (48 U.S.C. 353) and all land granted to or reserved for the benefit of the university;

(13) "vacant, unappropriated, unreserved land" means general grant land as defined in (5) of this section, excluding minerals as required by sec. 6(i) of the Alaska Statehood Act, which

(A) has not been set aside by statute for one or more particular uses or purposes;

(B) has not been approved for patent to a municipality under secs. ___ - ___ of this chapter or previously under AS 29.18.190 - .200; or

(C) is unclassified or, if classified under AS 38.05.300, is classified for agricultural, grazing, commercial, industrial, private recreational, residential, utility or open-to-entry purposes.

Authority: AS 38.05.035
AS 29.18.190
AS 29.18.200

SENATE COMMUNITY AND REGIONAL AFFAIRS
COMMITTEE MINUTES

May 2, 1978

Present: Senators Hackney, Willis Sumner and Orsini; Pat Conheady, Department of Natural Resources; Jack Chenoweth, Legislative Affairs Agency; Ben Marsh, Cook Inlet Air Resources; Janet Pursley, Cook Inlet Air Resources; Karla Pursley, Cook Inlet Air Resources.

Absent: Senator Ferguson

Senate Bill 599, SCR 103 and CSHB 133 were before the Committee.

SENATE BILL 599

Jack Chenoweth, Legislative Affairs Agency, stated that since the coastal management regulations are prepared by the Coastal Policy Council and are not defined by the Coastal Management Act as part of the program, they need not be presented to the Legislature for approval. He also stated that, if the Legislature were not required to approve them, they are no more or less than any other set of regulations that are adopted by any other state agency and are therefore subject to any resolution put in by a member or by the Administrative Regulation Review Board.

Chairman Orsini stated that his interpretation of a conversation with Jack Chenoweth earlier lead him to believe that there were possible legal ramifications to adopting the resolution that formally approves the regualtions, and thereby not being able to disapprove them in the future.

Mr. Chenoweth stated that he could not say that there were no legal ramifications but the regulations are not obligated to come before the legislature for approval.

The Committee concluded that either with or without Legislative endorsement the regulations would take effect. The Committee agreed to see the Federal Coastal Zone Officials at Tursday's C&RA meeting if they were available.

CS FOR HOUSE BILL 133

Chairman Orsini stated that since other committees have insufficiently addressed the Anchorage land situation involving this bill that this Committee would have to go more deeply into it. He also stated that this version of the bill is roughly comparable to the version that came out of House C&RA with the exception of monetary possibilities and slightly changed acreages. Pat Conheady, Department of Natural Resources stated that some additions added from the House Finance Committee were still in the bill and that the most important of those was the availability of trust lands for selection. He also stated that the Department thinks this is a good provision. Mr. Conheady, stated that trust lands would enable the state in those communities which do not have suitable land to obtain their entitlement. Senator

Sumner stated that Anchorage had selected 20,000 acres of land on the basis that trust lands were not available for selection, and it wound up, in terms of usable land, with around 14,000. He expressed concern as to whether Anchorage was facing a situation similar to Kodiak's. He stated that he felt Mr. Hartig who has represented Kodiak, should come and talk to the Committee. Chairman Orsini asked Mr. Conheady if it would make any difference if the state had a law like this if the Beirne Initiative passes. Mr. Conheady replied that it would be good to have one to protect the municipalities' rights to selection land first before the Beirne Initiative.

Mr. Conheady stated that the fiscal note would be different from that of the House version of this bill because DNR is involved in the selection process in the Senate version and is not in the House version.

He also stated that the Department probably would not have the lands transferred by November but would have identified what lands they were looking at.

Chairman Orsini asked Mr. Conheady if the letter sent to Senator Tillion on April 19 outlining certain acreagea available was still valid. Mr. Conheady replied that it was. Chairman Orsini stated to Mr. Conheady that if the Committee finds reasons to believe that those figures are not valid that his credibility with this Committee will have suffered. Mr. Conheady replied that he believed the letter to be valid to the extent of his knowledge.

