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130



STATE OF ALASKA  
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Natural Resources	Sponsor: (Principal) Rules Committee by request	Bill Number SB 102
Department Position This bill was authored by the Department in response to requests by the Legislature and the public for a homestead program. If the State is to have a homestead program, we favor this approach.		
Division Director Tom Hawkins	Date 2-19-83	Commissioner's Signature <i>Thomas D. Arnold, Jr.</i> Date 2-21-83

GOVERNOR'S OFFICE USE

Comments:

Position Noted      By \_\_\_\_\_      Date \_\_\_\_\_

SUMMARY

1. a) Related Bills (Similar or Conflicting) HB 167, HB 130 and SB 43	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

As an option to land disposals offered under subdivision, remote parcel, homestead or agriculture, the Department would offer land disposals under the homestead provisions of this bill.

4. Fiscal Impact:     None                       Fiscal Note Attached

5. Amendments Proposed:

To discourage speculation, require payment of 10% of appraised fair market value to the State on any subsequent conveyance within 99 years.

6. Comments:

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 102 Date on Bill: 2-1-83  
 Title: An act relating to homesteads and providing an effective date  
 Sponsor: Rules Committee  
 Requestor: Governor

Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue				
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Source of funds to offset fiscal impact of bill:

Assumptions:

A homestead program would be considered by DNR as an alternative to existing land disposal programs for which we are budgeted annually. Therefore, no additional funding is requested beyond the budget appropriation.

Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Sharon Barton Phone: 465-2400  
 Division: Commissioner's Office Date: 2-19-83  
 Approved by Commissioner: <sup>WJH</sup> William D Arnold, Deputy Date: 2-20-83  
 Department: Natural Resources

E. Distribution:

Original to Legislative Finance  
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STATE OF ALASKA  
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Natural Resources	Sponsor (Principal) Moss	Bill Number SB 43	
Department Position DNR favors the provisions of the Administration homestead bill - SB 102.			
Division Director Tom Hawkins	Date 2-22-83	Commissioner's Signature <i>Wms D Arnold, Deputy</i>	Date 2-22-83

GOVERNOR'S OFFICE USE

Comments:

<input type="checkbox"/> Position Noted	By	Date
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SUMMARY

1. a) Related Bills (Similar or Conflicting) SB 102, HB 167 and HB 130	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

As an option to land disposals offered under subdivision, remote parcel, homesite or agriculture, the Department would offer land disposals under the homestead provisions of this bill.

4. Fiscal Impact:  None  Fiscal Note Attached

5. Amendments Proposed:

Amend open filing system of disposal to aliquot part or surveyed parcel disposal.

6. Comments:

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

No: SB 43 Date on Bill: 1-18-83  
 Title: An act granting homesteads to Alaska citizens; and providing for an effective date  
 Sponsor: Moss  
 Director: \_\_\_\_\_

Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue				
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Source of funds to offset fiscal impact of bill:

Assumptions: A homestead program would be considered by DNR as an alternative to existing land disposal programs for which we are budgeted annually - therefore, no additional funding is requested beyond the budget appropriation.

Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Sharon Barton Phone: 465-2400  
 Division: \_\_\_\_\_ Date: 2-19-83  
 Approved by Commissioner: Moss D. Smith, Deputy Date: 2-20-83  
 Department: Natural Resources

c. Distribution:

Original to Legislative Finance  
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STATE OF ALASKA  
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Natural Resources	Sponsor (Principal) Uehling, Barnes, Cowdery etc.	Bill Number HB 130
Department Position DNR favors the passage of SB 102.		
Division Director Tom Hawkings	Date 2-22-83	Commissioner's Signature <i>Wms D Amund, Deputy</i> Date 2-22-83

GOVERNOR'S OFFICE USE

Comments:

<input type="checkbox"/> Position Noted	By	Date
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SUMMARY

1. a) Related Bills (Similar or Conflicting) SB 102, SB 43 and HB 67	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

As an option to land disposals under subdivision, remote parcel, homesite or agriculture, the Department would offer land disposals under the homestead provisions of this bill.

4. Fiscal Impact:  None  Fiscal Note Attached

5. Amendments Proposed:

Reduce maximum acreage offered under agricultural program to 160 acres, reduce maximum non-agricultural land to 40 acres. Eliminate clearing requirement on non-agricultural land.

6. Comments:

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 130 Date on Bill: 1-26-83  
 Title: An act relating to homestead entry; and providing for an effective date.  
 Sponsor: Uehling, Barnes, Cowdery, Flood and Ward  
 Requestor: \_\_\_\_\_

Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
EDUCATION	-0-	-0-	-0-	-0-
OPERATION	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-

b. Revenues:

REVENUE				

Source of funds to offset fiscal impact of bill:

Assumptions: A homestead program would be considered by DNR as an alternative to existing land disposal programs for which we are budgeted annually. Therefore, no additional funding is requested beyond the budget appropriation.

Disclaimer:

This statement has not been reviewed by the O B in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Sharon Barton  
 Division: Commissioner's Office  
 Approved by Commissioner: *Wm O Arnold, Deputy*  
 Department: Natural Resources

Phone: 465-2400  
 Date: 2-19-83  
 Date: 2-20-83

c. Distribution:

Original to Legislative Finance  
 Copy to CMS



STATE OF ALASKA  
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Natural Resources	Sponsor (Principal) Tischer, Bettisworth, Bussell, Etc	Bill Number HB 167
Department Position The Department does not favor a homestead program by staking. We recommend the provisions of SB 102.		
Division Director Tom Hawkins	Date 2-22-83	Commissioner's Signature <i>Arthur D. Arnold Deputy</i>
		Date 2-22-83

GOVERNOR'S OFFICE USE

Comments:

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Position Noted      By \_\_\_\_\_      Date \_\_\_\_\_

SUMMARY

1. a) Related Bills (Similar or Conflicting) SB 102, HB 130 and SB 43	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

As an option to land disposals offered under subdivision, remote parcel, homesite or agriculture, the Department would offer land disposals under the homestead provisions of this bill. Because of high costs involved in cadastral survey required by this bill, total acreage offered by DNR under a given land disposal appropriation would be reduced.

4. Fiscal Impact:     None                       Fiscal Note Attached

5. Amendments Proposed:

Amend staking requirement to aliquot parcel or surveyed parcel disposal. Increase clearing requirement to 25% on agricultural land. To discourage speculation, require payment of 10% of appraised fair market value to the State on a subsequent conveyance within 99 years.

6. Comments:

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STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 167 Date on Bill: 2-7-83  
 Title: An act relating to homesteads; and providing for an effective date.  
 Sponsor: Tischer, Bettisworth, Russell, Kritz, Liska, Schultz, Ward and Szymanski  
 Author: \_\_\_\_\_

Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total	-0-		-0-	-0-	-0-	-0-		

b. Revenues:

Revenue								
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Source of funds to offset fiscal impact of bill:

Assumptions:

A homestead program would be considered by DNR as an alternative to existing land disposal programs for which we are budgeted annually. Therefore, no additional funding is requested beyond the budget appropriation.

Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared By: Sharon Barton  
 Division: Commissioner's Office  
 Approved by Commissioner: *William D. Smith*, Deputy  
 Department: Natural Resources

Phone: 465-2400  
 Date: 2-19-83

Date: 2-20-83

Distribution:

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## Specific Comparisons

HB 167/HB 130

### Findings (A)

Neither House Bill contains a findings section.

### Land Identification (B)

The main difference in the two bills is HB 167 specifically directs that the Commissioner shall designate land and make it available for homestead entry. HB 130 does not.

HB 167 also requires a cadastral survey to establish section corners to be paid for by the state, requires public notice and denies any preference rights such as length of residency, veteran, etc.

### Qualifications for Applicants (C)

HB 167 requires staking of the parcel which can be up to 160 acres and requires that entry permits be let out on a first come first serve basis. HB 130 requires applicants to be qualified under (AS 38.05.057) the lottery program or (AS 38.05.077) the remote parcel disposal procedures. HB 130 also disqualifies a person who has leased a remote parcel, or applied for a homestead entry within the previous 8 years.

HB 167 prohibits the conveyance of a permit in any manner except by testate or interstate succession. HB 130 does not address conveyance. HB 167 requires a specific fee of \$500.00 for applicants of which \$400.00 is refundable after meeting all other patent requirements. HB 130 simply states that a fee may be charged. HB 167 also requires a commitment from the applicant that he or she agrees to all conditions necessary for patent.

### Revocation of Permit (D)

HB 167 spells out specific prohibited actions that must not take place or the state may condemn and the property revert to state ownership in 90 days.

Those conditions are:

- 1) an assignment, conveyance, or other transfer of the permit;
- 2) failure of the permittee to submit a plat of survey to the director within 18 months after issuance of the permit;
- 3) failure to erect a dwelling or to clear the land in the time required under AS 38.09.040(a), except that if the director finds that the dwelling or clearing has been nearly completed and progress toward completion is being made at the expiration of the time required, the director may extend the time required for completion for not more than one year;

4) failure to brush the boundaries of the parcel within one year.

HB 130 also requires compliance with specific criteria and authorizes the A.G. to eject the homestead applicant if called on by the director to do so. The required criteria is as follows:

- 1) occupies the land for a total of 35 months;
- 2) erects a habitable dwelling;
- 3) clears and prepares for cultivation not less than
  - (A) one-fourth of the land entered if the land is limited to agricultural use; or
  - (B) one-eighth of the land entered if the land is not limited to agricultural use;
- 4) brushes the boundaries of the homestead entry and maintains the brushed boundaries so that they are easily visible from the ground;
- 5) causes a survey of the homestead entry to be made that is acceptable to the director.
  - (b) The director shall require an applicant for homestead entry to submit proof necessary to establish compliance with the requirements of (a) of this section. An applicant is not required to submit proof under (a) (4) or (5) of this section if the land comprising homestead entry has been surveyed.
  - (c) As used in this section, "habitable dwelling"
    - (1) means a permanent dwelling of not less than 200 square feet and its fixtures and facilities;
    - (2) does not include a mobile home unless it is permanently attached to a permanent foundation.
  - (d) A person who has applied or received state land under this chapter is not eligible for a state loan under AS 03.10 for the habitable dwelling or the clearing of the land required under this section.

HB 130 also states that a person who has received state land under a homestead provision is not eligible for a state loan until patent is received.

Patent Requirements

HB 130

- 1) occupies the land for a total of 35 months;
- 2) erects a habitable dwelling;
- 3) clears and prepares for cultivation not less than
  - (A) one-fourth of the land entered if the land is not limited to agricultural use; or
  - (B) one-eighth of the land entered if the land is not limited to agricultural use;
- 4) brushes the boundaries of the homestead entry and maintains the brushed boundaries so that they are easily visible from the ground;
- 5) causes a survey of the homestead entry to be made that is acceptable to the director.
  - (b) The director shall require an applicant for homestead entry to submit proof necessary to establish compliance with the requirements of (a) of this section. An applicant is not required to submit proof under (a) (4) or (5) of this section if the land comprising homestead entry has been surveyed.
  - (c) As used in this section, "habitable dwelling"
    - (1) means a permanent dwelling not less than 200 square feet and its fixtures and facilities;
    - (2) does not include a mobile home unless it is permanently attached to a permanent foundation.
  - (d) A person who has applied or received state land under this chapter is not eligible for a state loan under AS 03.10 for the habitable dwelling or the clearing of the land required under this section.

