

HB

576

SENATE RESOURCES COMMITTEE
LEGISLATION CHECKLIST

IDENTIFICATION:

BILL NUMBER:

BILL NAME:

SPONSOR(S):

RELATED BILLS PENDING:

DATE INTRODUCED:

REFERRALS:

INITIAL RESEARCH:

BILL SUMMARY COMPLETED:

SUMMARY BY LEGAL DIVISION:

SPONSOR CONTACTED FOR
BACKUP MATERIALS:

DEPT. OF LAW SUMMARY:

FISCAL NOTE:

AGENCY RESPONSE:

OTHER INTERESTED SENATORS OR
REPS. NOTIFIED:

BACKGROUND RESEARCH:

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES:

RESPONSES FROM INTERESTED PERSONS/GROUPS:

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, LAWS:

HEARING PREPARATION:

CHAIRMAN BRIEFED:

DATE AND PLACE SET:

STAFF MEMO TO COMMITTEE:

TELECONFERENCE:

BACKGROUND MATERIAL DISTRIBUTED:

PSA/PRESS RELEASE:

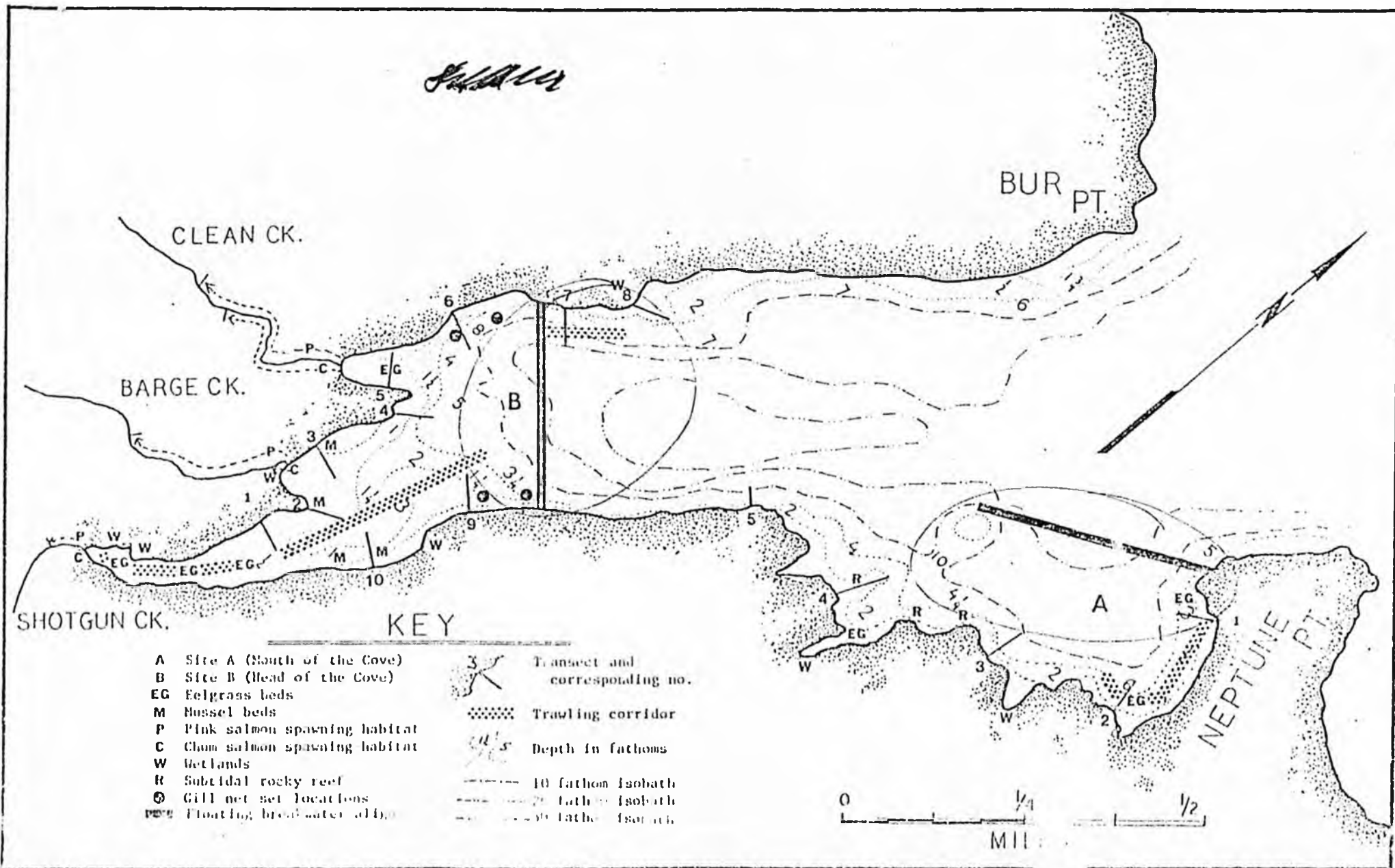
LIST OF WITNESSES:

SUGGESTED AMENDMENTS/COMMITTEE
SUBSTITUTES DRAFTED:

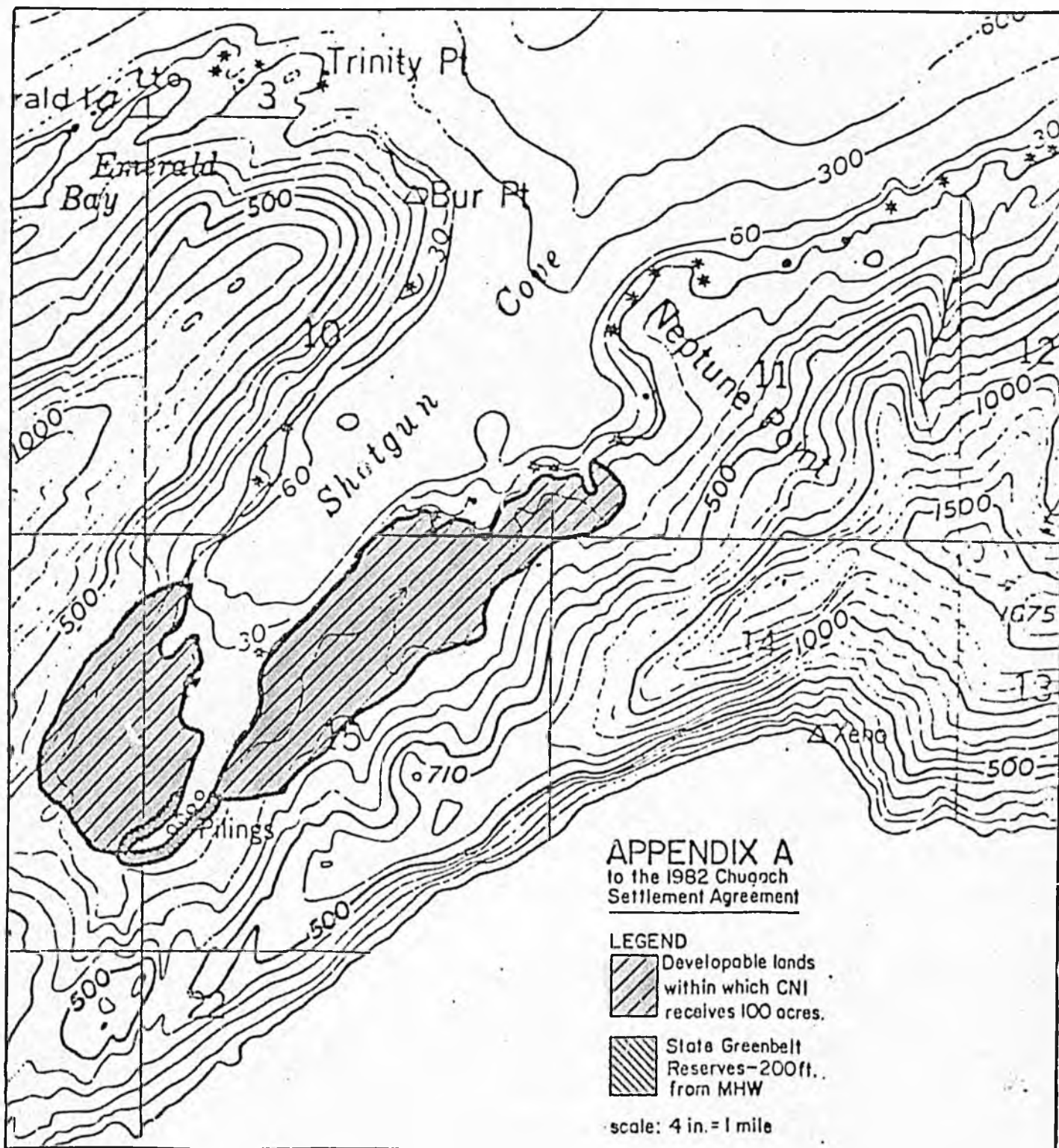
*DNR - Ned will be there to testify
CATO - will be there to testify
Paul Mulvaney - has been notified & won't be coming.
P. Fischer - will be there -*

CONCEPTUAL HARBOR LOCATIONS & BREAKWATER

Figure 4 . Habitat map of Shotgun Cove, Whittier, Alaska and locations of biological sampling stations.



