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INITIAL ANALYSIS

CSHB 28 (Resources) "An Act relating to the transfer of the ownership and management of University of Alaska trust land from the Department of Natural Resources to the Board of Regents of the University of Alaska; and providing for an effective date."

Sec. 1 States the purpose as providing for settlement of claims and litigation and to transfer ownership and management of certain U of A trust lands from DNR to the Board of Regents.

Sec. 2 Ratifies the agreement

Sec. 3 Directs the commissioner of DNR to convey to the Board of Regents the right, title and interest of the State to certain lands:

- 1) land identified in Appendix N of the settlement agreement
- 2) land listed in Appendix O, in priority order, which equals in appraised value the compensation due U of A under Appendix M, less the compensation appropriated in HB 45 (or SB 40).

Sec. 4 Amends AS 14.40.170, describing the duties of the Board of Regents, to have the care, control and management of the lands conveyed by the Act.

Sec. 5 Also amends AS 14.40.170 by adding three new duties to those of the Board of Regents:

- 7) requires reasonable rules to ensure prudent trust management and long term financial benefit to the University
- 8) requires public notice of sales, leases, exchanges and transfers of the land
- 9) requires a report to the Legislature within first ten days of each regular session on expenditures from revenue derived from sales, leases, exchanges, or transfers of the land (this sub-section added in Senate Judiciary)

Sec. 6 Adds another section to Title 14, Chapter 40, to clarify that U of A grant lands are not and may not be treated as State public domain land, and precludes acquisition by adverse possession, prescription or any other manner except conveyance by University. But allows condemnation for public purposes.

Sec. 7 Disallows anything in this Act to preclude or prejudice negotiations between U of A and municipality of Anchorage to settle case number 3AN-79-2801 Civil, 3rd Judicial District.

Sec. 8 Disallows anything in this Act to preclude or prejudice negotiations between Verne T. Weiss and State of Alaska, case number: 4FA82-2208.

Sec. 9 Requires a report by 10th day of 14th Legislature (1985) from Board of Regents on the goals, objectives and plans for the management of the trust lands.

Sec. 10 Provides an effective date.

This bill is identical to CSSB 41(Res) am, which is currently in Senate Rules Committee.

REQUEST

Bill/Resolution No.: HB 28 / HB 46
 Title: Re University Lands
 Sponsor: Martin/Ringstad
 Requestor: House Resources

II. FISCAL DETAIL

Agency Affected: Natural Resources
 Program Category Affected: Management
 BRU, Program of Subprogram(s) Affected: Land Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		79.36				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The \$79,360 needed to implement this legislation is included in the appropriation made by Section 2 of HB 45.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Mark Wittow Phone: 465-2400
 Division: Commissioner's Office Date: 4/15/83
 Approved by Commissioner: Maughball Date: 4/18/83
 Department: Natural Resources

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)

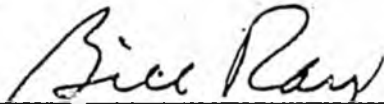
SENATE JUDICIARY COMMITTEE

LETTER OF INTENT

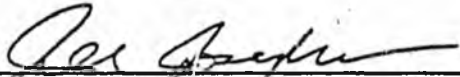
CSSB 41 (Resources) am

It is our intent that the University of Alaska Board of Regents utilize at least 40% of its Land Grant Trust Fund income for the University Land-grant mission of capital projects and teaching support for agricultural, forestry, fishing and mineral development and education.

Furthermore, as indicated by our amendment to the Resources Committee substitute for Senate Bill 41, it is our intent to require annual reports from the Board of Regents, to be submitted within 10 days of the start of each legislative session, setting forth details of the Board's past, present and future compliance with the above-stated legislative intent.



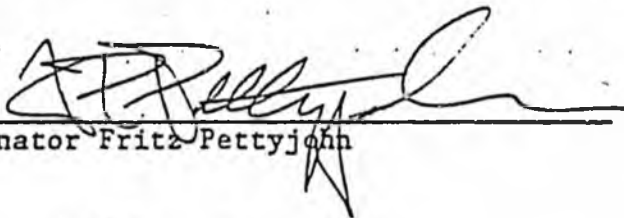
Senator Bill Ray - Chairman



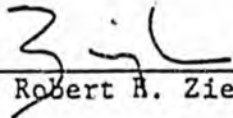
Senator Joe Josephson - Vice Chairman



Senator Richard Eliason



Senator Fritz Pettyjohn



Senator Robert H. Ziegler

THE UNIVERSITY OF ALASKA

Jay Barton, President

Briefing Paper

UNIVERSITY LANDS SETTLEMENT AGREEMENT

November, 1982

For further information contact:

Merry Tuten
Director of Land Management
(Statewide)
474-7421

EXECUTIVE SUMMARY

The Settlement Agreement provides a method for calculating compensation due the University as a result of improper management of University grant land. Compensation is provided for:

- easements and rights of way granted by the State without University approval or compensation
- residential, utility, commercial, agricultural, and private recreation leases let and administered at less than fair market value
- material (gravel/sand) removed for use by state agencies without payment to the University
- uncollected revenues from state sales of resources such as coal, oil and gas, and timber
- free use permits, land management transfers, reserved use requests, and special land use permits issued without University approval or compensation
- legislative withdrawals of University lands for parks and preserves without University approval or compensation
- land exchanges which have only been partially completed without the University receiving its share of the land to be exchanged

To compensate the University for these actions, the Settlement Agreement provides for the transfer of title, management, and control of University grant lands from the State to the University. The State and University agree that the University would more properly manage these lands to produce income and support the University. The Settlement Agreement also provides for the appropriation of funds and/or the conveyance of state "replacement" lands to equal the dollar value of the compensation owed the University. The Settlement Agreement provides a detailed method for calculating the compensation for items above and results in a total dollar amount.

BACKGROUND

The University of Alaska originally received its lands from the Federal Government by two Acts of Congress, in 1915 and 1929. These Acts were extensions into the Territory of Alaska of the Land Grant College concept pioneered by the Morrill Act of 1862 which established Land Grant Universities throughout the Continental United States. Under these two congressional Acts the University was granted 110,000 acres of land which were to be held in trust and were reserved for the exclusive use and benefit of the University of Alaska for the support of higher education in Alaska.

Upon statehood the new State of Alaska accepted the trustee responsibility for these "grant" lands. Since the purpose of the federal grant was to produce income to support the University the State should have actively managed and developed these lands. Instead, the State treated the University Grant Lands as though they were State lands and made them available at less than fair market value. In addition, the legislature passed laws that transferred University lands into nonprofit making uses such as state parks and wildlife withdrawals without compensating the University. As a result of these legislative and administrative actions the University lost considerable acreage and income. During the twenty years of State management only \$2.7 million in income was produced from the entire 110,000 acre federal land grant. These proceeds were deposited into the University of Alaska Permanent Fund and the interest earnings were used to support University programs.

In 1978 the University intervened in litigation between a private company and the State questioning the State's right to withdraw University grant land into state parks without compensating the University. While this lawsuit proceeded through the court system the University filed a second suit against the State in order to clarify the ownership and trustee responsibilities surrounding all University grant lands.

In 1981 the Alaska Supreme Court rendered a decision on the first lawsuit in which the University had intervened. The court reaffirmed that University grant lands are for "the exclusive use and benefit of the University, that such lands cannot be taken without compensation," and

that the State is required by the federal legislation conveying the land grant "to manage said University lands to effect the purpose of the trust, which is the production of income for the benefit of the University."

The second lawsuit is still pending in Superior Court. However, following the Supreme Court's ruling in favor of the University on the first lawsuit, the University entered into negotiations to settle all litigation with the State Departments of Natural Resources, Administration, and Revenue and, after 13 months of negotiation, reached an out-of-court settlement (enclosed).

During the 1981 - 1982 legislative session the State and University sought the legislature's ratification of this out-of-court settlement. Although both the House and Senate passed the initial bill unanimously, other issues unrelated to the land settlement question were added to the final bill and it was consequently defeated in committee. The legislature did, however, appropriate \$500,000 to the University and the State in order to implement the terms of the Agreement. The State and University will be seeking ratification of the Settlement Agreement during the 13th Alaska Legislature.

ISSUES

1. Why should the University own land and be in the land management business?

The federal government granted trust land for the exclusive use and benefit of the University of Alaska. The Alaska Supreme Court has held that the university's grant lands must be managed "to effect the purposes of the trust, which is the production of income for the benefit of the university." However, the state manages and disposes of its lands for purposes other than to maximize earnings. Accordingly, the purposes for managing university trust lands and state-owned lands are completely different. Furthermore, the state has disposed of university trust land and products therefrom at less than current market value. For these reasons, the university's board of regents has felt compelled to assume direct responsibility for the control and management of university trust lands.

2. What will the University do with the money it receives from its trust lands?

Income produced by the university's lands is deposited into the university's permanent fund which is held and managed by the state Department of Revenue. The state informs the university how much investment income it will receive from its permanent fund and the university informs the state how that income will be used. No change in this procedure or in legislation governing the university permanent fund is required at this time. For further information on the university's permanent fund and its use, the reader's attention is invited to the university briefing paper entitled "University of Alaska Permanent Fund."

