

SB

374

F: SB-374

374
NOTE FOR SB 375 FILE- ANCHORAGE COMMENTS

Ted Burns, Anchorage municipal attorney, called 2-21-78 and conveyed the Municipality's concern about the wording of SB 375. He said he had a memorandum from Tom Dowling in which Dowling raised the possibility that if SB 375 were passed its language, which was designed to restrict the bill's action only to the Skagway situation, would then prohibit any other municipality in Alaska from ever receiving tide lands....since they could never qualify under the restrictive language of 375.

I told Burns we appreciated his comments and requested that the Municipality put its concerns in writing for the Committee to have on hand when it reviewed the bill.

Ben Harding

2-23-78

STATE OF ALASKA
Inter-Department Route Slip

TO:
MAIL STATION NUMBER _____

DEPARTMENT _____

ATTENTION Sen Bill Ray

- | | |
|--|--|
| <input type="checkbox"/> Approval | <input type="checkbox"/> Note & Return |
| <input type="checkbox"/> Signature | <input type="checkbox"/> Initial & Return |
| <input type="checkbox"/> Comment | <input type="checkbox"/> Return As Requested |
| <input type="checkbox"/> Contact Me | <input type="checkbox"/> Return For Approval |
| <input type="checkbox"/> Prepare Reply | <input type="checkbox"/> Necessary Action |
| <input type="checkbox"/> For Your File | <input checked="" type="checkbox"/> Your Information |

Remarks:

*hand to be conveyed
under S.B. 374*

FROM:
MAIL STATION NUMBER _____

DEPARTMENT Natural Resources

BY JT Conrady DATE 1/17/78

02-002 (REV. 10/73)

west shore of
N 61° 45' W.

Smuggler No 2
(Unsurveyed)

WEST 32.65 Chs.

Smuggler No 1
(Unsurveyed)

W.C.M.C. No. 1
M.C. Cor. No. 1

U.S. SUR N°1499 PUBLIC PARK

Area 87.02 Acres

Frame Buildings

S 44° 11' 09" W. 50.76 Chs.

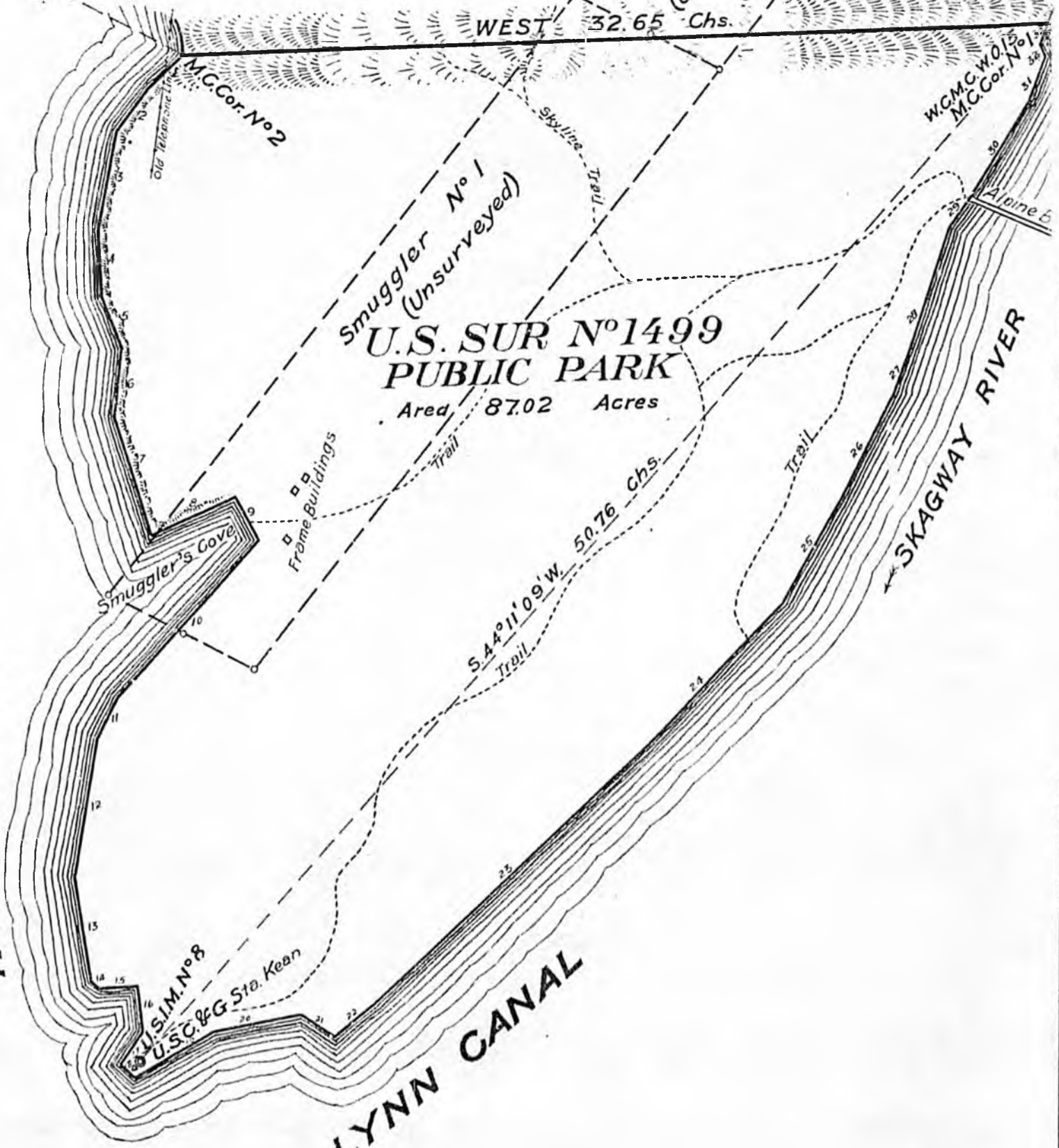
SKAGWAY RIVER

Smuggler's Cove

LYNN CANAL

LYNN CANAL

U.S. S.I.M. No 8
U.S.C. & G. Sto. Kean



Latitude 59°26'56"N. Longitu

As surveyed under instruction
the U.S. Surveyor General, dat
1923, and approved by the Com
the General Land Office, July