The meeting was adjourned at 4:00.

SENATE COMMUNITY AND REGIONAL AFFAIRS
COMMITTEE MINUTES

May 9, 1978

Present: Senators Orsini, Willis, Ferguson and Hackney; Jim Rolle, Alaska Municipal League, Mike Smith, Department of Natural Resources; Mitch Gravo, Municipality of Anchorage, Ted Berns, Municipality of Anchorage; B.A. "Bud" Dowling, Municipality of Anchorage; Ron Swanson, Department of Natural Resources; Royce Weller, Hugh Malone's Staff; Lee Sharp, City and Borough of Juneau.

Absent: Senator Sumner

The meeting was called to order at 3:15. SCS CSHB 133 was the bill before the Committee.

SCS FOR CS FOR HOUSE BILL 133

Chairman Orsini stated that the meeting was to get the correct data about land availability to make a policy decision on the bill. There was, for example, a dispute over how much acreage was available to the Municipality of Anchorage. One provision of the bill would allow, a municipality to select trust land where general land was not available. Chairman Orsini stated that he wanted to determine specifically to everyones satisfaction just what land was available and suitable for municipal expansion and utilization and also meet the various criteria involved in municipal land selection.

Chairman Orsini stated that in a letter to Senator Clem Tillion dated April 19 and a letter to Senator Orsini dated May 5 there was substantially a large difference in the total acreages available. Mike Smith, Department of Natural Resources explained that the letter of April 19 was hurriedly put together and that he basically agreed with the Municipality of Anchorage on the figure of 10,300. Acres of state-owned trust lands lying within the municipality.

Ted Berns and Bud Dowling, Municipality of Anchorage, gave a presentation with maps showing the Committee how they derived the 1,700 acres from 6,720 with the selection of being for municipal purposes. This is land they felt was appropriate for local management and control.

Mr. Berns brought out that there is presently approximately 9,000 acres that had been identified for municipal selection and stated that records indicate another 9,700 acres as available for selections on top of the TA'd and patented that the municipality already has. He state, however, that from what the municipality has been able to determine most would be land that would either not meet VUU criteria under the present bill and therefore would have to be rejected or is in the area known as the Campbell Tract (which is 5,000 of the 9,000 acres). The Municipality does not feel would be appriate to count the Campbell tract against the Anchorage entitlement, since much of the tract is under strict federal use conditions. The Municipality was also concerned that the land designated for municipal selection at Point Woronzoff was also in fact under restricted use conditions since it lay within the landing path of the Anchorage International Airport. Mr. Smith disagreed but concurred

in the need for both the State and the Municipality to look further into the matter.

Mr. Berns stated that Anchorage has, or could receive patent to about 8,400 acres under the present land selections. Mr. Smith agreed with this.

Chairman Orsini asked Mr. Berns and Mr. Smith if they agreed that construction such as the University and other types of public facilities could take place on all or part of Campbell tract. They both agreed that only about 1200/1500 acres along Tudor Road could be developed in such a way.

Chairman Orsini asked Mr. Berns if any of the 10,300 acres trust lands available would not be desirable. Mr. Berns stated that it was fair to say that most of the mental health land, or about 8,000 acres, was going to be highly desirable land. He mentioned, however, that some of this acreage was tied up in legal suits with the Eklutna Natives. He believed that about 3-4,000 acres would ultimately be available.

The outcome of acreages agreed upon by the Municipality and the Department of Natural Resources:

1,700 - VUU
4,200 - Patented Now
2,450 - TA
4 to 5,000 - Trust Land
3 to 4,000 - Tied up in Court Decisions

16,400 acres

As Anchorage reviewed it's land entitlement, Mr. Smith asked that it keep in mind that a major portion of Fort Richardson and Elmendorf AFB lands are likely to be turned over to the State sometime in the future. These lands would be extremely valuable and very suitable for municipal purposes.