NOTE: ORIGINAL DOCUMENT IS COLOR-CODED, IF NECESSARY
TO PROPER INTERPRETATION, REFER TO ORIGINAL DOCUMENT
IN THE ALASKA STATE ARCHIVES



Pass
19-0

SCS CS HB 576 (Resources) RELATING TO A GRANT OF STATE LAND TO THE CITY OF WHITTIER.

SPONSOR: CATO (will Paul Fischer address?)

GRANT 600 ACRES OF STATE LAND TO THE CITY OF WHITTIER FOR SALE TO THE PUBLIC. WHITTIER HAS AN EXTREMELY LIMITED LAND BASE TO ENABLE FUTURE COMMUNITY GROWTH. ALL LANDS IN THE CITY CORE AREA HAVE BEEN DEVELOPED OR ARE IN THE HANDS OF THE ALASKA RAILROAD, THE U.S. ARMY, OR THE STATE. WHITTIER RECEIVED NO ENTITLEMENT FROM THE STATE UNDER AS 29.18.190, WHICH ALLOWED MUNICIPALITIES TO SELECT 10% OF ALL VACANT AND UNAPPROPRIATED STATE LAND WITHIN THEIR BOUNDARIES, ^{Some} AS WHEN THIS LAW WAS ENACTED THERE WERE NO STATE LANDS WITHIN WHITTIER'S BOUNDARIES.

ATTORNEY GENERAL'S OFFICE TESTIFIED THAT THE CONSTITUTIONAL PROHIBITION AGAINST LOCAL AND SPECIAL LEGISLATION DOES NOT APPLY TO THIS BILL BECAUSE OF WHITTIER'S UNIQUE SITUATION (ABSENCE OF PRIVATE LAND BASE, MANY RESIDENTS LIVE IN SINGLE BUILDING IN THE CITY -- UNIQUE CONDITION OF SETTLEMENT). LETTER OF INTENT EXPRESSES THIS.

RESOURCES COMMITTEE SUBSTITUTE:

CLARIFIES THAT ANY OF THE LAND RETAINED BY THE CITY OF WHITTIER IS TO BE USED FOR "COMMUNITY DEVELOPMENT AND EXPANSION".

Offered: 4/9/84
Referred: Finance

Original sponsors: Cato, Lindauer,
McBride and Shultz

1 IN THE HOUSE BY THE RESOURCES COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 576 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to a grant of state land to the City
7 of Whittier."

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

9 * Section 1. LEGISLATIVE FINDINGS. It is the finding of the legisla-
10 ture in enacting sec. 2 of this Act that the City of Whittier is uniquely
11 lacking in available private land. The legislature seeks to correct this
12 situation by providing a grant of land to the City of Whittier that the
13 state had planned to offer for private ownership.

14 * Sec. 2. (a) The commissioner of natural resources shall grant 600
15 acres of state land to the City of Whittier. The grant shall include no
16 less than 400 acres of state land from Shotgun Cove and no less than 200
17 acres from the Whittier Subdivision.

18 (b) As used in (a) of this section,

19 (1) "Shotgun Cove" means land within sections 10, 11, 14, 15,
20 and 16, Township 8 North, Range 5 East, Seward Meridian;

21 (2) "Whittier Subdivision" means land within sections 8, 9, and
22 17, Township 8 North, Range 5 East, Seward Meridian.

23 (c) Except for land retained by the City of Whittier for community
24 development and expansion, land conveyed to the city under this section and
25 not sold within 10 years of the enactment of this Act reverts to the state
26 unless the commissioner of natural resources finds that the City of
27 Whittier has diligently prepared for a sale of the land. If the commis-
28 sioner finds that the city has diligently prepared for a sale of the land,
29 the commissioner may extend the deadline for a period determined proper by

House
version read
"critical
public
purposes."
Concern
over
how to
define; broad
interpretation.

Our language was developed after review of
Statehood Act & ANCSA (see attached).

1 the commissioner.

2 (d) Sale of land under this section shall occur after public notice
3 and by a competitive method.

Alaska State Legislature

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



Adopted

POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources SENATE RESOURCES COMMITTEE LETTER OF INTENT FOR SCS CS HB 576 (Resources)

~~DRAFT~~
4/3/84

The legislature, in its passage of SCS CS HB 576 (Resources), finds that special legislation is necessary and appropriate for the resolution of the unique problem of land availability in the City of Whittier. There is no general legislation that could resolve this problem.

Whittier, with a private land base of about 15 acres, is surrounded by state, federal, and native lands. Many of Whittier's residents live in a single building in the city. The presence of reserved federal lands and unavailable state lands, with the absence of a private land base for development, has been a clear obstacle to private settlement in Whittier. SCS CS HB 576 (Resources), while special in its focus, complies with the constitutional mandate for settlement and development of state lands and will provide the City of Whittier with the private lands that it so uniquely needs.

It is the intent of the legislature that the Department of Natural Resources coordinate with the Department of Transportation and Public Facilities to ensure that land needed for the Shotgun Cove Road right-of-way is excluded from those lands granted to the City of Whittier. Design work on the Shotgun Cove Road has been completed by the Department of Transportation and Public Facilities, and land necessary for the right-of-way should remain in State ownership.

↓
DOT proposed this as amendment to bill. DNR + Cato felt was unnecessary (DNR plans to do this anyway).

Bettye Fahrenkamp, Chairman
Senate Resources Committee

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

BBI file
BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

The Honorable Al Adams
Chairman
House Finance Committee
Alaska State Legislature
Pouch V
Juneau, AK 99501

March 21, 1984

Dear Representative Adams:

The question has arisen, in connection with CSHB 576 (City of Whittier land grant), of whether the City's land ownership situation and its need for corrective legislation are unique. I am writing because I am concerned that the Attorney General's March 16 letter to you may be interpreted as indicating that the Department does not consider the City's situation and need as unique.

The City of Whittier, with a private land base of about 15 acres, is surrounded by State, federal, and Native lands. Many of Whittier's residents live in a single building in the City. The presence of reserved federal lands and unavailable State lands, with the absence of a private land base for development, has been a clear obstacle to private settlement in Whittier.

Thus, the uniqueness of Whittier's situation springs not from the fact that the City did not receive municipal entitlement lands under Title 29, but rather from the current land situation, which has produced such a unique condition of settlement in the City. This is the basis of the change of wording between Representative Cato's original bill (HB 576) and the Committee Substitute.

The Department has supported Representative Cato's proposal to mend the situation by providing the City with a grant of lands that the State itself would have offered for settlement. The City will have the advantages of being able to conduct the land sales according to its own planning. For the State to comply with local wishes and conduct land sales in the area might take longer and produce different results.

The Honorable Al Adams

-2-

March 21, 1984

The Department, of course, would defer to the Legislature in the determination of whether such a land grant advances its purposes in formulating public policy. It is our belief that the legislation would advance the Constitutional mandate for settlement and development of lands in Alaska. The Department recognizes Whittier's land situation as unique and supports the passage of CSHB 576.

Please contact me or my staff if you have any further questions.