HB 167

Sec. 38,09.040. ISSUANCE OF PATENT. (a) The director shall issue a patent to homestead entry land if the permit holder for that parcel

- (1) resides on the homestead entry land for not less than five months a years for five years;
- (2) completes an approved survey of the land within 18 months after issuance of the permit;

- (3) erects, within three years after the date of issuance of the homestead entry permit, a habitable, permanent, single-family dwelling on the homestead; for the purposes of this paragraph, a mobile home is not a permanent dwelling unless it is placed on and attached to a permanent foundation;
- (4) clears five percent of the land within five years after the issuance of the homestead entry permit; for the purposes of this paragraph, land used for improvements is considered to be cleared;
- (5) brushes the boundaries of the parcel within one year after issuance of the permit.

#### Municipal Considerations

HB 167 allows potential municipal and borough land to be designated for homestead land and also prevents those entities from selecting those lands already designated as homestead lands. HB 167 also exempts homestead entry land from local platting, recording, or subdivision requirements established under AS 29.33 and AS 40.15 unless it is subdivided in the future.

HB 130 requires that the Commissioner of DNR consult with a municipal assessor before determining the purchase price of land located in the municipality.

#### Authorization of Regulations

HB 167 gives authority to commissioner to adopt regulations for implementing homestead provisions. HB 130 does not address regulation authority.

#### Definitions

HB 167  
Sec. 38.09.900 DEFINITIONS. In this chapter

- (1) "commissioner" means the commissioner of natural resources;
- (2) "director" means the director of the division of land and water management in the Department of Natural Resources;
- (3) "Habitable dwelling" means a dwelling of a permanent nature, together with fixtures and facilities, including sanitary facilities, required by law or customary in the vicinity of the land made available for homestead entry;
- (4) "resident" means a person who has resided in the state for at least one year, does not claim residence in another state, and shows by all attending circumstances an intent to make this state the person's permanent residence.

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: CSHB 130 Date on Bill: 24 March 1983  
 Title: An act relating to homesteads  
 Sponsor: Hehling  
 Requestor: Resources Committee

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital		-0-	-0-	-0-
Operating		-0-	-0-	-0-
Total		-0-	-0-	-0-
			-0-	-0-
b. Revenues:				
Revenue		-0-	-0-	-0-

2. Source of funds to offset fiscal impact of bill:

Existing program budget for land offering program.

3. Assumptions:

Given the anticipated high cost of implementing and administering this program, due to potential difficulties with adjudication and inspection of staking programs, the Department's other land offering programs will be reduced.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Ned Farquhar Phone: 465-2400  
 Division: Commissioner's Office Date: 28 March 1983  
 Approved by Commissioner: AMS D Arnold, Deputy Date: 28 March 1983  
 Department: Natural Resources

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor







HOMESTEAD

Re: Staking Requirements

Typical Arguments Against:

- 1) Staking method is very inefficient and leaves scattered parcels of land undeveloped.
  - WHY IS THAT A PROBLEM? AREN'T GREEN BELTS SOMETHING MANY PEOPLE (AND GOVERNMENT ENTITIES) ARE CONSTANTLY STRIVING TO INCLUDE IN EVERY LAND USE MANAGEMENT PROGRAM?
  - IN ADDITION, IT'S IMPORTANT TO REMEMBER THAT IF THERE IS A BETTER USE FOR THAT "UNDEVELOPED" LAND -- SOMEONE WILL SEE IT AND WILL PUT IT INTO ACTION (IF PERMITTED BY THE GOVT.) OTHERWISE IT'S PROBABLY BETTER LEFT IN ITS NATURAL STATE.
  
- 2) Staking is too expensive due to adjudicating overlapping claims.
  - EMPHASIZE THAT AN INDIVIDUAL APPLYING FOR A HOMESTEAD ENTRY PERMIT SHOULD HAVE A WAITING PERIOD (POSSIBLY 18 MONTHS - THE TIME REQUIRED FOR THE SURVEY) WHERE HE IS TENTATIVELY APPROVED FOR A HOMESTEAD ENTRY PERMIT FOR THAT PARCEL OF LAND. HE MAY GO AHEAD AND START MAKING IMPROVEMENTS ON THE LAND, BUT THEY ARE AT HIS OWN RISK DURING THE FIRST 18 MONTHS. AFTER 18 MONTHS, THE DEPT. WOULD HAVE VERIFIED HIS CLAIM AND EITHER DETERMINED THERE WAS NO CONFLICT WITH ANOTHER CLAIM AND THUS AUTHORIZED HIS PERMIT, OR THEY WOULD HAVE DENIED IT.

By *Mal Fischer*

3/14

Original sponsors: Uehling, Tischer,  
Barnes, et al

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 130 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to homesteads; and providing for an  
7 effective date."

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

9 \* Section 1. AS 38 is amended by adding a new chapter to read:

10 CHAPTER 09. HOMESTEAD ACT.

11 Sec. 38.09.010. DESIGNATION OF LAND FOR HOMESTEAD ENTRY. (a)

12 The commissioner shall designate and make available for homestead  
13 entry state land, including land classified for agricultural use.  
14 State land made available for homestead entry under this chapter shall  
15 be distributed throughout the state.

16 (b) The commissioner shall complete a cadastral survey of home-  
17 stead entry land that establishes a control point monument <sup>not less than</sup> each two  
18 miles along section line boundaries before designating the state land  
19 for homestead entry.

20 (c) Notice of the designation and offering of land for homestead  
21 entry shall be given by the commissioner under AS 38.05.345.

22 (d) Land designated for homestead entry is not subject to a  
23 preference right under AS 38.05.

24 (e) The commissioner shall prescribe a homestead  
25 entry procedure for each area designated under (a) of this section.  
26 The homestead entry procedure shall establish

27 (1) the minimum distance between homestead entries in the  
28 area;

29 (2) the dimensions, configuration, orientation or other

1 design requirements for a homestead entry in the area;

2 (3) a description of land within the area that may not be  
3 included in a homestead entry;

4 (4) a requirement that a landmark, monument or other point  
5 be used as a point of reference for the measurement of distances  
6 within an area;

7 (5) a specification of the type of stakes to be used to  
8 mark the corners of a homestead entry;

9 (6) the time within which a homestead entry must be staked.

10 (f) The commissioner shall establish the maximum size of a  
11 homestead entry that may be selected in each area designated under (a)  
12 of this section except that the commissioner may not permit an entry  
13 on more than

14 (1) 160 acres of land classified for agricultural use; or

15 (2) 40 acres of land not classified for agricultural use.

16 Sec. 38.09.020. HOMESTEAD ENTRY PERMITS. (a) A homestead entry  
17 permit entitles an applicant to enter land within an area designated  
18 under AS 38.09.010 and to survey, occupy, and improve the land in  
19 order to qualify for a patent under this chapter.

20 (b) An applicant for a homestead entry permit shall personally  
21 stake the corners and flag the boundaries of the land entered in  
22 accordance with AS 38.09.010 and shall personally file with the com-  
23 missioner a description of the land entered. A homestead entry shall  
24 be described by aliquot parts, unless otherwise permitted by the Commissioner.

25 Sec. 38.09.030. QUALIFICATION FOR HOMESTEAD ENTRY. (a) An  
26 applicant for a homestead entry permit shall

27 (1) submit proof acceptable to the commissioner that the  
28 applicant is at least 18 years of age and has been a resident of the  
29 state for not less than one year immediately before the date of appli-

1 cation;

2 (2) pay a fee of \$5 per acre according to the description  
3 provided by the applicant;

4 (3) agree to comply with the requirements of AS 38.09.050;

5 (4) certify that the corners of the land entered have been  
6 staked and the boundaries have been flagged;

7 (5) assume full responsibility for the accuracy of the  
8 description of the land filed with the commissioner under AS 38.09.-  
9 020(b).

10 (b) An applicant may not hold more than one homestead entry  
11 permit at one time and may not receive a patent to more than one  
12 homestead entry in a lifetime, *except as provided in subsection (c).*

13 (c) The homestead entry permit may not be assigned, conveyed, or  
14 in any manner transferred except

15 (1) by testate or intestate succession;

16 (2) to a spouse during marriage;

17 (3) by order of a court as part of a divorce settlement;

18 (4) to either a member of the immediate family or a grantee  
19 of the applicant in the case of an extreme emergency or illness which  
20 disables the applicant.

21 Sec. 38.09.040. REVOCATION OF ENTRY PERMITS. (a) A homestead  
22 entry permit may be revoked by the commissioner for any substantial  
23 breach of the permit conditions or the requirements of this chapter,  
24 including

25 (1) an assignment, conveyance, or transfer of the permit  
26 not authorized under AS 38.09.030(c);

27 (2) failure of the permit holder to submit a plat of survey  
28 to the commissioner within two years after the issuance of the permit  
29 or under (b) of this section;

1 (3) failure of the permit holder to erect a dwelling in the  
2 time required under AS 38.09.050(a), except that if the commissioner  
3 finds that the dwelling has been nearly completed and progress toward  
4 completion is being made at the expiration of the time required, the  
5 commissioner may extend the time required for completion for not more  
6 than one year;

7 (4) failure to brush the boundaries of the land within 90  
8 days after issuance of the homestead entry permit;

9 (5) failure to clear and either put into production or  
10 prepare for cultivation 25 percent of the land classified for agricul-  
11 tural use within five years after the issuance of the permit.

12 (b) If the commissioner determines that a permit holder has made  
13 a good faith effort to obtain a plat of survey, the commissioner may  
14 extend the time required for completion of the plat of survey for not  
15 more than three years after the issuance of the permit.

16 (c) If a homestead entry permit is revoked under (a) of this  
17 section, improvements or personal property upon the land shall be  
18 managed under AS 38.05.090 and the state land remains available for  
19 homestead entry under this chapter.

20 Sec. 38.09.050. ISSUANCE OF PATENT. (a) The commissioner shall  
21 issue a patent to homestead entry land if the permit holder

22 (1) resides and lives on the homestead entry land for not  
23 less than 25 months within five years after the issuance of the home-  
24 stead entry permit;

25 (2) completes an approved survey of the land within two  
26 years after the issuance of the permit or under AS 38.09.040(b);

27 (3) erects a habitable, permanent dwelling on the homestead  
28 within three years after the issuance of the homestead entry permit;

29 (4) brushes the boundaries of the land within 90 days after

1 the issuance of the permit;

2 (5) clears and either puts into production or prepares for  
3 cultivation 25 percent of the land classified for agricultural use  
4 within five years after issuance of the permit.

5 (b) Nothing in this chapter prohibits a homestead entry permit  
6 holder from residing in a temporary dwelling on the homestead before  
7 erection of the permanent dwelling.

8 (c) The commissioner may reserve or exclude from a patent ease-  
9 ments or rights-of-way for roads, trails, trap lines, public access  
10 ways, utility corridors, and transportation facilities.

11 Sec. 38.09.060. MARKING BOUNDARIES. If it is impractical to  
12 brush the boundaries of a homestead entry, an applicant shall flag the  
13 boundaries.

14 Sec. 38.09.070. PRIORITY OF APPLICATIONS. The commissioner  
15 shall issue a homestead entry permit to the first applicant for land  
16 to comply with AS 38.09.020(b).

17 Sec. 38.09.080. LAND WITHIN MUNICIPALITIES. (a) If a munic-  
18 ipality has filed a selection of state lands under AS 29.18.201 -  
19 29.18.213 with the commissioner, the state lands selected may not be  
20 designated for homestead entry; if the commissioner determines that  
21 land selected by a municipality is not available for patent to the  
22 municipality under AS 29.18.201 - 29.18.213, the state land is avail-  
23 able for designation by the commissioner for homestead entry under  
24 AS 38.09.010.

25 (b) The disposal of homestead entry land is subject to local  
26 platting, recording, or subdivision requirements established under  
27 AS 29.32 and AS 40.15.