3. Does the Settlement Agreement benefit the state?

Yes. The agreement resolves a long standing legal issue at minimal cost to the public, clarifies Department of Natural Resources responsibilities, and provides the university with its original federal endowment. The settlement will also benefit the state by enabling its university to become a better, higher quality university, at lower cost to the state, than would be possible without the federal endowment.

4. Why does the State "owe" the university any compensation since the legislature funds the university every year?

The Alaska Supreme Court held that the university is entitled to compensation for takings by the state of university trust land at less than fair market value. This compensation is a single "one-time" payment stemming from a judicial decision. This payment is necessary to re-establish the land grant trust endowment provided by the Congress to provide financing in perpetuity to help support the university. Congress intended that this endowment funding be provided in addition to, not simply to replace, annual general fund support of the university by the state.

5. If the legislature appropriates funds and land as compensation for past actions, will the university be able to support itself from land revenues?

No, investment earnings will not be large enough in the foreseeable future to have any significant influence on the amount of general funds needed to support the university.

RECOMMENDATIONS

Calculations of compensation due the university under the terms of the settlement agreement are shown on the next page. Accordingly, the university now recommends that: the terms of the out-of-court settlement between the university and the state Department of Natural Resources be ratified by the legislature.* Specifically, the university recommends that:

1. It be granted title, management, and control of its federally granted trust lands.

2. It receive cash and land compensation from the state in accordance with the closing statement shown below.

3. Alaska statutes be corrected to reflect the transfer of university trust lands from public ownership to management by the university's board of regents.

* Under the terms of the settlement agreement, the state Department of Natural Resources must review the university's calculation of compensation to determine whether or not it agrees with the grand total so derived. This review has not, as of this writing, been completed.

12/20/82

CLOSING STATEMENT

Compensation due the University of Alaska computed in accordance with the settlement agreement--

<u>SOURCES OF COMPENSATION</u>	<u>IN LAND*</u>	<u>IN CASH</u>
Leased Lands	\$ 15,364,693	
Uncollected Revenues		\$ 154,454
Material Sales		42,418
Rights of Way		2,177,763
Liquidated Damages	0	
Back Pay for Leases		2,344,676
Legislative Withdrawals	6,085,536	
Conveyances & Incomplete Land Exchanges	112,859	
TOTALS:	\$ 21,563,088	\$ 4,719,311 \$ 26,282,399 **

*For land compensation, the university will exchange its previously withdrawn and encumbered lands, for which compensation is due, for unencumbered state lands of equal value placed into replacement pools for this purpose by the Department of Natural Resources.

The university relinquishes:

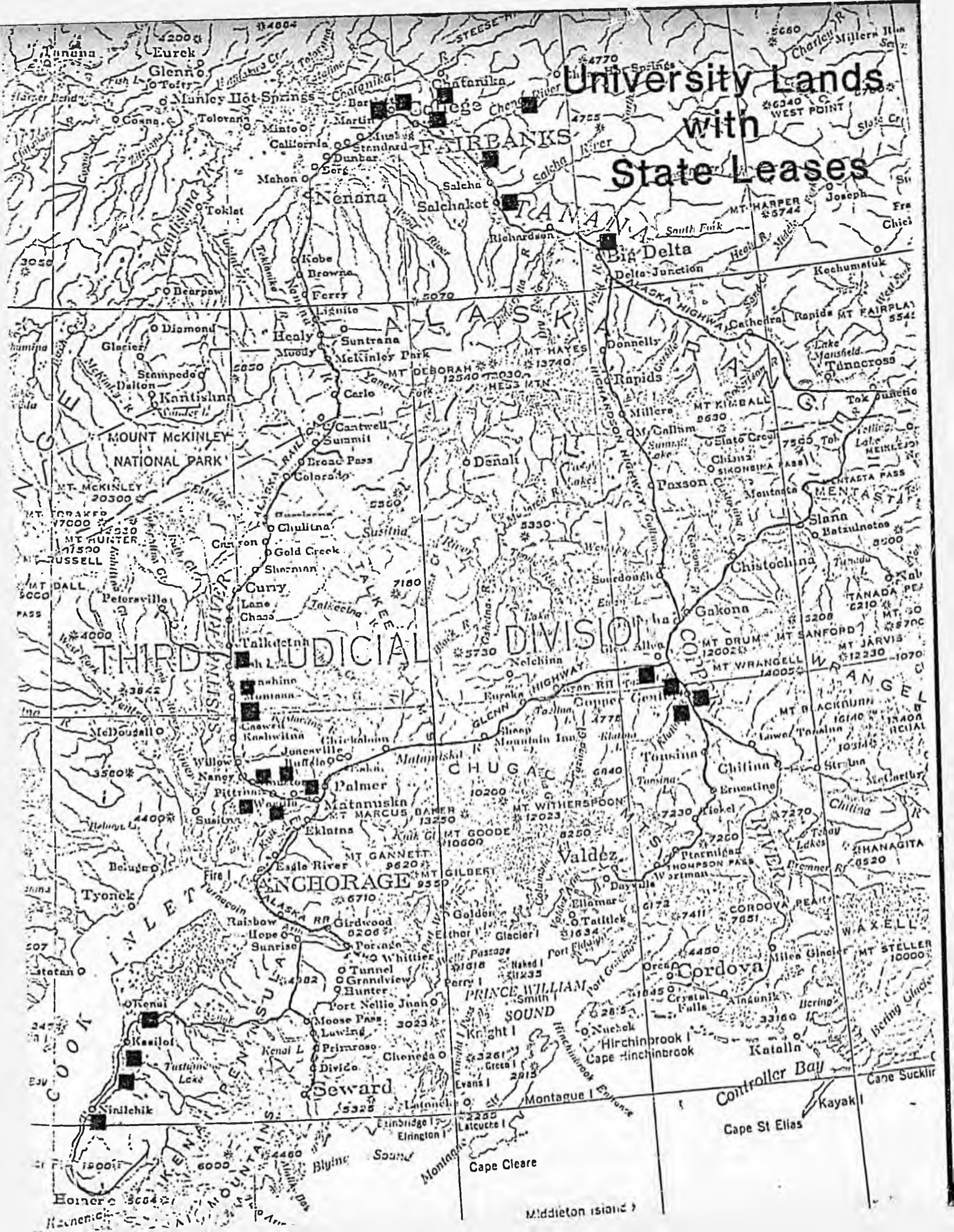
Category
Leased Lands
Conveyances and Incomplete Land Exchanges
Legislative Withdrawals
Municipal Selections (only if agreement is reached with the Municipality)

The university gains:

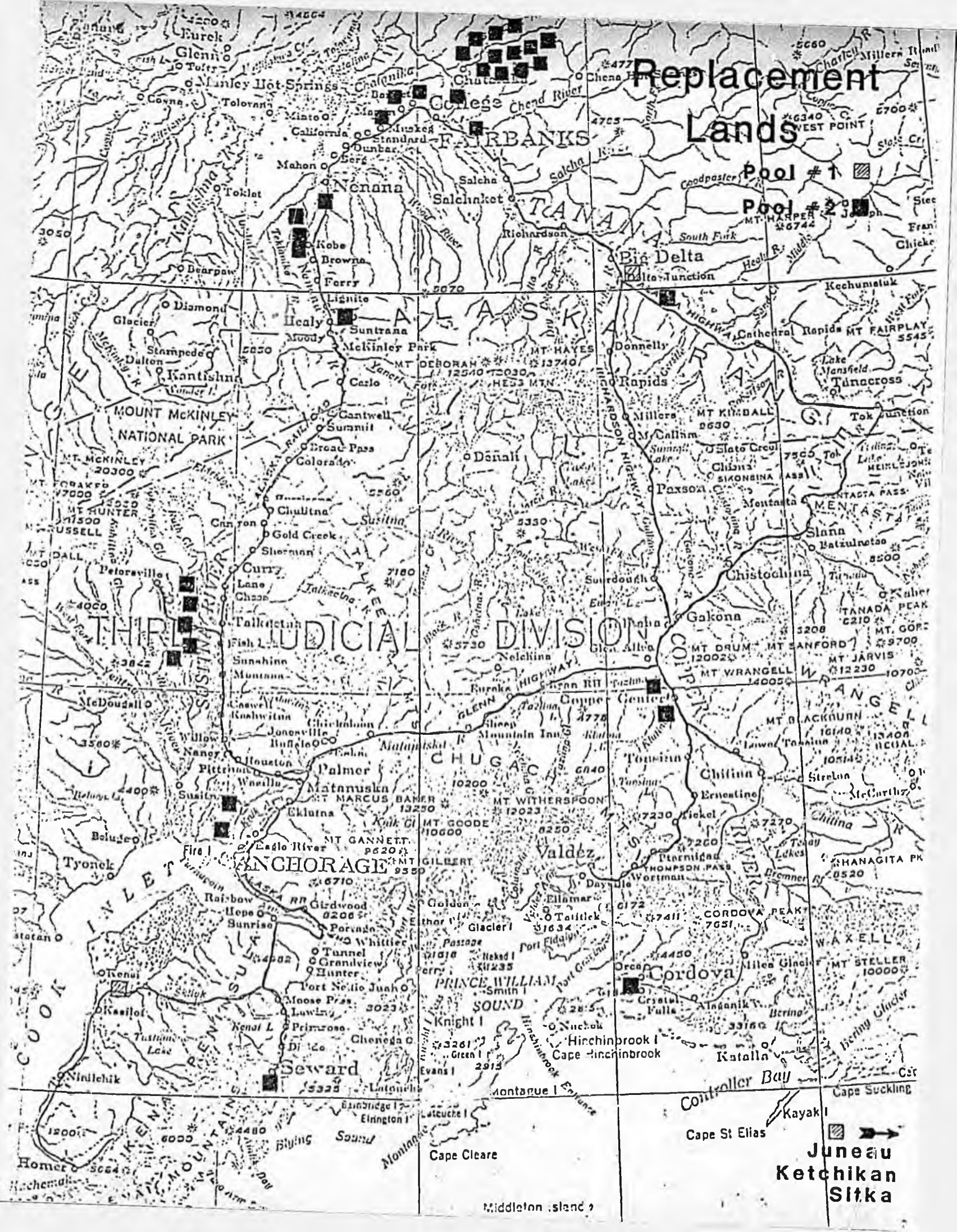
Replacement Pool Parcels
Replacement Pool #1 - All parcels
Replacement Pool #2 - (previously approved by BOR on 9/30/82) Parcel as needed to equal the fair market value of lands relinquished to the state