Sincerely,

Esther C. Wunnicke, Dept. 13
Esther C. Wunnicke
Commissioner

cc: Representative Cato

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 2/29/84

REQUEST

Bill/Resolution No.: HB 576
 Title: An Act...Grant of State Land to...Whittier
 Sponsor: Rep. Cato
 Requestor: House Resources
 Date of Request: _____

FISCAL DETAIL

Agency Affected: DNR
 Program Category Affected: NRMEC
 BRU, Program or Subprogram(s) Affected: Land and Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL	1.0					
300 CONTRACTUAL	.5					
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	1.5	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	1.5					
FEDERAL FUNDS	-0-					
OTHER	-0-					
TOTAL	1.5					

POSITIONS:

FULL-TIME	-0-					
PART-TIME	-0-					
TEMPORARY	-0-					

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

General Fund

ANALYSIS: Attach a separate page for analysis

Prepared By: Ned Farquhar NF Phone: 465-2400
 Division: Commissioners' Office Date: 2/29/84

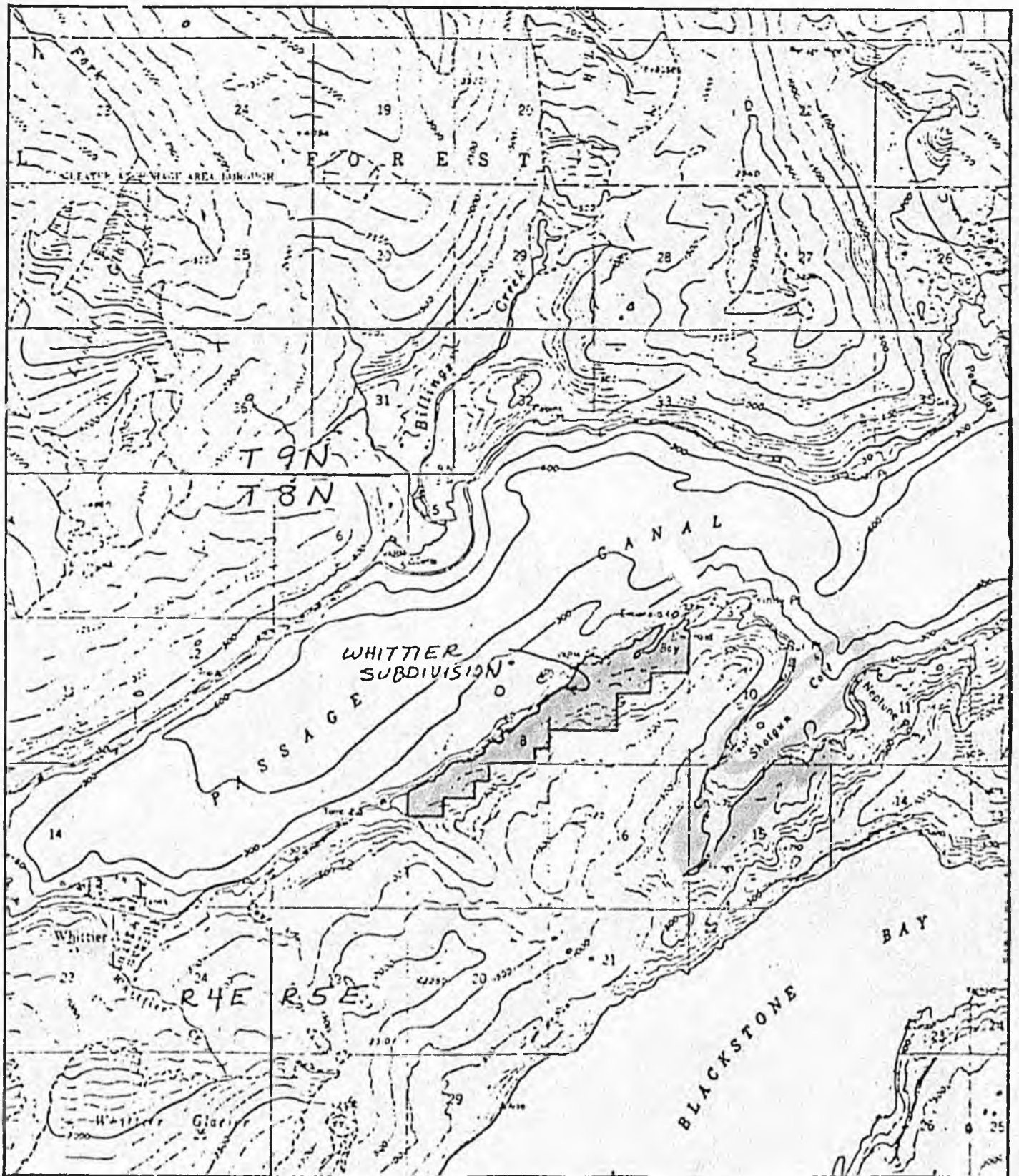
MH Approved by Commissioner: Wm D Amos Deguis Date: 2/29/84
 Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

12/1/83

NOTE: ORIGINAL DOCUMENT IS COLOR-CODED. IF NECESSARY
TO PROPER INTERPRETATION, REFER TO ORIGINAL DOCUMENT
IN THE ALASKA STATE ARCHIVES



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
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

April 2, 1984
3:07 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chairman
Senator Paul Fischer
Senator Mulcahy
Senator Sturgulewski

CALENDAR

CSHB 576(Res), An Act relating to a grant of state land to the City of Whittier.

HB 542, An Act relating to leasing land for refuse disposal.

CSHB 576(Res)

Representative Bette Cato, sponsor of the bill, explained that this bill would grant 600 acres of state land to the City of Whittier for sale to the public. Whittier received no entitlement under AS 29.18.190, and desperately needs land for settlement.

Ned Farquhar, Special Assistant to the Commissioner of Natural Resources, spoke in support of the bill.

Senator Sturgulewski recommended changing the words "critical public purposes" to "community development and expansion", and including language in the letter of intent to clarify that land needed for the Shotgun Cove Road right-of-way would be excluded from those lands granted to the City of Whittier.

Margo Knuth, Department of Law, explained that the Constitutional prohibition against local and special legislation did not apply to this bill because of Whittier's unique situation.

Reed Stoops, Chugach Natives, Inc., spoke in support of the bill as it allows for cooperative future development of Shotgun Cove by the City of Whittier and Chugach Natives, Inc.

HB 542

Representative Dick Shultz, sponsor of the bill, explained that this bill would allow licensed public utilities in unorganized communities to lease land from the Department of Natural Resources at less than its appraised value for refuse disposal sites.

Ned Farquhar testified in support of the bill.

Senator Mulcahy moved HB 542 from Committee with individual recommendations. There was no objection.

The meeting adjourned at 3:45 pm.

[SELECTION FROM PUBLIC LANDS; FISH AND WILDLIFE
RESOURCES; PUBLIC SCHOOL SUPPORT; MINERAL
PERMITS, LICENSES, OR CONTRACTS; MINERAL
LAND GRANTS; SCHOOLS AND COLLEGES;
CONFIRMATION OF GRANTS; INTERNAL
IMPROVEMENTS; SUBMERGED LANDS]

SEC. 6. (a) For the purposes of furthering the development of and expansion of communities, the State of Alaska is hereby granted and shall be entitled to select, within thirty-five years after the date of the admission of the State of Alaska into the Union, from lands within national forests in Alaska which are vacant and unappropriated at the time of their selection not to exceed four hundred thousand acres of land, and from the other public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection not to exceed another four hundred thousand acres of land, all of which shall be adjacent to established communities or suitable for prospective community centers and recreational areas. Such lands shall be selected by the State of Alaska with the approval of the Secretary of Agriculture as to national forest lands and with the approval of the Secretary of the Interior as to other public lands: *Provided*, That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the land so occupied: *Provided further*, That for the purposes of this section the term "public lands of the United States in Alaska which are vacant, unappropriated, and unreserved" shall include, without limiting the use thereof, the retained or reserved interest of the United States in lands which have been disposed of with a reservation to the United States of all minerals or any specified mineral or minerals.

(b) The State of Alaska, in addition to any other grants made in this section, is hereby granted and shall be entitled to select, within thirty-five years after the admission of Alaska into the Union, not to exceed one hundred and two million five hundred and fifty thousand acres from the public lands of the United States in Alaska which are vacant, unappropriated, and unreserved at the time of their selection: *Provided*, That nothing herein contained shall affect any valid existing claim, location, or entry under the laws of the United States, whether for homestead, mineral, right-of-way, or other purpose whatsoever, or shall affect the rights of any such owner, claimant, locator, or entryman to the full use and enjoyment of the lands so occupied: And provided further, That no selection hereunder shall be made in the area north and west of the line described in section 10 without approval of the President or his designated representative.