28 Sec. 38.09.090. PURCHASE. If an applicant complies with the  
29 requirements of AS 38.09.050(a)(2) and (4) and pays to the commission-

1 er an amount equal to five percent of the fair market value within two  
2 years of the issuance of an entry permit, an applicant may purchase  
3 the land under AS 38.05.065. The purchase price is the fair market  
4 value, of the land at the issuance of the entry permit as determined by  
5 the commissioner.

6 Sec. 38.09.100. LESSEES OF REMOTE PARCELS. (a) A lessee of a  
7 remote parcel under AS 38.05.077 may elect to obtain title to the  
8 remote parcel under AS 38.09.050. If a lessee of a remote parcel  
9 elects to obtain title under AS 38.09.050, the effective date of this  
10 act shall be considered the date of the issuance of the homestead  
11 entry permit.

12 (b) Except as provided in (a) of this section, nothing in  
13 AS 38.09 affects the rights and obligations of lessees of remote  
14 parcels under AS 38.05.077.

15 Sec. 38.09.110. REGULATIONS. The commissioner shall adopt  
16 regulations to implement this chapter.

17 Sec. 38.09.900. DEFINITIONS. In this chapter

18 (1) "brush" means to clear a swath along the boundary lines  
19 of a homestead entry so that the boundary lines may be identified from  
20 the ground;

21 (2) "commissioner" means the commissioner of natural re-  
22 sources;

23 (3) "habitable dwelling" means a dwelling of a permanent  
24 nature, together with fixtures and facilities, including sanitary  
25 facilities, required by law or customary in the vicinity of the land  
26 made available for homestead entry;

27 (4) "permanent dwelling" does not include a mobile home  
28 unless it is placed on and attached to a permanent foundation;

29 (5) "resident" means an individual who has resided in the

1 state for one year, does not claim residence in another state, and  
2 shows by all attending circumstances an intent to make this state the  
3 individual's permanent residence.

4 \* Sec. 2. AS 38.05.077 and 38.05.078 are repealed.

5 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
6 10.070(c).

Original sponsors: Uehling, Tischer,  
Barnes, et al

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IN THE HOUSE BY THE RESOURCES COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 130 (Resources)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

\* Section 1. AS 38 is amended by adding a new chapter to read:

CHAPTER 09. HOMESTEAD ACT.

Sec. 38.09.010. DESIGNATION OF LAND FOR HOMESTEAD ENTRY. (a)

The commissioner shall designate and make available for homestead entry state land, including land classified for agricultural use. State land made available for homestead entry under this chapter shall be distributed throughout the state.

(b) The commissioner shall complete a cadastral survey of homestead entry state land before designating the state land for homestead entry. No portion of any land available for homestead entry shall be located greater than one mile from a survey control monument.

(c) Notice of the designation and offering of land for homestead entry shall be given by the commissioner under AS 38.05.345.

(d) Land designated for homestead entry is not subject to a preference right under AS 38.05.

(e) The commissioner shall prescribe a homestead entry procedure for each area designated under (a) of this section. The homestead entry procedure shall establish

(1) the minimum distance between homestead entries in the area;

(2) the dimensions, configuration, orientation or other

1 design requirements for a homestead entry in the area;

2 (3) a description of land within the area that may not be  
3 included in a homestead entry;

4 (4) a requirement that a landmark, monument or other point  
5 be used as a point of reference for the measurement of distances  
6 within an area;

7 (5) a specification of the type of stakes to be used to  
8 mark the corners of a homestead entry;

9 (6) the time within which a homestead entry must be staked.

10 (f) The commissioner shall establish the maximum size of a  
11 homestead entry that may be selected in each area designated under (a)  
12 of this section except that the commissioner may not permit an entry  
13 on more than

14 (1) 160 acres of land classified for agricultural use; or

15 (2) 40 acres of land not classified for agricultural use.

16 Sec. 38.09.020. HOMESTEAD ENTRY PERMITS. (a) A homestead entry  
17 permit entitles an applicant to enter land within an area designated  
18 under AS 38.09.010 and to survey, occupy, and improve the land in  
19 order to qualify for a patent under this chapter.

20 (b) An applicant for a homestead entry permit shall personally  
21 stake the corners and flag the boundaries of the land entered in  
22 accordance with AS 38.09.010 and shall personally file with the com-  
23 missioner a description of the land entered. A homestead entry shall  
24 be described by aliquot parts, *unless otherwise permitted by the Commissioner.*

25 Sec. 38.09.030. QUALIFICATION FOR HOMESTEAD ENTRY. (a) An  
26 applicant for a homestead entry permit shall

27 (1) submit proof acceptable to the commissioner that the  
28 applicant is at least 18 years of age and has been a resident of the  
29 state for not less than one year immediately before the date of appli-

1 cation;

2 (2) pay a fee of \$5 per acre according to the description  
3 provided by the applicant;

4 (3) agree to comply with the requirements of AS 38.09.050;

5 (4) certify that the corners of the land entered have been  
6 staked and the boundaries have been flagged;

7 (5) assume full responsibility for the accuracy of the  
8 description of the land filed with the commissioner under AS 38.09.-  
9 020(b).

10 (b) An applicant may not hold more than one homestead entry  
11 permit at one time and may not receive a patent to more than one  
12 homestead entry in a lifetime, *except as provided in subsection (c).*

13 (c) The homestead entry permit may not be assigned, conveyed, or  
14 in any manner transferred except

15 (1) by testate or intestate succession;

16 (2) to a spouse during marriage;

17 (3) by order of a court as part of a divorce settlement;

18 (4) to either a member of the immediate family or a grantee  
19 of the applicant in the case of an extreme emergency or illness which  
20 disables the applicant.

21 Sec. 38.09.040. REVOCATION OF ENTRY PERMITS. (a) A homestead  
22 entry permit may be revoked by the commissioner for any substantial  
23 breach of the permit conditions or the requirements of this chapter,  
24 including

25 (1) an assignment, conveyance, or transfer of the permit  
26 not authorized under AS 38.09.030(c);

27 (2) failure of the permit holder to submit a plat of survey  
28 to the commissioner within two years after the issuance of the permit  
29 or under (b) of this section;

1 (3) failure of the permit holder to erect a dwelling in the  
2 time required under AS 38.09.050(a), except that if the commissioner  
3 finds that the dwelling has been nearly completed and progress toward  
4 completion is being made at the expiration of the time required, the  
5 commissioner may extend the time required for completion for not more  
6 than one year;

7 (4) failure to brush the boundaries of the land within 90  
8 days after issuance of the homestead entry permit;

9 (5) failure to clear and either put into production or  
10 prepare for cultivation 25 percent of the land classified for agricul-  
11 tural use within five years after the issuance of the permit.

12 (b) If the commissioner determines that a permit holder has made  
13 a good faith effort to obtain a plat of survey, the commissioner may  
14 extend the time required for completion of the plat of survey for not  
15 more than three years after the issuance of the permit.

16 (c) If a homestead entry permit is revoked under (a) of this  
17 section, improvements or personal property upon the land shall be  
18 managed under AS 38.05.090 and the state land remains available for  
19 homestead entry under this chapter.

20 Sec. 38.09.050. ISSUANCE OF PATENT. (a) The commissioner shall  
21 issue a patent to homestead entry land if the permit holder

22 (1) resides and lives on the homestead entry land for not  
23 less than 25 months within five years after the issuance of the home-  
24 stead entry permit;

25 (2) completes an approved survey of the land within two  
26 years after the issuance of the permit or under AS 38.09.040(b);

27 (3) erects a habitable, permanent dwelling on the homestead  
28 within three years after the issuance of the homestead entry permit;

29 (4) brushes the boundaries of the land within 90 days after

1 the issuance of the permit;

2 (5) clears and either puts into production or prepares for  
3 cultivation 25 percent of the land classified for agricultural use  
4 within five years after issuance of the permit.

5 (b) Nothing in this chapter prohibits a homestead entry permit  
6 holder from residing in a temporary dwelling on the homestead before  
7 erection of the permanent dwelling.

8 (c) The commissioner may reserve or exclude from a patent ease-  
9 ments or rights-of-way for roads, trails, trap lines, public access  
10 ways, utility corridors, and transportation facilities.

11 Sec. 38.09.060. MARKING BOUNDARIES. If it is impractical to  
12 brush the boundaries of a homestead entry, an applicant shall flag the  
13 boundaries.

14 Sec. 38.09.070. PRIORITY OF APPLICATIONS. The commissioner  
15 shall issue a homestead entry permit to the first applicant for land  
16 to comply with AS 38.09.020(b).

17 Sec. 38.09.080. LAND WITHIN MUNICIPALITIES. (a) If a munic-  
18 ipality has filed a selection of state lands under AS 29.18.201 -  
19 29.18.213 with the commissioner, the state lands selected may not be  
20 designated for homestead entry; if the commissioner determines that  
21 land selected by a municipality is not available for patent to the  
22 municipality under AS 29.18.201 - 29.18.213, the state land is avail-  
23 able for designation by the commissioner for homestead entry under  
24 AS 38.09.010.

25 (b) The disposal of homestead entry land is subject to local  
26 platting, recording, or subdivision requirements established under  
27 AS 29.33 and AS 40.15.

28 Sec. 38.09.090. PURCHASE. If an applicant complies with the  
29 requirements of AS 38.09.050(a)(2), (4) + (5) and pays to the commission-

1 er an amount equal to five percent of the fair market value within two  
2 years of the issuance of an entry permit, an applicant may purchase  
3 the land under AS 38.05.065. The purchase price is the fair market  
4 value of the land at the issuance of the entry permit as determined by  
the commissioner. A patent to land purchased under this subsection and  
issued under AS 38.09.050 shall contain the following conditions:

(1) the land may not be sold, leased, otherwise conveyed before  
five years after the date that the patent is issued except under the  
provisions of AS 38.09.030(c); and

(2) the land may not be subdivided before five years after the  
issuance of patent.

5 Sec. 38.09.100. LESSEES OF REMOTE PARCELS. (a) A lessee of a  
6 remote parcel under AS 38.05.077 may elect to obtain title to the  
7 remote parcel under AS 38.09.050. If a lessee of a remote parcel  
8 elects to obtain title under AS 38.09.050, the effective date of this  
9 Act shall be considered the date of the issuance of the homestead  
10 entry permit.  
11

12 (b) Except as provided in (a) of this section, nothing in  
13 AS 38.09 affects the rights and obligations of lessees of remote  
14 parcels under AS 38.05.077.

15 Sec. 38.09.110. REGULATIONS. The commissioner shall adopt  
16 regulations to implement this chapter.

17 Sec. 38.09.900. DEFINITIONS. In this chapter

18 (1) "brush" means to clear a swath along the boundary lines  
19 of a homestead entry so that the boundary lines may be identified from  
20 the ground;

21 (2) "commissioner" means the commissioner of natural re-  
22 sources;

23 (3) "habitable dwelling" means a dwelling of a permanent  
24 nature, together with fixtures and facilities, including sanitary  
25 facilities, required by law or customary in the vicinity of the land  
26 made available for homestead entry;

27 (4) "permanent dwelling" does not include a mobile home  
28 unless it is placed on and attached to a permanent foundation;

29 (5) "resident" means an individual who has resided in the

state for one year, does not claim residence in another state, and shows by all attending circumstances an intent to make this state the individual's permanent residence.