** This number may change slightly during the process of concluding negotiations. However, regardless of the total amount of compensation, the categories to be taken in cash and in land will be as specified above.

University Lands with State Leases



Replacement Lands



Pool # 1
Pool # 2

JUDICIAL DIVISION

ANCHORAGE

Juneau
Ketchikan
Sitka

Middleton Island



The Board of Regents

UNIVERSITY OF ALASKA

FAIRBANKS, ALASKA 99701

BOARD OF REGENTS
RESOLUTION

WHEREAS, The United States Congress reserved land in certain sections 33 located within the Tanana Valley for the University of Alaska by the Act of 1915 (38 Stat. 1214, as amended), and permitted the Territory of Alaska to select 100,000 acres of vacant, non-mineral, unreserved land from the federal public domain for the exclusive use and benefit of the University of Alaska by the Act of 1929 (45 Stat. 1091, as amended) (hereinafter collectively referred to as "University-grant lands"); and

WHEREAS, Congress transferred the University-grant lands to the State of Alaska by Section 6(k) of the Alaska Statehood Act and the State statutorily accepted the benefits and provisions of the federal land grant Acts of 1915 and 1929 by enacting, respectively, AS 14.40.380 and 14.40.390; and

WHEREAS, the University commenced litigation against the State of Alaska on April 23, 1979 (Case No. 3AN-79-2801 Civ., Third Judicial District), seeking compensation for disposals and transactions alleged to be in breach of trust obligations imposed by federal law; and

WHEREAS, representatives of the Alaska Department of Natural Resources and the University of Alaska, after lengthy negotiations, have developed a proposed settlement agreement which would resolve or compromise certain claims and defenses in the pending litigation, to the extent provided by the Agreement; and

WHEREAS, the Board of Regents of the University of Alaska held a special meeting on February 13, 1982, in Fairbanks, Alaska, for the purpose of voting on a motion to approve the proposed settlement agreement; and

WHEREAS, the February 13, 1982, special meeting of the Board of Regents was attended by a quorum consisting of Regents Edward B. Rasmuson (President), Jeffrey J. Cook (Vice President), Donald B. Abel, Jr. (Secretary), Herbert C. Lang (Treasurer), Hugh B. Fate, Jr., Margaret J. Hall, Sara Hannan, and John T. Shively; and

WHEREAS, Regent Cook moved, seconded by Regent Lang, that the Board of Regents adopt the following motion:

"The Board of Regents approves the attached settlement agreement dated February 13, 1982. Any subsequent language changes will be reviewed by the Board at the scheduled March 12, 1982, meeting. The Board directs the President to cooperate with the efforts of the Commissioner for Natural Resources to gain legislative endorsement of the Agreement. Inasmuch as the Governor has not yet had an opportunity to review the agreement, no public release of the document will be made until he has had such opportunity. This motion is effective February 13, 1982."

WHEREAS, upon due deliberation and with the advice of counsel, the Board of Regents unanimously passed the aforesated motion: and


WHEREAS, paragraph twenty-two (22) of the Agreement requires the Board of Regents to pass a resolution signed by all members of the Board approving and adopting the proposed settlement agreement and specifically and irrevocably assuming responsibility as trustees to the University regarding the management and disposition of all lands which are contemplated to be transferred in fee to the University pursuant to the Agreement;

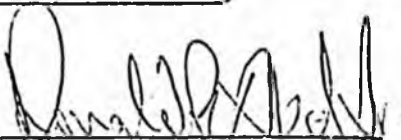
NOW, THEREFORE, BE IT RESOLVED that the Board of Regents approves and adopts the Agreement dated February 13, 1982 and entitled "Settlement Agreement between the Department of Natural Resources, the Department of Revenue, and the Department of Administration, and the University of Alaska, and the Board of Regents as trustees for the University of Alaska," as amended, and

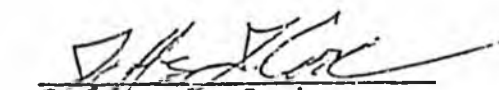
BE IT FURTHER RESOLVED, that the Board of Regents collectively, and each member of the Board of Regents in his or her official capacity individually, specifically and irrevocably assumes responsibility as trustee to the University of Alaska for the management and disposition of all lands which are transferred in fee to the University pursuant to the Agreement, and for the proceeds derived from such lands; and

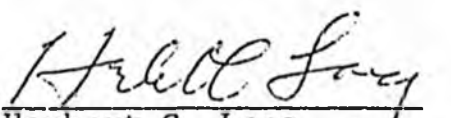
BE IT FURTHER RESOLVED that, this assumption of trusteeship responsibility shall be binding individually upon the successors in the office of regent of the undersigned regents, and collectively upon the Board of Regents, as it may be composed in the future.

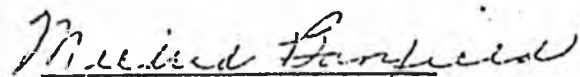
DATED this 12th day of March, 1982.

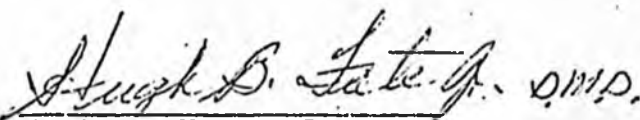

Edward B. Rasmuson
President

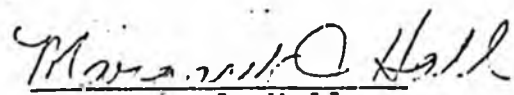

Donald B. Abel, Jr.
Secretary

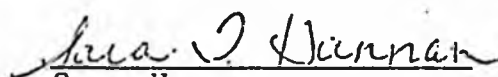

Jeffrey S. Cook
Vice President



Herbert C. Lang
Treasurer

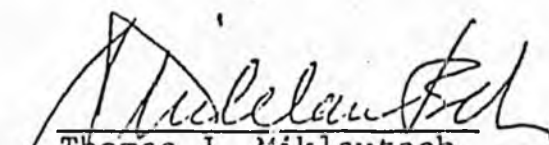

Mildred Banfield

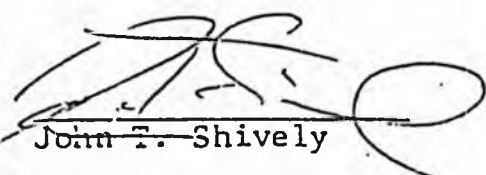

Hugh B. Fate, Jr.


Margaret J. Hall


Sara Hannan


Sam Kito, Jr.