FRED DAHLQUIST

U.S. Cadastral Engine

July 31 - August 6, 19

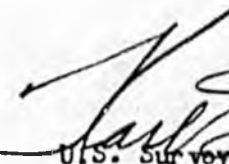
MEANDERS

- 1. S. 49°58' W., 1.67 chs.
- 2. S. 38°56' W., 1.92 "
- 3. S. 12°51' W., 3.70 "
- 4. S. 1°15' E., 2.29 "
- 5. S. 20°48' E., 2.14 "
- 6. S. 7°35' W., 2.50 "
- 7. S. 15°30' E., 4.44 "
- 8. N. 66°03' E., 3.45 "
- 9. S. 27°32' E., 1.79 "
- 10. S. 45°15' W., 7.72 "
- 11. S. 29°24' W., 1.69 "
- 12. S. 11°30' W., 5.17 "
- 13. S. 7°09' E., 3.87 "
- 14. S. 48°30' E., 0.40 "
- 15. N. 89°00' E., 1.43 "
- 16. S. 4°28' E., 1.67 "
- 17. S. 36°00' W., 1.51 "
- 18. S. 45°00' E., 0.76 "
- 19. N. 62°03' E., 3.35 "
- 20. N. 81°05' E., 3.42 "
- 21. S. 54°24' E., 1.57 "
- 22. N. 52°00' E., 1.77 "
- 23. N. 49°30' E., 14.00 "
- 24. N. 46°35' E., 7.21 "
- 25. N. 32°46' E., 4.26 "
- 26. N. 29°12' E., 4.44 "
- 27. N. 21°33' E., 1.69 "
- 28. N. 20°25' E., 4.59 "
- 29. N. 37°34' E., 1.15 "
- 30. N. 34°51' E., 4.25 "
- 31. N. 22°27' E., 1.81 "
- 32. N. 18°48' W., 0.50 "
- 33. N. 22°37' E., 0.91 "

OFFICE OF U.S. SURVEYOR G

Juneau, Alaska, Novemb

The map hereon delineated
No. 1499, of the Public Park situ
Skagway, Alaska, is strictly confi
the field notes of the survey the
in this office, which have been e
approved.


U.S. Surveyor



west shore of
N 61° 45' W.

Smuggler No 2
(Unsurveyed)

WEST 32.65 Chs.

M.C. Cor. No 2

W.G.M.C. No. 15
M.C. Cor. No. 15

Smuggler No 1
(Unsurveyed)

U.S. SUR N°1499 PUBLIC PARK

Area 87.92 Acres

Frame Buildings

Smuggler's Cove

S 44° 11' 09" W 50.76 Chs.

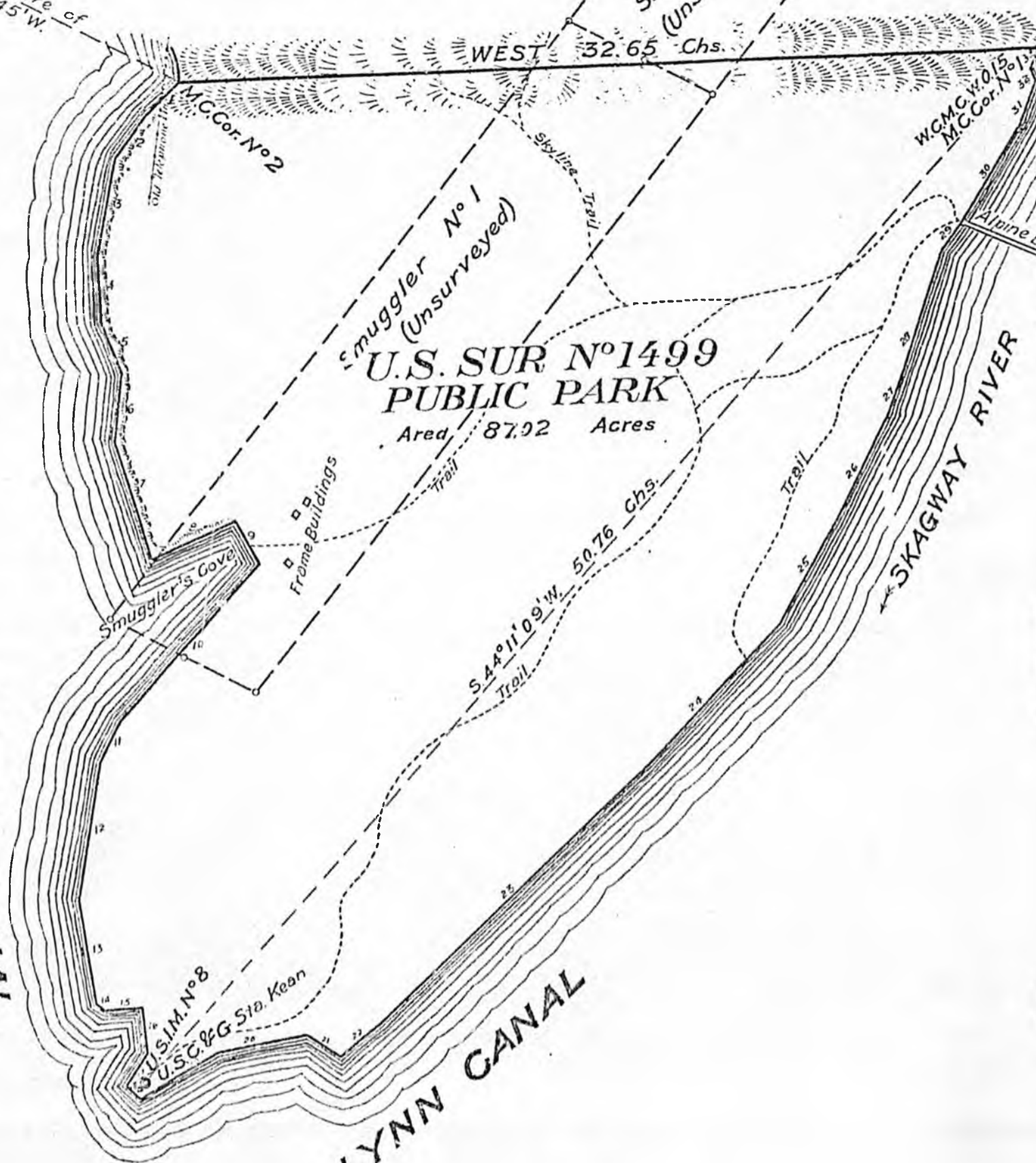
Trail

SKAGWAY RIVER

U.S.I.M. No 8
U.S.C. & G. Sta. Keon

LYNN CANAL

LYNN CANAL





Mag. Decl: 20° 17' 10\"/>

Scale: 1 in. = 5 ch

Latitude 59°26'56\"/>

FRED DAHLQUIST
U.S. Cadastral Engineer

July 31 - August 6, 19

MEANDERS

1. S. 49°58' W., 1.67 chs.
2. S. 38°56' W., 1.92 "
3. S. 12°51' W., 3.70 "
4. S. 1°15' E., 2.29 "
5. S. 20°48' E., 2.14 "
6. S. 7°35' W., 2.50 "
7. S. 15°30' E., 4.44 "
8. N. 68°03' E., 3.45 "
9. S. 27°32' E., 1.79 "
10. S. 45°15' W., 7.72 "
11. S. 29°24' W., 1.69 "
12. S. 11°30' W., 5.17 "
13. S. 7°09' E., 3.87 "
14. S. 48°30' E., 0.40 "
15. N. 69°00' E., 1.43 "
16. S. 4°28' E., 1.67 "
17. S. 36°00' W., 1.51 "
18. S. 45°00' E., 0.76 "
19. N. 62°03' E., 3.35 "
20. N. 81°05' E., 3.42 "
21. S. 54°24' E., 1.57 "
22. N. 52°00' E., 1.77 "
23. N. 49°30' E., 14.00 "
24. N. 46°35' E., 7.21 "
25. N. 32°46' E., 4.26 "
26. N. 29°12' E., 4.44 "
27. N. 21°33' E., 1.69 "
28. N. 20°25' E., 4.59 "
29. N. 37°34' E., 1.15 "
30. N. 34°51' E., 4.25 "
31. N. 22°27' E., 1.81 "
32. N. 18°48' W., 0.50 "
33. N. 22°37' E., 0.91 "

OFFICE OF U.S. SURVEYOR G
Juneau, Alaska, November

The map hereon delineated of No. 1499, of the Public Park situated in Skagway, Alaska, is strictly conformable with the field notes of the survey the same are on file in this office, which have been approved.