Chairman Orsini stated that CSHB 133 would be brought up again Thursday and that the Committee would go into detail on the Kodiak situation.

The meeting was adjourned at 4:40 p.m.

SENATE COMMUNITY AND REGIONAL AFFAIRS
COMMITTEE MINUTES

May 11, 1978

Present: Senators Orsini, Willis and Hackney; Ronald Kuczek, Cook Inlet Air Resources Management District; Dale P. Tubbs, Kodiak Island Borough; Bob Hartig, Kodiak Island Borough; Ron Swanson, Department of Natural Resources; Mike Smith, Department of Natural Resources; Tom Hanna, Department of Environmental Conservation; Jerry Reinwand, Department of Environmental Conservation.

Absent: Senators Ferguson and Sumner

The meeting was called to order at 3:05 with CSHB 133 and CSHB 190 before the Committee.

SCS FOR CS FOR HOUSE BILL 133 (KODIAK)

Chairman Orsini summarized the land situation in Kodiak. He stated that Kodiak contends the State was negligent in transferring land to the Borough, which the Borough had received as tentatively approved land. When ANCSA was enacted, the State allowed the transfer of the tentatively approved borough land to Native corporations as part of the settlement. These lands were of prime quality and the Borough states that no other comparable lands are now available to the Borough in exchange for those it lost under ANCSA.

Bob Hartig, Representing the Kodiak Island Borough, stressed that Kodiak's concern did not center around the amount of its land entitlement, since there was sufficient acreage available, but around its quality. Kodiak would be willing to take these lands of lesser quality if it could be compensated monetarily for the prime lands the State took from it. Otherwise the Kodiak Borough would be forced to exercise its fiduciary responsibility and file suit in court challenging the State's action and ultimately calling into question not only the present municipal land selection bill but also ANCSA.

Mr. Hartig and Dale Tubbs, Kodiak Island Borough, went over maps of Kodiak island and outer islands and explained to the Committee members what lands were selected, which were top-filed and where were involved in court suits involving village selections under ANCSA.

Mr. Hartig stated that Kodiak is confident that it can obtain at least 10,000 additional acres and possibly as much as 26,000. He summed up Kodiak's land possibly land entitlement break-down as follows: 4,000 acres already in hand; 18.000 acres tied up in village selection litigation; 32,000 acres that could be selected from state-owned lands; and possibly 15,000 acres currently under Coast Guard ownership. This would bring Kodiak's maximum selection possibility to 76,000 acres.

Mr. Hartig stated that he could not over-emphasize the importance of financial compensation for the land taken by the State since it would eliminate the need to initiate litigation between Natives and non-Natives on Kodiak. He also stated that, without the provision of payment in lieu of land, Kodiak would see no need for the land selection bill.

Mike Smith, Division of Lands, Department of Natural Resources, replied that the State had no control over the enactment of ANCSA and noted that without ANCSA there would actually be 26,000 fewer acres available to Kodiak for selection. Yet Kodiak is requesting, in effect compensation for 26,000 acres when there was no guarantee that Kodiak would have received these acres if there had been no ANCSA. Mr. Smith stressed that the Governor will only agree to a maximum payment of $20 million under HB 133, and that there still remains one community in Alaska where there is not enough land, physically, to meet its municipal entitlement.

Chairman Orsini stated that the Committee would look at the bill again Tuesday on the Southeastern situation.

CS FOR HOUSE BILL 190

Jerry Reinwand, Department of Environmental Conservation, stated that the bill does two things: it gives the districts a method for seeking approval with definite time restraints and if the Department rejects it the Department would give them the reasons why the program was rejected and the districts could make the adjustments to meet the approval of the State. He stated that the Department does not have any problem with delegating authority or approving the Cook Inlet Air Resources District program but has never received an application to do this. He stated that he would be very happy to have the CIARMD run the permanent program up in the Cook Inlet area. But he stressed that he did want to make sure that the CIARMD not give away more than 50% of the air quality increment than it already has to so to allow for additional growth to take place in the Kenai area. He wanted to make sure that in issuing industry permits that the CIARMD apply tougher standards so that the 50% air quality increment could be reserved for future industrial use.