\*Sec. 2. AS 38.04.020(d)(1) is amended to read:

(1) land suitable for [remote parcels] homestead disposal;

\*Sec. 3. AS 38.04.020(e)(1) is amended to read:

(1) for survey and disposal of land proposed to be made available for [remote parcel] homestead staking, with the general location of the land;

\*Sec. 4. AS 38.04.020(g)(1) is amended to read:

(g) After July 1 of each year, the commissioner shall direct the expenditure of money appropriated for the disposal of land in response to requests made under (e) and (f) of this section for the following:

(1) Land designated as suitable for [remote parcel] homestead disposal shall be classified and surveyed under AS 38.04.005--38.04.910 and AS 38.05.005--38.05.370 and made available for staking and lease under [AS 38.05.077] AS 38.09.

\*Sec. 5. AS 38.05.057(f) is amended to read:

(f) If only one application for a parcel is received, the commissioner shall offer the parcel to the applicant who applied for the parcel if the applicant is qualified to participate in the lottery. If more than one application is received for a parcel [ or if more applications are received for the right to select a remote parcel offered under AS 38.05.077 than the number of remote parcels authorized, ] the commissioner shall select the applicant who is entitled to receive a conveyance of the land by lottery. If the commissioner does not receive an application for a parcel of state land or if a purchaser fails to sign a lease agreement or contract of sale, the parcel shall be offered to the first eligible person to apply for the parcel. If the parcel was designated as a homesite and offered to the public under AS 38.05.047(f), the parcel shall be disposed of under the terms required by AS 38.08.010--38.08.120.

\*Sec. 6. AS 38.05.067(e) is amended to read:

(e) This section does not apply to the sale of state land under AS 38.04.020(g)(2) [AS 38.05.077, and 38.05.078] and AS 38.09.

\*Sec. 7. AS 38.05.077 and 38.05.078 are repealed.

\*Sec. 8. Section 1 of this Act takes effect immediately in accordance with AS 01.10.070(c).

\*Sec. 9. Sections 2,3,4,5,6, and 7 of this Act take effect July 1, 1984.

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 20, 1983

SUBJECT: Homesteads  
[CSHB 130 (Finance)]

TO: Representative Rick Uehling

FROM: Richard A. Bradley B  
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, I must advise you that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill; the bill itself is the best statement of its contents. For a full explanation of any point, please consult the bill itself; if you would like an interpretation of the bill as it may apply to a particular set of circumstances, please address a specific request to this office.

Sec. 1 establishes a new chapter, AS 38.09.

Sec. 10 provides for the designation of the land for homestead entry.

Sec. 10(a) directs the commissioner to classify and make available for homestead entry state land. The subsection also directs that the land be made available throughout the state though later sections acknowledge the apparent fact that certain areas of the state (southeastern, Kodiak, the Prince William Sound areas and perhaps the areas around the state's larger municipalities) may have relatively little land, particularly if it is taken up in 160 acre segments.

Sec. 10(b) provides that a cadastral survey will be completed before the land is made available for homestead entry. As I understand the concepts in sec. 10(b), the outer boundaries of the parcel of land made available by the state for entry (in this sense, the "parcel" is the entire contiguous tract

of state land designated for homestead entry) will contain "control points" which will assist the entrymen in describing the land. I confess that if more than that is implied in the concept of a "control point," I do not understand what is meant; the term is used in surveying to indicate a reference point for other descriptions.

Sec. 10(c) provides that the standard notice requirements found at AS 38.05.345 will be used to give the public notice of the sale.

Sec. 10(d) provides that preference rights are not available. I understand that preference rights include discounts (see AS 38.05.058) and veteran's preferences.

Sec. 20 deals with the homestead entry permit.

Sec. 20(a) provides that the entry permit entitles an applicant to enter land within the designated parcel and then to "survey, occupy, and improve" the land in order to qualify for patent.

Sec. 20(b) requires an entryman to stake the corners and to flag the boundaries.

Somewhat as an aside, note that the entrymen is required to stake, flag, and brush the land -- in that order. The concept of staking seems clear; an entrymen must stake before filing for the land with the commissioner.

Sec. 20(b). "Staking" occurs at the corners of the entry. I gather that the latest form of staking includes dropping a dart-like device from a helicopter; the dart will typically imbed itself in the land and become a "stake."

The concept of "flagging" is useful when brushing is not practical; see sec. 60. It is assumed that flagging will occur when land without trees is entered. I may say that I argued against retaining the phrase "and flag the boundaries of the land entered" on page 1, line 28 simply because if the land can be brushed, sec. 60 says that there is "no point to the flagging."

"Brushing" also seems clear; it involves the removal of trees so that a visible boundary is established. As I understand the bill, the brushing is measured on the ground; see sec. 900(1). The alternative is to require that brushing be visible from the air.

Returning to the bill, sec. 20(b) requires the applicant to stake and flag the boundaries and then file the application containing the description of land with the commissioner. The section provides that an entry "may not exceed 10 percent of the total acreage of a parcel of state land made available for disposal after the effective date of this Act." This provision permits the commissioner to make land go further in areas where state land is determined to be scarce. And the subsection also says that the entry may not be for less than 2 1/2 acres (or more than 160 acres). The land is also required to be "described by aliquot parts"; as I understand this requirement, the land must be described by reference to section fractions such as N1/2, SE1/4, and the like.

Sec. 30 relates to qualification for homestead entry.

Sec. 30(a) provides that an applicant for an entry permit shall

submit proof that an applicant is 18 years of age and a one year resident of the state (sec. 30(a)(1));

pay a \$5 per acre filing fee based on the description of the applicant; unlike earlier versions of the bill, it is no longer refundable (sec. 30(a)(2));

agree to comply with requirements for patent under sec. 50 (sec. 30(a)(3));

certify that the corners have been staked and the boundaries flagged (sec. 30(a)(4));

assume full responsibility for the accuracy of the description offered (sec. 30(a)(5)).

Sec. 30(b) limits an entryman to one permit at a time though more than one permit in a lifetime is permitted if 160 acres under this chapter have not been obtained.

Sec. 30(c) provides that the entry permit is not assignable except

by testate succession (by a will or estate plan) or by intestate succession (inheritance by operation of law) (sec. 30(c)(1));

to a spouse during marriage (sec. 30(c)(2);

as a part of a divorce settlement order by a court  
(sec. 30(c)(3);

to either a member of the immediate family or, "in the  
case of extreme emergency or illness which disables the  
grantee," to a grantee selected by the applicant  
(sec. 30(c)(4).

Sec. 40 permits the revocation of entry permits.

Sec. 40(a) provides that an entry permit may be revoked by  
the commissioner for "any substantial breach of the permit  
conditions" or the "requirements of this chapter. The  
section then specifies a number of explicit requirements  
permitting cancellation:

an assignment, conveyance, or other transfer of the  
permit (to the extent not permitted under sec. 30(c)  
(sec. 40(a)(1);

failure of the permit holder to submit a plat of survey  
within two years of the issuance of the permit  
(sec. 40(a)(2);

failure of the permit holder to erect a dwelling within  
three years of the issuance of the permit except that  
the commissioner may extend the time required to com-  
plete the dwelling if it is substantially completed  
(sec. 40(a)(3);

failure to brush the boundaries within 90 days after  
issuance of the permit (sec. 40(a)(4).

Sec. 40(b) permits the improvements and personal property on  
the land to be managed under AS 38.05.090 if the permit is  
revoked.

Sec. 50 permits the issuance of the permit.

Sec. 50(a) is largely the reciprocal of sec. 40(a). Thus a  
patent shall issue if the permit holder

resides and lives on the entry land for not less than  
25 months within five years from the issuance of the  
permit (sec. 50(a)(1);

completes an approved survey within two years of the issuance of the permit (sec. 50(a)(2);

erects a habitable, permanent dwelling on the homestead within three years of the issuance of the permit (sec. 50(a)(3);

brushes the boundaries within 90 days of the issuance of the permit (sec. 50(a)(4).

Sec. 50(b) permits a permit holder to reside in a temporary residence on the entry before the permanent dwelling is completed.

Sec. 50(c) permits the commissioner to "reserve or exclude from a patent easements or rights-of-way for roads, trails, registered trap lines, public access ways, utility corridors, and transportation facilities." The term "registered trap lines" is interesting; as I understand it, legislation may be pending that would result in "registered trap lines." At this time, however, no such legal concept exists. See the definition at sec. 900(5).

Sec. 60 relates to the marking of boundaries. If it is impractical to brush boundaries, they shall be flagged. I would expect regulations to flesh out what is only hinted at here.

Sec. 70 deals with the priority of applications; the commissioner is directed to issue an entry permit to the first applicant to comply with sec. 20(b) (which means staking the corners, flagging the boundaries, and filing with the commissioner).

Sec. 80(a) permits use of land within municipalities that would otherwise be eligible for borough or city selection.

Sec. 80(b) provides that entries are subject to "local platting, recording, or subdivision requirements under AS 29.33 and AS 40.15."

Sec. 900 establishes definitions. The terms "brush", "habitable dwelling", "permanent dwelling", "registered trap lines", and "resident" are defined.

Sec. 2 establishes an immediate effective date.

Representative Rick Uehling  
Page 6  
April 20, 1983

If I may be of further assistance, please advise.

RAB:ljb  
15/025

## Summary of Teleconference

Topic: Homesteading

March 3, 1983

### Homesteading in General

Nearly all participants enthusiastically supported the concept of a homestead program. The overriding reason seems to be in keeping with the Article VIII, Sec. 1 & 2 of our Constitution:

#### ARTICLE VIII NATURAL RESOURCES

SECTION 1. It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

SECTION 2. The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

In short, participants seem to agree that Alaskan residents should have the opportunity to own land and determine for themselves what the use and lifestyle is appropriate on that land.

### Stipulations

Overall, the testimony seemed to indicate that 160 acres was an acceptable parcel size, and that a reasonable portion of that acreage should be cleared.

- a) SURVEYING - Yes, an accurate survey should be required, but it should not cost prohibitive. State funded surveys for major control points such as section corners would help reduce costs. Also, either loans, or additional time to complete survey requirements would help.
- b) HABITABLE DWELLING - Yes, a permanent habitable dwelling should be required.
- c) ACCESS - This topic of discussion came up repeatedly. First, their needs to be accessible to homesteads via rights-of-way preferably along section lines. Secondly, homesteads should not block public

access to streams, lakes, or public lands. Lastly, access to one's homestead should not be hindered by other homestead selections.

d) STAKING - Yes, their should be traditional staking requirements and boundary lines should be brushed and reasonably marked.

e) ENTRY - Participants, overall, did not support the lottery or auction approach to disposal and mentioned several times that HB 130 was not acceptable because it too closely resembled current land disposal programs. A traditional (select your own ground, stake it, and file for an entry permit) approach appears to have the strongest support.

f) CLEARING REQUIREMENTS - Nearly everyone felt that some clearing was reasonable, but many participants stressed that it should be a reasonable requirement Not one that adds extreme expense, but rather a "sweat equity" for the homestead entree.

g) OCCUPANCY - Again, most people favored occupancy requirements with the stipulation that homesteaders be required to make their home on the selection for a reasonable portion of 5 to 7 yrs. Suggestions varied, but an average of 5 mos. a year seemed to prevail.

h) OWNERSHIP - Nearly all participants wished to obtain a "fee simple" title or patent to the homestead selection upon fulfillment of requirements. Many expressed a desire for more sub-surface rights and water rights, in addition to surface ownership.

i) AGRICULTURE USE - Overall participants did not favor stipulations for Agriculture. Citing existing Ag programs and the need for homesteading, not necessarily small farm projects, those testifying seemed to stress the need for people to determine what use they had for their 160 acres. Most testimony indicated that on good land, some form of agriculture would be desirable, but it should not be made conditional by the state.

j) PRIOR LAND HOLDERS - Several participants expressed the need to let people who have participated in previous land programs also have the opportunity to homestead, as it was not available before.

k) LOANS - Many participants felt that loans should be available to offset expenses incurred while fulfilling homestead requirements.