[Signature]
U.S. Surveyor

180.
2. SB-374

COMMENTS BY TED SMITH (DIVISION OF LANDS) REGARDING SB 374

Smith said that the Department of Natural Resources had no official position on the bill. He said the Department was aware that it was specifically designed to allow the City of Skagway to obtain a block of tidal lands after having missed the deadline (June, 1964) previously set for such land transfers.

Smith noted that as a result the language was the bill was especially restrictive and limited to achieve its one purpose. He was not aware of any other areas of Alaska which would also fit the criteria of the bill, but suggested contacting Andy Pekovitch (2417) for detailed information.

While DNO has no problem per se with SB 374, it does not like the principle of the bill and the precedent it sets of overturning the 1964 deadline, as well as possibly opening up the issue for other municipalities to do the same.

Smith said that he would be in Juneau next Monday, Jan. 23, for the week and would be happy to discuss the question.

Ben Harding
1-17-78

Chair stationary

The Honorable Avrum Gross
Attorney General, etc.

Dear Mr. Attorney General,

I am writing in reference to Senate Bill no. 374 ("An Act relating to transferral of tide and submerged lands; and providing for an effective date.") which has been referred to this committee for review.

~~The~~ question has been raised with me that the enactment of this legislation could conceivably set a precedent for allowing coastal communities in general, rather than the one or ones specifically meeting the conditions of the proposed bill, to initiate action for further transfer of tide lands to municipalities.

I would appreciate receiving your opinion in this regard as well as any assessment you might wish to make on other aspects of the proposed legislation.

Sincerely,

Joe Orsini,
Chairman, etc.

enclosure: SB-374

bfh

1-17-78



JUNEAU, ALASKA

Alaska State Legislature
Senate

January 13, 1978

Enclosed please find a copy of Senate Bills # 374 which, if enacted, may have an effect on your municipality. Your comments or recommendations would be appreciated, as we intend to give this proposed legislation our consideration in the near future.

Please write to the Senate Community and Regional Affairs Committee, Pouch V, Juneau, Alaska 99811: or call 465-3712.

Very truly yours,

Joe Orsini

Senator Joe Orsini
Chairman
Community and Regional
Affairs Committee

JO/tb

Enclosure: As stated



Official Business

Alaska State Legislature

Senate
Committee on
Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

January 17, 1978

The Honorable Avrum Gross
Attorney General
Room 410, State Capitol
Pouch K
Juneau, AK 99811

Dear Mr. ^{Av}Gross:

I am writing in reference to Senate Bill no. 374 ("An Act relating to transferral of tide and submerged lands; and providing for an effective date.") which has been referred to this committee for review.

The question has been raised that the enactment of this legislation could conceivably set a precedent for allowing coastal communities in general, rather than the one or ones specifically meeting the conditions of the proposed bill, to initiate action for further transfer of tide lands to municipalities.

I would appreciate receiving your opinion in this regard as well as any assessment you might wish to make on other aspects of the proposed legislation.

Sincerely,

Joe

Joe Orsini
Chairman
Community and Regional
Affairs Committee

JO/tb

Enclosure: SB - 374



City and Borough of Sitka

P.O. BOX 79 . SITKA, ALASKA . 99835

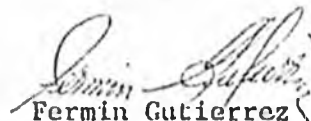
January 17, 1978

Senator Joe Orsini
Chairman, Community and
Regional Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Orsini:

In reply to your letters of January 13, 1978, and the copy of
SB 373, SB 374, SB 375 and SB 388 which accompanied same. We
advised that the City and Borough of Sitka supports the aforesaid
Senate Bills.

Very truly yours,


Fermin Gutierrez
Administrator

cc: Senator Pete Meland



Official Business

Alaska State Legislature

Senate
Committee on
Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

January 23, 1978

Mr. Theodore G. Smith
Director, Division of Land
& Water Management
Department of Natural Resources
323 East 4th Avenue
Anchorage, AK 99501

Dear Mr. Smith: *Ted*

I am writing in regard to Senate Bill 374 ("An Act relating to transferral of tide and submerged lands") which would convey State-owned tide lands to the City of Skagway.

I would appreciate your assessment of the effects of this bill and the precedents it could set, particularly in other communities and in other parts of the state. I would also be interested in knowing if there are other uses to which the State might wish to put the land or whether the State had no other plans for its use or disposition.

Your comments of SB 374 will be highly useful for the Committee's deliberations on the measure.

Sincerely,

Joe

Joe Orsini
Chairman
Community and Regional
Affairs Committee

JO/tb

Enclosure: SB 374

CITY OF SKAGWAY

GATEWAY TO THE GOLD RUSH OF "98"
P. O. BOX 415 SKAGWAY, ALASKA 99840

January 23, 1978

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

Dear Senator Orsini:

This is in response to your letter of 13 January 1978 concerning Senate Bills No. 374, No. 375 and No. 388. These proposed pieces of legislation have been reviewed by the City Council. The position of the City of Skagway on each bill is as follows:

Bill No. 374: The City of Skagway strongly supports the enactment of this bill. This legislation will enable the City to obtain title to tide and submerged lands adjacent to City Park lands which were conveyed to the City by the Federal Government on 30 November 1931. Ownership of these tide lands will facilitate future development of the Park by the City. A copy of the Federal patent transferring the Park lands is enclosed for your information.

Bill No. 375: The City of Skagway supports passage of this bill. It is considered to be in the best interests of the State of Alaska and the Alaskan municipalities that a portion of the permanent fund principal and income be made available for development of municipal capital facilities.

Bill No. 388: The City of Skagway concurs in the goals and objectives of the Alaska Coastal Management Act and, therefore, supports changes which will facilitate the work of the Coastal Policy Council. The City Council, however, does have reservations with regard to the wording of Section 1.(d) of the proposed regulation. To explain:

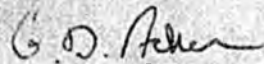
Although the need for alternates to the public members is justified, the method proposed for their selection is considered to be inadequate. It is suggested that, rather than having the principals select their alternates, the Assembly or Councils of the regions nominate alternates and that the Governor make the selections - in other words, alternates for public members be designated in the same manner as the principals.