Mr. Reinwand stated that he does not see any need for the bill personally but if it is the desire of the Committee the Department would not oppose it as long as the amendments that are suggested in the letter that Commissioner Mueller sent on April 15 are incorporated.

Ronald Kuczek, Cook Inlet Air Resources Management District, stated that the district hadn't applied because it has repeatedly tried to find out what we needed in seeking approval to run its resources control program and the information that was returned to the CIARMD was never satisfactory. He also stated that the Department said on an informal basis that approval probably would not be granted because of certain programs that the district had not implemented, but neither which the state intended to carry out.

Mr. Reinwand agreed that in the past CIARMD probably had been discouraged for approval but now the Department would accept an application.

The Committee took up a proposed draft committee substitute for HB 190 which had been prepared by the CIARMD and reviewed by DEC Commissioner

Ernst Mueller in a letter to the Committee dated April 13, 1978. The proposed committee substitute was discussed in detail with Mr. Kuszek and the DEC representatives, and final language was agreed to by the DEC and the CIARMD.

Chairman Orsini stated that the bill would be drafted with the revised amendments as agreed by both the Department and CIARMD and it would then be brought back to the Committee for signature and passed out.

The meeting was adjourned at 5:20 p.m.

SENATE COMMUNITY AND REGIONAL AFFAIRS
COMMITTEE MINUTES

May 16, 1978

Present: Senators Orsini, Willis, Hackney and Sumner; Ron Swanson, Dept. of Natural Resources; Mike Smith, DNR, Division of Lands; Jack Chenoweth, Legislative Affairs Agency; Natalie Alton, Senator Rader's Staff; Royce Weller, Hugh Malone's Staff; Gerald L. Sharp, City and Borough of Juneau.

Absent: Senator Ferguson

The meeting was called to order at 3:08.

SCS FOR CS FOR HOUSE BILL 133 (SOUTHEAST)

Chairman Orsini stated that the Committee had received a letter from the Ketchikan Gateway Borough, and had not heard from Sitka, apparantly because Sitka felt satisfied with its pending entitlement.

Chairman Orsini stated that today's meeting was to try and identify what kind of land is available in the Southeast portion of the state, where severe terrain problems existed. He said that much of the land available was not suitable for development.

The members of the Committee received a hand-out from the Department of Natural Resources indicating what type of land to be selected, as well as total acreages and developable acreages for Juneau and Ketchikan. Mr. Smith explained that the hand-out was put together hastily to fill a request by Chairman Orsini for a break-down of the acreages of developable land in Southeast Alaska. He noted that only the second column of the hand-out should be used.

Lee Sharp, City Attorney for C&B of Juneau, stated that he did not concur with the figures in the hand-out. He stated that the City and Borough's inventory shows that there are approximately 12,690 acres of mental health lands in the borough but the Department's figure is 11,500, which had recently been increased from an earlier figure of just over ?,000 acres.

The Committee, Mr. Smith and Mr. Swanson reviewed the land situation in Ketchikan and Sitka. Mr. Sharp stated that Juneau would be very interested in receiving non-developable land for recreational purposes, such as Eagle Crest, in addition to developable or community settlement land. He pointed out that this could mean a substantially higher entitlement for land available.

Mr. Sharp stated that Juneau submitted to the state a suggested 65,000 acres either for local or state ownership and for local purposes. He stated that the Borough felt that about 20 to 30,000 would be high priority. Mr. Sharp also stated that Juneau had not prioritized their selection of land as of yet.