Other Suggestions:

- a) SPECIAL EXCEPTIONS - One participant raised the issue of handicapped residents who may need special provisions to compete in the program. Veteran benefits were also cited by this individual.
- b) TRADITIONAL ACCESS - Trails, traplines and traditional routes of access should be maintained if at all possible.
- c) RESIDENCY - Most participants support the 1 year residency requirement, however, some felt that a longer term should be required (Constitutionally that would present the district possibility of a court challenge).
- d) ABANDONED ENTRIES - Should revert back to the state.
- e) MUNICIPAL CONSIDERATIONS - Should meet local municipal requirements for zoning and platting.
- f) SUBDIVIDING - It was suggested that a turn limit be set before sale or subdividing can occur.
- g) ADDITIONAL OCCUPANCY TIME - Two participants felt that homesteaders should live the greater portion of at least one year out of the total required on the homestead entry.
- h) SPOUSES - One person suggested that marriage should not prohibit two individuals from each filing separate homesteads.

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ROBERT H. ZIEGLER, SR., Vice Chairman  
DICK ELIASON  
PAUL FISCHER  
VIC FISCHER  
BOB MULCAHY  
ARLISS STURGULEWSKI



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
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## Senate Committee on Resources

June 10, 1983

### Memo

To: Senate Resources Committee Members

From: Senate Resources Committee Staff

Subject: Draft CS for CSHB 130, Homesteads

The attached draft amends CSHB 130 to address several of the comments received from the DNR, from the North Star Borough, from Tanana Chiefs Conference and citizens. The draft contains the following changes:

- It specifically would require DNR to provide lands classified for agriculture among the areas identified for homestead entry. Ag lands could be larger parcels (up to 160 acres), would require a 25% clearing and preparation for cultivation in addition to the other "sweat equity" requirements, and under existing statute only ag rights patent would be issued.
- It would change the maximum acreage available for homestead staking for non-ag lands from 160 acres to 40 acres.
- It would give DNR the latitude similar to current remote parcel statute to specify staking conditions, parcel spacing, acreage, etc.
- Applicants would be limited to one homestead per lifetime rather than 160 acres per lifetime as in House bill.
- The remote parcel program would be repealed and most of the relevant requirements and benefits rolled into the homestead program. As such homestead entrymen could elect within two years to purchase parcel for fair market value with terms under existing law and do a survey similar to existing remote parcel rather than prove up through sweat equity requirements. Both systems could work on the same areas open for staking. Current remote parcel lessees could elect to obtain patent through sweat equity requirements of homestead program.
- The time to complete a survey by entrymen could be administratively extended from two to three years if a good-faith effort to obtain a survey has been made.
- To facilitate individual surveys and avoid staking errors, DNR is required to monument along all section lines every two miles in homestead areas. The House bill only required exterior boundary monumentation.

REMAINING QUESTIONS, OPTIONS

- Adoption of this legislation would set up different "sweat equity" requirements as are now required under the "homesite" program. Other out-of-sync homesite requirements include 3-year residency. Perhaps now, but certainly during the interim we should look at either the possibility of rolling in the "homesite" program or bringing the homesite requirements into conformance with this legislation and court rulings.
- Surveying represents a significant cost to DNR. The more surveying that is done, the more state expense is incurred. But the less surveying of staking areas that is done, the more likelihood of staking errors, confusion and higher survey costs for individuals. Thus, compromises are necessary and alternatives exist on the amount of pre-surveying that might be required of DNR for homestead parcel areas.
- Repeal of the Remote Parcel program may cause confusion or hard feelings on the part of the public who may have wanted to enjoy some aspect of that program such as the 5 and 10-year leasing option prior to patent. An option would be to keep this program on the books and let DNR have the ability to continue to use it if necessary.
- There are several other sections of Title 38 which deal with DNR's making land available in various program including remote parcels, lotteries, and homesites. There is an obvious need to go back and review the statutes to see if any new program such as homesteading is properly or appropriately considered with other programs.
- DNR has suggested that if homestead lands are made available in accessible popular areas, a land "stampede" may result with considerable confusion and overlapping staking. It might be helpful to give DNR authority or a directive to conduct a lottery to determine the number of stakers who would be permitted to enter a staking area.
- This CS would limit homesteads to one per lifetime. It would be possible for persons to have one homestead, one homesite and other lands. The question of limiting total "sweat equity" patents might be considered.
- The remote parcel program currently has a stipulation that a parcel can't be sold or subdivided for 10 years after receiving patent. A similar limitation might be considered for homestead patents.

# MEMORANDUM

# State of Alaska

TO: The Honorable John Ringstad  
Co-chairman, House Resources Committee  
Alaska House of Representatives

DATE: March 4, 1983

FILE NO:

TELEPHONE NO: 465-2400

FROM: Sharon Barton *SB.*  
Special Assistant  
Department of Natural Resources

SUBJECT: Homestead program

In the last hearing on the homestead bill, the House Resources Committee requested maps of the kinds of areas which DNR would consider for homesteading. I have attached copies of quad maps indicating such areas in northcentral and southcentral Alaska. Please understand that these are only "representative" areas - no decision has been made as to the final disposition of these lands nor is this a complete listing of such lands.

In response to a second question, DNR would attempt to offer approximately 10-15,000 acres per year for homesteading given the current level of the land disposal program.

Attachments

145° W 13 E

R 14 E 700 000 FEET

R 15 E 30

R 16 E

R 17 E

144°00

66°00

14 N

"Central"

Boj Lake

Little Crazy Mountains

15E

RIVER

Creek

Landing Area  
Circle

Fiasco Lake

Bluff

11N

Crazy

Mountains

Boulder Hill

Twelve Mile House  
(Site)

10N

Albert

Crooked

Creek

9N

Gating Sta  
Gravel Pits  
Central

Medicine Lake

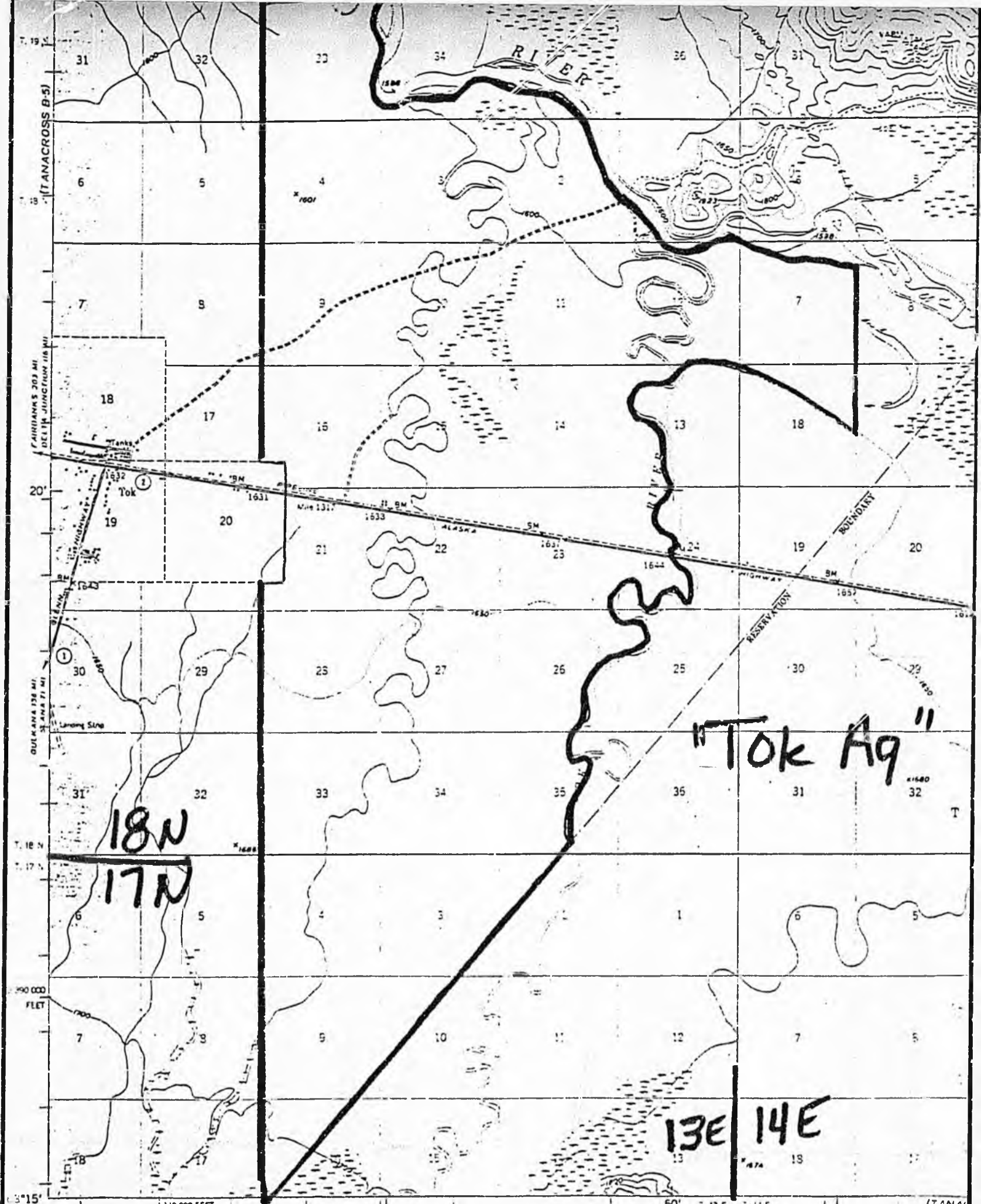
Circle  
Hot Springs  
(Circle Springs POT)