There is one other point: Under the proposed legislation, it would be possible that alternates might constitute all or a majority of

January 23, 1978
Senator Joe Orsini
Page 2

the public participants in coastal policy actions. It is suggested that of the public members acting on coastal policy matters at least a majority be regular members.

Sincerely,



G.D. Acker
City Manager

Enclosure

cc: Representative Rudd
Senator Ray
Representative Miller
Representative Duncan
Roger Allington
City Attorney Ruddy

GDACP

---(P A T E N T)---

ANCHORAGE 06432,
-----4-1040

THE UNITED STATES OF AMERICA,

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

WHEREAS, There has been deposited in the General Land Office of the United States, a Certificate of the Register of the Land Office at Anchorage, Alaska, whereby it appears that full payment has been made by the City of Skagway, in the Territory of Alaska, according to the provisions of the Act of Congress of March, 4, 1923, (42 Stat, 1500) entitled, "An Act to grant certain lands to the City of Skagway, Alaska, for a public Park" for the land embraced in U.S. Survey No, 1499, situate near Skagway, on the West side of Skagway River, Anchorage Land District, Alaska, containing Eighty-seven Acres and two hundredths of an Acre, according to the official Plat of the Survey of the said land on file in the General Land Office.

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the said Act of Congress of March, 4, 1923, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT, unto the said City of Skagway, Territory of Alaska, and to its successors the Tract of Land above described; TO HAVE AND TO HOLD the same for a public park, for the use and benefit of the said City of Skagway, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature thereunto belonging, unto the said City of Skagway and to its successors forever;

subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of Courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

As provided in said Act, this Patent is issued subject to all legal rights heretofore acquired by any person or persons in or to the above-described premises or any part thereof and now existing under and by virtue of the laws of the United States; and there is reserved to the United States all coal, oil, or other mineral deposits that may be found in the lands so granted and all necessary use of the lands for extracting the same; and, PROVIDED FURTHER, That the land herein granted, and all portions thereof, shall be held and used by or for the said City of Skagway, for a public park, and if the lands shall cease to be so used for a period of three years at any one time, they shall revert to the United States, and there is also reserved to the United States a right-of-way for the construction of Railroad, Telegraph and Telephone lines, in accordance with the Act of March, 12, 1914 (38 Stat, 305).

IN TESTIMONY WHEREOF, I, Herbert Hoover, President of the United States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereto affixed.

GIVEN under my hand at the City of Washington, the Thirtieth day of November, in the year of our Lord One Thousand Nine Hundred and Thirty-one, and the Independence of the United States the One Hundred and Fifty-sixth.

By the President, - Herbert Hoover,

By Leafie E. Diets, Secretary,

Emma L. Warren,

Recorder of the General Land Office.

RECORDED: Patent Number, 1052080

Recorded this 2nd, day of February, 1932, at 5, o'clock, P.M.

Joseph J. ...
District Recorder.

Phone: (907) 424-3237
or 424-3238

CITY OF CORDOVA

Box 1210

CORDOVA, ALASKA 99574

"The Friendly City"

January 30, 1978

Reply to:

The Honorable Joe Orsini, Chairman
Senate Community and Regional
Affairs Committee
Pouch "V"
Juneau, Alaska 99811

Dear Senator Orsini:

Thank you for permitting us the opportunity to comment
on several bills before your committee.

Our comments are as follows:

Senate Bill 373 - No Comment

Senate Bill 374 - We would have no objection to this bill
provided we can continue to apply for and
receive leases to tidelands under the present
methods, however, if this would infringe
upon that right, we raise strong objections
to any interference with our right to obtain
tide or submerged lands.

Senate Bill 388 - We support this bill.

Senate Bill 375 - We support this concept for loans to
municipalities as defined for construction
or renovation of capital facilities.

Thanks again for the opportunity to comment.

Very truly yours,


Perry D. Lovett
City Manager

cc: Senator Kerttula
Representative Lovseth

PDL/lb

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU 99811

JAY S. HAMMOND, GOVERNOR

February 3, 1978

The Honorable Joseph L. Orisini
Chairman, Senate Community and
Regional Affairs Committee
Alaska State Legislature
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Joe:

Thank you for your letter of January 17, 1978, concerning SB 374 relating to transfer of tidelands and submerged lands. As you probably noticed, since your letter, an identical bill has also been introduced in the House (HB 657).

I share the concern that enactment of this legislation would set an undesirable precedent for allowing any other coastal city to seek similar legislation authorizing conveyance of additional tidelands and submerged lands from the state. For this reason and that discussed below, I believe that close examination and careful consideration should be given to SB 374 and its companion.

These bills are drawn narrowly and would authorize application for further conveyance only of tidelands and submerged lands contiguous to land which has been used as a public park for at least 45 years, and which has been granted to a city for park purposes by the United States. This specificity appears to be directed at a particular parcel of land in northern Southeastern Alaska, though I do not know where. Therefore, it is likely that the bills would constitute a "local and special act" in violation of Article II, Section 19 of the Alaska Constitution.

This constitutional provision was discussed and applied by the Alaska Supreme Court in the "Cook Inlet Land Trade Case," *State v. Lewis*, 559 P.2d 630, 642-4, (Ak. 1977). The court stated that the test to be applied is whether the legislation examined bears a fair and substantial relationship to legitimate state purposes. In that case the court found that the land trade legislation was valid because it was designed to facilitate statewide land

The Honorable Joseph L. Orisini
Chairman, Senate Community and
Regional Affairs Committee

-2-

February 3, 1978


us management and to resolve a host of pressing legal issues arising in the context of ANCSA." It is doubtful that purposes of such statewide concern exist for SB 374 and HB 657.

I hope these comments are of some help to your consideration of SB 374. Please contact me if you have any further questions.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By:


Peter B. Froehlich
Assistant Attorney General

PBF:bvd

cc: Art Peterson

2-17-78

File

SB-374

Joe-

I talked to Ted Smith re SB 347 (Skagway Tideland) and he said he had just dictated a response today which was equivocal...DNR could see some good points and some bad points to it. He was a little taken aback when I told him the House had already passed its version.

Ben

STATE OF ALASKA

F: 53374
JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

LAND AND WATER MANAGEMENT

323 E. 4TH AVENUE - ANCHORAGE 99501

February 21, 1978

Senator Joe Orsini
Chairman
Community and Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Joe:

Sorry to be so slow in answering your letter of January 23 regarding SB 374.

After some research we have determined that the bill was intended to apply to USS 1499. Enclosed is a copy of a portion of our status plat covering that survey. Note that the Skagway corporate boundary runs through the middle of the parcel, and that the City of Skagway has obtained patent to the tidelands within that corporate boundary north to the boundary between USS 1499 and USS 5107A. I am also enclosing a copy of the patent received by the City of Skagway to the land with the reservation clause included.