Thomas J. Miklautsch


John T. Shively

SETTLEMENT AGREEMENT BETWEEN THE
DEPARTMENT OF NATURAL RESOURCES, THE
DEPARTMENT OF REVENUE, AND THE
DEPARTMENT OF ADMINISTRATION AND
THE UNIVERSITY OF ALASKA AND THE BOARD
OF REGENTS, AS TRUSTEES FOR THE
UNIVERSITY OF ALASKA

This Agreement entered into this ____ day of _____, 1982,
between the Department of Natural Resources (hereinafter referred to
as "Department"), the Department of Revenue, and the Department of
Administration, and the University of Alaska (hereinafter referred to
as "University"), acting on its own behalf and through its Board of
Regents, sets forth the understanding of the parties as follows:

WHEREAS, the University commenced litigation against the
Department, the Department of Revenue, and the Department of
Administration on April 23, 1979, Case No. 3AN-79-2801 Civ., Third
Judicial District, seeking compensation for disposals and transactions
alleged to be in breach of trust obligations imposed by federal law;
and

WHEREAS, the Act of 1915 (38 Stat. 1214, as amended) reserved
land in certain Sections 33 located within the Tanana Valley for the
University and the Act of 1929 (45 Stat. 1091, as amended) permitted
the Territory of Alaska to select 100,000 acres of vacant non-mineral
unreserved land from the federal public domain for the exclusive use
and benefit of the University (hereinafter collectively referred to as
"University-grant lands"); and

WHEREAS, Congress transferred the University-grant lands to
the State by Section 6(k) of the Alaska Statehood Act and the State
statutorily accepted the benefits and provisions of the Act of 1915
and the Act of 1929 by enacting respectively AS 14.40.380 and 14.40.390;
and

WHEREAS, the decisions of the Alaska Supreme Court have
interpreted the Acts of 1915 and 1929 and the acceptance by the State
as having created a trust for the benefit of the University, and any
income produced from the lands is reserved for the exclusive use and

sole benefit of the University (State of Alaska v. University of Alaska, 624 P.2d 807 (Alaska 1981); Wessells v. State of Alaska, 362 P.2d 1042 (Alaska 1977)); and

WHEREAS, the Department of Revenue and the Department of Administration have the duty to account and reserve for the exclusive use and benefit of the University the proceeds produced from University-grant lands; and

WHEREAS, the parties to this agreement believe that it is in the best interest of the State to convey certain University-grant lands and certain state lands which are not University-grant lands in fee to the University; and

WHEREAS, the parties believe that it is desirable to compromise the pending litigation to the extent provided by this Agreement and to complete all actions required or contemplated under it, upon execution of the Agreement and where necessary by enactment of legislation; and

WHEREAS, the parties to this Agreement believe that it is in the best interests of the parties that the University receive title to and management of certain University-grant lands, to be administered, controlled and managed through the Board of Regents, as trustee for the University; and

WHEREAS, the parties acknowledge that it is their intent by this Agreement and such legislation to accomplish the following:

1. Differentiate between state public domain lands and University-grant lands by providing separate and distinct land management to insure the future management of University-grant lands in accordance with recognized trust principles;
2. Resolve conflicts resulting from past management of all lands granted to the State for the benefit of the University by the United States pursuant to the Acts of 1915 and 1929;
3. Fulfill the purpose for which the University-grant lands were originally granted;
4. Convey title in fee to certain University-grant lands and certain other state lands to the University upon authorization by the legislature and transfer money to the University of Alaska Permanent Fund (hereinafter referred to as "fund") upon appropriation by the Legislature;

5. Establish methods of calculation of the dollar amount due, with interest, not collected and allocated to the fund, by the Department, the Department of Revenue or the Department of Administration with regard to the management and disposal of University-grant land, and the dollar amount due, with interest, to the fund for University-grant lands and resources therefrom which have been disposed of at less than then-current fair market value by the State; and

WHEREAS, upon enactment of legislation the Commissioners of the Departments of Natural Resources, Revenue, and Administration, will have the authority to implement this Agreement, and the Board of Regents is empowered to act on behalf of the University pursuant to Article VII, Section 3 of the Alaska Constitution and AS 14.40.170, 14.40.250, 14.40.280, 14.40.350, 14.40.360, and 14.40.400;

NOW THEREFORE, for and in consideration of the terms; covenants and conditions contained herein, the parties agree as follows:

1. Applicable Time Periods. Because of the difficulty in providing an accurate accounting and analysis of long past disposals and transactions, and considering the possible application of the doctrine of laches and statutes of limitation, the parties acknowledge that the calculation of compensation due the University shall be limited to the period from January 1, 1960 forward for certain disposals and transactions as specified in paragraphs 2 and 3 and from January 1, 1968 forward for certain other disposals and transactions as specified in paragraphs 2 and 3.

2. Determination of Dollar Amount for Prior Disposals and Transactions at Less Than Fair Market Value. The dollar amount due for prior disposals and transactions shall be calculated as follows:

a) To determine the dollar amount due for rights-of-way, permits, easements, materials, and fees conveyed other than at appraised value, and legislative and administrative withdrawals and reservations made or executed on or after January 1, 1968, the parties shall mutually select and instruct an independent fee appraiser to determine the fair market value of the land and resources involved in each transaction identified in Appendices A, B and D on the date the disposal or transaction was made or executed. The value determined by the appraiser shall be

binding upon the parties, and shall be brought forward with interest from the date of transaction to the date the grand total in Appendix M is determined at nine percent (9%) per year, compounded annually. The total amount due for each transaction shall be entered in Appendix M. No compensation is due for such disposals and transactions made or executed before January 1, 1968.

b) To determine the dollar amount owed to the University for unduly encumbered lands which the University shall convey to the State by quitclaim deed under this Agreement, the parties shall mutually select and instruct an independent fee appraiser to determine the current fair market value of the lands identified in Appendix E. These lands may be removed by the University from Appendix E within 120 days after the date of this Agreement. Additional University-grant lands not listed in any Appendix and which are found to be subject to past disposals may be added to the applicable Appendix by agreement of the University and the Department, not later than February 1, 1983.

c) To determine the dollar amount owed for incomplete land exchanges and leases, excluding mineral leases and oil and gas leases, made or executed after January 1, 1960, on University-grant lands, the parties shall mutually select and instruct an independent fee appraiser to determine the current fair market value of the land which is identified in Appendices C and F. The value determined by the appraiser shall be binding upon the parties. The current fair market value of the leased lands shall be used in conjunction with the provisions set forth in Appendix G to determine the value of each lease. The value of each lease shall be set forth in Appendix H. The total value of all leases shall be entered in Appendix M. No compensation is due for mining locations, mineral leases or oil and gas leases except as provided in paragraphs 3 and 4.

Land exchanges presently incompleated which are completed within one year of the signing of this Agreement shall not be included in the total dollar amount due as identified in Appendix M.

3. Determination of Compensation for All Uncollected or Unallocated Revenues. The Department, the Department of Revenue, and

Department of Administration shall provide the University access to all data, files, accounting and all other information, in whatever form, concerning disposals and transactions on University-grant lands made or executed after January 1, 1960, or January 1, 1968, as appropriate under paragraph 1. All revenues, including revenue from oil and gas leases executed after January 1, 1960, if any, which could have been collected according to the terms of the instrument making the disposal or governing the transaction and which should have been collected for or allocated to the fund but were not, shall be entered into Appendix I and added to the total dollar amount and entered in Appendix M. The amount of uncollected or unallocated revenues shall bear interest at nine per cent (9%) per year, compounded annually from the date of the initial billing period in which each amount was not collected or allocated.

4. Liquidated Damages. In recognition of the difficulty of precisely determining the dollar amount owed the University with regard to the State's management, reservation and disposal of University-grant lands and interests therein at less than their then-current fair market value, including without limitation mineral locations, claims and prospecting, leasing activity including mineral and oil and gas, and preference rights not otherwise addressed in this Agreement, the parties agree that the University should receive, upon proper appropriation by the Legislature, liquidated damages. Liquidated damages shall also include all claims for trespass, non-aggressive and non-productive management, all demands for indemnity against claims made by third parties, and any claim against the state or agent thereof for punitive damages. The parties agree that the University shall have the right without interference from the Department to seek liquidated damages through a legislative appropriation in an amount not more than five million dollars (\$5,000,000.00). The parties acknowledge that the liquidated damages should not constitute a penalty but reflect a reasoned compromise of damages sustained.

5. Supplement to Appendices. Except as otherwise specifically provided herein, the parties shall have one hundred fifty (150) days from the signing of this Agreement to supplement, correct and modify the Appendices to insure their accuracy.

6. Conveyance by Quitclaim Deed. The Department shall transfer to the Board of Regents, as trustee for the University, all University-grant lands identified in Appendix N and all state lands identified for transfer to the University pursuant to paragraph 12 by quitclaim deed. The University shall convey to the State all lands identified in Appendix E by quitclaim deed.

7. Termination of Interests Which the State Granted To Itself. The Department shall terminate within ninety (90) days after the effective date of this Agreement those interests in University-grant lands identified in Appendix K which it has granted to itself or other state agencies, departments, or entities and which are, by the terms of the transfer document, terminable at will by the Department. The interests to be terminated under this paragraph may include, but are not limited to, special land use permits (SLUPs), miscellaneous land use permits (MLUPs), free use permits (FUPs), personal use permits (PUPs), temporary use permits (TUPs), land use permits (LUPs), Interagency Land Management Assignments (ILMAs), and Interagency Land Management Transfers (ILMTs).

8. Acknowledgement and Disposition of Third Party Lease Interests. All lease interests granted to third parties listed in Appendix L are acknowledged by the University as binding contracts with the State of Alaska through the Department. The Department shall administer these leases according to the applicable state statutes until the University requests that administrative responsibilities for the leases be transferred to the Board of Regents or the lease term expires, whichever occurs first. In the event of the lessee's default the State shall succeed to the lessee's term of years and may transfer the lease hold interest in the lands to the University or use the lands or re-lease them until the expiration of the original lease term.

The State shall purchase any leased lands identified in Appendix F which the University elects not to retain by February 1, 1983, at their current fair market value as determined by appraisal. The University shall receive the proper amount of rental value from the date of the execution of the lease until February 1, 1983, according to the lease valuation provisions set forth in Appendix G.