Ketchum  
Dome

VALM  
Z. Pool  
919





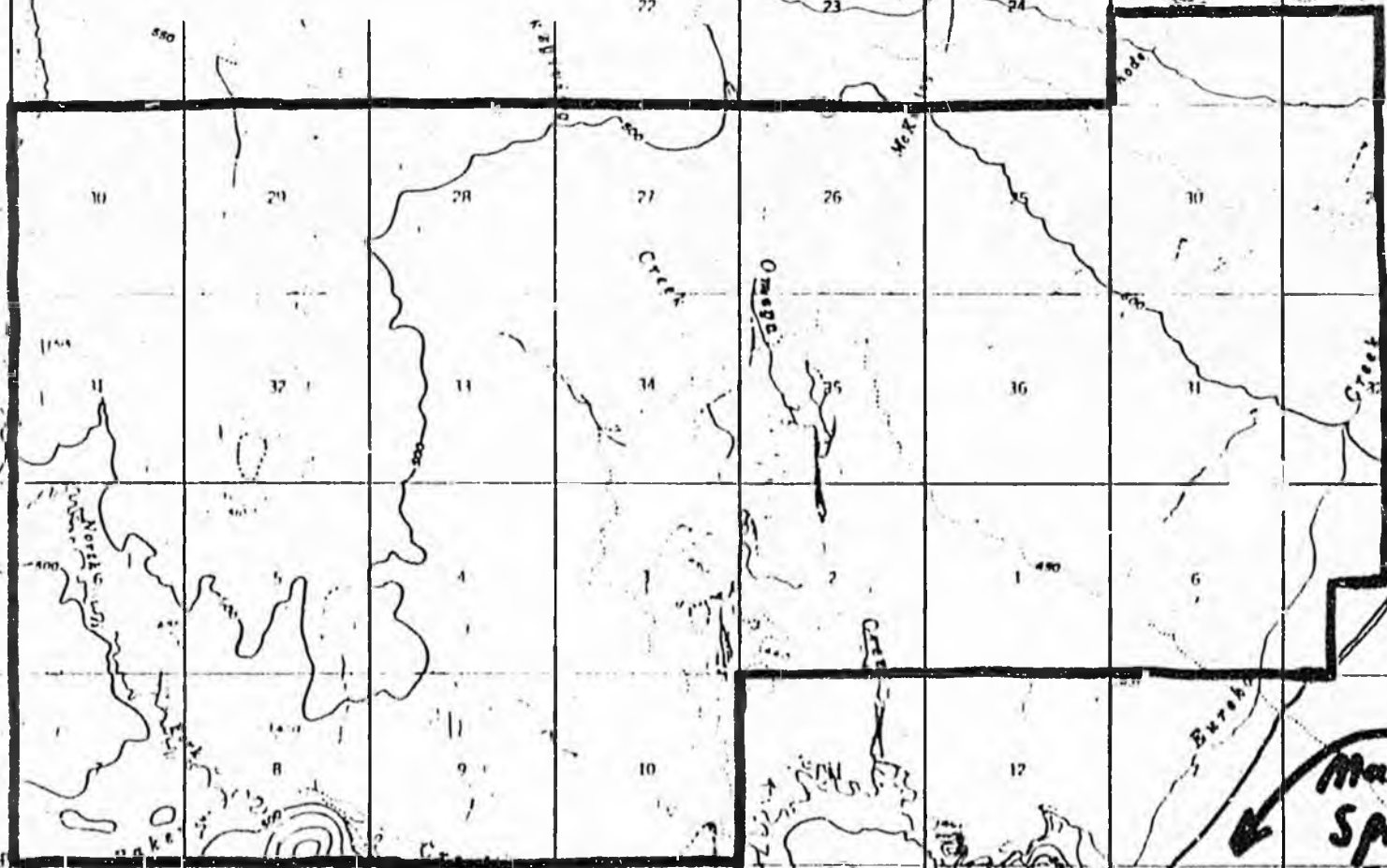


# Overland Agricultural

Access: Manley Hot Springs Road  
Conflicts: Proximity to Sean Ridge Selected lands. Mining activity located in hills to the north. Proposed by request of residents of Manley.



T. 4 N.  
T. 3 N.

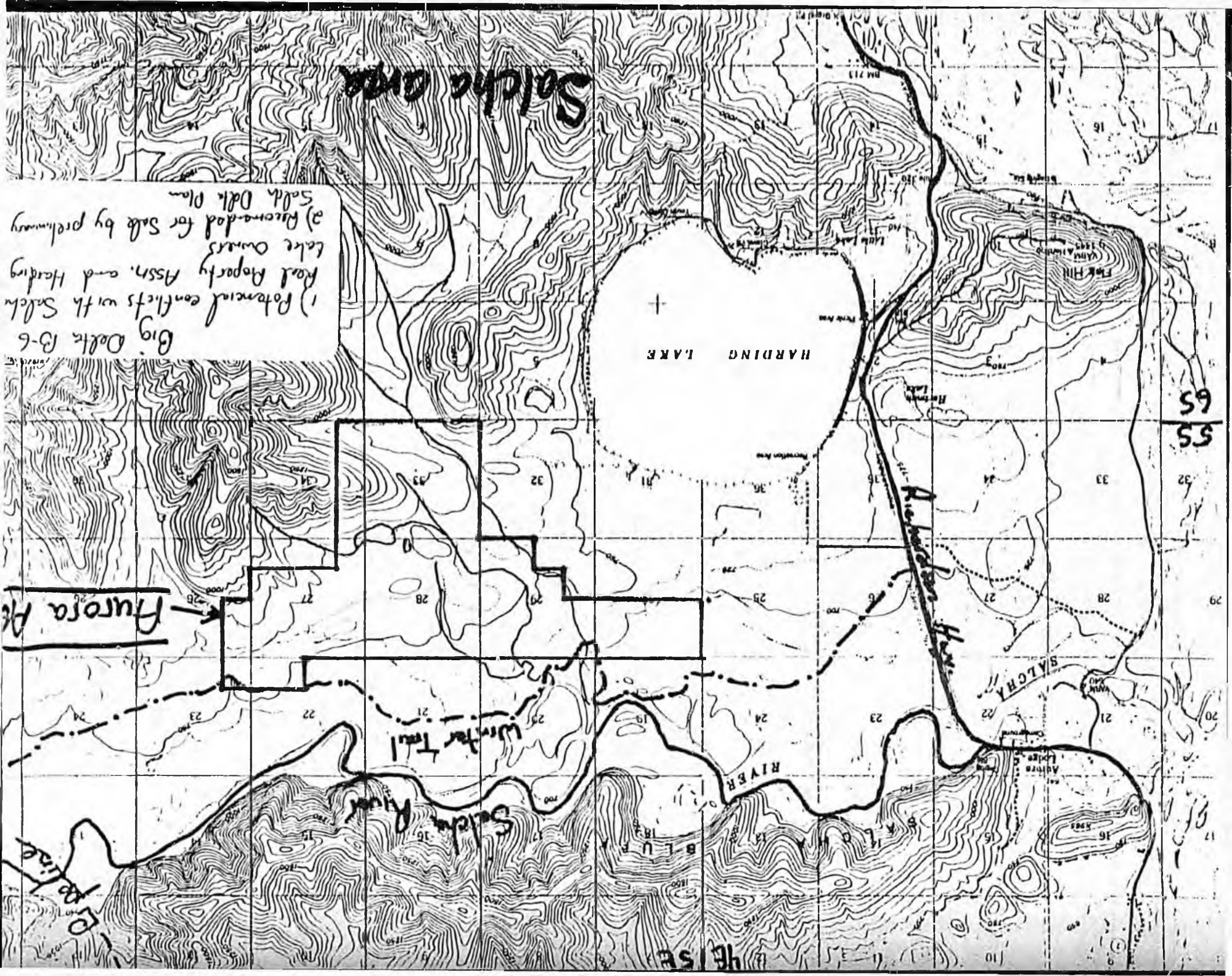


Manley Hot Springs  
15 miles

Township A-1  
Fairbanks Meridian

R. 14 W. R. 13 W.

Township A-1



Salcha area

Big Dots B-6  
1) Potential conflicts with Salcha  
Road Property Assn. and Harding  
Lake Owners  
a) Recommended for Sale by preliminary  
Salcha Delt. Plan

Furosa Pt

Palatine

65  
55

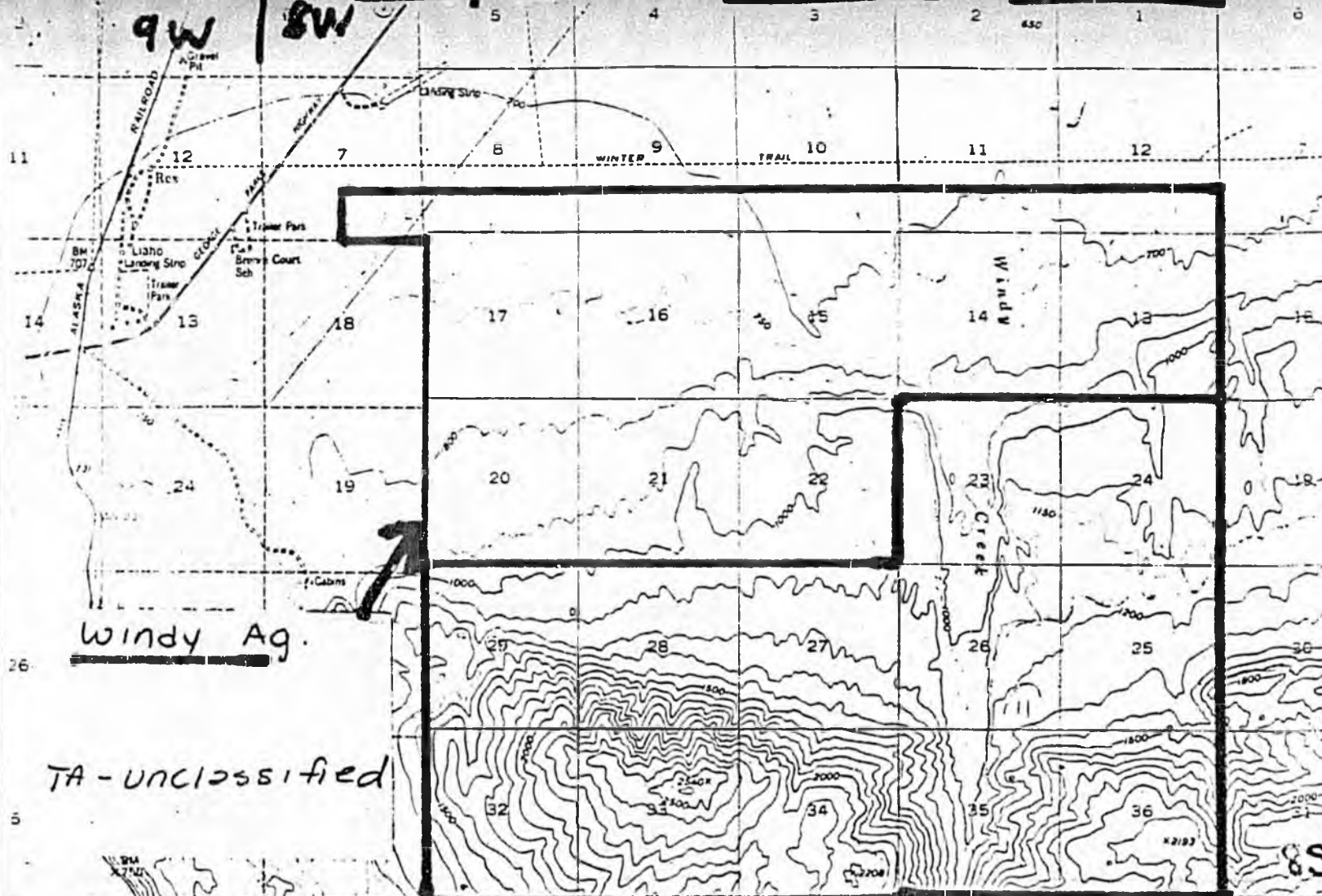
32

29

20

17

10



Windy Ag.

TA - unclassified

Conflicts:

- soil quality unknown

Southwind Remote

40's

TA - unclassified

Conflicts:  
possible state  
mining claim in section

33

T8S R8W FM  
Fairbanks (A-5)

**Clear Area**

3/1

① Map of

Delta head - Delta Salinas  
Nimera - To  
Desha Flats

Cosmo - Moorhead  
TOK -

Kushokim - Beech  
↳ all state lands

② Fun Farneis  
Permit?