We have some reluctance to totally endorse the bill because of the precedent it would set in making lands fronting municipalities available after the expiration of the statutory application period. We would, however, note that something of a precedent in this regard has been set by the passage in 1974 of AS 38.05.323.

We have been unable to determine if there are any additional lands that would be affected by the passage of SB 374. At present we have no plans for other uses of the tidelands which would be transferred under this bill.

Please note that these lands are available for lease under the classification of Resource Management. The City of Skagway has not submitted an application to lease such lands from the State.

If I can be of any further assistance, please do not hesitate to contact me.

Yours truly,



THEODORE G. SMITH
Director

cc: Senator Bill Ray

10-J4LH

Enclosures

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

The United States of America.

We all to whom these presents shall come, greeting:

WHEREAS, There has been deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Anchorage, Alaska, whereby it appears that full payment has been made by the City of Skagway, in the Territory of Alaska, according to the provisions of the Act of Congress of March 4, 1923 (42 Stat. 1500), entitled, "An Act To grant certain lands to the city of Skagway, Alaska, for a public park", for the land embraced in U. S. Survey No. 1499, situate near Skagway, on the west side of Skagway River, Anchorage Land District, Alaska, containing eighty-seven acres and two hundredths of an acre, according to the Official Plat of the Survey of the said Land on file in the General Land Office:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the said Act of Congress of March 4, 1923, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT, unto the said City of Skagway, Territory of Alaska, and to its successors the tract of land above described; TO HAVE AND TO HOLD the same for a public park, for the use and benefit of the said City of Skagway, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature thereunto belonging, unto the said City of Skagway and to its successors forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

As provided in said Act, this patent is issued subject to all legal rights heretofore acquired by any person or persons in or to the above-described premises or any part thereof and now existing under and by virtue of the laws of the United States; and there is reserved to the United States all coal, oil, or other mineral deposits that may be found in the lands so granted and all necessary use of the lands for extracting the same; and, PROVIDED FURTHER, that the land herein granted, and all portions thereof, shall be held and used by or for the said City of Skagway for a public park, and if the lands shall cease to be so used for a period of three years at any one time, they shall revert to the United States. And there is also reserved to the United States a right of way for the construction of railroad, telegraph and telephone lines, in accordance with the Act of March 12, 1914 (38 Stat. 305).

IN TESTIMONY WHEREOF, I, Herbert Hoover,

President of the United States of America, have caused these letters to be made

Patent, and the Seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the THIRTIETH

[SEAL]

day of NOVEMBER in the year of our Lord one thousand

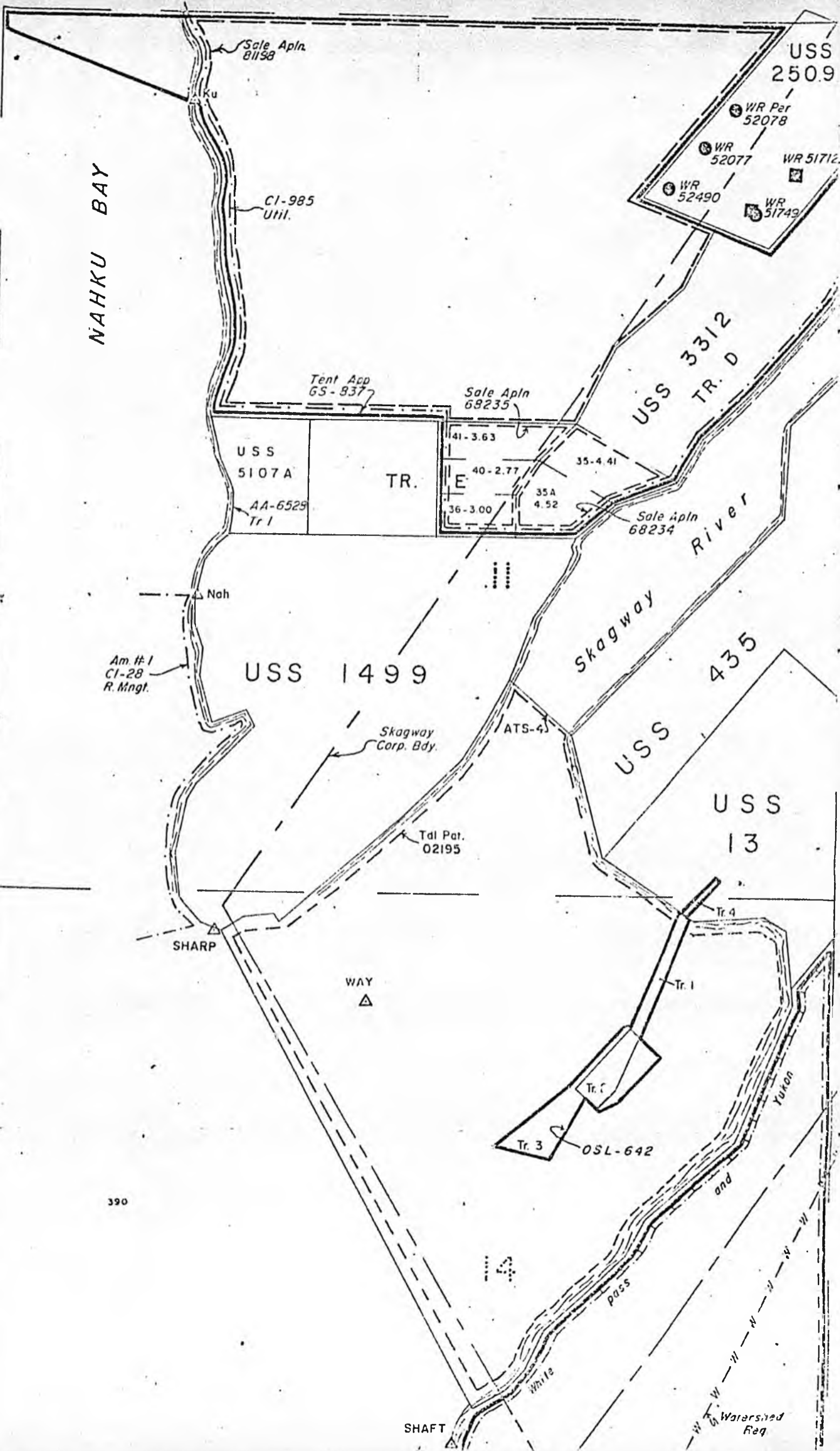
nine hundred and THIRTY-ONE and of the Independence of the

United States the one hundred and FIFTY-SIXTH

By the President:

Herbert Hoover
Leafe E. Ritz
Emmuel D. Wilson

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.



NAH KU BAY

USS 250.9

WR Per 52078

WR 52077

WR 51712

WR 52490

WR 51742

CI-985 Util.

Tent App GS-837

Sole Apln 68235

USS 3312 TR. D

USS 5107A

TR.