Mr. Sharp gave a brief background of how the state lands were to be divided in the three Southeastern communities. In the original version of the bill the State gave the 3 southeastern communities a total of

32,000 acres to be divided among them. At that time it was decided that 9,200 acres could go to Sitka, 9,200 to Ketchikan and 13,600 to Juneau. He stated that two things have changed since last year. The National Forest selections have been made in the Southeast, and the State has selected significantly larger acreages in the region than had been expected last year. In Wrangell and Petersburg, both much smaller communities than Juneau, Mr. Sharp noted that the State had selected 16,500 and 12,000 acres respectively. On the basis of population and future need, Mr. Sharp estimated that Juneau would require 60,000 acres but would request 24-28,000. In that respect, he noted that the 24,000 acres currently available for Juneau selection. included 6,000 top-filed acres by the Goldbelt Native Corporation. Mr. Sharp stated that there was another selection pending of approximately 15,000 acres on Gold Creek Road. He though, however, only about 9,000 would be approved. He said that most of this land is probably not developable yet it would be an additional 9,000 acres that would be available for Juneau to meet its entitlement. He stated that it is land of Borough concern because of its recreation potential and its water shed. Mr. Smith stated that the State was not sure Juneau could get this land.

Jack Chenoweth and the Committee discussed the possibility of mandating various trust lands in the bill to go directly to a municipality in trade for other equal value land as opposed to the current bill which says that the concurrence of the trust boards must be obtained before a land exchange could take place.

Chairman Orsini noted that state-owned trust lands might be made available only to those municipalities which could not fulfill their entitlements through vacant, unappropriate, unreserved state land.

Mr. Smith expressed concern that the North Slope has yet to indicate what acreage it would like. He stated that the only formal comments the North Slope has made to his knowledge was by Senator Ferguson before the Senate Resources Committee that "89,000 acres is enough for now". Chairman Orsini stated that he discussed this with Senator Ferguson and Kim Hutchinson, representing the North Slope Borough. He had asked Mr. Hutchinson if the 89,000 acres would be sufficient for the North Slope. Chairman Orsini said Mr. Hutchinson replied in Senator Ferguson's presence that 89,000 was sufficient and if the North Slope got that amount it would be satisfied.

Mr. Smith also commented that there were two sections of the bill, 201 and 202 that set out entitlement for boroughs and cities respectively. A municipality receives its land entitlement under either 201 or 202, not both. He stated that some of the language later on it the bill refers to "Sec. 201" AND "202" and suggested that it should say, "Sec. 201" OR "202".

Mr. Smith stated that the Department would like to see the Committee use the SCS for CSHB 133 as the mark-up bill.

The meeting was adjourned at 4:30.

SENATE COMMUNITY AND REGIONAL AFFAIRS
COMMITTEE MEETING

May 23, 1978

Present: Senators Orsini, Hackney, Willis and Ferguson; Tom Singer, House Permanent Fund; Pat Conheady, DNR; Annette Smith, House C&RA; Jack Chenoweth, Legislative Affairs Agency, Royce Weller, Hugh Malone's Staff; Representative Dick Eliason, Richard Engen, Division of State Libraries and Museums.

Absent: Senator Sumner

The bills before the Committee were CSHB 133, HB 766 and SB 580. The meeting was called to order at 3:08.

SENATE BILL 580

Richard Engen, Division of State Libraries and Museums, stated that this bill would increase the present grant and aid program for assistance to the Public Libraries Association throughout the state from $250 a year on a reimbursable basis to a $500 grant for purchase of library materials.

He stated that it eliminates much of the paper work now required by statute. He explained that his office has to submit invoices on a reimbursable basis and this would be eliminated through the grant provision of the bill. He also stated that the bill removes the restriction from purchasing religious materials which is in the original statutes.

Senator Hackney moved to increase the $500 grant amount to $1,000. There were no objections. Senator Hackney then moved to pass the bill out with a "DO PASS" recommendation.