(c) Block 32, and the structures and improvements thereon, in the city of Juneau are granted to the State of Alaska for any or all of the

ANCSA 14(c)(3)

81

for community expansion + appropriate
rights of way for public use and other
foreseeable community needs

s. 1979).
on allotments arose.
an allotment would
be first use and occu-
pation of the native's
people of S. Naknek v.
466 F. Supp. 870 (D.


the land and improve-
ments and native
operation when
of the area petitioned
status. People of S.
of Bay Borough, 466 F.
979).

erty may be taxed.
"admission" language in
is interpreted not to
"jurisdiction," and
prohibition on state and
personal property in a
an allotment. People
of Bay Borough, 466
979).

hibited from taxing
associated with either
allotment or an Alaska
people of S. Naknek v.
466 F. Supp. 870 (D.

United States, 464
979), aff'd in part,
1980), cert. denied,
464 U.S. 2047, 68 L. Ed. 2d

visions, respec-
tively, and personal,
the subdivisions.
states shall retain
title, including



Unique - even in Alaska!

THE CITY OF WHITTIER

September 15, 1983

Margaret J. Hayes
District Manager
State of Alaska
Department of Natural Resources
Division of Land Management
3601 C Street, Pouch 7-005
Anchorage, AK 99510

Dear Ms. Hayes,

You have asked for comments on the proposed disposal of lands in our area.

The City of Whittier agrees that the lands in both Shotgun Cove and Whittier Subdivision should be put in hands of developers so Whittier will have a chance to expand and become a planned community.

All lands in question are within the City limits of Whittier and fall within our planning efforts. Whittier has an extremely limited land base to enable future community growth. All available land in the City core area have been developed or are in the hands of the Alaska Railroad or U.S. Army.

The City needs to have maximum control over the remaining lands in our city limits to plan the direction for future growth.

The City requests that all lands within the Whittier Subdivision and all remaining lands in Shotgun Cove be transferred to City ownership. The City would then be able to establish a municipal land disposal program to guide disposal of these lands.

If the City had ownership of these lands, the City would be in a position to determine the tenancy, size, and natures of the land disposals and would be able to use revenues generated through land disposals to help offset the cost of providing service to these areas like road maintenance, utilities, police, and fire protection.

The City requests:

1. Lands identified for disposal in these two areas be transferred to ownership of the City of Whittier.

2. Lands to be disposed of in the two areas comply with all applicable zoning and planning powers of the City of Whittier.

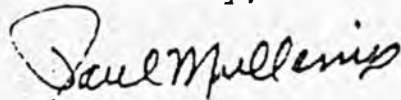
The City of Whittier's request for ownership of these lands should receive consideration because of Whittier's rather unique history of attempting to obtain a land base.

The only lands owned by the City of Whittier were obtained through purchase of GSA excess property at the time of the Army's termination of interest in the area.

The City has never received a Municipal Entitlement of lands in conjunction with incorporation or annexation and to date has never received any entitlement from the State.

Your consideration in the above matter will be appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Paul Mullenix". The signature is written in dark ink and is positioned above the typed name.

Paul Mullenix
City Manager

McGrath Area

The Division of Municipal and Regional Assistance has been working with the City of McGrath and other communities along the Upper Kuskokwim in response to their concern about coordinating on issues of mutual interest. With them, we are in the early stages of developing a regional strategy for the area which would address, among other things, land disposals and other land management decisions. As the project becomes fully operational, the strategy effort may provide an opportunity for DNR to obtain additional input on the disposal areas and to benefit from a more coordinated regional response with respect to State lands and resource management decisions. This would seem especially true if DNR initiates an Upper Kuskokwim Basin Plan in FY 84-85.

Regardless of the progress of this planning effort, we would like to stress the importance of public hearings to review disposal projects. Although there has been considerable interest in State land disposals in McGrath, there have also been a number of concerns expressed throughout the area. There should be ample opportunity for local input.

Whittier Area

For the past year, the Division has been working with the City of Whittier to develop a comprehensive plan. Development of the plan has involved frequent discussions on future land use with the Whittier Planning Commission, City administration and local residents. The plan, projected to be submitted to the Whittier City Council for adoption by October, 1983, will provide direction on future land use. The comments offered below only reflect policies identified in the draft comprehensive plan and concerns expressed by Whittier residents during development of the plan. The comments do not reflect formal action taken by the City Council.

All lands within the proposed Whittier Subdivision disposal and the majority of and potentially all land within the Shotgun Cove disposal are within Whittier's municipal boundaries. The Poe Bay disposal is approximately 3 1/2 - 4 miles east of Whittier's municipal boundaries. Although the City is concerned with potential service delivery and secondary impacts on the City from the Poe Bay disposal, the majority of concern is focused on the Whittier Subdivision and Shotgun Cove disposals.

With the exception of lands in the Shotgun Cove and Section 18 areas (approximately 500 acres) that have been selected by Chugach Regional Native Corporation, lands identified by DNR

Ms. Hayes
September 20, 1983
Page 3

for disposal comprise virtually all remaining lands within Whittier's municipal boundaries that are suitable for residential development. As such, the City is very concerned that maximum beneficial use of this limited land base occurs to enable desired community expansion. The Division recommends that the following issues/actions receive consideration for any land disposals within Whittier's municipal boundaries.

As indicated, Whittier has an extremely limited land base to enable future community growth. With the exception of several small tracts of land (less than 15 acres), all available lands in the Whittier core area have been developed or are under the restrictive ownership of the Alaska Railroad. In addition, the majority of land within Whittier's boundaries is unsuitable for development because of extremely steep slopes, poor soils, poor drainage, and glaciation. These conditions underscore the need for the City to have maximum possible control over the remaining land base to provide avenues for future growth.

To assist in accomplishing this goal, we understand the City intends to request that the State transfer ownership of lands within the Whittier Subdivision and Shotgun Cove disposals to the City. If this transfer were to occur, the City would be able to establish a municipal land disposal program to guide disposal of these lands. Through ownership of these lands, the City could best determine timing, size and nature of the land disposals and would be able to use revenues generated through municipal land disposals to help offset future costs of providing municipal services to these areas, e.g., road maintenance, utilities and fire protection.

Whittier is very concerned with the potential future costs to the City for providing municipal services to these areas, and is particularly concerned that offering virtually all developable lands through these two simultaneous disposals will severely restrict the City's ability to accommodate future growth. The timing of these two disposals may encourage speculative and seasonal recreational development, as current housing, community development, and economic growth demands may not require disposal of this amount of acreage in 1986 to accommodate existing needs. The City's goal is to establish single family year-round residential development as the primary use for these areas, and Whittier is not sure this interest will be accommodated by the proposed disposals.

The only lands owned by the City were obtained through municipal purchase of GSA excess property when the U.S. Army terminated its interests in the Whittier area. The City conducted a municipal bond sale to generate sufficient revenues to purchase these lands in the Whittier core. In the

mid-1970's, the City annexed lands east of the core (including the majority of land within these two disposals) in an attempt to provide more lands for community growth. However, the City did not receive a municipal entitlement of lands in conjunction with this annexation and to date, has received no municipal entitlements from the State. The only lands projected to be transferred from the State to the municipality are approximately 100 acres in the Shotgun Cove area and these lands contain a covenant restricting use of public services related to the proposed Shotgun Cove small boat harbor. In addition, Whittier does not have a Native village corporation in its area. If a village corporation were in Whittier, 14(c)(3) provisions of ANCSA would mandate transfer of a maximum of 1,280 acres to the municipality. In short, Whittier has never received any land entitlements and has virtually no lands available to it to encourage or accommodate community expansion.

As a second overall concern, the Division supports use of the adopted Whittier Comprehensive Plan, Land Use Plan, and Zoning Ordinance as guides for land disposals in the Whittier Subdivision and Shotgun Cove areas, whether or not the land is transferred to the City. At present, these areas are designated as R-1 and R-2 zones. The R-1 zone allows single family homes on 3-acre minimum size lots. The R-2 zone allows single family homes on 1 1/2 acre minimum size lots or cluster development of two homes on 2 acre minimum size lots. The City recognizes that higher density may be necessary in the future, but prefers this density at present. Concerns with density are best addressed at the local level. The Division requests that DNR recognize the applicability of City plans and ordinances on land use and density within the municipal boundaries.

The Whittier Comprehensive Plan draft has also identified the desirability of a landward buffer zone a minimum of 50 feet in width from the mean high water level. This buffer zone would enable public access to the coastline in all areas. The Division requests this City draft policy receive consideration in DNR's disposal plans.