41-3.63

40-2.77

35-4.41

36-3.00

35A 4.52

Sole Apln 68234

Skagway River

Nah

Am. #1 CI-28 R. Mngt.

USS 1499

Skagway Corp. Bdy.

ATS-4J

USS 435

USS 13

Tdl Pat. 02195

SHARP

WAY

Tr. 4

Tr. 1

Tr. 2

Tr. 3

OSL-642

Yutan

390

14

Pass

White

SHAFT

Watershed Req.



Official Business

Alaska State Legislature

Senate
Committee on
Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM:

April 3, 1978

TO: Jack Chenoweth
Legal Services
Legislative Affairs Agency

FROM: Joe Orsini *JO*
Chairman,
Senate Community and Regional Affairs Committee

RE: Municipal Jurisdiction Over Tide Lands

In regard to Senate Bill 374 relating to the transfer of tide lands to the City of Skagway, I would appreciate your opinion of the legal jurisdiction which a municipality would exercise, through its planning and zoning or other authority, in the following circumstances:

- 1) For a private individual operating on privately-owned tide land.
- 2) For a state agency operating on state tide land
- 3) For a private individual operating on state tide land with a state permit or a state lease.

JO:tb



Official Business

Alaska State Legislature

Senate Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

April 4, 1978

Theodore G. Smith
Director
Division of Land and Water
Management, DNR
323 East 4th Avenue
Anchorage, Alaska 99501

Dear Ted:

As we discussed today by telephone, I would appreciate your comments regarding some additional aspects of Senate Bill 374 relating to the transfer of tide lands to the City of Skagway.

Since this bill was introduced, a number of other municipalities have also expressed an interest in obtaining title to tide lands in their area if the Legislature approves the transfer of the lands designated in SB 374 to Skagway.

In this regard, it would be useful for the Committee to know whether the Department of Natural Resources would object to: (1) legislation allowing other municipalities in Alaska to select tide land adjacent to recreational and park areas at the Federal, state and local level; and (2) if you would object to legislation conveying to interested municipalities all tide lands lying within municipal boundaries.

Your response to these points will be helpful to the Committee in clarifying some of the constitutional and technical questions raised by the bill.

Sincerely,

A handwritten signature in cursive script that reads "Joe Orsini".

JOE ORSINI
Chairman
Community and Regional
Affairs Committee

JO:tb

STATE OF ALASKA

5B
F1374
JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

LAND AND WATER MANAGEMENT

323 E. 4TH AVENUE - ANCHORAGE 99501

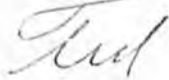
April 10, 1978

Senator Joe Orsini
Pouch V
Juneau, Alaska 99811

Dear Joe:

Your letter of April 4 asked for department policy on the disposal of tidelands fronting municipalities. Since department policy is promulgated by the Commissioner, I have forwarded your letter to him for answer. I feel sure he will respond to you in the very near future.

Yours truly,



THEODORE G. SMITH
Director

cc: Commissioner LeResche

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

F: 58 374
JAY S. HAMMOND, GOVERNOR

11TH FLOOR, STATE OFFICE BLDG.
POUCH M - JUNEAU 99811

April 24, 1978

The Honorable Joe Orsini
Chairman, Community and
Regional Affairs Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

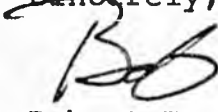
Dear Senator ~~Orsini~~:

I am replying to your letter to Director Ted Smith who referred your questions to me because they involve matters of substantial department policy.

Your first question asks if the Department would object to legislation allowing other municipalities to select tidelands adjacent to recreational and park areas at the federal state and local level. My preference is that transfer of such tidelands be by state lease pursuant to AS 38.05.315 which can be made for a public purpose. I would note, however, that some precedent for transfer of such lands can be found in AS 38.05.323 which allows the grant of tidelands adjacent to P.L. 507 sites acquired by homerule or general law municipalities.

You also asked if the Department would object to legislation conveying to interested municipalities all tidelands lying within municipal boundaries? I must indicate that the Department would object strenuously to such legislation. Substantial valuable tidelands are owned by the State adjacent to municipalities and I believe it would be totally inappropriate to convey such lands to municipalities.

Sincerely,


Robert E. LeResche
Commissioner



Official Business

Alaska State Legislature

Senate

Committee on
Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811

May 8, 1978

Robert E. LeResche
Commissioner
Department of Natural Resources
Pouch M
Juneau, Alaska 99811

Dear Commissioner LeResche:

I am writing further in regard to SB 374 which would transfer tide lands currently owned by the State into the ownership of the City of Skagway.

Representative Mike Miller has recently suggested that SB 374/HB 657 might be redrafted to avoid raising the constitutional questions which the Attorney General believes are contained in the legislation.

I have enclosed a copy of his suggested committee substitute and I would appreciate your comments regarding the effects of this legislation on your Department.

Sincerely,

A handwritten signature in cursive script that reads "Joe Orsini".

JOE ORSINI
Chairman, Senate
Community and Regional
Affairs Committee

JO:gd

Enclosure(s): (2)



Official Business

Alaska State Legislature

House of Representatives

Office of the Majority Leader

Pouch V
State Capitol
Juneau, Alaska 99811

May 5, 1978

M E M O R A N D U M

TO: Senator Joe Orsini
FROM: Mike Milden

Joe--

You will recall that you've been hesitant to bring up House Bill 657--relating to tidelands near Skagway--because of adverse ruling from the Attorney General. I've taken the liberty of having the bill redrafted as a suggested committee substitute. The Attorney General himself assures me that the redrafted legislation no longer has Constitutional problems. Your consideration of this legislation would be greatly appreciated.

CC: Senator Bill Ray
Representative Jim Duncan
Attorney General Avrum Gross

Original sponsors: Miller and Duncan

1 IN THE HOUSE

2 SENATE CS FOR HOUSE BILL NO. 657

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to transferral of tide and submerged
7 lands; and providing for an effective date."

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

9 * Section 1. A home rule city or city of the first class may apply for a
10 conveyance of all tide and submerged land contiguous to land owned by the
11 city if the land owned by the city is used as a public park and it was
12 granted to the city by the United States for the purpose of use as a public
13 park. Applications made within one year after the effective date of this Act
14 shall be processed by the director of the division of lands of the Department
15 of Natural Resources or his designee. The director shall convey the tide and
16 submerged land to the city. The city shall use the land in a manner which is
17 compatible with the use of the contiguous land as a public park. The direc-
18 tor shall prescribe the manner for filing applications and may promulgate
19 regulations to implement this Act.

20 * Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-
21 070(c).

22

23

24

25

Fi SB 374

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

11TH FLOOR, STATE OFFICE BLDG.
POUCH # - JUNEAU 99811

May 15, 1978

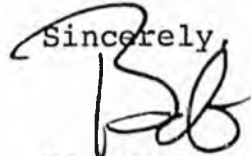
The Honorable Joe Orsini
Chairman, Senate Community
and Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Orsini:

I am writing in reply to your letter of May 8, 1978,
concerning SB 374.