9. Other Third Party Interests. The University acknowledges all valid existing third party interests of which it has knowledge or which are a matter of public record in addition to those referred to in paragraph 8 but excluding selections made by municipalities pursuant to AS 29.18.201-213 or any predecessor statute thereto. The University shall not contest the validity of any mining claim on University grant lands or state lands/^{conveyed}to the University pursuant to this Agreement except for failure to record a location certificate or perform annual labor as required by law.

The University shall not impose any royalty or other charge in excess of that currently charged, or to be charged in the future, by the state on state lands, on the right to extract locatable minerals from any mining claims for which a location certificate had been recorded and any required annual labor had been performed at the date this Agreement is signed.

10. Method of Compensation to the University.

a) Cash Settlement. The University may elect to receive a full or partial cash settlement for the total dollar amount owed in the form of a deposit into the fund, dependent only upon appropriations made for such purpose by the Legislature. The University shall have free access to any amount appropriated as monetary compensation for a period of two years from the date of deposit, during which time such money may be used only to purchase real property if statutory authority to purchase real property is enacted. After two years, the balance of the fund not used to purchase real property shall be available for all lawful purposes for which the fund may be used. The parties shall seek, during the 1983 legislative session, an appropriation for the dollar amount the University elects to receive as a cash settlement.

b) Land Settlement. The University may elect no later than October 30, 1983, to receive full or partial settlement of the total dollar amount due through the conveyance of state lands of equal fair market value identified in the pools established pursuant to paragraph 12. Nothing in this agreement requires the value of lands in the pools established pursuant to paragraph 12 to equal or exceed the total dollar amount due. The University shall obtain the surface and subsurface estate of such lands encumbered by the restrictions imposed by Section 6(i) of the Alaska Statehood Act.

11. Interest. The total dollar amount due the University under this Agreement shall bear interest at the rate of 10.5% from the time the grand total in Appendix M is determined until the University has received full compensation as provided in paragraph 10 of this Agreement.

12. Pool of Lands. If the University elects to receive all or part of the total dollar amount due in land pursuant to paragraph 10 it shall be entitled to receive lands from three (3) pools established by the Commissioner of the Department as follows:

a) The first pool shall contain all land owned by the State upon which the University has located improvements and which are identified in Appendix O. The parties shall have thirty (30) days after the signing of this Agreement to correct Appendix O to insure its accuracy. The parties shall mutually select and instruct, by August 1, 1982, an independent fee appraiser to determine the current fair market value of the lands identified in the first pool. The appraiser shall determine the value by February 1, 1983, and such value shall be binding upon the parties. The University shall be required to accept the lands identified in the first pool and shall offset their appraised value against the total dollar amount due.

b) The second pool shall contain the lands identified in Appendix O which the University may select. The parties shall have thirty (30) days after the signing of this Agreement to supplement, correct and modify Appendix O. The parties shall mutually select and instruct, by August 1, 1982, an independent fee appraiser to determine the current fair market value of the lands which the University selects from the second pool. The appraiser shall determine the value by February 1, 1983, and such value shall be binding upon the parties. The University shall identify, by May 30, 1983, any lands which it selects from the second pool. The University reserves the right to independently determine if any of the lands contained in the second pool are a financially prudent or commercially reasonable acquisition for the trust established by the Act of 1915 and the Act of 1929. The Department does not represent that any of the lands in the second pool are suitable for acquisition for the trust. The University shall offset the appraised value of the lands it selects from the second pool against the total dollar amount due.

c) The University shall accept the lands identified in the first pool and shall make its selections from the second pool by May 30, 1983. Lands not selected by the University by May 30, 1983, shall cease to be reserved for selection by the University.

d) By June 30, 1983, the Department will review all lands for which the State receives tentative approval between March 1, 1982, and March 31, 1983. The Department may include any such lands which it, in its sole discretion, chooses in a third pool. The Department may also include in the third pool any of the lands previously within the second pool and not selected by the University. The Department may choose not to include any land in the third pool. The parties shall mutually select and instruct, by July 15, 1983, an independent fee appraiser to determine the current fair market value of the lands, if any, in the third pool. The value shall be determined by September 30, 1983, and shall be binding upon the parties. The University shall identify, by October 30, 1983, those lands which it selects from the third pool. The University reserves the right to independently determine if any of the lands contained in the third pool are a financially prudent or commercially reasonable acquisition for the trust established by the Act of 1915 and the Act of 1929. The Department does not represent that any of the lands in the third pool are suitable for acquisition for the trust. The University shall offset the appraised value of any lands it may select from the third pool against the total dollar amount due. Lands not selected by the University by October 30, 1983, shall cease to be reserved for selection by the University.

e) The Department shall not make any conveyances of land to the University under this Agreement unless statutory authority to make such conveyances is first enacted. The Department shall not be obligated to pay for the appraisals required pursuant to this Agreement.

13. Mutual Assistance. The parties agree to cooperate in the following ways in order to effectuate the purposes of this Agreement, and to accomplish the goals set forth in the statement of intent:

a) The parties agree to use their best efforts in a spirit of cooperation to seek introduction in the 1982 session of the Alaska Legislature suitable legislation seeking approval of this

Agreement and authorizing the conveyance of University grant lands as contemplated by this Agreement and appropriating those amounts required for the costs of obtaining appraisals and the expenses necessary to implement this Agreement. The parties agree to work diligently for final passage and enactment of such legislation. A proposed draft of legislation which the parties presently believe will fulfill these objectives is attached to this Agreement as Appendix P.

b) The University plans to seek introduction of suitable legislation in the 1983 Legislative session to authorize conveyance of lands selected by the University from the pools created pursuant to paragraph 12 and/or an appropriation to fund any dollar amount due. After examining the Grand Total as finally determined and set forth in Appendix M, the other parties to this Agreement will decide whether they can support such legislation. If the State determines it can not support the Grand Total as finally determined and set forth in Appendix M, then the University shall also not be bound by the Grand Total, except that the parties agree to use the procedures described in this Agreement. The parties to this Agreement will also seek introduction of suitable legislation in the 1983 legislative session to make statutory references to University-grant lands consistent with this Agreement. The University shall seek appropriate legislation clarifying the duties and responsibilities of the Board of Regents as trustee of University-grant lands and state lands transferred to the University pursuant to this Agreement. If pursuant to Paragraph 10 a cash settlement is elected, the parties shall seek to introduce legislation during the 1983 session appropriating the money required. The University shall seek legislation during the 1983 session permitting the University to invest any money appropriated in real property.

c) In the event that the University successfully petitions the United States Congress for additional federal lands to compensate the University with in-lieu lands for lands reserved under the Acts of 1915 and 1929 but which were not conveyed to the State pursuant to Section 6(k) of the Alaska Statehood Act, the Department shall submit, on behalf of the University, all necessary selection applications, forms and related documentation required by applicable law to perfect the selection and patent for said in-lieu lands to the State and convey those lands to the Board of Regents pursuant to this Agreement.

to this Agreement will also seek introduction of suitable legislation in the 1983 legislative session to make statutory references to University-grant lands consistent with this Agreement. The University shall seek appropriate legislation clarifying the duties and responsibilities of the Board of Regents as trustee of University-grant lands and state lands transferred to the University pursuant to this Agreement. If pursuant to Paragraph 10 a cash settlement is elected, the parties shall seek to introduce legislation during the 1983 session appropriating the money required. The University shall seek legislation during the 1983 session permitting the University to invest any money appropriated in real property.

c) In the event that the University successfully petitions the United States Congress for additional federal lands to compensate the University with in-lieu lands for lands reserved under the Acts of 1915 and 1929 but which were not conveyed to the State pursuant to Section 6(k) of the Alaska Statehood Act, the Department shall submit, on behalf of the University, all necessary selection applications, forms and related documentation required by applicable law to perfect the selection and patent for said in-lieu lands to the State and convey those lands to the Board of Regents pursuant to this Agreement.

d) The Department shall assist the University for two years after the University receives title to University-grant lands and other state lands as a result of this Agreement by providing available resource and planning information.

14. Future Management of University-Grant Lands. The Board of Regents, as trustee for the University of Alaska, shall have the responsibility and duty to control, administer, and manage all lands which are transferred to the University pursuant to this Agreement, for the exclusive use and benefit of the University and for its financial enhancement and security. The Board of Regents shall manage such lands for educational purposes and to produce the maximum amount of income for the University. The Board of Regents shall not have responsibility for, or control over, the fish and game on, or the appropriation of water from, University-grant lands, both of which shall be subject to applicable state laws and regulations. The University shall provide

legal access to all navigable and public waters on or adjacent to the lands which are the subject of this Agreement. The University recognizes that lands underlying navigable waters are owned in fee by the State, and are not subject to the provisions of this Agreement. The management of such lands shall be coordinated by the State with the Board of Regents' management of adjacent lands which have been conveyed by this Agreement. Nothing in this Agreement shall prevent the University from applying for a permit to appropriate water pursuant to the Alaska Water Use Act, A.S. 46.15.