Consideration should also be given to scheduling the Whittier Subdivision disposal before the Shotgun Cove disposal. Access to much of the Whittier Subdivision disposal is available at present via the uncompleted Shotgun Cove road and would facilitate its development as a residential area. Access to the Shotgun Cove disposal area at present is possible only by boat, although road access may be possible in the future with construction of the Shotgun Cove road. Timing of the Shotgun Cove disposal should be coordinated with completion of the proposed Shotgun Cove small boat harbor and road projects.

from Paul Stamps

1982

CNI SETTLEMENT AGREEMENT

intent to relinquish these lands on December 24, 1982. Following termination of the 30-day comment period, the State will review all comments and make a final decision either to relinquish or not to relinquish as soon as practicable after January 24, 1983, but no later than March 1, 1983, and will notify in writing the other parties to this Agreement of its final decision and will file its amended selection relinquishing the lands.

B. Shotgun Cove. (1) The State has received approval from the Secretary of Agriculture for its National Forest Community Grant Selection No. AA-17588 containing approximately five thousand two hundred and five (5,205) acres of land in the vicinity of Shotgun Cove, Whittier, Alaska, and subject to the provisions of subparagraph (6) of this subparagraph will relinquish its selection to 100 acres of this selection.

(2) The Secretary of the Interior will suspend adjudication of the following portion of the State's selection until the State files an amendment to this selection with the BLM:

Township 8 North, Range 5 East, Seward Meridian

Section 10:	S $\frac{1}{2}$
Section 11:	W $\frac{1}{2}$
Section 14:	NW $\frac{1}{4}$ NW $\frac{1}{4}$
Section 15:	N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{2}$, SW $\frac{1}{4}$ SW $\frac{1}{2}$
Section 16:	NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$

After the State files the amended selection application pursuant to subparagraph 5 of this subparagraph, the Secretary of the Interior will adjudicate all State selected lands not excluded by the amendment.

(3) Following a determination by the State on the location of the proposed small boat harbor at Shotgun Cove, the State, in accordance with A.S. 38.05.315(a), shall identify in writing and convey to the City of Whittier a parcel of land generally upland of the small boat harbor. The size of the parcel shall be determined by the State in its discretion. The Whittier conveyance shall contain a covenant running with the land restricting the use of the land to public purposes associated with the small boat harbor.

(4) Following identification by the State of the lands to be conveyed to the City of Whittier but no later than one year after the State determines the location of the small boat harbor (or an earlier time if CNI so elects) CNI shall identify not more than two parcels of land from within the "developable area" shown on a map attached to this Agreement as Appendix A. The parcel or parcels shall total as nearly as practicable one hundred (100) acres. To the maximum extent practicable, the lands conveyed to CNI shall consist of a reasonably contiguous parcel or parcels based upon aliquot part legal descriptions. The ratio of waterfront linear footage to mean upland linear depth footage shall not

exceed 3 to 2, but CNI shall be entitled to receive at least total waterfrontage of 2,087 linear feet. CNI may, after informing the State of its reason, select two parcels, provided that such parcels shall be subject to the above condition. If CNI elects to identify its selection prior to the State's location of the small boat harbor or the State's identification of the lands to be conveyed to the City of Whittier, CNI must obtain the approval of the State and the City of Whittier, which approval shall not be unreasonably withheld.

(5) Following identification of a parcel or parcels by CNI, the State will submit to the Secretary of the Interior an amended selection application relinquishing the parcel or parcels identified by CNI and the Secretary of the Interior will convey the parcel or parcels to CNI pursuant to paragraph 4 of this Agreement.

(6) The State shall only relinquish the lands described in paragraph 4.A(17) if, after compliance with the notice requirements of AS 38.05.345, the State determines that it is in the best interests of the public for the State to make that relinquishment. The State published notice of its intent to relinquish these lands on December 24, 1982. Following termination of the 30-day comment period, the State will review all comments and make a final decision as soon as practicable after January 24, 1983, but no later

than March 1, 1983, either to relinquish or not to relinquish and will notify in writing the other parties to this Agreement of its decision. If the State decides to relinquish, it will file its amended selection in accordance with the procedure set forth in subparagraphs (4) and (5) of this subparagraph.

C. Eagle Bay. (1) The State has selected approximately 1,231 acres of land located at Eagle Bay, Glacier Island, Alaska. This National Forest Community Grant Selection No. AA-17607 has been disapproved by the Secretary of Agriculture and that disapproval is under review by the United States District Court for Alaska in State of Alaska v. Block, et al., A81-311 Civ. The State will file an amendment with the BLM which will relinquish approximately 144 acres from the State's selection. The lands to be relinquished are more fully described in paragraph 4.A(1).

(2) The State and the Secretary of Agriculture agree that the State's relinquishment of a portion of its selection shall in no way affect any other claims or rights of either party in State of Alaska v. Block, and further agree that the lands not relinquished by the State shall be subject to that litigation as if no amendment of relinquishment had been filed by the State. In furtherance of this Agreement, the State and Secretary of Agriculture will file appropriate papers with the District Court to carry out this paragraph.

Technical Amendment to HB 576 and/or SB 442

AMEND CSHB 576 (RES), PAGE 1, LINE 14:

Add immediately before the words, "The commissioner" in Sec. 2(a)
the following clause:

"Subject to the terms and conditions of Paragraph 19(B) of
that certain agreement entitled, '1982 CNI Settlement Agreement'," [t]he

not adopted

March 16, 1984

The Honorable Albert Adams
Chairman, House Finance Committee
Alaska State House of Representatives
Pouch V
Juneau, AK 99811

Re: CSHB 576 (grant of state land
to City of Whittier)

Dear Representative Adams:

This letter is to bring to your attention possible constitutional problems with CSHB 576 ("An Act relating to a grant of state land to the City of Whittier"), which has been referred to the Finance Committee. The most serious question is whether this bill violates the state constitutional prohibition against "local and special" legislation. Article II, section 19, of the Alaska Constitution provides as follows:

The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination. Local acts necessitating appropriations by a political subdivision may not become effective unless approved by a majority of the qualified voters voting thereon in the subdivision affected.

CSHB 576 requires the commissioner of natural resources to grant 600 acres of state land to the City of Whittier because "the City of Whittier is uniquely lacking in available private land." In Abrams v. State, 534 P.2d 91 (Alaska 1975), the Alaska Supreme Court held that legislation is not "local" merely because it operates on only a limited number of geographical areas, rather than on a statewide geographical basis. 534 P.2d at 94. Instead, the test for whether legislation is local and special is whether the legislation is "reasonably related to a matter of common interest to the whole state." It is quite doubtful that the amount of private land available in the City of Whittier is of statewide interest. Nonetheless, local and special acts are prohibited only if "a general act can be made applicable." Thus, the question is whether the problem faced by the City of Whittier can be resolved by a general act.

MAR 30 1984

The Honorable Albert Adams, Chairman
House Finance Committee
Re: CSHB 576

March 16, 1984
Page 2

From the Department of Natural Resources, I have learned that the City of Whittier's predicament is largely the result of the fact that it did not receive any land under AS 29.18.190 -- 29.18.200 or AS 29.18.202 because there was no "vacant, unappropriated, unreserved state land" located within its boundaries. The Department of Natural Resources has also informed me that the City of Whittier is not unique in this respect. There are other cities that also did not receive any land under these statutes, or received only a negligible amount of land from the state.

This suggests that the problem faced by the City of Whittier can be resolved by general legislation that addresses the problem of all cities that did not receive any land, or received only a negligible amount of land, under the entitlement statutes. One form of such legislation would be a law requiring the Department of Natural Resources to grant to all such cities a certain percentage of the state land that becomes available for disposition in the vicinity of the city. Another form of general legislation addressing this problem would be a law requiring the payment of money by the state to these cities for the deficiency of suitable land. This would be similar to AS 29.18.208, which requires such payment to boroughs and unified municipalities. These forms of legislation would not only constitute general acts, but would also avoid the initial problem of being local or special legislation because there is a statewide interest in addressing the problems faced by an entire group of similarly situated cities.