Generally, I believe it sufficient that the State
convey tidelands by long term lease rather than fee
title. However, if there are specific circumstances
which require fee conveyance, I believe the revised
work draft (SCSHB 657) is satisfactorily limited to
prevent a wholesale run by municipalities on State
owned tidelands.

Sincerely,



Robert E. LeResche
Commissioner

CITY OF SKAGWAY

GATEWAY TO THE GOLD RUSH OF "98"
P. O. BOX 415 SKAGWAY, ALASKA 99840

F. SB-374

June 20, 1977

Senator Bill Ray
165 Beherends Avenue
Juneau, Alaska 99801

Dear Senator Ray:

The purpose here is to request your consideration and assistance in obtaining for the City of Skagway title to the Tidelands and Submerged Lands contiguous to City Park Lands - U.S.S. 1499. Background in explanation of this request:

The land embraced in U.S. Survey 1499 was granted to the City for use as a public park in 1931. (Encl. 1, 2, & 3) and has been used for that purpose subsequently. In conformity with State policy in Disposal of Occupied Tide and Submerged Lands (Encl. 4) and under the provision of Alaska Statutes Title 38 Sec. 38.05.320 and Sec. 35.10.010, the City applied for and was granted title to the tidelands and submerged lands encompassed by the municipal boundaries on 30 December 1960 - ATS No. 4 (Encl. 5). Through an oversight the City failed to apply in 1959 for the tidelands and submerged lands adjacent to the public park. It is the City's understanding that the acquisition of these lands under the preference rights provisions of the aforementioned policy and Statutes is no longer possible and that title can be conveyed to the City only by means of legislative enactment.

Accordingly, it is respectfully requested that you introduce a bill in the next session of the State Legislature providing for the granting to the City of Skagway of title to the tidelands and submerged lands contiguous to the shoreline of the City Park - U.S.S. 1499 - for a distance of 1000 feet to seaward of the mean low tide line.

Sincerely,

G.D. Acker

G.D. Acker
City Manager

Enclosures

cc: City Attorney

GDAcp

THE UNITED STATES OF AMERICA,
 To all to whom these presents shall come, Greeting:

WHEREAS, There has been deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Anchorage Alaska, whereby it appears that full payment has been made by the City of Skagway, in the Territory of Alaska according to the provisions of the Act of Congress of March 4, 1923 (42 Stat. 1500), entitled "an Act to grant certain lands to the city of Skagway, Alaska, for a public park" for the land embraced in U.S. Survey No. 1499, situate near Skagway on the west side of Skagway River, Anchorage Land District, Alaska, containing eighty-seven acres and two hundredths of an acre, according to the Official Part of the Survey of the said Land on file in the General Land Office:

NOW KNOW IT. That the UNITED STATES OF AMERICA, in consideration of the promise, and in conformity with the said Act of Congress of March 4, 1923, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT, unto the said City of Skagway, Territory of Alaska, and to its successors the Tract of land above described; TO HAVE AND TO HOLD the same for a public park, for the use and benefit of the said City of Skagway, together with all the rights, privileges; immunities; and appurtenances, of whatsoever nature thereunto belonging, unto the said City of Skagway and to its successors forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes and rights to ditches and reservoirs used in connection with such water rights, and may be recognized and acknowledged by the local customs, laws and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

As provided in said Act, this patent is issued subject to all legal rights heretofore acquired by any person or persons, in or to the above-described premises or any part thereof and now existing under and by virtue of the laws of the United States; and there is reserved to the United States all coal, oil or other mineral deposits that may be found in the lands so granted and all necessary use of the lands for extracting the same; and, PROVIDED FURTHER, that the land herein granted, and all portions thereof, shall be held and used by or for the said City of Skagway for a public park, and if the lands shall cease to be so used for a period of three years at any one time, they shall revert to the United States. And there is also reserved to the United States a right of way for the construction of railroad, telegraph and telephone lines, in accordance with the Act of March 12, 1914 (38 Stat. 305).

IN TESTIMONY WHEREOF, I, Herbert Hoover, President of the United States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereto affixed.
 Given under my hand, at the City of Washington, the THIRTIETH day of MARCH in the year of our Lord one thousand nine hundred and THIRTY ONE and of the Independence of the United States the one hundred and FIFTY SEVENTH.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

Encl. 5.



THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.



Dec 6 1917

By the President: Herbert Hoover
Leafie E. Dietz, Secretary
Frank L. Warren
Recorder of the General Land Office

RECORD OF PATENTS: Patent Number 1052080

TERRITORY OF ALASKA
Office of the Treasurer

Registration of Real Property, Chap. 49, Session Laws of Alaska, 1945

DECLARATION OF OWNERSHIP OF LAND

1. Name and address of the owner making this declaration: (Type or print)

EARL E. HERRING AND GUY W. BRACKLEY
Last Name First Name Middle Name
Address SEASIDE, ALASKA
Street or P. O. Box No. Town

Do not write in this space
July 19 - 46
Date Received
Declaration Number

2. If you are not the sole owner of the land described in this declaration give the name and addresses of all other persons who are co-owners. If the address of a co-owner is unknown, so state: (Type or print)

.....
Last Name First Name Middle Name Street or P. O. Box No. Town

3. Check the type of title evidence on which your ownership is based:

U. S. Patent Deed If recorded, where U. S. Land Office at Anchorage
Other title evidence..... If this is checked, state the facts on which you base your claim to ownership.

4. If the tract of land described in this declaration was acquired by you after June 30, 1946, state: (Type or print)

(a) Name of person from whom acquired (b) Date acquired

5. Give the approximate location of the land described in this declaration:

1st 2, 2nd 3, 3rd 4, 4th 5, Judicial Division
Approximately 1/2 mile west from SEASIDE, ALASKA
(miles) (direction) (name of post office)

6. The land is being used for: (check one or more)

Ranching Grazing Manufacturing Residence
Mining Trading Post Fur Farm Recreation
Canary Roadside Saltery Not in use

7. State general character of the land: (Check one or more)

Level Rolling Mountainous Swamp or marsh
Timbered Brushland Grassland Soil, Good Poor

8. Give a detailed description of the tract of land: (READ THE INSTRUCTIONS CAREFULLY BEFORE YOU ATTEMPT TO COMPLETE THIS PARAGRAPH.)

(a) If your tract of land is described by legal subdivisions, give:

U. S. Patent U. S. 22222 Land Office Serial Total Number
Number 22222 Number, if any 26432 of Acres 07.03

List description by subdivisions as shown in patent or deed:

Subdivision of Section	Section No.	Township	Range	Meridian
.....
.....