15. Interim Management. After signing of this Agreement creation of any third party interests in the University grant land or lands reserved for selection by the University pursuant to paragraph 12 shall require approval by the University with the exception of lease conversions pursuant to Section 12, ch 138, SLA 1977 as amended. University-grant lands which are the subject of municipal selections will not be conveyed to the applicant until the University has approved replacement lands as contemplated by AS 29.18 206(d).

16. Resumption of Litigation. In the event that the University does not receive the total dollar amount owed in cash or land as provided in this Agreement by October 30, 1983, the parties shall be deemed not to have waived any right they may have otherwise had to maintain or resume the pending litigation in Case No. JAN-79-2801 Civ., Third Judicial District, State of Alaska. In the event the Court requires that this action be dismissed in the interim, such dismissal shall be stipulated by the parties to be without prejudice, and the parties shall further stipulate that it may be re-filed by any of them at a future date.

17. No Waiver of Claims or Defenses. The parties agree that by their voluntary participation in the negotiation, execution and implementation of this Agreement, they shall not have thereby waived any claim, defense, counterclaim, set-off or legal or equitable remedy which each may pursue against the other in the event that full compensation due the University, in money or land, is not transferred to it pursuant to the obligations contained in this Agreement and

litigation is thereafter resumed pursuant to paragraph 16. Nothing in this Agreement or any Appendix hereto shall be admissible in pending or future litigation or presented to a court for any purpose except enforcing this Agreement. This prohibition does not extend to proof of actions taken by the Legislature on legislation required by or related to the subject of this Agreement.

18. Extinguishment of All Claims. The parties agree that upon discharge of the obligations of the State under this Agreement, all claims which are the subject of Case No. 3AN-79-2801 Civ., Third Judicial District, State of Alaska, and all other claims which the University has or had against the State or any agent which are based upon a breach of trust obligations under the Acts of 1915 or 1929, shall be merged in the settlement and finally extinguished, excluding only those claims against the State and the Municipality of Anchorage or any other entity claiming University-grant lands under AS 29.18.201-213, or any predecessor statute thereto.

19. No Waiver of Breach or Defense. No failure by either party to insist upon the strict performance by the other of any term or condition of this Agreement, or to exercise any right or remedy upon a breach thereof, shall constitute a waiver of any such breach or of such term or condition. No waiver of any breach shall affect or alter this Agreement, but each and every term and condition of this Agreement shall continue in full force and effect with respect to any other then-existing or subsequent breach.

20. Litigation with the Municipality of Anchorage. This Agreement does not affect the pending litigation by the University against the Municipality of Anchorage in Case No. 3AN-79-2801 Civ., Third Judicial District, State of Alaska. The University retains all causes of action, claims, demands and right to damages, expenses and compensation which it now has or may hereafter have against the State or the Municipality of Anchorage as a result of the Municipality's selection of University-grant lands pursuant to AS 29.18.201-213, or any predecessor statute thereto.

21. Notice. If it becomes necessary as a result of the execution and performance of this Agreement to provide public notice

pursuant to Article VIII, Sec. 10 of the Alaska Constitution or to AS 38.50.110, the Department and the University shall cooperate in complying with such notice requirements.

22. Resolution by Board of Regents. The Board of Regents shall, if it approves this Agreement, pass a resolution signed by all members of the Board, approving and adopting this Agreement, and specifically and irrevocably assuming responsibility as trustee to the University regarding the management and disposition of all lands which are contemplated to be transferred in fee to the University pursuant to this Agreement. The State shall have the right to review the form and adequacy of the assumption of the obligations of trustee by the Board, prior to making any land conveyances under this Agreement.

23. Advice of Counsel. Each of the parties acknowledges that it was represented by counsel during the negotiation, drafting and execution of this Agreement.

24. Good Faith. The parties agree that the performance of all obligations set forth in the terms and conditions herein shall be conducted in good faith.

25. Successors in Interest. Each and all of the terms, covenants and conditions in this Agreement shall inure to the benefit of, and shall be binding upon, the successors in interest of each of the parties to this Agreement.

26. Enforcement. Enforcement of the public trust responsibilities required to be assumed by the Board of Regents as a result of its approval of this Agreement shall be vested in the Office of the Attorney General, State of Alaska.

THIS IS TO CERTIFY that on this 12th day of March, 1982,
before me, the undersigned, a Notary Public in and for the State of
Alaska, duly commissioned and sworn as such, personally appeared
EDWARD RASMUSON, known to me and to me known to be the individual
described in and who executed the foregoing instrument, and he acknowledged
to me that he signed the same freely and voluntarily for the uses and
purposes therein described.

IN WITNESS WHEREOF, I have hereunto set my hand and official
seal the day and year first hereinabove written.

Anna M. Stoenaker

Notary Public in and for Alaska

My Commission Expires: 3/14/84



STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

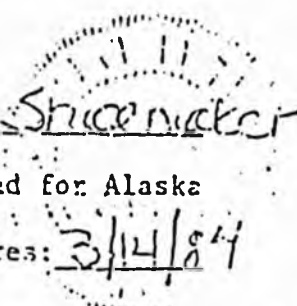
THIS IT TO CERTIFY that on this 12th day of March, 1982,
before me, the undersigned, a Notary Public in and for the State of
Alaska, duly commissioned and sworn as such, personally appeared
JAY BARTON known to me and to me known to be the individual described
in and who executed the foregoing instrument, and he acknowledged to
me that he signed the same freely and voluntarily for the uses and
purposes therein described.

IN WITNESS WHEREOF, I have hereunto set my hand and official
seal the day and year first hereinabove written.

Anna M. Stoenaker

Notary Public in and for Alaska

My Commission Expires: 3/14/84



STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 11th day of March, 1982,
before me, the undersigned, a Notary Public in and for the State of
Alaska, duly commissioned and sworn as such, personally appeared JOHN
W. KATZ known to me and to me known to be the individual described in
and who executed the foregoing instrument, and he acknowledged to me
that he signed the same freely and voluntarily for the uses and purposes
therein described.

IN WITNESS WHEREOF, I have hereunto set my hand and official
seal the day and year first hereinabove written.



Sennie Boston

Notary Public in and for Alaska

My Commission Expires: Nov. 2, 1983

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IT TO CERTIFY that on this 11th day of March, 1982,
before me, the undersigned, a Notary Public in and for the State of
Alaska, duly commissioned and sworn as such, personally appeared
WILLIAM HUDSON, known to me and to me known to be the individual
described in and who executed the foregoing instrument, and he
acknowledged to me that he signed the same freely and voluntarily for
the uses and purposes therein described.



IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first hereinabove written.



Jennie Boston

Notary Public in and for Alaska

My Commission Expires: Nov. 2, 1983

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IT TO CERTIFY that on this 11th day of March, 1982, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared THOMAS WILLIAMS, known to me and to me known to be the individual described in and who executed the foregoing instrument, and he acknowledged to me that he signed the same freely and voluntarily for the uses and purposes therein described.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first hereinabove written.



Jennie Boston

Notary Public in and for Alaska

My Commission Expires: Nov. 2, 1983

THE UNIVERSITY OF ALASKA

Jay Barton, President

Briefing Paper

"UNIVERSITY OF ALASKA LAND GRANT TRUST FUND"

December, 1982

For further information, contact: Sherman Carter
Executive Vice President
474-7448

EXECUTIVE SUMMARY

Congressional acts in 1915 and 1929 granted the University of Alaska about 113,000 of land for its exclusive use and benefit. In 1967 the Alaska legislature directed the state Department of Revenue to establish a separate fund in which all money derived from these university trust lands would be deposited. As of June 30, 1982, the fund totaled \$5,462,670.

Investment earnings from this University of Alaska land grant trust fund, also referred to as the university's "permanent fund", are made available to the university for use as specified by the university's Board of Regents. During the current year, such earnings are being used for land management, rental charges for office space, legal expenses and rental charges for computer hardware. No problems have arisen with respect to the use of such income. However, questions have been asked regarding what will be done with this income if it increases as a result of the pending land settlement.

The land settlement is expected to result in equal value land being transferred to the university by the state to replace university trust land previously withdrawn by the state for other uses. Any cash paid by the state to the university as a result of the settlement would pass to the state Department of Revenue for deposit into the University of Alaska land grant trust fund invested and managed by that department.

The principal in this fund will increase over time. However, the investment earnings will not be large enough in the foreseeable future to have any significant influence on the amount of general funds requested to support the university. Falling interest rates will require a larger principal balance for investment than now exists in the fund just to sustain the current flow of investment earnings.

Currently, the state informs the university how much investment income it will receive from its permanent fund and the university informs the state how that income will be used. No change in this procedure or in legislation governing the University of Alaska land grant trust fund is indicated at this time.