HOUSE BILL 766

Chairman Orsini went through the proposed recommendations for the bill. He stated that there was a CS for increasing the $250,000 to $400,000 and adding certain conditions to the increase.

Representative Eliason stated that the bill was introduced at the request of the borough Administrator of Sitka. He stated that small contractors in rural areas and smaller communities of the state who have ample equipment and the experience to handle a number of municipal jobs are falling short of other contractors from out of the community and even out of te state because of the difficulty in establishing a bond.

Senator Ferguson moved that the Committee adopt a CS for HB 766 including the recommendations by Chairman Orsini and pass it out with "INDIVIDUAL RECOMMENDATIONS".

CS FOR HOUSE BILL 133

Jack Chenoweth, Legislative Affairs Agency, went over the proposed committee substitute for CSHB 133 and explained section by section

changes in the bill and new language that had been put into it. As a result of committee discussion, a revised work draft of the proposed committee substitute was requested.

Chairman Orsini stated that CSHB 133 would be scheduled for Committee action Thursday.

The meeting was adjourned at 4:00.

SENATE COMMUNITY AND REGIONAL AFFAIRS
COMMITTEE MEETING

May 25, 1978

Present: Senators Orsini, Willis, Hackney and Sumner; Roger Allington, City and Borough of Juneau; Stuart H. Bowdoin, Bristol Bay Borough; Phil R. Holdsworth, S.E. Conference; Richard M. Burnham, Attorney, General's Office; Floyd Johnson, Division of Emergency Services, Jim Rolle, AML; Pat Conheady, Department of Natural Resources; Jack Chenoweth, LAA; Don Berry, Municipality of Anchorage; Annette Smith, H/C&RA; Royce Weller, Hugh Malone's Staff

Absent: Senator Ferguson

The meeting was called to order at 3:04. The bills before the Committee were HB 941 and CSHB 133.

HOUSE BILL 941

Richard Burnham, Assistant Attorney General representing the State in the litigation over the Highway complex in Anchorage, stated that that agreement may not have been entered into in good faith. He moved that there was an affidavit form filed in the AG's office giving the Municipality of Anchorage notice that it was doubtful that the Commissioner of the Department of Highways had the authority to dispose of the land on which the complex is located. He also stated that the Department of Administration appraised the land in 1973 at 3 1/2 million dollars. The next spring an appraiser, presumably hired by the Municipality and approved by the Commissioner, appraised the property at 1 million dollars. It was on the second appraisal that the lease purchase agreement was made. He stated that he did not feel that this was in the best interest of the state to lose 2 1/2 million dollars between two appraisals. Senator Orsini pointed out that he was assuming the first appraisal was correct and the second appraisal incorrect.

Floyd Johnson, Division of Emergency Services, Department of Military Affairs, stated that the division would need a supplemental appropriation for rent due to the Municipality of Anchorage if this bill were to pass. He stated that the supplemental would require $92,467 and asked that the bill be amended to require the Municipality and his agency to sit down in good faith and negotiate a new 3 year rental sublease agreement. He told the Committee that his agency can get 50/50 matching monies from the federal government for construction of emergency operation center, that it would take about 2 to 3 years to get this money committed, and any relocation of his office would be complicated by the need to move the division's complex communication system. He stated that it would take around $100,000 to make a move to another location, preferably to another downtown location, even if one were available.

Don Berry, Municipality of Anchorage, supplied the Committee with a letter from the Assistant Municipal Attorney.

Senator Willis moved to pass out HB 941 with "INDIVIDUAL RECOMMENDATIONS".

CS FOR HOUSE BILL 133

Roger Allington, City and Borough of Juneau, asked the Committee to take a second look at the 13,600 acreage allotment for Juneau and restore at least the amount of 19,584 acres which came out of the Senate Resources version. He stated that the city was in need of the land specifically in Juneau because of the need to relocate persons now living in hazardous downtown slide areas. Mr. Allington noted that an allotment of 24,000 acres for Juneau would be more appropriate for the Municipality's needs.