(b) If your tract of land is in a patented townsite that is not incorporated, give:

(1) City which was incorporated by law to
Townsite No. Townsite Total Number of Acres

(2) Contained in the U. S. Patent:
U. S. Patent No. Townsite Acres

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

3D
your tract of land is described by metes and bounds, give:

Patent U. S. Survey Lot No.
Number 2499 (if any)
S. Mineral Number of H. E. S.
Survey No. Claims Survey No. Acres 67.02

(1) If the description of your tract of land cannot be described in any of the terms listed above, a sketch of the boundaries should be shown here:

Adjacent to the City of Skagway, Alaska, and within three miles of the exterior boundaries of said City, which said tract of land is bounded on the east by the Skagway River; on the south by Lynn Canal, and on the north by line running from a point approximately 300 feet north of Alpine Bridge on the West bank of the Skagway River, in an approximately westerly direction to Long Bay on Lynn Canal, containing an area of 67.02 acres; more particularly and fully described in the field notes of U. S. Official Survey No. 2499 on file in the office of the Surveyor General for the Territory of Alaska, at Juneau, Alaska.

9. To whom shall the receipted copy of this declaration be mailed: (Type or print)

Name City of Skagway
Address Skagway, Alaska
Street or P. O. Box No.
(City)

10. The undersigned, being first duly sworn, on his oath declares that the statements contained in this declaration are true and correct to the best of his knowledge.

George A. Swanson
Signature of Declarant

Subscribed and sworn to before me at Skagway, Alaska this 20th day of July, 1943 My commission expires June 16, 1946

John W. ...
Signature of Officer

(SEAL)

If it is not possible to appear before an officer with a seal, this declaration should be signed and witnessed as follows:

Signature of Officer

Witness

Witness

TO BE FILED IN THE UNITED STATES LAND OFFICE

Received by the United States Land Office at Skagway, Alaska on the 20th day of July, 1943, and recorded as Declaration No. ...

Signature of Officer

STATE POLICY IN DISPOSAL OF OCCUPIED
TIDE AND SUBMERGED LANDS

It is the policy of the State to allow preference rights for the acquisition of tide-lands and submerged lands occupied or developed for municipal, business, residential, or other beneficial purposes on and prior to the date of admission of Alaska into the Union. An occupant is defined as a person who actually occupied for any business, residential, or other beneficial purpose tidelands, or tidelands and contiguous submerged lands, within the State on and prior to January 3, 1959 with substantial permanent improvements. The holder of a Corps of Engineers permit, which is a clearance in respect to navigation, or of a special use permit from some other government agency will not qualify as an occupant unless such entry on the land had resulted in actual occupancy and substantial permanent improvements.

The Alaska Land Act lists several types of entries on tidelands which are not considered as occupancy. No person shall be considered an occupant by reason of having, (1) placed a fish trap in position for operation or upon the tide or submerged land for storage, (2) placed a netnet or piling therefor, or any other device or facility for taking fish, (3) placed piling or dolphins for log storage or other moorage, (4) placed floats or buoys on the tide or submerged land, (5) placed telephone, power, or other transmission facilities, roads, trails, or other improvements not requiring exclusive use or possession of tide or submerged lands, or (6) claimed the land by virtue of some form of constructive occupancy. The use of the definition "constructive occupancy" is to indicate that the mere construction of breakwaters does not constitute beneficial occupancy. "Occupancy" means actual use, occupancy, and control of tideland or submerged land by the establishment of substantial permanent improvements.

Preference right means the right of an occupant to acquire by lease, purchase, or otherwise at the election of the occupant, any tract of tideland, or tideland and contiguous submerged lands, occupied or developed by such occupant on and prior to January 3, 1959 and to which there is no other preference right. A Class I preference right is the right of an occupant to acquire the occupied lands for a consideration not less than the cost of recovering the investment and expenses the State incurred in the development of the lands. The State shall have the right to acquire the occupied lands for the cost of the cost of acquisition, including the cost of the investment and expenses the State incurred in the development of the lands.

Preference right, however, shall not apply to any tract of tideland, or tideland and contiguous submerged lands, occupied or developed by such occupant on and prior to January 3, 1959 and to which there is no other preference right. The State shall have the right to acquire the occupied lands for the cost of the cost of acquisition, including the cost of the investment and expenses the State incurred in the development of the lands.

Preference right shall not apply to any tract of tideland, or tideland and contiguous submerged lands, occupied or developed by such occupant on and prior to January 3, 1959 and to which there is no other preference right. The State shall have the right to acquire the occupied lands for the cost of the cost of acquisition, including the cost of the investment and expenses the State incurred in the development of the lands.

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

Go WITH
No 1
RBR
OK

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

August 4, 1977

SUBJECT: Conveyance of land to Skagway
Work Order No. 4243

TO: Senator Bill Ray

FROM: Kenneth E. Vassar *KEV*
Staff Attorney

In response to your request for a bill to convey tide and submerged lands contiguous to City Park in Skagway to the City of Skagway, I have enclosed two versions of a rough draft of the bill. I have labeled them version one and version two. As you can see, version one provides a narrow extension of the provisions of AS 38.05.320 to cities meeting certain requirements; probably Skagway is the only city to meet such requirements. Version two, on the other hand, is an outright conveyance to Skagway.

I believe that version one is preferable primarily because of two weaknesses in version two. Version two is more susceptible to objection as constituting "local legislation" prohibited by Article II, Section 19 of the Alaska Constitution. Also, version two cannot be completed until the city provided a metes and bounds description of the land conducted by a surveyor. Passage of version one, on the other hand, would be less likely to raise questions of local legislation; and it would provide the city one year to submit its application describing the land it wants.

Please let me know which, if either, version you prefer; and we will proceed accordingly. If you have any other questions, please contact me.

KEV:jpd

Enclosures

VERSION ONE

WO # 4243

1 IN THE SENATE

BY RAY

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to transferral of tide and submerged
7 lands; and providing for an effective date."

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

9 * Section 1. Applications by home rule cities and cities of the first
10 class for conveyances of tide and submerged lands under AS 38.05.320 may be
11 made up to one year after the effective date of this Act if the requirements
12 of sec. 2 of this Act are met. Applications made within one year after the
13 effective date of this Act shall be processed by the director of the division
14 of lands of the Department of Natural Resources or his designee and are
15 otherwise subject to the requirements of AS 38,05.320.

16 * Sec. 2. No home rule city or city of the first class may apply for a
17 conveyance under this Act unless:

18 (1) the city seeks conveyance of tide and submerged lands contig-
19 uous to land which has been used as a public park for at least 45 years; and

20 (2) the land used as a park was granted to the city by the United
21 States for the purpose of use as a public park.

22 * Sec. 3. This Act takes effect July 1, 1977.
23
24
25
26
27
28
29

VERSION TWO

WO # 4243

1 IN THE SENATE

BY RAY

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act conveying title to property to Skagway."

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

8 * Section 1. The director of the division of lands of the Department of
9 Natural Resources shall convey title to the following described parcel of
10 land to the City of Skagway: Metes and Bounds within Sections 11 and 14,
11 Township 28 South, Range 59 East, Copper River Meridian; more particularly
12 described as

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29