BACKGROUND

The financial history of the University of Alaska land grant trust fund is shown below:

<u>Fiscal Year Ending</u>	<u>Fund Balance</u>	<u>Income Additions to the Fund (1)</u>	<u>Investment Income (2)</u>
June 30, 1960	16,256.03		
June 30, 1961	620,726.03	604,470.00	7,120.14
June 30, 1962	819,685.89	198,959.86	17,468.21
June 30, 1963	976,684.86	156,968.47	27,214.92
June 30, 1964	1,149,978.39	173,324.03	36,844.50
June 30, 1965	1,177,158.03	27,179.64	39,614.61
June 30, 1966	1,201,666.03	24,508.00	48,967.34
June 30, 1967	1,216,652.43	14,986.40	48,849.89
June 30, 1968	1,282,732.91	66,080.48	48,834.88
June 30, 1969	1,375,217.02	92,484.11	52,169.75
June 30, 1970	1,430,702.00	55,485.00	67,801.90
June 30, 1971	1,489,083.00	58,381.00	63,158.00
June 30, 1972	1,646,536.76	157,453.76	85,595.23
June 30, 1973	1,821,277.76	174,741.00	83,407.00
June 30, 1974	2,077,520.77	256,243.01	134,087.58
June 30, 1975	2,220,163.04	142,642.27	164,022.28
June 30, 1976	2,362,805.04	142,642.00	184,105.00
June 30, 1977	2,543,394.00	180,588.96	178,873.00
June 30, 1978	2,690,576.00	147,182.00	223,117.00
June 30, 1979	2,930,925.96	240,349.00	210,112.00
June 30, 1980	4,903,352.73	1,972,426.77(3)	316,919.72
June 30, 1981	5,240,946.91	337,594.18	525,365.13
June 30, 1982	5,462,670.29	221,723.38	611,779.04(4)

Footnotes

1. University grant lands generate income as a result of leases, easements and materials sales (e.g., timber, gravel, oil). Income cannot be used directly by the university but instead goes into the University of Alaska "permanent fund" managed by the State Department of Revenue.
2. Investment income from the fund is made available to the university quarterly, for use as specified by the university's Board of Regents.
3. In September 1979, the fund was increased by \$1,761,500 as a result of the sale of a right-of-way across university land in the Anchorage area.
4. Additionally, in FY82, \$70,575.00 in interest was earned on unexpended land grant trust fund income.

The effect of state legislation pertaining to the University of Alaska land grant trust fund is summarized below:

A.S. 14.40.400 provides that, "The Department of Revenue shall establish a separate fund in which all monies derived from the sale or lease of lands granted under Act of Congress approved January 21, 1929¹ shall be held in trust. The trust fund shall be invested in interest bearing securities as approved by the Governor. The income from the trust fund shall be used exclusively for the agricultural college and school of mines...² The Department of Administration shall disburse the income from the trust fund upon vouchers approved by the president and treasurer of the university specifying the purpose for which the money is to be used and showing it is to be used in conformity with this section."

The principal of this fund is a non-expendable trust. Receipts to the fund include land lease rentals, mineral lease rentals, sale of lands, sale of resources, bonus mineral leases, and royalties on minerals. Disbursements from the fund by the Department of Revenue are made for the purchase of investments and to distribute investment earnings to the University of Alaska.

Pertinent federal legislation is summarized below:

The University of Alaska did not receive grant lands under initial land grant legislation in 1862; however, language in that legislation indicates the intent of congress with respect to trust lands it provided to help support land grant colleges and universities. That legislation includes the following:

"All monies derived from the sale of lands. . .shall be invested. . .The monies so invested shall constitute a perpetual fund, the capital of which shall remain forever undiminished. . .and the interest of which shall be inviolably appropriated. . .to the endowment support and maintenance of at least one college where the leading object

¹ The University of Alaska also received about 13,000 acres of land grant trust land in the Tanana Valley from the federal government in 1915, income from which has been handled the same way as from federal land grant trust land received in 1929.

² In 1935 the Territorial Legislature passed a law which indicated that, "All obligations, rights, privileges, and all real and personal property whatsoever belonging or appurtenant to the Board of Trustees of the Alaska Agricultural College and School of Mines are hereby transferred to the Board of Regents of the University of Alaska and the University of Alaska." Thus, the present reference to the Agricultural College and School of Mines in A.S. 14.40.400 (c) seems to be an historical anomaly.

shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanical arts, in such manner as the legislatures of the states may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions of life."

Federal legislation enacted in 1929, through which the University of Alaska received the bulk of its trust land, includes the following:

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

"A fund shall be established in the Territorial treasury to carry out the purposes of this section, and whenever any money shall be in any manner derived from any of the land granted same shall be deposited in the Territorial treasury in the fund. The Territorial treasurer shall keep all such money invested in safe interest-bearing securities. . . The income from said fund may and shall be used exclusively for the purposes of such Agricultural College and School of Mines: Provided, That no portion of said income shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings."

The paragraph cited immediately above, which specifies that "no portion of said income shall be applied directly or indirectly, under any pretense whatsoever, to the purchase, erection, preservation or repair of any building or buildings" was repealed in 1966. Currently, there is no such restriction. The first quoted paragraph above, however, including the point that "no part of the proceeds arising from the sale or disposal of any lands granted herein shall be used for the support of any sectarian or denominational college or school" remains in effect.

ISSUES

1. To what extent shall income from the University of Alaska's permanent fund reduce general fund appropriations to the university?

The endowment lands were not expected to replace state funding but were provided to permit a margin of support over and above what would otherwise be possible through underlying funding provided by the state. Consequently, while the University of Alaska expects to provide full disclosure to the state with respect to how endowment earnings from the university's trust land are being used, such earnings should not simply result in comparable reductions in general fund appropriations to support the university. That approach already is followed with respect to such university receipts as tuition and indirect cost recovery. The legislative and executive branches of the state retain fiscal control over the university by deciding how much general fund support to make available for the university, considering, among other things, university needs and all of the university's sources of funds, to include endowment earnings.

2. Shall some of the investment earnings on the University of Alaska permanent fund be reserved to "inflation-proof" the fund?

Such a reservation of funds is not necessary. The University of Alaska permanent fund constitutes an "endowment on an endowment." That is, the university is permitted to use essentially, only "the earnings on the earnings" on the trust land. Since those earnings do not lapse but are kept invested until they are expended, the regents may elect only to spend part of such earnings and thus keep the rest invested to cover future needs. Accordingly, even following extremely conservative financial management practices, there is no need to prescribe in advance that only some part of the earnings received may be expended, with the rest being reinvested to augment the endowment principal. That will increase automatically over the years, as it has in the past, with increasing revenue derived from the university's trust lands.

3. On what might endowment earnings from the University of Alaska permanent fund be spent?

The Board of Regents may authorize use of the endowment income however the board determines that such income can best help the university. Legislators have suggested that the

university use income from its permanent fund to cover the cost of land management activities rather than to request general fund support to pay for managing the university's trust land, and that has been done. As mentioned previously, endowment earnings are being used this year also to pay rental charges for computer hardware as well as other rental costs and to pay certain legal expenses. As endowment earnings increase, money may be available to enhance the university's fisheries, agriculture, forestry and other academic programs, and to pay for such things as special instructional equipment, sabbaticals and other faculty development.

4. How are land grant endowments for colleges and universities controlled and expended in other states?

The University of Alaska conducted a survey in the fall of 1982 to answer the above question. Questionnaires were sent to the 72 land grant colleges and universities in the United States and its territories, and 66 of the 72, or 90% of the institutions, responded. Questions asked and the responses are shown in the appendix contained in this briefing packet. In summary, 44% of the institutions manage directly their land grant properties; only 11% of the respondents must deposit land grant income to their respective state general fund; state general support is not offset by land grant income for 56% of the responding institutions; and, for 67% of the responding institutions, their respective governing boards have final approval authority for expenditures of land grant endowment revenue.

RECOMMENDATION--that no change be made in existing procedures or legislation governing the University of Alaska permanent fund at the present time.

APPENDIX

A survey was made in the fall of 1982 to determine how land grant endowment income for other colleges and universities is controlled and expended.

Below are listed the institutions that responded to the survey. Following that listing are the specific questions asked in the survey and the responses thereto.

Land grant institutions that responded to the survey:

Alabama A & M University	Auburn University
University of Arizona	University of Arkansas, Fayetteville
University of California	University of Arkansas, Pine Bluff
Colorado State University	University of Connecticut
Delaware State College	University of the District of Columbia
University of Florida	Fort Valley State College
University of Georgia	University of Hawaii
University of Idaho	University of Illinois
Purdue University	Iowa State University
Kansas State University	Kentucky State University
University of Kentucky	Louisiana State University
University of Maine	University of Maryland, Eastern Shore
University of Maryland	Massachusetts Institute of Technology
University of Massachusetts	Michigan State University
University of Minnesota	Alcorn State University, Mississippi
Mississippi State University	Lincoln University, Missouri
Montana State University	University of Missouri System
University of Nebraska	University of New Hampshire
New Mexico State University	Rutgers, The State University
Ohio State University	New Mexico State University
Langston University, Okalahoma	Cornell University, New York
Oklahoma State University	North Carolina State University
Pennsylvania State University	North Dakota State University
Oregon State University	Pennsylvania State University
University of Puerto Rico	University of Rhode Island
South Carolina State College	Clemson University, South Carolina
South Dakota State University	Scarritt College, Tennessee
University of Tennessee	Prairie View A&M University, Texas
Texas A&M University	Utah State University
College of the Virgin Islands	University of Vermont & State Agricultural College
Virginia State University	Virginia Polytechnic Institute and State University
Washington State University	University of Wyoming
West Virginia University	
University of Wisconsin	

Questions asked and summaries of the responses:

1. Does your institution derive income from land grant properties?

	<u>Responses</u>	<u>Percent</u>
Yes	36	55
No	29	46
	<u>65</u>	<u>100</u>

Seven schools noted that lands granted had been sold long ago and current income is, in fact, derived from investments of land, sale, revenue or, that a financial grant was made in lieu of a land grant. This may be the case for many of the schools which answered "no" to the first question as well. However, the "no" schools did not answer the remaining questions on the survey. Therefore, the tabulations following reflect only those schools which answered "yes" and completed the survey.