There is one other potential constitutional issue raised by this bill, although it is not of the same magnitude as the local and special legislation problem. In Thomas v. Bailey, 595 P.2d 1 (Alaska 1979), the Alaska Supreme Court concluded that the word "appropriations" includes dispositions of land, as well as of money. 595 P.2d at 7. This conclusion was reached in the context of determining whether the Beirne Initiative was an impermissible appropriation under article XI, section 7, of the Alaska Constitution, which prohibits using an initiative to make appropriations. The court could logically give "appropriations" the same definition for purposes of article II, section 13, which states that "[b]ills for appropriations shall be confined to appropriations." Accordingly, it is possible that paragraphs (c) and (d) cannot be included in this bill, even if the local and special legislation problem were overcome, because these paragraphs arguably set out impermissible riders on the "appropriation." More significantly, this analysis would make it impermissible to include this bill in another bill relating to public lands.

Whittier's
office
doesn't
entirely
agree
-MOK

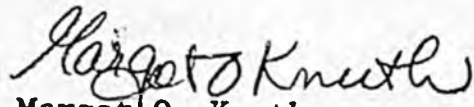
The Honorable Albert Adams, Chairman
House Finance Committee
Re: CSHB 576

March 16, 1984
Page 3

Please note that these comments do not represent the Administration's policy posture on this bill; rather, they indicate the constitutional issues that are presented by the bill in its current form.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Margot O. Knuth
Assistant Attorney General

MOK:dlm

cc: Arthur H. Peterson
Assistant Attorney General

Contact DUK
Cato's office

Alaska State Legislature



House of Representatives

COMMITTEES
—
CHAIRMAN
HOUSE TRANSPORTATION
—
MEMBER
COALITION POLICY COMMITTEE
HOUSE HEALTH EDUCATION
AND
SOCIAL SERVICES

*Stavros
response*

REPRESENTATIVE
BETTE CATO
DISTRICT 6
BOX 775
VALDEZ, ALASKA 99686
(907) 835-4568
WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4858
(907) 586-2660

January 25, 1984

Senator Bettye Fahrenkamp
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

Enclosed for your information is City of Whittier Resolution
No. 1-19-84.

Whittier has no land base at the present time. The proposed
land acquisition will go a long way toward making a planned,
well developed city with self-bonding capacity.

We would greatly appreciate your support in our attempt to
make the City of Whittier a viable, self-sufficient community.

Sincerely,

Bette

Representative Bette Cato
District 6

BC/ke
Encls.

JAN 27 1984

RESOLUTION NO. 1-19-84

A Resolution requesting the State Legislature act to convey certain lands to the City of Whittier.

- WHEREAS: Whittier has an extremely limited land base to enable future community growth, (with exception of several small tracts of land less than fifteen acres). All available lands have been developed or are in the hands and restrictive ownership of the Alaska Railroad or U.S. Army, and
- WHEREAS: The City needs to have maximum possible control over the remaining developable land to provide any growth, and
- WHEREAS: The only land base the City has is lands purchased from the GSA at the time the Army terminated their interest in the area, and
- WHEREAS: The State Department of Natural Resources is planning a land disposal of two tracts of land, (the only developable lands within the City limits) in a manner that would take the only remaining lands and put that land in the hands of speculators, and
- WHEREAS: The City has a Master Plan for a Planned Community in the areas of the proposed land disposal,
- NOW THEREFORE BE IT RESOLVED that the State legislature act to transfer these lands to the City of Whittier to develop into a Planned Community to enhance the Harbor areas and the beautiful Gateway to Prince William Sound.

PASSED AND APPROVED by a duly constituted quorum of the City Council of Whittier, Alaska this 19 day of January, 1984.

ATTEST:

William Knight
Mayor

Brenda Sullivan
Acting City Clerk

Ms. Hayes
September 20, 1983
Page 5

In summary, the Division requests that the following receive consideration in relation to the Whittier Subdivision and Shotgun Cove proposals:

Transfer to ownership of the City of Whittier

Applicable zoning and planning powers of the City of Whittier

A landward buffer zone a minimum of 50 feet in width from the mean high water level

The Whittier Subdivision disposal occur prior to the Shotgun Cove disposal and both be coordinated with the Shotgun Cove road and harbor project

A requirement for low density year-round residential use

The impact on municipal services

The Department has minimal comments on the Poe Bay disposal. Major concerns are potential service delivery and secondary impacts on Whittier and potential conflicts with high recreational use of this area.

We appreciate the opportunity to comment and would request some indication by phone or letter as to your thoughts on the views presented here. We look forward to coordinating with you in the near future.

Sincerely,



Nelda Warkentin
Acting Planning Supervisor

cc: ✓ Department of Natural Resources

Linda Freed, Community Planning Department
Kodiak Island Borough

Paul Mollinex, City Manager
City of Whittier

RECEIVED DEC 16 1983

Alaska State Legislature

COMMITTEES

- Chairman — House Resources Committee
- Chairman — REAA Budget Oversight Committee
- Member — House State Affairs
- DOT — Finance Sub Committee

Write in Sans or
 Point
 State Capitol
 Juneau Alaska 99801
 Phone 587-2134/2231
 411-4942

House of Representatives

Home PO Box 355
 Delta Junction Alaska 99707

Dick Shultz

December 15, 1983

Ms. Margaret J. Hayes, District Manager
 Alaska Department of Natural Resources
 Division of Land Management
 3601 C Street, Pouch 7-005
 Anchorage, Alaska 99510

Dear Ms. Hayes,

As you may or may not be aware, I have, as Co-Chairman of the House Resources Committee, been a constant and outspoken critic of Alaska's Land Disposal efforts. As a rural legislator, I have seen lands opened and ultimately placed in the hands of people from far outside the area in which the lands are located. This creates a multitude of problems for the local community, including a lack of planning ability due to the fact that much of this land is acquired for speculation. Additionally, those lands which are occupied put strong demands on local resources for the provision of services such as roads and power.

The City of Whittier is unique to all of Alaska. Whittier has virtually NO LAND BASE and what little land they do have has already been developed or is in the hands of the State, the U.S. Army or the Department of Transportation (for the Alaska Railroad). Even if the State were to acquire the railroad, this would have little effect on Whittier's ability to determine their own destiny.

I STRONGLY support Whittier's request to have all lands within the Whittier Subdivision and all remaining lands in Shotgun Cove transferred to City ownership. A municipal land disposal program would be in the best interests of all concerned, including the State, as it would allow for zoning, road development, power, etc.

Please feel free to contact me should you have questions concerning my position on Land Disposals; in general, or concerning Whittier in particular.

Sincerely,

DICK SHULTZ
 District 17

DS/bh:A23

- cc: 1.) Esther Wunnicke, Commissioner
 Dept. of Natural Resources
 2.) Paul Mullenix, City Manager
 City of Whittier

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
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

SENATE RESOURCES COMMITTEE
LETTER OF INTENT
FOR
SCS CS HB 576 (Resources)

The legislature, in its passage of SCS CS HB 576 (Resources), finds that special legislation is necessary and appropriate for the resolution of the unique problem of land availability in the City of Whittier. There is no general legislation that could resolve this problem.

Whittier, with a private land base of about 15 acres, is surrounded by state, federal, and native lands. Many of Whittier's residents live in a single building in the city. The presence of reserved federal lands and unavailable state lands, with the absence of a private land base for development, has been a clear obstacle to private settlement in Whittier. SCS CS HB 576 (Resources), while special in its focus, complies with the constitutional mandate for settlement and development of state lands and will provide the City of Whittier with the private lands that it so uniquely needs.

It is the intent of the legislature that the Department of Natural Resources coordinate with the Department of Transportation and Public Facilities to ensure that land needed for the Shotgun Cove Road right-of-way is excluded from those lands granted to the City of Whittier. Design work on the Shotgun Cove Road has been completed by the Department of Transportation and Public Facilities, and land necessary for the right-of-way should remain in State ownership.

Bettye Fahrenkamp
Bettye Fahrenkamp, Chairman
Senate Resources Committee

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
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

April 4, 1984
3:06 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice Chairman
Senator Eliason
Senator Paul Fischer
Senator Vic Fischer
Senator Mulcahy
Senator Sturgulewski

CALENDAR

CSHB 576(Res), An Act relating to a grant of state land to the City of Whittier.

SB 407, An Act relating to the prevention and abatement of water pollution.
TELECONFERENCE

CSHB 576(Res)

Senator Sturgulewski moved CSHB 576(Res) from Committee with individual recommendations. There was no objection.

SB 407

Randy Bayliss, Department of Environmental Conservation, stressed that reclassification of streams is one part of a comprehensive approach to solving the problems of placer miners.