③ Join Apr 15<sup>th</sup>

Jim La-sua - <sup>Bob</sup> takes a professor (quit)

Lloyd Lavaca - ~~B~~ Management funds

Lopeland extended 2 weeks (DRD) also SE Planner

Van Horn - Donna Lane to DRD

① Litch - Goldberg - go

Bill Wright - Justice 10

Don Yang - Duran Vol deungado

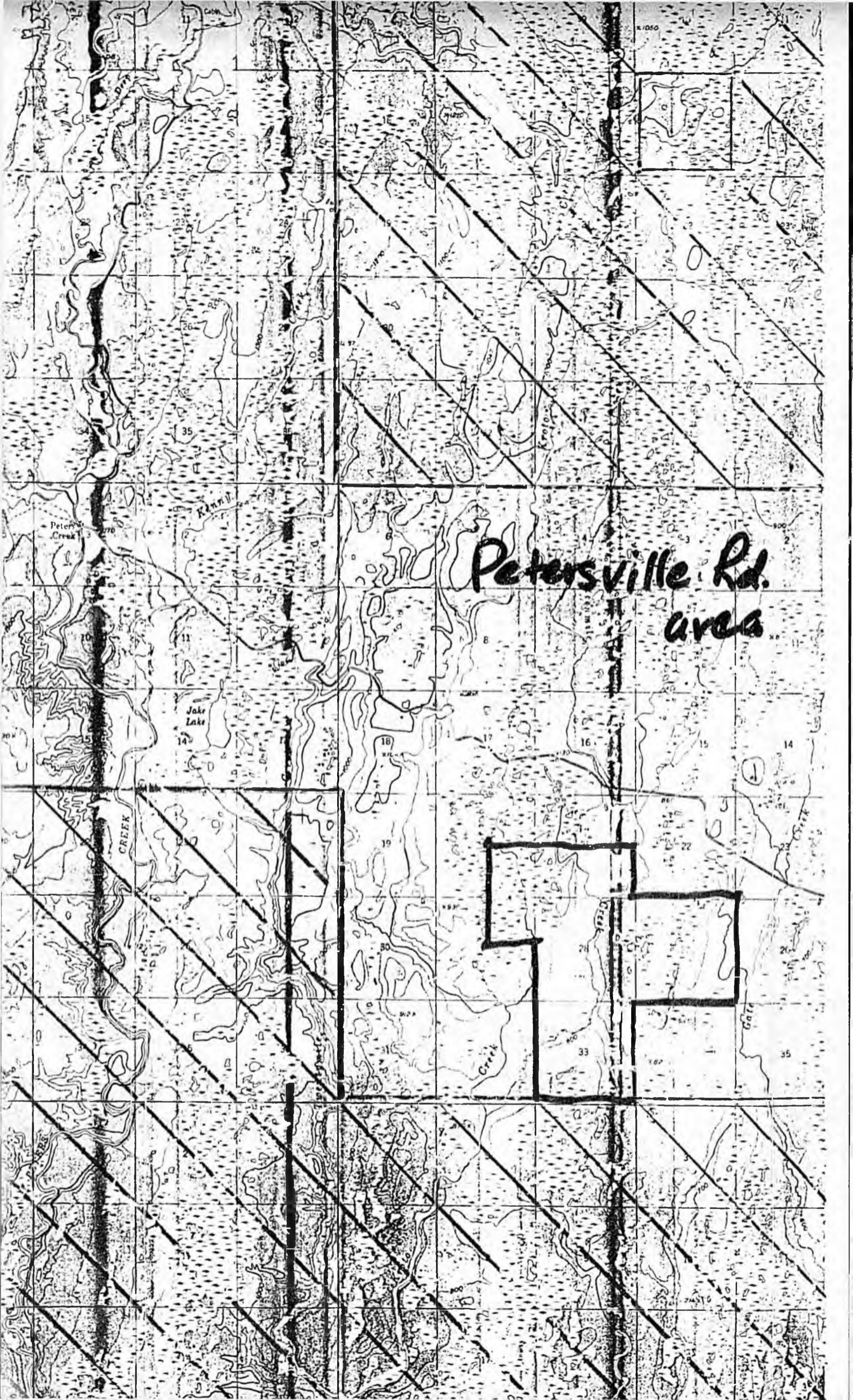
③ Thompson -

Steve Mack - Janice - D665

④ Jhara - Wignar / Pedrof / Skelton  
Talk to Tom

⑤ Weekly reports to Barnett - use to show doing a lot -  
3 PM daily - call from Jimena to Barnett

- Wed Comm. Sec
- Hus. Kawai



1:7050

**Petersville Rd.  
area**

Petersville Creek

Kann

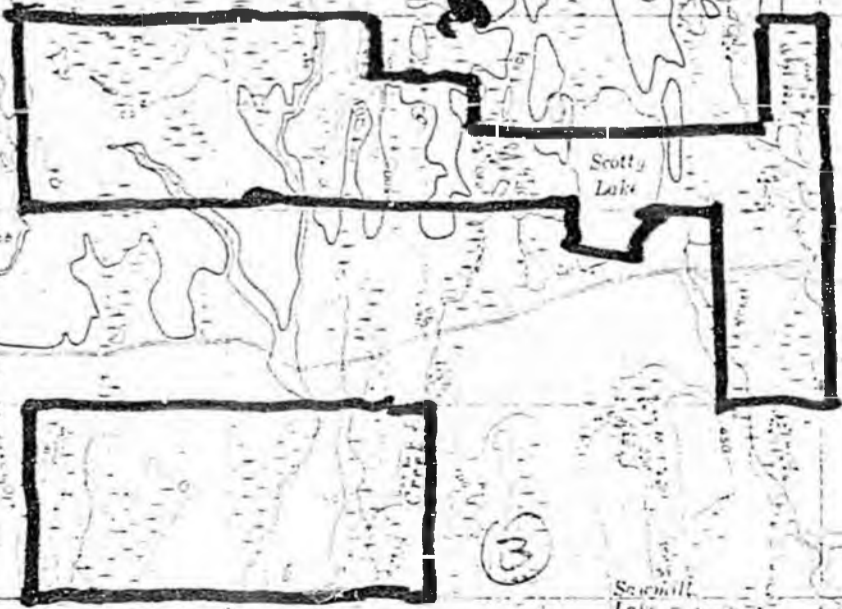
Jahr Lake

CREEK

Creek

Gar

*Trapper Creek area*



Mooson  
Creek

Trapper  
Creek

Scotty  
Lake

Sawmill  
Lake

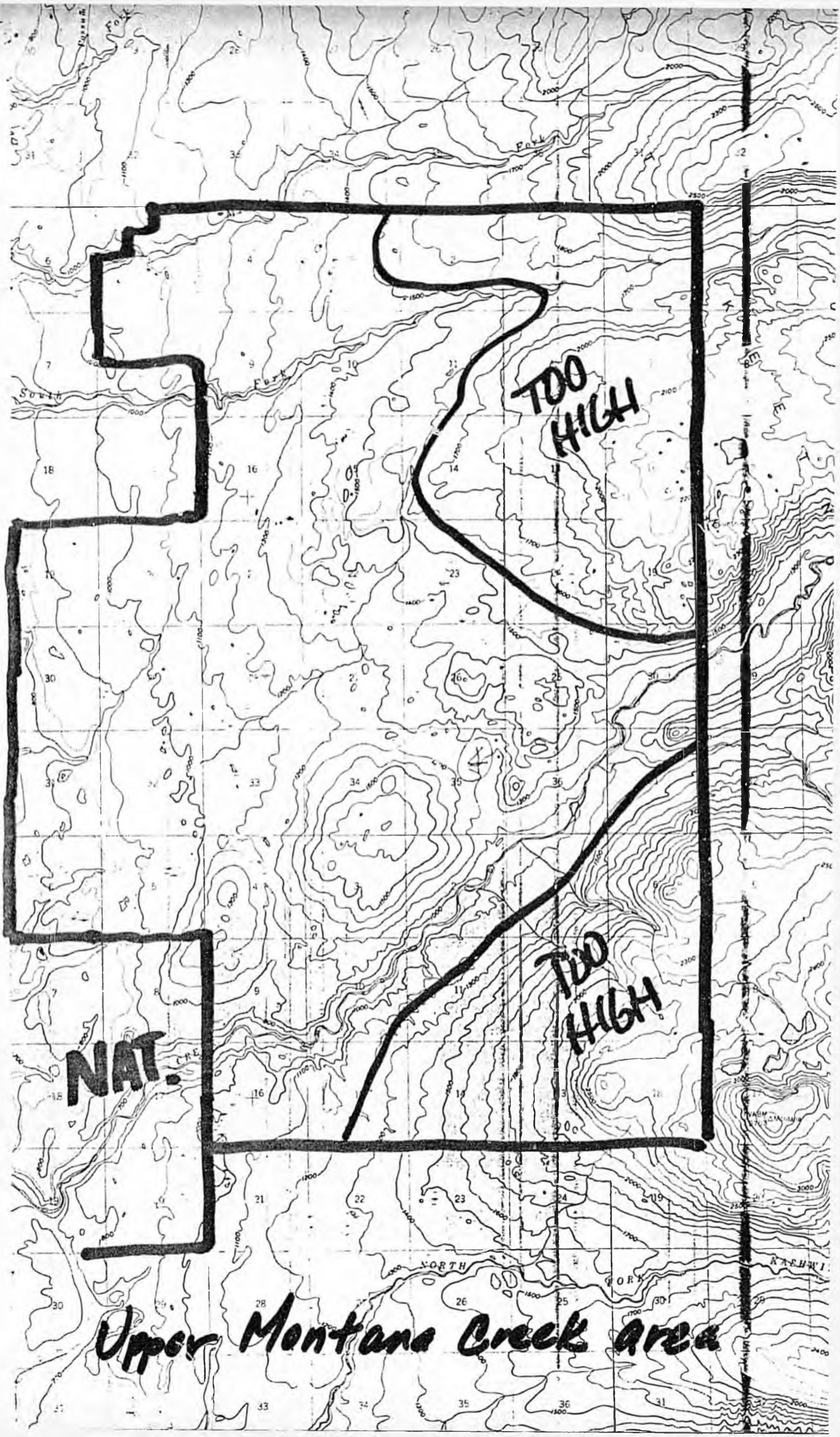
SHELDON

DEKINER

PROPER

(3)

(2)