2. What types of activities produce income from your land grant property? (Check all that apply):

<u>Real Estate</u>	<u>Responses</u>	<u>Percent*</u>
Sale of Unimproved Property	14	39
Commercial Leasing	13	36
Industrial Leasing	8	22
Residential Leasing	7	19
Sale of Improved Property	6	17
Other	13	36
 <u>Natural Resources Development</u>		
Grazing Land	23	64
Cropland	22	61
Timber	20	56
Oil/Gas	17	47
Hardrock Minerals	9	25
Other	4	11

*Percent of 36 schools responding

"Other" real estate income above includes nine responses (25%) which noted some type of agricultural activity, and additional comments made suggest that most of this income results from the sale of surplus agricultural research products. Most of these respondents also checked cropland and grazing land. "Other" natural resource development includes right-of-ways, surface leases, water, and coal/geothermal.

3. What is the approximate proportion of land grant property used for:

<u>Education/Research</u>	<u>Income</u>	<u>Responses</u>	<u>Percent</u>
Under 10%	Over 90%	11	31
11-89%	89 - 11%	2	5
Over 90%	Under 10%	13	36
Not answered	Not answered	10	28
		<u>36</u>	<u>100</u>

Interpreting the answers to this question is not straightforward. Remember that six of the respondents presently have endowment income only; land was sold off long ago, or never existed. If their answers are excluded, the responses are:

<u>Education/Research</u>	<u>Income</u>	<u>Responses</u>	<u>Percent</u>
Under 10%	Over 90%	9	31
11-89%	89 - 11%	2	7
Over 90%	Under 10%	12	41
Not answered	Not answered	6	21
		<u>29</u>	<u>100</u>

Almost one quarter of the respondents did not answer this question which must make us hesitate to draw firm conclusions. We can say that land use is fairly evenly divided between education/research and income production for the schools answering the question. More specifically, we see that each school tends to use property for one purpose or the other, but not both. (Only one respondent noted overlapping use wherein subsurface oil and leases coexist with surface agricultural research.)

4. Does your institution manage its land grant property directly?

	<u>Responses</u>	<u>Percent</u>
Yes	16	44
No	15	42
Not answered	5	14
	<u>36</u>	<u>100</u>

If no, how is its land grant property managed?

State land department or commission	11
Educational lands board or commission	3
Governing board	1
	<u>15</u>

The first two titles above are generic phrases meant to indicate the difference between state agencies which are assumed to manage all state lands, and commissions which appear to administer only lands associated with educational institutions.

5. How is the income from land grant property transactions accounted for? (Check all that apply):

Income utilized directly for university operations	20	56
Income deposited to University Endowment or Trust Funds	13	36
Income is deposited to State General Fund	4	11
Other	3	3
Not answered	3	8

"Other" includes depositing revenue in a special state fund with expenditure restrictions: appropriation by legislature, debt service, bond indentures or capital construction expenditures only.

6. Is income derived from land grant property transactions available for expenditure by your institution?

	<u>Response</u>	<u>Percent</u>
Yes	32	89
No	1	3
Not answered	3	8
	<u>36</u>	<u>100</u>

If yes, who is the final approving authority?

	<u>Response</u>	<u>Percent*</u>
President	5	14
Governing Board	26	72
Governor's Office	3	8
Legislature	9	25
Other	4	11

*Percent of 36 responses.

There was no explanation provided for the lone "no" response. In the second part of the question, some schools checked off several "final" approvals. This appears to be due to the fact that land revenues are handled differently depending upon the origin of the property. For example, revenue from private gifts of land are probably at the disposal of the university while state or federally donated land revenues may require approval from a state agency. Three schools which utilize university endowment/trust funds (question #5) noted here that legislative approval was required before expenditure.

7. If land grant property income is deposited to an endowment or trust fund, how much is available for expenditure? (Check all that apply):

	<u>Responses</u>	<u>Percent*</u>
Principal (Income from real property transactions deposited in fund)	3	8
Interest (Income from <u>investment</u> of principal)	19	53
Other	4	11
Not answered	14	39

*Percent of 36 responses.

Questions #5 and this one refer to endowment funds. Seven schools noted the use of endowment or trust funds here, but not in question #5. Analysis of narrative answers to these and other questions suggests that these seven schools were differentiating between a university-controlled fund (question #5) and an endowment fund controlled by another state agency (this question).

8. If available for expenditure, are restrictions placed upon the types of expenditures made from land grant property income?

	<u>Response</u>	<u>Percent</u>
Yes	18	50
No	15	42
Not answered	3	8
	<u>36</u>	<u>100</u>

Expenditure restrictions for the "yes" responses described fall into the following broad categories:

	<u>Responses</u>	<u>Percent</u>
Legislative approval before expenditure	5	27
Agricultural uses	4	22
Capital-related expenditures	3	17
Land grant legislation restrictions	3	17
Bond indentures, debt service	<u>3</u>	<u>17</u>

9. From largest to smallest, rank the primary types of expenditures made from land grant property income:

The following categories are summarizations of answers. Most schools did not rank more than two or three items; seven schools did not answer the question.

<u>Expenditure Type</u>	<u>Responses</u>				
	<u>1st</u>	<u>2nd</u>	<u>3rd</u>	<u>4th</u>	<u>5th</u>
Education/general*	11	2	1	3	0
Agricultural programs	6	3	1	0	0
Capital projects	5	3	4	0	0
Salaries	3	1	0	0	0
Land management, acquisitions	2	1	1	0	0
Facilities maintenance, improvements	2	5	2	0	0
Debt Service	1	0	1	0	1
Non-recurring expenses	0	0	1	0	0
	<u>30</u>	<u>15</u>	<u>10</u>	<u>3</u>	<u>1</u>

*Teaching, research, not specifically identified as agricultural or salaries. Unfortunately, these raw figures give us no clue as to patterns of expenditures. Let us examine the combinations of expenditure rankings. Considering only the first, second and third ranked items on each questionnaire, there appears to be no discernable pattern for the eight items listed above. If we combine these categories into two larger groupings of expenditures, however, such as "operating" and "other":

- Operating
 - Education/General
 - Agricultural Programs
 - Salaries

- Other
 - Capital projects
 - Land management, acquisitions
 - Facilities maintenance
 - Debt service
 - Non-recurring expenses

a pattern does emerge. Each school's response was tallied in one of these two groups only if all of the top three items listed fell within that group. A response which included expenses in both groups was tallied as "Combined":

<u>Expenditure type</u>	<u>Response</u>	<u>Percent</u>
Operating	16	55
Other	8	28
Combined	<u>5</u>	<u>17</u>
	<u>29</u>	<u>100</u>

In other words, 55% of the responding schools spend the income from land grant or other property on general operating items and 28% use this revenue for capital projects, land

acquisitions, debt service and so on. Of the 17% which divide expenditures between the two groups, general operating expenses were ranked first in four of the five responses.

10. Is land grant property income used to offset or decrease state general fund support?

	<u>Response</u>	<u>Percent</u>
Yes	14	39
No	20	56
Not answered	2	5
	<u>36</u>	<u>100</u>

Ten schools noted that land grant revenue directly offsets state appropriations in the current year or is considered a projected revenue source in next year's budget requests. One school uses the income to fund capital expenses not allowed from legislative appropriations. Another noted that while not directly offsetting general funds, the income doubtless has an effect on appropriations. At Louisiana State University, land grant revenues are not included in the state's budget formula and therefore are an addition to not reduce the formula budget appropriations. The non-formula centers receive appropriations equal to the authorized level of expenditures less land grant and other revenues. Finally, one school noted that such revenue does not reduce the levels of state appropriations but there are "rumbles in some quarters" that it should.

11. Are specialized financial or activity reports required for land grant property transactions beyond the institution's annual financial statements?

	<u>Response</u>	<u>Percent</u>
Yes	8	22
No	25	70
Not answered	3	8
	<u>36</u>	<u>100</u>

Required reports range from one line in the annual financial reports to extensive parcel-by-parcel descriptions. Special reports are prepared only as requested at several institutions.

Two schools noted that they are required to submit a report of Land Grant or Supplementary Morrill Funds to the Department of Health, Education and Welfare. In fact, this report is required of any school granted land under the 1862 Land Grant Fund, or funds from land grants made in lieu of the 1862 grant, and Supplementary Morrill Funds.

B. If yes, to whom are special reports made?

	<u>Responses</u>
Governing Board	4
Governor's Office	2
Legislature	1
Bond holders	<u>1</u>
	8