John Reeves, Environmental Field Officer, Department of Environmental Conservation, Fairbanks, provided a detailed historical perspective on placer mining in Alaska.

Del Ackels, Placer Miner from Circle, urged that all uses of water in the state be addressed.

Pedro Dento, Division of Mining, Department of Natural Resources, supported the goals of the bill, recommending the State achieve more stream classification standards.

Joe Vogler, Fairbanks, urged the State to take more control over its air, land, and water management.

Jim Fuksa, Fairbanks, spoke in support of the bill.

Forrest Charlton, Patcher Mining, Anchorage, spoke in support of the bill as one way of providing relief for placer miners.

Bob Warren, Northern Environmental Center, Fairbanks, stated that he did not object to a "placer mining" classification, and recommended that modification procedures be spelled out in the bill.

Henry Warner, President, Placer Miners of Alaska, spoke in support of the Committee Substitute, stating that classification of streams by uses would follow the intent of the Clean Water Act.

Bob Aumiller, Miner's Advocacy Council, Fairbanks, spoke in support of the bill.

Barb Truitt, Koyuk Mining District, spoke in support of the bill.

Jeff Eustis, Trustees for Alaska, Anchorage, stated that SB 407 does not follow the mandate of the Clean Water Act, which puts health considerations before economic considerations.

Roger Burgraff, Fairbanks, spoke in support of SB 407.

Ken Manning, Miners Rights Action Group, Fairbanks, spoke in support of the bill, and addressed how water quality affects industries other than placer mining.

George Seuffert, Yukon Mining Co. of Alaska, Fairbanks, spoke in support of the bill and outlined some of the problems facing small placer mining operations.

Phil Holdsworth, Alaska Miners Association, Juneau, spoke in support of the bill, which would require the State to initiate stream reclassification.

Rose Rybachek, Livenood/Tolvana Mining District, spoke in support of the bill.

Paul Barelka, Fairbanks, spoke of the burden that regulations place on small miners.

Don Stein, Alaska Miners Association, spoke in support of the bill.

Ron Sheardown, Greatland Exploration, Ltd., explained that water samples have been taken at most of Alaska's lakes and streams and urged that this data be used in the stream reclassification process.

Helen Warner, AU Limited Mining, Fairbanks, spoke in support of the bill.

Del Ackels, Circle Mining District, reiterated his support of the bill and discussed the status of the discharge permits issued by the Environmental Protection Agency.

The meeting adjourned at 4:46 pm.

HB 576 was referred to the Rules Committee for placement on the calendar.
The fiscal note appears in House Journal Supplement No. 113.
The letter of intent, signed by Al Adams, Chairman, appears below:

"HOUSE FINANCE COMMITTEE
LETTER OF INTENT
FOR
CSHB 576 (Resources)

The legislature, in its passage of CSHB 576 (Resources), finds that special legislation is necessary and appropriate for the resolution of the unique problem of land availability in the City of Whittier. There is no general legislation that could resolve this problem without creating significant problems that do not now exist and that the legislature does not at this time find appropriate for consideration.

Whittier, with a private land base of about 15 acres, is surrounded by state, federal, and native lands. Many of Whittier's residents live in a single building in the city. The presence of reserved federal lands and unavailable state lands, with the absence of a private land base for development, has been a clear obstacle to private settlement in Whittier. CSHB 576 (Resources), while special in its focus, complies with the constitutional mandate for settlement and development of state lands and will provide the City of Whittier with the private lands that it so uniquely needs."

Whittier Land Grant
(state land)

HOUSE BILL NO. 576, by Reps. Cato, Lindauer & McBride.
Would grant 600 acres of state land to the City of Whittier, stating that "It is the intent of the legislature. . .that a more equitable land base be established for the City of Whittier beyond its present 15 acres of privately owned property." The grant is to include ". . .no less than 400 acres of state land from Shotgun Cove and no less than 200 acres from the Whittier Subdivision." Gives legal description of Shotgun Cove land and Whittier Subdivision land. Does not provide for an effective date (becomes law 90 days after Governor signs bill). Identical to SB 442.

Introduced February 6 and referred to Resources, Finance.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

RECEIVED JAN 19 1984
BILL SHEFFIELD, GOVERNOR

POUCH M
JUNEAU, ALASKA 99811
PHONE: 907-465-2400

January 11, 1984

Mr. Paul Mullenix
City Manager
City of Whittier
P.O. Box 608
Whittier, Alaska 99693

Dear Mr. Mullenix:


I appreciated your visit in November with Mr. Wheelright, Ms. Brown, Mr. Wootten, and Mr. Wardlow to discuss the possible conveyance of State lands to the City of Whittier. I have reviewed some of the issues and am able now to respond to your inquiries.

The City of Whittier, as you know, has no municipal entitlement, and I do not see any way that the City can become eligible for entitlement lands without major legislative action. Therefore, the options available include State land offerings in the Whittier area and public purpose conveyances of lands to the City for retention. If the City is able to pay for survey costs, the City could conduct an offering of State lands similar to the one at McGrath as we discussed.

The four proposed State land offerings in and near Whittier would expand Whittier's available land base for private ownership, and the State is willing to consider other nominations for State offerings. However, if the City proposes conducting the offerings itself, it will be necessary for you to seek funding for associated costs from the Legislature.

I suggest that you maintain your contacts with the staff of the Division of Land and Water Management, Southcentral District Office. Please contact me if there is anything further I can do.

Sincerely,


Esther C. Wunnicke
Commissioner

cc: Tom Hawkins, Director,
Division of Land and Water Management

WRITTEN SUMMARY OF ORAL TESTIMONY
REGARDING HOUSE BILL 576 SUBMITTED BY
SAMUEL J. BACINO
BEFORE THE HOUSE RESOURCES COMMITTEE
ON MARCH 2, 1984

Mr. Chairman and Members of the Committee:

My name is Samuel J. Bacino. I am Vice President of Land and Natural Resources for Chugach Natives, Inc. I do not have written testimony to submit today, but will be happy to provide to the committee a written summary of my oral testimony as soon as possible.

Chugach Natives, Inc. is one of thirteen regional corporations authorized under the Alaska Native Claims Settlement Act, which was passed in 1971. Our corporation was in a somewhat different situation in that within the Chugach region, very little useable land was available for our selection pursuant to the Claims Act. Because we were very much affected in this respect, CNI initiated informal negotiations in 1972. It was CNI's hope that an equitable agreement would be reached whereby we could select useable lands instead of only mountaintops and glaciers. By 1980, however, this process had not resulted in any agreement.

The Alaska National Interest Lands Conservation Act (ANILCA) became law in 1980. That Act recognized, that if agreement was to be reached, the negotiation process should become more formal in nature. ANILCA directed that a study be initiated designed to identify more suitable lands which could be made available for our selection. Through this study, and the formal negotiations with the federal government which followed, an agreement was executed in early 1983.

One of the terms of the Agreement (entitled 1982 CNI "Settlement Agreement") provided that CNI could select 100 acres in Shotgun Cove. Because the state had already filed a selection on all lands surrounding this area, it was agreed that the state would relinquish 100 acres of its selection in Shotgun Cove to accommodate our own. This scheme made sense. Already the small boat harbor project in Shotgun Cove had been contemplated and it was recognized that certain lands would be necessary for development. Although nothing would preclude the state from making these lands available for development, past state policy has always shown that areas such as this would be disposed of, if at all, as small lots for recreational use.

Now, House Bill 576 proposes that the city of Whittier also have land ownership rights in Shotgun Cove. There is no question but that this legislation will allow for even greater development of this area. CNI plans to take part in this process as a responsible developer. Hopefully the city, CNI, and the state can work together in assuring that these lands will be put to their highest and best use.

Shotgun Cove and Prince William Sound have become increasingly important to the greater Anchorage area for recreation use. This trend will continue. In addition, everyone hopes that recreational pressure on the Kenai Peninsula can be reduced. If Shotgun Cove development is to help achieve this goal, we believe that momentum should not be lost in several areas. First, the small boat harbor must be completed. Second, rail access from Portage to Whittier must be upgraded. Third, an access road from Whittier to the Cove must be constructed. Finally, provision for utility services must be made.

Substantial progress had been made by the legislature and the Administration in pursuing these projects. Chugach Natives, Inc. thanks the legislature for its support in these matters. For our part, we will continue to work with the state and the city to make sure that these important projects are completed.