TOO HIGH

TOO HIGH

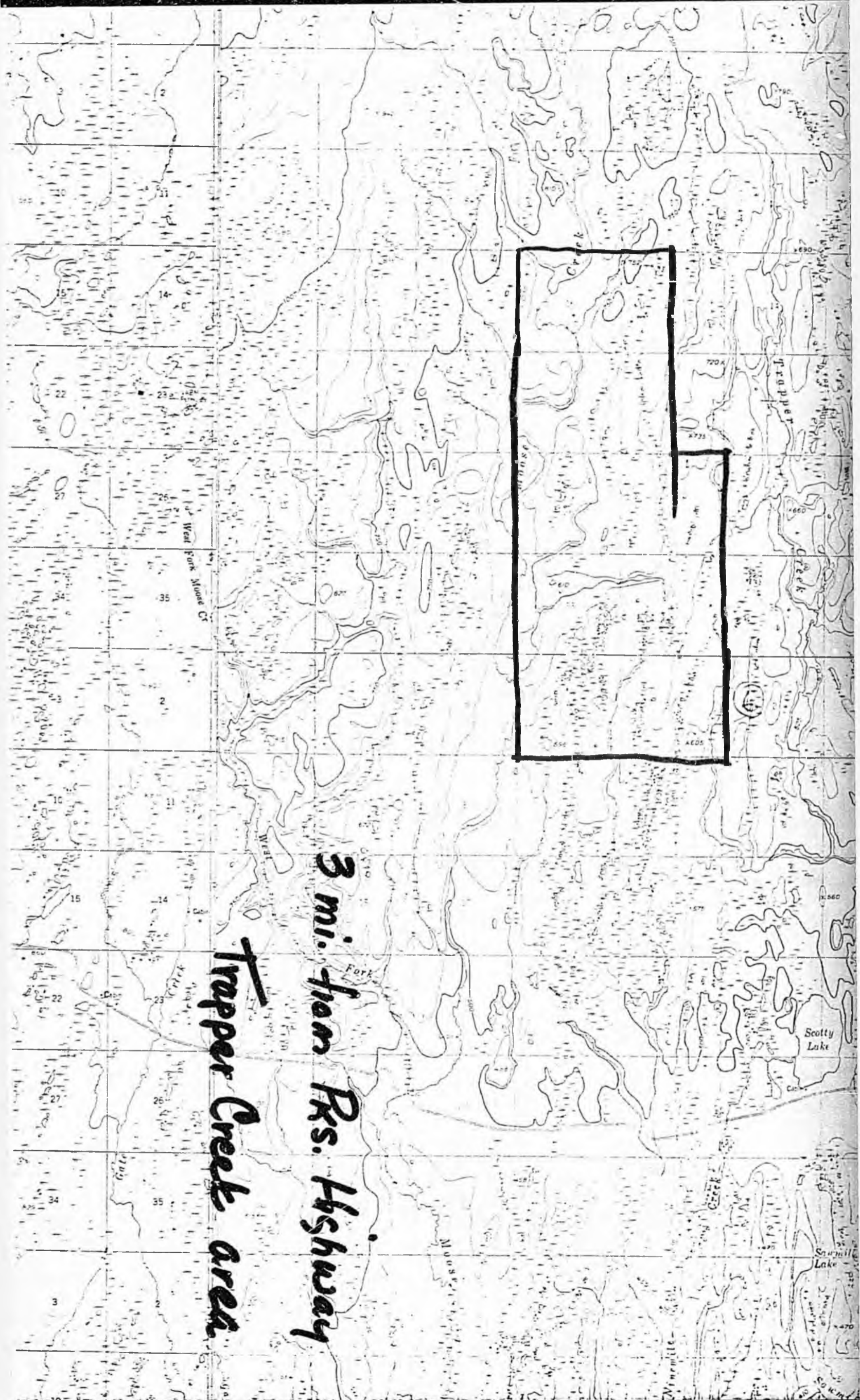
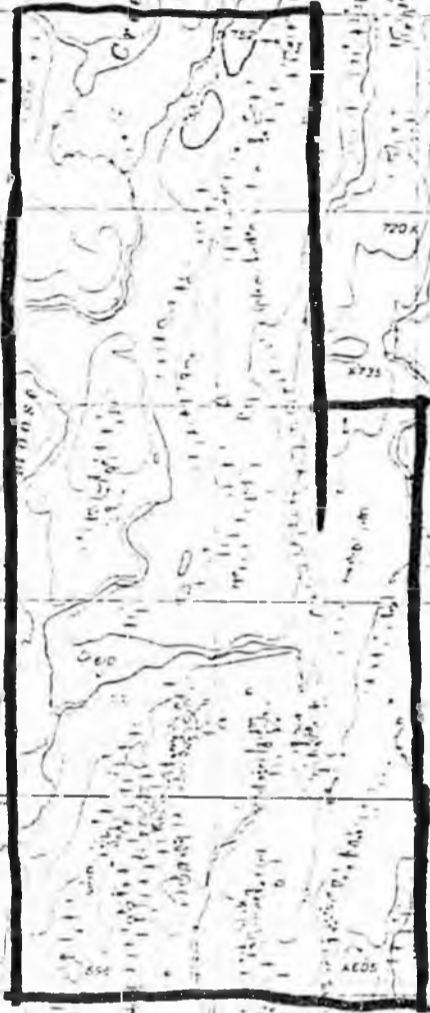
NAT.

Upper Montana Creek area

**KAHULTNA  
REMOTE**

**Schneider Lk.  
area**

*3 mi. from R.S. Highway  
Trapper Creek area*



**Effect of amendment.** — The 1977 amendment rewrote this section.

**Editor's note.** — Section 12, ch. 138, SLA 1977, provides: "CONVERSION OF LEASES. The provisions of secs. 9-11 of this Act are applicable to state leases which are in existence on or before the effective date of this Act if a lessee under a lease elects, in writing, to be bound by this Act. When a lessee elects to be bound by the provisions of this Act, the state shall enter into a new lease with the lessee for a term equal to the remaining period of the original lease which is being terminated that is consistent with the provisions of this Act. However, for purposes of determining the annual rent by the state, the fair market

value of the property which is used to establish the fixed base annual rent for the initial period of the lease may not exceed the fair market value as it was last appraised on or before January 1, 1975, brought forward to January 1, 1976, at the rate of 10 per cent per year, or, if the lease was entered into after January 1, 1975, on the basis of the fair market value at the time the lease was entered into."

Section 13, ch. 138, SLA 1977, provides: "The provisions of sec. 12 of this Act expire January 1, 1979."

Quoted in *Alyeska Ski Corp. v. Holdsworth*, Sup. Ct. Op. No. 406 (File No. 620), 426 P.2d 1006 (1967).

**Sec. 38.05.087. Forest Service permittees' leasing preference.** (a) Before offering to the public any land for lease which is subject to a valid existing United States Forest Service permit in effect in a state-selected area at the time the area was patented to the state, the director shall offer the land for leasing to the permittee at not less than its fair appraised market value before offering it to the general public.

(b) When not in conflict with this section, other provisions of §§ 70 — 105 of this chapter apply to leases under this section. (§ 1 ch 26 SLA 1963)

**Sec. 38.05.090. Removal or reversion of improvements upon termination of leases.** (a) Improvements owned by a lessee on state land shall, within 60 days after the termination of the lease, be removed by him if removal will not cause injury or damage to the land. The director may extend the time for removing improvements in cases where hardship is proven. The retiring lessee or permittee may, with the consent of the director, sell his improvements to the succeeding lessee or permittee.

(b) If improvements or chattels, or both, having an appraised value exceeding \$10,000 as determined by the director are not removed within the time allowed, the improvements or chattels or both shall, upon notice to the lessee, be sold at public sale under the direction of the director. The proceeds of sale inure to the lessee who placed the improvements or chattels on the land after paying to the state all rents due and expenses incurred in making the sale. If there are no other bidders at the sale, the director may bid in the name of the state. The bid money shall be taken from the fund to which the land belongs and the fund shall receive all money or other value subsequently derived from the sale or leasing of the improvements or chattels. The state acquires all the rights that any other purchaser could acquire by reason of the purchase.

(c) If improvements or chattels, or both, having an appraised value of \$10,000 or less, as determined by the director, are not removed within the time allowed, they revert to the state and absolute title vests in the

state. The preference right lessees of grazing or forest lands may follow the provisions for removal of improvements upon termination of the lease as authorized in the cancelled federal lease or permit.

(d) Improvements of the lessee which have become fixtures of the land shall be purchased by the subsequent purchaser or lessee of the land if the improvements were authorized in the former lease or by permit from the director. Upon the termination of a lease, and at additional times which may be necessary, the value of the authorized fixtures remaining on the land shall be set by agreement between the former lessee and the director or, if agreement cannot be reached, by an independent appraisal made at cost to the former lessee.

(e) A notice or offer by the state to sell or lease formerly leased land shall state

- (1) the value of the authorized fixtures remaining on the land;
- (2) that the purchaser or lessee will be required, as a condition of the sale or lease, to purchase the fixtures from the former lessee for an amount equal to the value specified. (§ 4 art V ch 169 SLA 1959; § 12 ch 61 SLA 1960; § 5 ch 74 SLA 1961; am § 1 ch 140 SLA 1966)

Legislative committee report. — For report on ch. 140, SLA 1966 (HCSCSSB 280), see 1966 House Journal, p. 1026.

C.J.S. reference. — 73 C.J. Lands § 23.

Cited in *Swindel v. Kelly*, Sup. Ct. Op. No. 812 (File Nos. 1416, 1418), 499 P.2d 291 (1972).

**Sec. 38.05.095. Subleases.** A lessee may sublease or assign or portion of it upon which he has a lease if, after application to the director, the director issues a permit. The director may issue a permit if he finds that it is in the best interests of the state to do so. (V ch 169 SLA 1959)

**Sec. 38.05.100. Renewal of lease.**  
Repealed by § 15 ch 257 SLA 1976.

Editor's note. — The repealed section derived from § 6, art. V, ch. 169, SLA 1959; § 1, ch. 77, SLA 1966.

Legislative committee report. — For report on ch. 77, SLA 1966, see 1966 House Journal, p. 896

**Sec. 38.05.102. Lessee preference.** If land within a leasehold created under §§ 70 — 100 of this chapter is offered for sale or long-term lease at the termination of the existing leasehold, the director may, if he finds that it is in the best interest of the state, allow the holder in good standing of that leasehold to purchase or lease the land for the amount of the high bid received at public auction. (§ 2 ch 36 SLA 1976; § 7 ch 257 SLA 1976)

Revisor's note (1976). — AS 38.05.102 was added by both § 2, ch. 36, SLA 1976, and § 7, ch. 257, SLA 1976. Since the two

acts appear to be inconsistent, and ch. 36 is superseded by ch. 257, only the later enactment has been given effect here.

# Alaska State Legislature

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## Senate

### Committee on Resources

June 13, 1983

#### Memo

To: Senate Resource Committee Members

From: Senate Resources Committee Staff

Subject: Proposed CS for CSHB 130, Homesteads

Attached is a proposed CS which we will be considering today at 3:00pm. This bill contains several changes from the draft which was handed out on June 10. The additional changes are marked with an asterisk below.

The proposed Committee CS makes the following changes from the House CS:

- Would require DNR to provide lands classified for agriculture in addition to other lands made available for homestead entry. Ag lands could be larger parcels (up to 160 acres), would require a 25% clearing and preparation for cultivation in addition to the other "sweat equity" requirements, and under existing statute only ag rights patent would be issued.
- Would change the maximum acreage available for homestead staking for non-ag lands from 160 acres to 40 acres.
- Would give DNR latitude similar to current remote parcel statute to specify staking conditions, parcel spacing, acreage, etc.
- Applicants would be limited to one homestead per lifetime rather than 160 acres per lifetime as in House CS.
- The remote parcel program would be repealed and most of the relevant requirements and benefits rolled into the homestead program. Current remote parcel lessees would be protected and would also have the option of obtaining patent through sweat equity requirements of homestead program.
- Like remote parcel program homestead entry stakers would have the option of purchasing parcels at fair market value if they elect to within two years of staking and meet survey, brushing, and clearing requirements (ag only).
- \* ---If land purchased within two years, patent would contain condition that land not be sold or subdivided within 5 years of patent.
- The time to complete a survey by entrymen could be administratively extended from two to three years if a good-faith effort to obtain a survey has been made.

---To facilitate individual surveys and avoid staking errors, DNR is required to monument no less than one mile from each homestead entry available for staking. The House bill only required exterior boundary monumentation.

- \* ---Sections 2-6 were added to the draft CS to conform other sections in Title 38 to the repeal of the remote parcel program. Where applicable, references to remote parcels or to the statute sections were substituted with references to homesteads and its statute chapter.
- \* ---Section 9 on page 8 was added to have the repeal of the remote parcel program and other statute references take effect July 1, 1984 rather than immediately with the homestead program. The purpose is to permit the DNR time to continue to offer remote parcel lands before the homestead program can be implemented.

#### AMENDMENT

One optional amendment is attached which would authorize the DNR to conduct a lottery to limit the number of stakers permitted to go out and stake in a certain area.

OPTIONAL AMENDMENT FOR SENATE RESOURCES COMMITTEE CS FOR CSHB 130

On page 2, between lines 15 and 16, add an additional subsection (g):

" (g) The commissioner may limit the number of persons permitted to stake homestead entries within an area designated under (a) of this section by a lottery of qualified applicants. "

RATIONALE

If homestead land were opened for staking in an accessible or other desirable location, there may be a "land rush" of hundreds of stakers attempting to stake land. This could result in confusion, overlapping staking and disorderly staking patterns. The amendment would allow the commissioner to limit the total number of potential stakers permitted to go out in an area when the commissioner determines that many more stakers may be present than available homestead parcels. On the other hand, the amendment would permit the commissioner greater latitude over the program and limit the opportunities of individuals to "compete" for lands.