Stuart Bowdoin, Bristol Bay Borough, stated that his borough was in support of the bill. He stated that the Borough was in dire need of the land and would take about anything that becomes available.

Phil Holdsworth, Southeastern Conference, stressed the need for Southeastern communities such as Petersburg, Wrangell and Skagway to have access to trust lands which now hem them in and restrict any future growth.

Jim Rolle, Alaska Municipal League, stated that the League does not feel that access to trust lands should be based on population and urged that cities, as well as boroughs, also be eligible for trsut lands and deficiency payments.

Pat Conheady, Department of Natural Resources, opposed the increase of the Anchorage allotment to 44,893 and referred to a letter of May 19 from the Director of the Division of Lands, Mike Smith. According to Mr. Conheady, a correct allotment figure for Anchorage would be 37,665 acres. He discussed the section of payment for land deficiency and supported the need for cities to have access to trust lands, particularly in Southeastern.

Mr. Conheady expressed concern regarding the January 1, 1980 deadline for determining land deficiency payments, the State was not sure when the 6A selections would be made and available for municipal selection.

Senator Sumner moved that the amendments be passed and pass out SCS for CSHB 133 with "INDIVIDUAL RECOMMENDATIONS".

The meeting was adjourned at 4:10 p.m.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER / 323 E. 4TH AVENUE – ANCHORAGE 99501

May 8, 1978

Senator Joe Orsini
Pouch V
Juneau, AK 99811

Dear Joe:

In response to your request the following is a list by Municipality of the amount of vacant, unappropriated, unreserved state land that existed at the time each municipality became eligible. This date is the date of incorporation or January 1, 1964, which is the date of the original passage of the Mandatory Borough Act, whichever is later.

Municipality	Date	VUU	10% VUU
Bristol Bay Borough	1/1/64	0	0
City & Borough of Juneau	1/1/64	4,148.	415
City & Borough of Sitka	1/1/64	180.	20
Fairbanks North Star Borough	1/1/64	470,136.	47,015
Haines Borough	8/29/68	1,097.	110
Kenai Peninsula Borough	1/1/64	1,402,614.	140,260
Ketchikan Gateway Borough	1/1/64	4.	0
Kodiak Island Borough	1/1/64	218,828.	21,885
Matanuska-Susitna Borough	1/1/64	3,129,271.	312,930
Municipality of Anchorage	1/1/64	16,346.	16 35
North Slope Borough	7/1/72	6,007.	605

Hopefully this information will be useful to you.

Sincerely,

Mike

MICHAEL C. T. SMITH
Assistant Commissioner

10-J2LH

WHAT SENATE RESOURCES DID TO CSHB 133 (FINANCE) am

The following municipalities had their land allotments decreased:

Municipality of Anchorage	20,865 acres (from 90,863 acres)
City and Borough of Juneau	13,600 acres (from 19,584 acres)
City and Borough of Sitka	9,200 acres (from 11,593 acres)
Bristol Bay Borough	1,940 acres (from 2,898 acres)
Haines Borough	1,080 acres (from 3,985 acres)

The following municipality had its land allotment increased:

Kodiak Island Borough	56,500 acres (from 45,200 acres)

The land allotments of the remaining municipalities were left unchanged.

Senate Resources restored paragraphs (g) and (h) of AS 29.18.204, which were stripped from the House Finance Committee version of the bill on the House floor. These two paragraphs restored to the director of the Division of Lands the authority to "consider the state's responsibilities for developing and protecting values which are of greater than local concern" and requiring the director to provide written explanation for his approval or disapproval of a municipal selection

Sec. 29.18.207 PAYMENT IN LIEU OF LAND goes into effect July 1, 1982, whereas the rest of SCS CSHB 133 would take effect immediately. This three year delay was intended to give the State the time to clear up title of ownership to presently contested lands, allowing in principle the municipalities a greater land pool to select from.

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