Thank you for the opportunity to appear before you today and offer our thoughts.

FACT SHEET
February 29, 1984

PROPOSED WHITTIER SMALL BOAT HARBOR

The city of Whittier, located on Passage Canal in Prince William Sound approximately 60 miles south of Anchorage, operates a small boat harbor which was built by the State of Alaska. A planned expansion by the State will provide a total harbor capacity for 300 boats. However, additional moorage demand for up to 500 boats is foreseen for the future. A new small boat harbor ranks very high on the list of community priorities.

The existing small boat harbor cannot be expanded beyond the limits proposed by the State of Alaska. The water immediately seaward of the existing breakwater is too deep for construction of a rubblemound breakwater and waves in Passage Canal regularly exceed the 3-ft. height generally accepted as a practical limit for a floating breakwater. Suitable construction areas near the small airstrip were eliminated because city officials did not feel that they could gain access to the land. No other suitable construction areas have been identified in Passage Canal.

The Port of Whittier was constructed in 1942 by the U.S. Army to serve as a deep water port and supply point for military installations in Alaska. A railroad spur between Whittier and nearby Portage connected the port facility to Alaska's main rail lines. The railroad spur, with over four miles of tunnel, was completed in 1943 under a Corps of Engineers' contract. The Corps aided in reconstruction of the Alaska Railroad freight dock following the 1964 earthquake.

Shotgun Cove, which is five miles from Whittier, offers natural protection from the high waves and winds which plague Passage Canal. Water depths in most areas of Shotgun Cove exceed the practical limit for a conventional breakwater a possibility. Two areas in Shotgun Cove have been selected as potential small boat harbor sites. Preliminary harbor layouts and cost estimates were based on a breakwater design similar to the Bar Point floating breakwater in Ketchikan. The usefulness and practicality of a harbor in Shotgun Cove depends heavily upon construction of an access road.



Dept. of Transportation & Public Facilities

Position Paper

BILL NO: CS HB 576

TITLE: An Act relating to a grant of
State land to the City of Whittier

APPROVED: R. J. Knapp
Commissioner

DATE: April 2, 1984

Language should be included in CS HB 576 to the effect that since the Department of Transportation and Public Facilities (DOT&PF) has prepared the design for the Shotgun Cove Road, The Department of Natural Resources should coordinate with the DOT&PF to ensure that land needed for road right-of-way be excluded from the grant to the City of Whittier.

Without this language, the State may be put in the position of having to buy back from the City of Whittier, the right-of-way land necessary to build the Shotgun Cove Road.

DRAFT

Offered: 3/5/84
Referred: Finance

Original sponsors: Cato, Lindauer,
McBride and Shultz

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 SCS CS FOR HOUSE BILL NO. 576 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to a grant of state land to the City
7 of Whittier."

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

9 * Section 1. LEGISLATIVE FINDINGS. It is the finding of the legisla-
10 ture in enacting sec. 2 of this Act that the City of Whittier is uniquely
11 lacking in available private land. The legislature seeks to correct this
12 situation by providing a grant of land to the City of Whittier that the
13 state had planned to offer for private ownership.

14 * Sec. 2. (a) The commissioner of natural resources shall grant 600
15 acres of state land to the City of Whittier. The grant shall include no
16 less than 400 acres of state land from Shotgun Cove and no less than 200
17 acres from the Whittier Subdivision.

18 (b) As used in (a) of this section,

19 (1) "Shotgun Cove" means land within sections 10, 11, 14, 15,
20 and 16, Township 8 North, Range 5 East, Seward Meridian;

21 (2) "Whittier Subdivision" means land within sections 8, 9, and
22 17, Township 8 North, Range 5 East, Seward Meridian.

23 (c) Except for land retained by the City of Whittier for ^{community development} [critical
24 and expansion] public purposes, land conveyed to the city under this section and not sold
25 within 10 years of the enactment of this Act reverts to the state unless
26 the commissioner of natural resources finds that the City of Whittier has
27 diligently prepared for a sale of the land. If the commissioner finds that
28 the city has diligently prepared for a sale of the land, the commissioner
29 may extend the deadline for a period determined proper by the commissioner.

1 (d) Sale of land under this section shall occur after public notice
2 and by a competitive method.

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
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MEMORANDUM

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff

RE: Committee Meeting, April 2, 1984

DATE: March 29, 1984

On Monday, April 2nd, at 3:00 pm in the Beltz Room, the Senate Resources Committee will hear the following bills:

HB 542, An Act relating to leasing land for refuse disposal.

Current statute (AS 38.05.315) allows the Department of Natural Resources to lease land for less than its appraised value to a municipality, a federal agency, an electric or telephone co-op, or a registered non-profit entity. HB 542 would amend this provision to include leases to public utilities in unorganized communities for refuse disposal sites.

CSHB 576 (Res), An Act relating to a grant of state land to the City of Whittier.

CSHB 576 (Res) would grant 600 acres of state land to the City of Whittier for sale to the public. Whittier has an extremely limited land base to enable future community growth. All lands in the City core area have been developed or are in the hands of the Alaska Railroad, the U.S. Army, or the State. Whittier received no entitlement from the State under AS 29.18.190, which allowed municipalities to select 10% of all vacant and unappropriated State land within their boundaries, as when this law was enacted there were no State lands within Whittier's boundaries.

An amendment (attached) will be proposed to clarify that Chugach Natives, Inc. is eligible for 100 acres in the Shotgun Cove area per their 1982 Settlement Agreement.

Alaska State Legislature

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



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MEMORANDUM

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff

RE: Committee Meeting, April 4, 1984
TELECONFERENCE

DATE: April 3, 1984

On Wednesday, April 4th at 3:00 pm in the Beltz Room, the Senate Resources Committee will hear the following bills:

CS SB 407 (Resources), An Act relating to the prevention and abatement of water pollution.

CS SB 407 (Resources) addresses the longstanding concerns of placer miners, environmentalists, and governmental agencies relative to the use of water in placer mining. The draft Committee Substitute would establish specific classification categories for waters of the state, and provide criteria for establishing water quality standards for each classification. In addition, a statewide inventory of state waters would be conducted and basinwide management plans would be developed.

This hearing will be teleconferenced to Fairbanks, Fort Yukon and Anchorage.

CS HB 576 (Resources), An Act relating to a grant of state land to the City of Whittier.

CS HB 576 (Resources) is scheduled for committee action. A draft Committee Substitute (which clarifies that the City of Whittier may retain a portion of the grant land for community development and expansion) and a draft Letter of Intent (that addresses the right-of-way for the Shotgun Cove Road) are attached.

Written Summary of Oral Testimony
Regarding CS for House Bill 576 Before the
Senate Resources Committee
Presented on behalf of Chugach Natives, Inc.
By Reed R. Stoops
April 2, 1984

Madam Chairman:

My name is Reed R. Stoops and I am here today on behalf of Chugach Natives, Inc. to present testimony in support of CS HB 576.

Chugach Natives, Inc. was the last of the thirteen regional corporations to receive its land entitlement, due to the small amount of available land within the region on the date of passage of the Alaska Native Claims Settlement Act of 1971. It was not until 1982 that the Chugach Settlement Agreement was ratified by Chugach Natives, Inc., the federal government, and the State of Alaska.

Section 19 (B) of the Settlement Agreement (attached), provides for the selection of 100 acres of land in Shotgun Cove by Chugach Natives, Inc. and the process by which selections will be made.

CS for House Bill 576 provides for an additional 400 acre selection of land in Shotgun Cove by the City of Whittier. Chugach Natives, Inc. supports this grant of land to Whittier as it will allow cooperative future development of Shotgun Cove by CNI and Whittier.

Chugach Natives, Inc. only concern is that the conveyance process take place sequentially in accordance with the Settlement Agreement, that is:

1. Selection of land for public purposes by Whittier under A.S. 38.05.315 immediately adjacent to the the proposed small boat harbor location.
2. Selection by Chugach Natives, Inc. of its 100 acres from the area designated in the Agreement.
3. Selection by Whittier of its 400 acre municipal entitlement.

In discussions with the Department of Natural Resources and the City of Whittier, it has been acknowledged that this is the requisite order of selection and that, upon designation of the proposed small boat harbor location by the Corps of Engineers, the selections will occur within the time deadlines established in the agreement.

Thank you for the opportunity to present the views of Chugach Natives, Inc.